

***LEGAL AND SOCIAL CONDITIONS OF
UNACCOMPANIED MINORS
SEEKING ASYLUM IN FRANCE***

Update Paris, October the 20th 2003

This study has been carried out with the financial support of the FER programme of the European Commission in the framework of the European Network on Separated Children

SEPARATED CHILDREN IN EUROPE

Country Assessment

Country : France

Assessment Period : August-September 1999

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Update : June – September 2003

Respondent : Catherine Bourgeade, Service Social d'Aide aux Emigrants (SSAE)

Agencies/individuals consulted :

Office français de protection des réfugiés et apatrides -OFPRA (French Office for the protection of refugees and stateless persons)

Aide sociale à l'enfance - ASE (State social services for child care)

Mrs SIRE-MARTIN, Guardianships judge (*juge des tutelles*)

Mr. VOGELWEIGHT, Children judge (*juge des enfants*)

Diane KOLNIKOV, Organization Primo Levi - Rehabilitation for the victims of torture

Dr. Nicole LERY, "Droit et éthique" in the Hospices civils in Lyon

(The interviews with the individual consulted have been published in the special issue of the France Terre d'Asile newsletter Pro Asile in September 1999 (which is devoted to the situation of unaccompanied minors seeking asylum in France).

Update 2003

Mrs. Lefebvre – Children Judge – Paris

Mrs Coletta – Child Protection Agency of Seine - Saint - Denis

Mr. Lain - OCRTEH - Central Office for repression of trafficking

Mrs. Bertrand – Brigade for the protection of the minors

Documents used or referred to :

"Eléments de réflexion sur l'accueil des mineurs isolés demandeurs d'asile", Coordination Réfugiés, Paris, 1998

Discussion of the Conference : "What Protection in France of the Unaccompanied Minors Seeking Asylum", organised by France Terre d'Asile, Paris, November 16, 1998

Article 35 quater of the Ordinance of November 2, 1945 (modified by many later laws) on the Entrance and Stay of Foreigners in France, **modified by the article 17 of the Act of March 4, 2002 on the Parental Authority**

Article 10 of the Act of July 25, 1952 on Asylum Right modified by the article 17 of the March 4, 2002 on the Parental Authority, which creates the article 12-1

Article 375 and following of the Civil Code on the competence of the Children judge

Article 373, 390 and 433 of the Civil Code on the parents authority and the guardianship procedure

Article L 223 – 2 al.2 of the Code of Social Action and Families on the forster in emergency to the ASE

Article 117 of the new Code of Civil Procedure

Penal code – art. 225-4-1 to art. 225-4-8 concerning trafficking, introduced by the Act of March 18, 2003, for the interior security.

Geneva Convention of 1951 relating to the Status of Refugees

UN convention on the Rights of the Child - 1989, Article 22

Separated children in France – Quantitative evaluation of the population in care of the Child Protection Agencies – Conditions of accommodation and support – Study realised by Angelina Etiemble (sociologist) – Quest’us - for the Directorate of Population and Migrations in 2002

Warning :

The Ordinance of November 2, 1945 on the Entrance and Stay of foreigners in France and the Act of July 25, 1952 on the Right to Asylum are both under change at the present.

The government has registered two bills to modify these Acts in 2003.

These bills have been voted by the Lower Chamber of the French Parliament /*Assemblée National* on first lecture in July. They will be studied by the Upper Chamber/*Sénat* in October 2003.

Paris, October the 20th 2003

DEFINITION OF "SEPARATED CHILD"

- a) Please give details of the definition used in your country. Different agencies may apply different definitions. Please give details of this**

"A minor is considered as being "unaccompanied" if he/she arrives in France without one of his/her parent, either because they have disappeared, or they are dead, or they are still alive but had to separate from their children". (Definition given by the Dictionnaire permanent du droit des étrangers)

- b) Are children with older siblings over 18 years of age considered to be separated children ?**

A minor is considered as unaccompanied when the holders of the parental authority are not present. If he/she is accompanied by major relatives (others than his/her parents), the persons concerned may be part of the family council if a guardianship with family council is decided. (see chapter on legal representation)

Asylum seekers over 18 years old are not considered as unaccompanied minors. The specific provisions for children stop applying on the day of their 18th birthday. If the child has arrived before the age of 18, theoretically he/she can negotiate with the Aide sociale à l'enfance (ASE- social service for children) a contract of "young major" to benefit from the special provisions applicable to children until the end of the determination procedure for refugee status, or until his/her 22nd birthday. In practice however, it barely happens since the ASE considers that the stay permit is too short and unstable to allow the beginning of an integration process.

- c) To what extent does this conform to the Statement ?**

The definition of the unaccompanied minor seeking asylum is in conformity with the one of the Statement.

- d) Are any changes needed in relation to any first principle ?**

On the basis of this definition and instead of splitting their status by putting them in various existing legal categories, it would be necessary to recognise the specificity of their situation in a comprehensive way to end up with the creation of a single status which would be different from existing categories as far as admission into the territory, the legal representation, the reception and social and psychological care are concerned, and in relation to the examination of their asylum case.

The fact that currently unaccompanied minors seeking asylum belong to many different categories is of concern. Many regimes apply at the same time : the legal provisions applicable to foreigners for entry into France, the legal provisions applicable to children which takes into account their inability to take any legal action , the legal provisions relating to asylum seekers and refugees which allow foreigners in need of protection to apply with the asylum country for a substitute protection.

1. ACCESS TO THE TERRITORY

1.a) Please describe relevant law, policy, practice in your country

Asylum seekers arriving at the border without the required travel documents, whether they are minors or major, can be placed in detention in the so called "waiting zone" until the Ministry of Interior decide either to admit them into the territory or to refuse their admission on the grounds that their application is "manifestly unfounded". The staff working in the waiting zone has no specific training to deal with the minors and the minors receive the same treatment as everybody else.

The article 35 Quater of the Ordinance of November 2nd 1945 stipulates that an undocumented asylum seeker "*can be kept during the time which is strictly necessary to decide whether his/her application is manifestly unfounded or not*". This article does not make any distinction between minor children and adults. The administration and some judges insist that the minor child should be treated the same way as an adult. However, the minor child seeking asylum has no appeal right against the decision taken on his/her application (refusal to enter the territory, judicial decision of prolonging his detention in the waiting zone etc.) since he/she is unable to take any legal action.

After an initial period of four days then another period of eight days, the decision of detaining the asylum seekers in the waiting zone should be taken by a judge. In the absence of the parents, the guardianship judge should appoint a guardian to legally represent the child. In practice, some judges consider that the request of the ministry of interior to prolong the detention in the waiting zone is not admissible since it involves a person who is unable to take any legal action. This position leads to the refusal of "detaining" the child in the waiting zone and the issuance of a safe-conduct which allows the minor to enter the territory. However this jurisprudence is not very consistent and decisions taken by other judges do allow the "detention" in the waiting zone. Some lawyers "forget" to object the inadmissibility of the request linked to the minority of the person, despite the fact that it is always possible to object it, since it relates to issues of public order (Article 117 of the new Code on the Civil Procedure).

If the Ministry of Interior considers that the asylum application of the minor is manifestly unfounded, he/she can be sent back to the country he/she was coming from, unless he/she is undocumented. If his/her origin is impossible to determine, he/she is de facto admitted into the territory and is delivered a safe-conduct "inviting him/her to leave the French territory". His/her asylum application will then be processed with "priority procedure". On the other hand, if his/her application is not considered as manifestly unfounded, he/she will be issued a safe-conduct for admission on the territory. He/she will have to go to the Prefecture within six days in order to start the OFPRA procedure.

During the first eight months of 1999 (January to August), 489 unaccompanied minors have been detained in a waiting zone. Among them, 91% were admitted into the French territory.

Update 2003

The article 17 of the Act on Parental Authority of March 4, 2002 modifies the article 35 quater of the Ordinance of November 2, 1945 by setting up an « ad hoc administrator» for the minors without legal representative who are kept in the « waiting zone ».

The ad hoc administrator is in charge of assist and represent legally the minor in all the administrative and jurisdictional procedures about his/her maintaining in the waiting zone and possibly his/her entrance in France.

The public Prosecutor appoints the "ad hoc administrator" on a list whose terms of constitution have to be fixed by a decree.

This decree of September 2, 2003, has been published in the bulletin of Laws and Official announcements on September 4, 2003.

1.b) To what extent does this conform to the Statement ? Please outline in brief

The law applicable to the entry on the territory of unaccompanied minors seeking asylum and above all the practice, are not consistent with the Statement. Minors can be kept in waiting zones solely on the ground that they do not have the required documents, and be refused admission into the territory and be sent back to their country of origin.

1.c) Are any changes needed in relation to any first principle ?

The guardianship judge should intervene at a very early stage after a minor has been identified in the waiting zone and should provide for the legal representation of that minor by appointing a guardian. The children judge and the social services for the protection of the child should also be involved before the decision of admission is taken. Individuals could be specifically habilitated for the reception and care of the minors in the waiting zone, on the same model as the individuals (lawyers or representative of UNHCR and NGOs) habilitated to visit foreigners in the waiting zones.

Update 2003

The appointment of an « ad hoc administrator» could be an improvement, but it's not yet implemented and it will depend of the practice of the ad hoc administrators....

NGOs who are allowed to enter in waiting zones are anxious about this new disposition because they fear that the judges allow the prolongation after 4 days, the children being legally represented. Until now a lot of them were released from the waiting zone because they were not.

1.d) Please also indicate whether your country has " carrier liability legislation" whereby airlines, train and boat companies can be fined if they bring in someone without proper documentation. Is this applied to children and young people under the age of 18 ?

Carrier sanctions are applied according to the articles 20 bis 1 and 2 of the Ordinance of 1945. These articles provide the possibility of imposing a fine of a maximum amount of 10 000 FF to the airline or ship company which carries into the French territory undocumented foreigners originating from a non EU member State. Exemptions are provided for by the Law if the foreigner who applies for asylum is admitted into the territory and if his/her asylum claim has not been declared as "manifestly unfounded", or when the carrier can establish that the documents presented at the boarding point were not obviously irregular. The provisions relating to carrier liability apply the same way for minors or adults (regardless of the age of the persons concerned).

Update 2003

The government bill modifying the Ordinance of 1945 provides to raise the sanction to 5000€, limited at 3000€ in some cases.

TRAFFICKING

1.e) Are you aware of any children being trafficked for purposes of exploitation into your country ? If so please give brief example(s) stating, if possible, the country of origin

and nature of trafficking. Please also give examples where children have travelled along trafficking routes in order to apply for asylum.

There are only few examples known of trafficking involving children. However we are aware of cases involving Chinese children (15 -16 years old) sent to France illegally seeking protection with the school or with the judge and who were forced to work in tailoring workshops to refund the price of their travel. We have also been informed about cases concerning children from Sierra Leone. Young girls and boys would have been forced into prostitution and criminal networks. It seems that minors are also forced to work by members of their own community. For food and accommodation, they often explain that they make "little services" or that they work "to thank the people" who put them up.

Update 2003

Please see below the Appendix on trafficking

1.f) Have any measures been taken by the State to combat trafficking of any sort ?

To the best of our knowledge, no special provision has been set in order to eradicate this phenomena, although the authorities seem to be well aware of this trafficking at different levels of the hierarchy. The civil servants in charge of combating illegal work are also competent to deal with these matters.

2. IDENTIFICATION

2.a) Please describe relevant law, policy and practice in your country.

No specific procedure has been set up by the immigration authorities to identify young adults or minors at the points of entry. Once on the territory, there is no procedure of systematic exchange of information between the different parties involved. However, OFPRA reports to the SSAE all unaccompanied minors who apply for asylum in order to organize the provisions relating to social care and guardianship.

2.b) To what extent does this conform to the Statement ? Please outline in brief.

The absence of identification procedure is not consistent with the Statement.

2.c) Are any changes needed in relation to any first principle ?

Unaccompanied minors seeking asylum should be systematically identified at the point of entry, be reported to the OFPRA, and immediately taken into care by the competent social services.

3. APPOINTMENT OF GUARDIAN OR ADVISER

3.a) Is a guardian or adviser appointed ?

Once a minor is identified, there is no systematic procedure of appointing a guardian or an adviser who would be responsible for all issues relating to the minor throughout the procedure. The minor can address competent NGOs which could assist him/her in the legal

and social fields. The minor can also be taken into care by a social worker or an NGO (SSAE, France Terre d'Asile) which could help him/her to get access to services of social care, legal representation and asylum procedure. Thus the minor does not have recourse to one single person to refer to.

Social care : The decision of providing social care by the ASE is taken by the children judge who is referred to by the public prosecutor, the social workers, the legal representative of the child, or the child himself. In emergency cases, the ASE can decide to place the child under its protection (see the chapter on social care).

Update 2003

There is no specific system of protection for the separated children. They are accommodated and supported by the Child Protection Agencies as minors in danger.

The intervention criteria are : minority and danger, in the case of separated children, isolation.

But each criterion can be contested.

Legal representation : The guardianship judge can appoint a legal representative for defending the interest of the minor. But responsibility conflicts within the judicial institution sometimes lead to a deadlock. If no relative is present and that a guardianship with a family council cannot be decided, the guardianship is given to the president of the *Conseil général* (local authority) who is also the Director of the local ASE responsible for the child. (see the chapter on the appointment of a legal representative).

Update 2003

The article 17 of the Act of March 4, 2002 on Parental Authority modifies :

- **the article 35 quater of the Ordinance of November 2, 1945 on the Entrance and Stay of Foreigners in France**
- **the Act of July 25, 1952 on the Asylum Right**

In order to appoint an ad hoc administrator to assist and represent the minors without legal representative

- **In the waiting zone**
- **Asylum seekers**

These two situations don't cover all the cases, a lot of separated children aren't kept in waiting zone and don't apply for asylum.

3.b) If so, what is their role ?

See the chapter on the appointment of a legal representative.

Update 2003

The ad hoc administrator has a restricted mission :

- **To assist and represent the minor in the waiting zone in all the administrative and jurisdictional procedures concerning this maintenance**
- **To assist and represent the minor without legal representative applying asylum in all the administrative and jurisdictional procedures concerning the quality of refugee.**

The guardian is the legal representative, he/she has a general mission.

3.c) How soon after arrival are they normally appointed ?

See the chapter on the appointment of a legal representative.

Update 2003

Concerning the minor kept in waiting zone, the “ad hoc administrator” must be appointed « without delay » by the public prosecutor, informed « as soon as a minor is kept » in the waiting zone.

Concerning the minors asylum seekers, the Act doesn’t specify the delay to appoint the ad hoc administrator, and we have no experience as the decree was published on September the 4th.

Concerning the guardianship there is no time limit, and it’s often very long, six months, one year....

3.d) What kind of background and expertise do guardians/advisers have ?

This practice is not consistent with the Statement. The unaccompanied minor has no one guardian or adviser to advise and protect him/her, ensure that he/she has access to accommodation, education, health care, legal representation, assist him/her to deal with his/her asylum claim, possibly to explore the possibilities of family tracing and family reunification and to look for a durable solution.

Update 2003

Concerning the ad hoc administrator, at the present time, none.

Concerning the guardian, none. But they are most often the local (departmental) Child Protection Agencies. Some of them accommodate and support of separated children since years, have got experience, they work with specialised NGOs but not all of them ...

3.e) To what extent does this conform to the Statement ? Please outline in brief.

The minor should have a single guardian or adviser responsible for representing his/her interests and to solve the competence’s conflicts between the different bodies involved (judicial institution and social services). The NGOs (SSAE and France Terre d'Asile among others) help the minors who approach them regarding the various administrative steps they have to take, and make contact with the different persons involved. However NGO cannot be legally responsible for the child.

Update 2003

To appoint an ad hoc administrator is conform to the Statement as far as it’s « without delay » but is not conform to the Statement as far as it’s not « in a long term perspective ».

4. REGISTRATION AND DOCUMENTATION

4.a) Please describe relevant law, police and practice in your country

No provision for a systematic procedure for interviewing the minor is available at the points of entry besides an interview with the representative of the Ministry of Interior, to determine whether the asylum application is manifestly unfounded or not, in the waiting zones. After admission into the territory, interview may be conducted by agencies while preparing the asylum case for the OFPRA.

Update 2003

The interviews are carried out, with a translator if possible, when the minors contact a local Child Protection Agency or an NGO to be accommodated and protected,.

4.b) To what extent does this conform to the Statement ? Please outline in brief

This system is not consistent with the Statement.

4.c) Are any changes needed ? In relation to any first principle ?

Minors should be identified as soon as possible in order to collect basic information and to offer appropriate care and follow up.

5. AGE ASSESSMENT

5.a) Please describe relevant law, policy and practice in your country

To assess the age of the person, if identity documents seem to be forged or contain incomplete, wrong or inaccurate data, and if the declared age does not seem to correspond to the real age because of his/her physical or mental development, the authorities may order clinical or dental examinations, among others the bone age expertise. The X-rays of the growing end of the wrist bones provides indication on the age according to charts established in 1930 and based on examinations of white north-American children originating from the same social class. These charts do not take into account ethnic, geographical, social, environmental or nutritional background. Radiologists unanimously state that bone age estimation by radiology does not necessarily correspond to the chronological age. It is, in any case, impossible to assess the age with certainty, the margin of error being approximately +/- 18 months.

Update 2003

The practice of age assessment is developing, that the minors have or not identity documents.

The judges aren't bound by these assessments but a lot of decisions non-suit to protect or to represent are taken after an age assessment.

5.b) To what extent does this conform to the Statement ? Please outline in Brief

This practice is not consistent with the point C5 of the Statement, since there is no presumption of minority but, in most of the cases, a presumption of majority. The benefit of the doubt is given to unaccompanied minors only in very rare cases. It depends very much on the interview with the social workers. Moreover, it is extremely difficult for a person arriving in France with the identity documents of another person to bring evidence of his/her own identity.

5.c) Are any changes needed in relation to any first principle ?

This examination is ordered almost systematically in the waiting zones by the border police (*PAF - Police de l'air aux frontières*) in violation of the physical integrity of the person. The minor is never explained the purpose of this medical examination and the possibilities of appealing against the results. As a matter of fact, the reliability of bone age estimation is questioned even by medical circles and should be used as an indicative value only.

When they are used as evidence, the conclusions of bone radiology are sometimes a way of avoiding problems linked to the status of the minors by considering that the person is an

illegal adult migrant. The minor, who is declared a major, might lose the benefit of all his/her rights as a minor. The foreigner law is applicable to him/her and he/she is accommodated in structures which are not adapted to the specificity of his/her case. However if he/she has declared at the OFPRA that he/she is between 16 and 18 years of age, the OFPRA takes into account this declaration and not the result of the bone radiology which was carried out afterwards and treats him/her as a minor. In registering his/her asylum application, possibly interviewing him/her and deciding on his/her case, OFPRA treats him/her like a major. However, it cannot notify the decision taken as long as the applicant - according to the age accepted by OFPRA - is a minor. In order to make the notification of the OFPRA decision possible, a guardianship has to be organised which is, in practice, almost never obtained since the judicial authority which ordered the bone age assessment, considers him/her as a major.

Major progress is still to be made in this field. First of all, the margin of error and the high unreliability of this examination should be taken into account. The method and the criteria should be reviewed and updated. Benefit of doubt should be applied to minors.

6. DETENTION

6.a) Please describe relevant law, policy, practice in your country.

In practice, minors are detained in the waiting zone as adults are if they do not hold the documents required for their entry into France (see chapter on entry into the territory). It seems that practices vary from one border to another. According to the information we were able to collect, the waiting zone in Calais, for instance, does not detain minors in their premises for more than two hours. This is the time necessary to refer the case to the children judge and the local ASE services. This practice is in full conformity with the international commitments France has taken as far as the protection of the child is concerned.

6.b) To what extent does this conform to the Statement ? Please outline in brief.

The general practice is not consistent with the Statement. Minors are still detained in waiting zones though a legal representative has not been appointed yet.

6.C) Are any changes needed in relation to any first principle ?

The judges who have to rule on the prolongation of the detention in the waiting zones should always release the minors and refer him/her to the children judge. The practice should also be changed before presenting the minor to the court so that he/she can be assisted by persons specially trained in dealing with minors (lawyers, social workers or NGO representatives) and be released earlier.

Update 2003

The appointment of an ad hoc administrator could evolve the situation but now we have no experience.

2. RIGHT TO PARTICIPATE

7.a) Please describe relevant law, policy, practice in your country

The Act of January 1993 (Article 388-1 of the Civil code) stipulates that the minor can be heard at all stages of the procedure concerning him/her. He/she may be heard by a judge or by any person nominated to this aim. However, the minor should be "mature enough" (*capable de discernement*). This formulation is rather imprecise and does not say anything about the age required. Despite the fact that the minor is heard, the minor is not party to the proceedings but can be represented by his/her guardian.

Update 2003

The local Child Protection Agency « considers with the minor every decision and collect his/her opinion ». Code of Social Action and Families Art. L 223-4.

The children judge must audition the minor capable of judgement. New code of Civil Procedure, art 1182.

The minor can consult his/her file with his/her barrister. When he/she has no barrister, the judge allows the Child Protection Agency to come with the minor to consult the file at the clerk's office registry. New Code of Civil Procedure art. 1187 modified by the decree of March 15, 2002, come into force September 1st, 2002.

7.b) To what extent does this conform to the Statement ? Please outline in brief.

The legal provisions are consistent with the Statement. But the staff of the border police who conduct interviews with minors do not receive any specific training. At the border, the minors are not assisted by a legal representative nor by a guardian/adviser.

7.c) Are any changes needed in relation to any first principle ?

The persons who conduct the interviews with the minors should receive specific training. In all circumstances the minors should be assisted by a legal representative or a guardian/adviser.

3. FAMILY TRACING

8.a) Please describe relevant law, policy, practice in your country

In the French legal texts on the protection of the child, parents are the natural guardians of the child. In order to avoid the "institutionalisation" of the minor, all institutions involved in the protection of the child normally have the responsibility of tracing the parents to give them back their child and help them if necessary, according to the best interest of the child principle.

When the child is a foreigner, tracing does not always happen. Tracing is carried out by the Red Cross or by the International Social Service with the aim of family reunion.

Social services who are not used to deal with foreign unaccompanied children may be put before a difficult choice : should a child be sent back to his/her poor country of origin even if he/she would join back his/her parents ? The absence of services (health care, education etc.) and a very low standard of living may be seen as an obstacle to family reunion.

Update 2003

More and more the Local Child Protection Agencies try to contact the parents, directly by phone or through the IRCC, the National Red Cross, the ISS.

Some of them have clear objective : to contact the family, and they do it with the consent of the child.

But some of them have no clear objective : contact or return. So the minor doesn't give any information about his/her family in the country of origin.

8.b) To what extent does this conform to the Statement ? Please outline in brief

The practice is not consistent with the Statement which promotes the tracing of parents at the earliest possible stage.

8.c) Are any changes needed in relation to any first principle ?

Update 2003

The tracing of the family have to be dissociated from the return of the child.

9. FAMILY REUNIFICATION IN A EUROPEAN COUNTRY

9.a) Please describe relevant law, policy, practice in your country

Applicable legislation : Dublin Convention ; national provisions and practices on family reunification (for migrants and refugees).

As far as asylum seekers are concerned, no legal provisions are available. The issuance of a visa for a separated child (or parents) for joining one's relative in another European country is almost impossible. The Dublin Convention, which entered into force on September 1st, 1997, provides for the possibility of family reunification only if the family whom the asylum seeker intends to join and who is staying in another EU member State has already been recognised as a refugee under the Geneva Convention¹. The derogatory clauses of the Article 9 "*for humanitarian reasons, based in particular on family or cultural grounds*" and of the article 3.4 relating to national sovereignty allow only rarely to bring together the family members applying for asylum in different EU countries.

If the members of the family staying in another EU member State enjoy refugee status under the Geneva Convention or if the child enjoys this status in France, family reunion is then possible either in the framework of the implementation of the Dublin Convention or through the issuance of a visa in application of the provisions relating to the family reunification procedure.

Update 2003

The Council Regulation (EC) N° 343/2003 of 18 February 2003 « Dublin II » establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national is applicable to the applications put down since the 1st September 2003. According to the article 6 : « Where the applicant for asylum is an unaccompanied minor, the Member State responsible for examining the application shall be that where a member of his or her family is legally present, provided that this is in the best interest of the minor. »

According to the humanitarian clause, article 15 – 3 : « If the asylum seeker is an unaccompanied minor who has a relative or relatives in another Member State who can take care of him or her, Member States shall if possible unite the minor with his or her relative or relatives, unless this is not in the best interests of the minor. »

¹ "*Where an applicant for asylum has a member of his family who has been recognized as having refugee status within the meaning of the Geneva Convention, as amended by the New York Protocol, in a member State and is legally resident there, that State should be responsible for examining the application, provided that the persons concerned so desire*". Article 4 of the Dublin Convention

9.b) To what extent does this conform to the Statement ? Please outline in brief

This practice is not consistent with the Statement relating to family reunification for asylum seekers. The Dublin Convention normally does not allow family reunification of asylum seekers whose asylum applications are processed by different member States of the European Union. The derogatory provisions of articles 3.4 and 9 are applied in a very restrictive manner.

Update 2003

Dublin II is better concerning family reunification but we have no experience about the implement.

9.c) Are any changes needed in relation to any first principle ?

The Dublin Convention should be revised in order to allow broader family reunification for asylum seekers. The derogatory provisions should always be applied in the cases of unaccompanied minors.

10. INTERIM CARE - HEALTH - EDUCATION AND TRAINING

Interim Care

10.a) Please describe relevant law, policy and practice in your country

Unaccompanied minors are taken into care by the Aide sociale à l'Enfance - ASE (social services for the protection of the child). The children/young people can be placed at the ASE-run accommodation centers by decision of the Children judge (*juge des enfants*) who can intervene "*if the health, the safety or the morality of a minor is endangered or if the conditions of his/her education are seriously threatened*" (Article 375 and following of the Civil Code). The case can be referred to the children judge by the public prosecutor, social workers or the minor himself.

The placement to the ASE can also be decided by the public prosecutor or the ASE-services directly by implementing the article L 223-2 al.2 of the Code of Social Action and Families "*in emergency cases and when the legal representative is unable to give his/her consent, the child is provisionally taken into care by the services which informs immediately the public prosecutor. If after a period of five day the child could not be given back to his/her family or if the legal representative has not given his/her consent on the admission of the child in the service, the latter should refer the case to the judicial authority*". The case can be also directly referred to the ASE by the legal representative of the child.

In practice, interim care of unaccompanied minors seeking asylum faces many obstacles linked to the age assessment and to conflicts of responsibilities between the institutions.

Some children judges consider themselves as incompetent to deal with such cases, considering that the guardianships judge referred to in emergency, can appoint a legal representative who will undertake all administrative steps for the minor and can refer the case to the ASE outside the judicial framework. Some judges also use the jurisprudence saying that the competence of the children judge implies not only the notion of the child being endangered but also of an existing conflict. They refuse to intervene on the ground that the

criteria of conflict cannot be put forward when the holder of parental authority are absent and hence no failure can be imputed to the parents. Other judges rely on the bone age estimation decided by themselves or, more often, by the public prosecutor, and conclude that the young person is a major.

Moreover, the ASE is sometimes reluctant because the reception and accommodation costs of the unaccompanied minors seeking asylum are finally financed mainly by the regions (*départements*) where most of the unaccompanied minors arrive. If the radiology of the bone, ordered by the ASE, results in the majority of the young person, the ASE can decide to put an end to the interim care, unless the placement has been ordered by the children judge with immediate implementation. This administrative decision, with no contradictory procedure, is not notified and hence cannot be appealed. As a result, the young person remains a minor in his/her civil status and as such, cannot be accommodated in the accommodation centres meant for adult asylum seekers.

Update 2003

There is no specific system of protection for the separated children. They are accommodated and supported by the Child Protection Agencies as minors in danger.

The intervention criteria are : minority and danger, in the case of separated children, isolation.

But each criterion can be contested.

10.b) To what extent does this conform to the Statement ? Please outline in brief

The French practice is not consistent with the Statement : the interim care does not always happen and the educational projects and methods of the ASE do not always meet the specific needs of the unaccompanied minors seeking asylum. Not all accommodation centers run by ASE have social workers able to deal with young non-French speaking children.

Update 2003

The practice is very different for one to another home.

10.c) Are any changes needed in relation to any first principle ?

Since September 1999, the opening of a reception center for unaccompanied minors seeking asylum, managed by France Terre d'Asile, allows many of them (who are all between 13 and 18 years old) to be accommodated temporarily in a specialised structure which will meet their specific needs. These young people will be then directed to ASE, to a foster family or to another structure.

Update 2003

The LAO, clearing house for children who are allowed to enter in France after the waiting zone in the airport Roissy – Charles de Gaulle, opened in September 2002.

The children are placed by the children judge for three months, to assess and decide what is in their best interests : return, family reunification in France/in a third country or placement to a local Child Protection Agency.

The most frequent orientation is the placement to a local Child Protection Agency.

The LAO is managed by the French Red Cross.

Health

10.d) Please describe relevant law, policy and practice in your country

Unaccompanied minors seeking asylum in France do not enjoy any specific treatment in terms of health care. They are treated as adults.

Access to health care :

When they arrive in France, and if they have health problems, unaccompanied minors are directed to the NGO Medecins sans frontières.

Once they have expressed their wish to apply for asylum and been delivered the first one-month provisional stay permit by the *Préfecture*, they are directed to the NGO COMEDE (*Comité médical d'aide aux exilés*)

Once they have formally applied for asylum with OFPRA and start receiving their monthly integration allowance (*allocation d'insertion*), they benefit - like adult asylum seekers - from the regular health system (*securité sociale*) and medical aid (meant for destitute persons in emergency situation)

Psychological care : NGOs like AVRE (Association des victimes de la répression en exil), Primo Levi, an NGO assisting victims of torture or the psychological centre Françoise Minkowska provide unaccompanied minors consultations with specialised therapists who help them to analyze their experiences and their situation. The interviews are confidential, individual and personal.

Update 2003

In the big cities some public psychological/psychiatric consultations for children receive also separated minors.

10.e) To what extent does this conform to the Statement ? Please outline in brief

It is conform to the Statement

10.f) Are any changes needed in relation to any first principle ?

-

Education, language, training

10.g) Please describe relevant law, policy and practice in your country

School attendance is compulsory for unaccompanied minors under 16 years of age, like for all children staying on French territory regardless of their administrative situation. In practice, no problems occur for children of this age : they are directed to CLIN classes (initiation classes) according to the places available. This structure provide for French lessons in addition to the normal program.

School attendance is no more compulsory after 16. In practice, these young people are rarely integrated in a normal curriculum and are mainly directed towards professional branches such as apprenticeships. Programs against illiteracy may be offered within the framework of the "French lessons for foreigners" programs (*Français langue étrangère*). Being asylum seekers, they are not allowed to work and hardly have any access to professional/vocational training programs.

The learning of the French language and the training programs depend on the psychological situation of the minor. When a child has lost his references and suffers from psychological

problems, he/she has considerable difficulties in concentrating on any learning. It sometimes happens that minors benefit from professional training programs.

10.h) To what extent does this conform to the Statement ? Please outline in brief

The French legislation is not consistent with the Statement since unaccompanied minors over 16 do not enjoy the same treatment as nationals.

10.i) Are any changes needed in relation to any first principle ?

Unaccompanied minors over 16 should have unrestricted access to the professional training programs.

11. REFUGEE DETERMINATION PROCESS

Access to normal procedure

11.a) Please describe relevant law, policy and practice in your country

Minors over 16 years of age must take the same administrative steps as adults. They should first find an address (*domiciliation*) before approaching the *Préfecture* to receive the one-month provisional stay permit and the asylum application form to be filled up and sent to the OFPRA within one month.

Minors under 16 do not need a stay permit and receive directly the OFPRA form without needing to approach the *Préfecture* to be admitted to stay in France. OFPRA sends the certificate of asylum application (*certificat de dépôt de la demande d'asile*) along with a letter inviting the minor to approach the SSAE for legal and social assistance.

In principle, OFPRA processes the asylum application of the minor and carries out an interview with him/her. However the decision is notified only after the guardianship has been set.

Minors should preferably be accompanied by a social worker in their administrative steps and in the preparation of their asylum file which should be put together as early as possible in order to avoid forgetting events and details of his/her story.

Update 2003

The OFPRA does process the asylum application of the minor only when he/she has a legal representative. Nevertheless, exceptionally, when the social worker, the psychologist ... who follows the child intervenes, the OFPRA interviews the minor before the guardian is appointed.

The appointment of an “ad hoc administrator” should shorten the procedure.

11.b) To what extent does this conform to the statement ? Please outline in brief.

This practice is not consistent with the Statement because the asylum application lodged by an unaccompanied minor can be processed with "priority procedure" like the application presented by an adult.

According to Article 10 of the Asylum Act modified in 1998, an asylum claim may be examined through priority procedure, when the *Préfecture* refuses the issuance of the first one-month provisional stay permit on the grounds that :

- another European State is competent for examining the claim in application of provisions of the Dublin Convention
- the asylum seeker is a national from one of the countries for which the French authorities decided to apply the cessation clause 1C5 of the Geneva Convention. Cessation clause is currently applied to Hungary, Poland, Czech Republic, Slovakia, Benin, Cape Verde, Chili, Romania and Bulgaria.
- The asylum seeker constitutes a threat on the public order
- The asylum claim is manifestly fraudulent, abusive or solely intended to avoid implementation of a removal order.

In practice, the asylum application is also examined through priority procedure when it has been declared "manifestly unfounded" at the border and that the asylum seeker has been admitted into the French territory on another ground such as the impossibility to establish the country where the person came from, transfer to a hospital, decision of the judge etc).

When priority procedure applies, asylum seekers are not delivered stay permits and have no right to the suspend effect of their appeal against a negative decision taken by OFPRA.

11.c) Are any changes needed in relation to any first principles ?

The asylum application presented by unaccompanied minors should be examined as early as possible and should never be processed through the priority procedure. Minors should also be represented at all stages of the procedure.

Legal representation

11.d) Please describe relevant law, policy and practice in your country

Normally, the conditions and legal system applicable for legal representation depend on the national law of the minor (applicable in the country of origin of the minor). In emergency cases however, The Hague Convention provides the guardianships judge the possibility of applying the French law by pointing out that the research on the legal provisions of the national law of the minor relating to the guardianship would take very long and that there is an emergency in placing the minor under guardianship. Normally, the consular authority of the country of origin of the minor should be informed but this is not advisable in the case of asylum seekers.

The delegation of the parental authority may be an alternative solution to the guardianship for children under 16. The parents keep the parental authority but allow somebody else to play their role in France. This system implies the consent of the parents who remained in the country of origin. It is also possible to decide for a **guardianship by family council** consisting of four to six members (close family members, relatives, friends, organizations representatives, social worker working with children. The guardianship by family council makes the recognition of the refugee status possible through the principle of family unity if the guardian is a refugee himself/herself. When a family council cannot be set up, a **State guardianship** is given to the president of the *Conseil général* (local authority in the

administrative area of the *département*). The state guardianship makes access to French citizenship easier.

Article 390 of the Civil Code : "*The guardianship is decided when the father and the mother are both dead or when they are in one of the cases provided for by Article 373*".

Article 373 of the Civil Code : "*The father or the mother loses the parental authority in the following cases : 1° if he/she is not able to demonstrate his/her will because of his/her inability, his/her absence or for any other reason*".

In practice, some guardianship judges refuse to decide on a guardianship as long as OFPRA has not granted refugee status. On the other hand, OFPRA does not process the asylum application as long as the guardianship is not decided. It also happens that the guardianship judge refuse to deal with the case on the ground that the child's identity is not sufficiently established. Asylum seekers are not always in a position to present their complete birth certificate necessary for deciding a guardianship. They often have documents which have been reconstituted. In that case, the guardianship judge can approach the public prosecutor or OFPRA which normally should be able to carry out investigations in order to establish the child's identity. The risk is that OFPRA does not answer or that the public prosecutor orders a bone age estimation. The procedure can last for months.

Update 2003

The implement of an « ad hoc administrator» for the minors asylum seekers will shorten the asylum procedure.

The mission of the « ad hoc administrator » ends up when the guardianship is opened.

11.e) To what extent does this conform to the statement ? Please outline in brief.

The unaccompanied child does not always have a legal representative who is able to assist him/her with the asylum procedure.

Update 2003

The appointment of the “ad hoc administrator” is in accordance with the Statement as far as it is done fast, but is not corresponding as far as it is not done « in a long term perspective ».

11.f) Are any changes needed in relation to any first principles ?

Guardianship should be systematically decided so that the interests of the child are represented.

Minimal procedural guarantees

11.g) Please describe relevant law, policy and practice in your country

Minors can lodge an appeal against a negative decision taken by OFPRA with the Refugee Appeals Board in the same conditions as the adults. Like adults, they are also excluded from the benefit of legal aid if they do not meet the requirements, among others, the condition of legal entry into the French territory.

11.h) To what extent does this conform to the statement ? Please outline in brief.

While conducting the interview, OFPRA officers normally take into account the maturity of the child, but the minor is generally not accompanied by his/her legal representative nor by a social worker, as the Statement recommends it.

Update 2003

The minor can be accompanied by his/her guardian, social worker, but for a moment the minor is interviewed alone by the OFPRA officer.

The length of the procedure is not shorter unlike the recommendations of the Statement. They are actually longer due to the difficulties linked to the legal representation. (see chapter on legal representation). OFPRA can process the asylum application but the decision will be notified only after a guardian is appointed or once the child has become a major.

Update 2003

The appointment of an ad hoc administrator should shorten the procedure.

The minor who becomes a major in the course of the asylum procedure does not benefit from any favorable treatment, unlike the recommendation of the Statement. The fact that he/she was a minor upon arrival is not taken into account.

11.i) Are any changes needed in relation to any first principles ?

Interviews by OFPRA officers should happen at the earliest possible stage, soon after arrival, in order to avoid forgetting or getting confused in telling their story . The minor should have the possibility of being assisted during the interview by an adult of his/her choice. Unaccompanied minors lodging an appeal against the OFPRA's negative decision should be automatically granted free legal aid.

Independent assessment

11.j) Please describe relevant law, policy and practice in your country

Asylum application presented by unaccompanied minors are examined by the same OFPRA officers who also deal with applications presented by adults.

Update 2003

The social worker, the doctor, the psychologist who follows the child can send complementary information to the OFPRA, with the agreement of the child.

11.k) To what extent does this conform to the statement ? Please outline in brief.

This practice is not consistent with the Statement.

11.l) Are any changes needed in relation to any first principles ?

OFPRA officers dealing with asylum applications lodged by unaccompanied minors should be specifically trained in interviewing children and be aware of child-specific persecutions.

Interviews

11.m) Please describe relevant law, policy and practice in your country

Unaccompanied minors seeking asylum are normally invited to an interview with OFPRA. OFPRA officers ask the same questions to asylum applicants, whether they are minors or adults. They may use a simplified formulation with the children. The interview is conducted in similar conditions for children and adults, though adapted to the maturity of the minor and his/her stage of development.

The guardian or the social worker from the ASE responsible for the minor, may discuss the case with the OFPRA officer but this is not the systematic rule. It is even more difficult when the assistance of an interpreter is necessary : he/she has the double work of translating words and concepts which are sometimes not easily accessible to a young child, and he/she will have to adapt the language level to the maturity of the child and his/her stage of development.

11.n) To what extent does this conform to the statement ? Please outline in brief.

Unlike the recommendations of the Statement, OFPRA officers do not receive any specific training and the minors are not always assisted by an adult for the interview.

11.o) Are any changes needed in relation to any first principles ?

The interview should be conducted at the earliest possible stage in order to avoid forgetting and getting confused in telling his/her story. The minor should have the possibility of being assisted by his/her legal representative or by a social worker whom he/she knows. The interview should always be conducted according to the principle of best interests of the child.

Criteria for making a decision on a child's asylum application

11.p) Please describe relevant law, policy and practice in your country

According to the Geneva Convention, same criteria for determining the refugee status apply to all applicants regardless of their age. Like for a major, well-founded fears of persecution are assessed on the basis of the five criteria contained in Article 1 of the Geneva Convention, even if, in most cases, the persecution of the children are indirect and linked to those suffered by the parents in the country of origin.

11.q) To what extent does this conform to the statement ? Please outline in brief

The age and maturity of the child as well as an assessment of the child's ability of articulating a well-founded fear of persecution are taken into account. However the benefit of doubt principle is not always applied.

11.r) Are any changes needed in relation to any first principles ?

The benefit of doubt principle should be broadly applied and the criteria for determining refugee status should be adapted to their young age. The assessment of the fears of persecution should not be carried out in the same way as for an adult because they are much more subjective than for an adult. This assessment implies a special effort from the OFPRA officer to understand the feelings and emotions of the child.

Update 2003

A specific work about child's specific persecutions should be carried out in France.

Young people who become adults during the asylum procedure

11.s) Please describe relevant law, policy and practice in your country

This is the most common case : because of the complexity and the length of the procedure, few minors are granted refugee status before becoming major.

The minors who become majors do not benefit from any specific treatment. The fact that he/she was a minor on his/her arrival in France is not taken into account.

11.t) To what extent does this conform to the statement ? Please outline in brief

This system is not consistent with the Statement.

11.u) Are any changes needed in relation to any first principles ?

The fact that the applicant was minor when he/she arrived in France should be taken into account.

12. DURABLE SOLUTIONS

REMAINING IN A HOST COUNTRY OR COUNTRY OF ASYLUM

Grounds for a child remaining in a host country

12.a) Please describe relevant law, policy and practice in your country

When a minor has been granted refugee status, whether on an individual basis or under the guardianship of a person who is a refugee, he/she enjoys the Convention status. He/she is cared for by the services for child protection (ASE) like any other minor in need of protection, regardless of the fact that he/she is a refugee or of foreign origin. The objective of these services is the integration of the child into French society and possibly his/her access to French nationality. The conservation and development of his/her language and culture of origin is not necessarily encouraged.

12.b) To what extent does this conform to the statement ? Please outline in brief

This does not conform to the Statement which recommends the long-term placement of the children in a foster family from their own culture.

12.c) Are any changes needed in relation to any first principles ?

Changes are probably needed but the general context of the debate on the "French model of integration" did not go along that line until recently.

Family reunification in a host country

12.d) Please describe relevant law, policy and practice in your country

Due to the length of the procedure, the case of unaccompanied minors recognised as Convention refugee is quite exceptional. There is no practice known in this field.

From a legal point of view, no legal provision stipulates that unaccompanied minors recognised as Convention refugee is entitled to let his/her family come to France for family reunification purposes.

Update 2003

There are some cases, but very few.

12.e) To what extent does this conform to the statement ? Please outline in brief

-

12.f) Are any changes needed in relation to any first principles ?

-

Integration

12.g) Please describe relevant law, policy and practice in your country

No specific integration policy applies to unaccompanied minors. They benefit from the same services as other foreign minors residing in France.

Update 2003

If they become refugee, they are allowed to work and then to attend professional training programs.

As minors entrusted by a judge (children or guardianship judge) to the Child Protection Agency, they can apply for the French citizenship, when they are minors.

The government's bill at the moment in front of the Upper Chamber of the French Parliament changes this provision and imposes a delay of 5 years.

12.h) To what extent does this conform to the statement ? Please outline in brief

The cultural approach was hardly developed in the French integration system until recently

12.i) Are any changes needed in relation to any first principles ?

The Integration system should include the possibility for refugees to preserve and develop their own cultural and linguistic traditions.

Adoption

12.j) Please describe relevant law, policy and practice in your country

Very briefly : France has signed and ratified the 1993 The Hague Convention on adoption. The adoption of foreign children falls under international private law. The French jurisprudence is a little bit erratic. Few cases are referred to the court and the decisions taken are often inconsistent with each other.

In the past, it happened that unaccompanied children, who have been living in French foster families, have been finally adopted by them (Bangladeshi children for instance). During and after the events in Rwanda, French authorities refused this practice which led to conflicts between foster families and the administration.

During the Kosovo events, a clear and firm position along the same line had been taken by the French authorities before the possible arrival of unaccompanied minors.

In a recent ministerial circular from February 16, 1999, the Ministry of Justice urges public prosecutors to apply strictly procedural requirements. In practice today, unaccompanied minors seeking asylum or being granted refugee status are not adopted.

12.k) To what extent does this conform to the statement ? Please outline in brief

The practice is close to the Statement recommendations.

12.l) Are any changes needed in relation to any first principles ?

Identity and nationality

12.m) Please describe relevant law, policy and practice in your country

The identity of statutory refugees is reconstituted by OFPRA which is the competent authority for their civil statute.

Nationality : children placed under the protection of a service for children' protection or under the State guardianship can acquire French nationality before his/her majority, if the child so wish (cf Article 21.12 of the Civil Code).

Update 2003

As minors entrusted by a judge (children or guardianship judge) to the Child Protection Agency, they can apply for the French citizenship, when they are minors.

The government bill now in front of the Upper Chamber of the French Parliament changes this provision and imposes a delay of 5 years.

12.n) To what extent does this conform to the statement ? Please outline in brief

The French practice is close to the Statement recommendations. Access to French nationality is possible when a child is taken into care by social services.

12.o) Are any changes needed in relation to any first principles ?

No change is needed.

Update 2003

The draft of the reform is really very bad for separated minors as none provision about permit to stay is provided.

FAMILY REUNIFICATION AND RETURNS TO A COUNTRY OF ORIGIN

Voluntary return

12.p) Please describe relevant law, policy and practice in your country

No legal provision is available on the voluntary return of minors. The French law prohibits the expulsion of minors from French territory.

A judge can organise the repatriation of a minor to his/her country of origin if the minor so wishes. In practice, not all repatriations are carried out in the best interests of the child.

Update 2003

On October 4, 2002, France and Romania concluded an agreement « about the co-operation for the protection of the Romanian minors in trouble on the French territory and their return to their home country and the struggle against trafficking ».

On this agreement the juvenile judges can require to a Central Authority for a social assessment in Romania to know the parents' living conditions.

About 20 minors returned.

Theoretically there is a follow up on the children but there is no information...

12.q) To what extent does this conform to the statement ? Please outline in brief

The French practice is consistent with the Statement.

Update 2003

Apart from the Franco-Romania Agreement, some Children Judges organise, with the Child Protection Agencies, return, when the parents are living in the country of origin, but without the child's agreement. The NGOs are informed when the children come back and ask for help.

12.r) Are any changes needed in relation to any first principles ?

Conditions that must be fulfilled prior to return

12.s) Please describe relevant law, policy and practice in your country

In practice, some cases of returns are decided by the children judge, the services for the child's protection and/or the International social service (represented by the SSAE). They are normally carried out in consistency with the rules applicable for the social services : prior investigation, consultation of the persons concerned, assessment).

12.t) To what extent does this conform to the statement ? Please outline in brief

The French practice is consistent with the statement. Minors are normally repatriated only if it is in their best interests.

12.u) Are any changes needed in relation to any first principles ?

Generally speaking, social workers and judges should be specifically trained on this issue.

Programs and aid to facilitate reintegration

12.v) Please describe relevant law, policy and practice in your country

There is no specific program available for unaccompanied minors.

Update 2003

According to the Franco-Romania Agreement, the targets of the co-operation are :

1. to identify and protect the Romanian separated children, victims or authors of offences, in difficulty on the French Territory,
2. to prepare measures of protection and integration,
3. to favour the return in the country of origin, in the family if possible,
4. to adopt measures of protection for these children, on the territory of each party,
5. to follow each child, during six months at least, for his/her integration,
6. to dissuade the minors to put themselves in an situation of isolation and to make the Romanian families aware of the risks in order to prevent their exploitation and to fight against the criminal organisations.

The French Authorities identify the Romanian separated children in France, and protect them. They give the information to the Romanian Consulate in order to investigate in Romania to identify the child's family and to know why the child is gone.

In a delay of 4 months, the Romanian Child Protection Service elaborates a project for return, in the family, in a foster family, or in a home.

If the project offers guaranties (educational, social and sanitary), the return is organised.

As soon as the child is returned, the Romanian Authority protects him/her.

Financially, France pays the protection in France and the travel to Romania, and contributes to "preventive measures".

12.w) To what extent does this conform to the statement ? Please outline in brief

12.x) Are any changes needed in relation to any first principles ?

Settlement in a third country

12.y) Please describe relevant law, policy and practice in your country

Exceptional individual cases are dealt with by the International Social Service (ISS). Difficulties are very much linked to the issuance of visas.

Update 2003

The settlement in a third country concerns children whose parents have a permit residence which allow them to family reunification, particularly refugees.

12.z) To what extent does this conform to the statement ? Please outline in brief

12.zz) Are any changes needed in relation to any first principles ?

13. DATA COLLECTION

a) Who should be responsible for collecting data on separated children ? Please consider both government departments and NGOs.

No institution or NGO is responsible for data collection on separated children seeking asylum. In practice, however, OFPRA reports all cases referred to them to the SSAE.

Update 2003

Separated minors are registered by each administration (national or local) according (depending on) his mission :

- The Police of Air at the Borders (PAF) registers the separated minors kept in the waiting zone
- The OFPRA registers the separated minors who apply for asylum in France

- Each local Child Protection Agency registers the separated minor accommodated and supported in his area.

b) What sort of data is required ? From government ? From NGOs ?

c) Please provide any current (1997-1999) data on separated children which is available (from both government and NGOs).

In 1998, 220 unaccompanied minors lodged asylum applications in France.

Breakdown by country of origin:

Sri-Lanka	59	Angola	6
Romania	23	Bhutan	6
Ex-Zaïre	21	China	5
Rwanda	16	Congo	5
Turkey	14	Liberia	4
Sierra Leone	11	Sudan	4
Cambodia	9	Nigeria	3
Pakistan	9	Ecuador	3
India	9	Others	8
Yugoslav	7		

Update 2003

- Police of Air at the borders

1998 : 600 separated children were kept in waiting zone

1999 : 1200 separated minors were kept in waiting zone whose 602 apply asylum at the border

2000 : 1268 separated children were kept in waiting zone, whose 849 apply asylum at the border

2001 :

- OFPRA : separated minors applying asylum in France

1998 : 220

1999 : 163

2000 : 215

2001 : 375

- Child Protection Agencies

Inquiry/Investigation done by the sociologist at the demand of DPM

Selon l'étude d'Angelina Etiemble réalisée en 2002 auprès des Conseils généraux pour évaluer le nombre de mineurs isolés pris en charge dans chaque département par le service de l'aide sociale à l'enfance.

L'étude ne distingue pas si le mineur est demandeur d'asile ou pas

	Année	1999	2000	2001
Numbers		609	985	1974
Among which Paris		209	292	527
" Seine-Saint-Denis (Bobigny)		136	200	370
" Nord (Lille area)		94	192	383

Country of origin of the minors

✓ 1999

Europe 59%

Romania more than 45%

Maghreb 17%

Morocco 75%, Algeria

Africa South of Sahara 17%

Cameroon, Somalia, Congo, Sierra Leone, Angola

Asia 4%

China, Iran, Afghanistan, India, Irak.....

✓ En 2000

Europe 38%

Romania, Albania, Kosovo....

Maghreb 25,8%

Morocco, Algeria, Libya

Afrique South of Sahara 18,6%

Congo, Angola, Cameroon, Somalia, Sierra Leone....

Asie 13%

China, Iran, Palestine, Irak, Afghanistan....

✓ En 2001

Europe : 45%

Romania, Albania, Yougoslavia, Kosovo, Poland, Turkey....

Maghreb : 23%

Morocco 70%, Algeria 25%, Tunisia 5%

Afrique South of Sahara : 18,5%

Angola 31%, Congo Brazzaville 17%, République Démocratique du Congo 16%....

Asie : 10%

Afghanistan, China, Palestine....

During these three years, we can state that the minors from Europe are decreasing but the minors from Asia are increasing, it's the sign of the war in Afghanistan and the arrival of the minors from China.

14. POLITICAL LEVEL - SUPPORT FOR CHANGE

Please where possible provide the following information :

- **describe the level of contact NGOs working with separated children have with: central government departments, local and regional governments**

The NGOs working with separated children have contact with the local Child Protection Agencies because they have the competence and the financial charge of the child protection. The NGOs alert the central government, the Ministry of Social Affairs, on this problem.

- **describe any contacts with European institutions e.g.: members of European Parliament, European Commission, or European Council. (give names if possible)**

- **can you identify at the different political levels, any sources of support for improving the situation of separated children?**

- **can you identify, at the different political levels, the main obstacles to change?**

The main obstacles to change are :

1. The problem of the financial charge on the local authorities (Departments) which want the intervention of the central government.

The central government pays only for the specific clearing houses – see n° 10 c

Nevertheless, the junior minister's office against exclusion organises an experimental protection system for the separated street children in Paris.

2. The real appreciation of the vulnerability of the separated children seen as false minors but real migrants.

Appendix: specific questions on migrant and trafficked children

Trafficked children

- Identify any domestic legislation which can be (a) used against traffickers and (b) applied to trafficked children

Penal code art. 225-4-1 to 225-4-8 relating to the trafficking.

Trafficking is punished with 10 years imprisonment and 1 500 000 EUR fine when committed against minors.

- What international covenants on trafficking have been signed by your country?
France has signed and ratified the Additional Protocol of Palermo adopted in New York November the 15th, 2000.

- What is known about children being trafficked into your country? Eg country of origin, routes of entry, estimated numbers, forms of exploitation
Most of the children being trafficked are from Romania, China and some African countries. Children from Romania enter in France through the earth border, the others through the air border.

The forms of exploitation are : prostitution and illegal work.

- To what extent are relevant authorities identifying trafficked children? Eg police, social services, immigration authorities

Police identifies the trafficked children through interpolations or operation in squats.

- How are trafficked children being dealt with under immigration and asylum law and procedures?

As the others ; see part 1

- Do trafficked children have access to welfare provision available to other separated children or to child sex-workers or otherwise exploited children who are nationals of your country? E.g. education, health care, psychological support.

- What additional or specific welfare provision is needed by trafficked children which is not currently being met?

Trafficking is something new in France and specific needs will appear soon.

- What arrangements are there for family contact, family reunification and managed return for trafficked children?

The International Social Service is sometimes requested to contact the family and make a social assessment.

Migrant children

- What is known about other migrant children who are neither refugee nor trafficked children ? eg country of origin, routes of entry, numbers, means of subsistence.

The migrant children come from Morocco by boat to Spain or directly to France ; from Romania, by earth ; from China by plane with a ticket to a country in Africa or Latin America, and a transit visa in France.

- Can you identify particular groups with international protection needs?

The street children who have few contact with the social institutions and the youngsters between sixteen and twenty-one.

- How are these children dealt with under immigration and asylum law and procedures? The minors, as adults, can be kept in waiting zones and return to their country of origin or country of transit.

When they are on the French territory, after the waiting zone, they can't be deported by force. They can apply asylum – see n° 11.

But when they become 18 y. o, they need a permit to stay;

Some of them can get one because of health problems.

Some of them can apply for the French citizenship because they were entrusted by the judge to the Child Protection Agency.

A lot of them become illegal and can be returned.

- What welfare provision is available to such children, formally or informally?

These children, as minors in danger, have to be protected in the child protection agencies, but such as for the separated children asylum seekers, the minority, or the danger (the isolation) can be contested by the police, the children judge, the guardianship judge or the Child protection Agency, as a lot of them arrive in France between 16 and 18 y. o.