



# **Minors in Assisted Voluntary Return (and Reintegration) Situations in the Case of Austria Practices, Challenges and Recommendations**

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## 1. Introduction

Measures to enhance return migration of persons who are unable or unwilling to stay in the host country has become a crucial part of many European governments' migration policies in the past few decades. In this context, one of the main areas in which the International Organization for Migration (IOM) works in is Assisted Voluntary Return (AVR), which – by providing logistical and financial support to individuals and families – aims at a safe and humane return of persons, who seek or need to return to their country of origin but lack the means to do so. In Austria, the return assistance offered within the framework of the “General Humanitarian Return Programme” is mainly financed by the Ministry of the Interior, while its implementation involves several key actors, such as institutions realizing return counselling, including NGOs and provincial refugee offices. IOM Austria also provides assistance for the reintegration in the country of origin tied to specific projects that address certain target-groups, known as Assisted Voluntary Return and Reintegration (AVRR) projects. Such assistance has in the past been provided to citizens of Georgia, Moldova, Nigeria and Kosovo, and is still provided to citizens of the Russian Federation/the Chechen Republic, Afghanistan, Pakistan, and to victims of human trafficking in general.<sup>1</sup>

In 2014, as much as 23% of all assisted returnees by IOM internationally, were below the age of 18.<sup>2</sup> In Austria, children constitute a slightly minor part in proportion to the total numbers of voluntary returnees assisted by IOM, but still make up 15% of all returnees in 2014.<sup>3</sup> This fact in addition to the rapidly increasing numbers of children in migratory situations in contemporary times, in particular within Europe, where 85% of all returnees assisted by IOM in 2014 returned from,<sup>4</sup> indicates the importance of establishing and ensuring favourable conditions for children returning within their families or those seeking to reunite with them. Since children constitute individuals who need special attention and protection, they are a group to address in a tailored

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<sup>1</sup>See ‘AVRR completed projects’ (IOM Vienna Website) <<http://iomvienna.at/en/assisted-voluntary-return-and-reintegration-completed-projects>> and “AVRR on-going projects” (IOM Vienna Website) <<http://iomvienna.at/en/ongoing-projects>> accessed 26th July 2015.

<sup>2</sup> IOM, *AVRR At a Glance 2015* (Geneva 2015) 15.

<sup>3</sup> Quantitative data provided by Andrea Götzelmann, Focal Point for Knowledge Management and Head of the Assisted Voluntary Return and Reintegration Unit; for 2014 see also ‘Statistical Overview 2014’ (IOM Austria) <<http://www.iomvienna.at/sites/default/files/Statistics%20voluntary%20returnees%202014%20for%20IOM%20web%20site.pdf>> accessed 1st August 2015.

<sup>4</sup> IOM, *AVRR At a Glance 2015* (Geneva 2015) 5.

manner when it comes to their experiences within migration contexts, including their treatment within asylum systems but also within return assistance. That applies particularly concerning unaccompanied minors (UAMs), since they enter the immigration system without parents who are supposed to take care of their needs. Against this background, this research aims at analysing the implementation of AVR and AVRR programs with respect to the return of children from Austria, addressing the following questions: How adequately do the AVR (and reintegration) programs in Austria adapt to the needs of minors? Which main challenges can be identified and how could these be overcome?

As to the reintegration assistance, mentioned in parenthesis, it is pointed out that so far there is no reintegration project implemented by IOM Austria, which would focus specifically on UAMs or children in general. UAMs as well as children within their families can only be granted reintegration assistance if they belong to one of the targeted nationalities mentioned above. It is also important to note, that for the specific situation and vulnerability of UAMs in migration and return contexts, some of the following sections are explicitly focused on UAMs, while those not explicitly marked concern minors in general.

## **2. Methodology and Structure**

The research focus has been established in collaboration with practitioners from the IOM Austria office, with whom two meetings have been organized.<sup>5</sup> The meetings and the documents provided within these meetings gave access to great qualitative and quantitative data for the Austrian case, which serve as valuable sources for this paper. Based on this, this paper has a country-based focus concentrating on AVR (and reintegration) of minors from Austria to non-EU countries, considering that the procedures concerning these assistances, such as institutions involved in the pre-return phase and their responsibilities, vary substantially among different countries. Whereas IOM is not the only institution that provides return assistance in Austria, this paper focuses explicitly on the work they realize in collaboration with their partners, mainly because of the quantitative importance IOM has in this field. Based on this focus, our bibliographic research combines studies and reports of IOM as well as of other UN bodies,

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<sup>5</sup>1<sup>st</sup> meeting June 5<sup>th</sup> 2015 with Andrea Götzelmann, Focal Point for Knowledge Management and Head of the Assisted Voluntary Return and Reintegration Unit, and Katie Klaffenböck, Project Coordinator and Focal Point for Counter-Trafficking; 2<sup>nd</sup> meeting July 22<sup>nd</sup> 2015 with Andrea Götzelmann and Agata Foryś, Project Coordinator and Focal Point for Unaccompanied Minors.

nongovernmental and political actors working in the field, with scientific articles relevant for the topic.

The paper starts with giving an overview on children in migration contexts in order to identify the special needs that have to be taken into consideration when dealing with return and reintegration. The following sections aim at analysing AVR and AVRR procedures in Austria with respect to minors, subsuming the main approaches of related programs and identifying how these are able to meet the needs of minors. This analysis is realized by dividing the procedure into the pre-return, the return and the post-return phase. By identifying strengths and weaknesses concerning these phases of existing programs, recommendations on how to overcome challenges in the AVR and AVRR of minors will be given.

### **3. Children in Migration and Return Contexts**

#### **3.1. Children and Immigration Procedures**

A child is “an individual being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier”.<sup>6</sup> Within this definition the term “child” serves as a synonym of the legal term “minor”, which is defined as being under the age of minority and therefore “not entitled to exercise specific civil and political rights.”<sup>7</sup> Children and minors respectively are not entitled to make legally binding decisions, relying on their parents or, if absent, a guardian, presuming that they assume their responsibility in the best interest of the child. “Unaccompanied minors”, often used as a legal as well as politicized term, are children “who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.”<sup>8</sup> “Separated children”, in contrast, are children “who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives.”<sup>9</sup>

If children migrate within their family, the parent constitutes the principal, primary or main applicant for a refugee or other immigration status, while in general international practice “dependents (usually a spouse and any minor children) are considered derivative applicants and

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<sup>6</sup> *UN Convention on the Rights of the Child* (General Assembly resolution 44/25 of 20 November 1989) Art. 1.

<sup>7</sup> IOM, *Glossary on Migration* (Geneva 2004) 42.

<sup>8</sup> UN Committee on the Rights of the Child, *General Comment No.6* (CRC/GC/2005/6) Paragraph 7.

<sup>9</sup> *Idem*, Paragraph 8.

receive the same status afforded to the principal applicant.”<sup>10</sup> As to unaccompanied minors, in turn, once entering an administrative procedure, such as the asylum procedure, a guardian should be assigned to the child serving as the legal authority to decide upon and act in favour of the child’s best interest. Unfortunately, this assignment is not necessarily realized immediately and can take up to months (a period in which the local Children and Youth Service is authorized to take measures concerning the child in cases of imminent risk).<sup>11</sup> The evaluation of the child’s best interest, however, should not be normative only to parents and guardians, but also to any institutional treatment of children, as it is acknowledged to be the primary consideration during all stages and situations of the migratory process, regardless of their immigration status or the immigration status of their parents.<sup>12</sup>

Unfortunately, this does not always become reality, as migrant children are often overlooked as a distinct rights-holder when it comes to migration laws and policies. To avoid mistreatment, any assessment concerning migrant children should, therefore, always involve decision-makers who are specialized in child protection (such as the national child welfare agencies), and not be done merely by immigration authorities, who tend to lack awareness and sensitivity towards children rights.<sup>13</sup> Not being acknowledged of having specific child related rights in immigration contexts is especially severe in the case of unaccompanied minors, as the lack of parental presence and protection makes them more vulnerable to human rights violations, abuse and exploitation in any migration context. It is for this reason that, once detected by governmental or non-governmental authorities, they should be treated in an especially protective way that enables the enjoyment of their rights as a child to the greatest extent possible.

### **3.2. Children and Return Situations**

IOM Austria has no access to data on the legal status of returnees assisted within their programme, which constitutes a problem when it comes to identifying the motives of return.<sup>14</sup> But if we have a look at studies on AVR in general (concerning mostly adults), it is repeatedly

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<sup>10</sup> IOM, *Glossary on Migration* (Geneva 2004) 48.

<sup>11</sup> S. Koppenberg, *Unaccompanied minors in Austria*: (IOM/EMN, Vienna 2014) 36.

<sup>12</sup> UNODC, *Combating violence against migrants* (UNOV 2015) 9; F. Crépeau, ‘The rights of all children in the context of international migration’ IOM, *Children on the move* (Geneva 2013) 1.

<sup>13</sup> F. Crépeau, ‘The rights of all children in the context of international migration’ IOM, *Children on the move* (Geneva 2013) 2.

<sup>14</sup> Interview with Agata Foryś and Andrea Götzelmann, IOM Country Office for Austria, 22 July 2015.

indicated that in some cases the “voluntary return” constitutes merely an alternative to potential deportation, as the person in question may have been rejected for asylum or any other residence permit in the host country.<sup>15</sup> Although the main principle of AVR programs of IOM is voluntariness, in some cases migrants simply have no choice but to return home. Other relevant motives may include insecurity about the outcome of the asylum procedure and long waiting periods leading to negative psychological effects on the applicant, the feeling of homesickness and loneliness or other private and family-related issues, as well as changes in the country of origin and unfulfilled expectations in the host countries, deriving especially from the situation that they are not allowed to work or simply lack working opportunities in the host country and therefore can’t support themselves or send money home to their families.<sup>16</sup> All these challenges can potentially affect children in return situations, those returning with a family member and those without. But it is essential to mention that it is not a typical case for unaccompanied minors in Austria to be rejected protection and face deportation, as Austria applies relatively high standards when it comes to the protection of UAMs (see Chapter 3.3.). Homesickness and the wish to reunite with their families, as well as unfulfilled expectations and difficult situations faced in the host country, on the other hand, are motives of return often observed in the case of UAMs.<sup>17</sup>

Once returned, also difficulties with reintegrating successfully in the country of origin can be met by adults and children likewise. An IOM study concerning the situation of migrants to the South Caucasus clearly demonstrates that returnees may confront numerous problems back home. Since most of them were asylum seekers, they were not allowed to work abroad, so they could not earn money to repay their debts they had assumed to finance their journey or to support their family while they stayed abroad. This together with other factors, such as the feeling of failure, unemployment, unfavourable housing situation and conflicts with family members caused financial, social and psychological problems reported by many returnees of the study<sup>18</sup>

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<sup>15</sup> IOM, *The Return and Reintegration of Migrants to the South Caucasus* (2002) 18; K. Kratzmann et al, *Programmes and Strategies in Austria Fostering Assisted Return to and Re-Integration in Third Countries* (IOM/EMN, Vienna 2010) 48.

<sup>16</sup> IOM, *The Return and Reintegration of Migrants to the South Caucasus* (2002) 16ff; K. Kratzmann et al, *Programmes and Strategies in Austria Fostering Assisted Return to and Re-Integration in Third Countries* (IOM/EMN, Vienna 2010) 48ff.

<sup>17</sup> K. Kratzmann et al, *Programmes and Strategies in Austria Fostering Assisted Return to and Re-Integration in Third Countries* (IOM/EMN, Vienna 2010) 49f.

<sup>18</sup> IOM, *The Return and Reintegration of Migrants to the South Caucasus* (2002) 5, 19 21, 26.

(see chapter 6.3.). These factors obviously have the potential to negatively impact the reintegration of children returning within an affected family. And since also the journey of minors may have been financed by family members who stayed home, and since also migrating minors may be expected to support their family economically, such factors can also affect the success of reintegration and decision on return of UAMs.

### **3.3. Unaccompanied Minors and Return Practices**

IOM identifies certain principles, initial measures, specific needs and long-term options to assure the protection of unaccompanied minors within immigration procedures, while return to the country of origin constitutes one of the long-term options in order to assure the well-being of a separated child. The importance of return is linked with the importance of family unity, which is identified as one of the main principles to be considered in finding solutions for the child.<sup>19</sup> (see Appendix Chart 1). IOM refers to the United Nations Convention of the Rights of the Child when citing: “All efforts should be made to return an unaccompanied or separated child to his or her parents except where further separation is necessary for the best interests of the child”<sup>20</sup> (see chapter 4.3.).

However, it is crucial that the return of a separated child happens on a voluntary basis in order to ensure that it constitutes a long-term solution for the child. Children who face involuntary return are more likely to opt out of official procedures or become subject to harmful situations. Against this understanding, the return of unaccompanied minors on an involuntary basis is not very common in many EU countries. In most of the cases even unsuccessful minor asylum-seekers are allowed to stay in the host country at least until they turn 18, especially if the family cannot be traced.<sup>21</sup> Nevertheless, Hancilova and Knauder emphasise that some EU member states are implying inadequate return arrangements, inducing the same unsatisfactory situation the child had left behind.<sup>22</sup> Furthermore, they refer to political approaches in countries such as the Netherlands and the UK, which consider the option of the removal of UAMs to

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<sup>19</sup> IOM, *Unaccompanied Children on the Move* (Geneva 2011) 60ff, IOM, *International Migration Law Information Note: The protection of unaccompanied migrant children* (Geneva 2011) 6ff.

<sup>20</sup> IOM, *Unaccompanied Children on the Move* (Geneva 2011) 60, *UN Convention on the Rights of the Child* (General Assembly resolution 44/25 of 20 November 1989) Art. 9.

<sup>21</sup> B. Hancilova, B. Knauder, *Unaccompanied Minor Asylum-seekers: Overview of Protection, Assistance and Promising Practices* (IOM Budapest 2011) 81.

<sup>22</sup> *Idem*, 93.



collective reception facilities in the countries of origin.<sup>23</sup> Such approaches are highly problematic as they rather aim at facilitating the quantitative increase in returning minors than being oriented towards family reunification and the best interest of the child, and therefore, do not assure an appropriate protection.

In Austria, minors with a negative asylum decision can – in theory – be subject to forced return under the general conditions applying to asylum seekers, but – in practice – forced return of unaccompanied minors is a very uncommon phenomenon.<sup>24</sup> In case asylum is rejected, there is still the possibility to grant subsidiary protection. But “being allowed to remain under humanitarian or other forms of protection until reaching majority does not in itself constitute a solution for the unaccompanied or separated child.”<sup>25</sup> In contrast to political asylum, such protection does not protect the child from being rejected a residence permit after it reaches majority. Additionally, persons working in the field indicate that asylum procedures of minors sometimes seem to be protracted, attempting to not conclude them before the child turns 18.<sup>26</sup> For such reasons, minors tend to fear majority age, as they worry that the probability of receiving a permanent residence permit decreases.<sup>27</sup> Being sent home right after reaching majority, the successful development into adulthood may be jeopardized “unless individually tailored reintegration plans are in place, drawn up together with the child”.<sup>28</sup> But not just the return itself, also the mere insecurity about their future, which derives from rejected asylum claims or prolonged procedures, tends to have severe effects on their psychological well-being and to endanger a healthy development in this crucial part of becoming an adult.<sup>29</sup> Such fears about their future legal status can also influence their interest in returning voluntarily in order to avoid being forced to leave the country.

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<sup>23</sup> *Idem*, 81.

<sup>24</sup> EMN NCP Austria, *Policies on Reception, Return, Integration Arrangements for, and Numbers of, Unaccompanied Minors in Austria* (IOM, Vienna 2010) p 43; Interview with Agata Forys and Andrea Götzelmann, IOM Country Office for Austria, 22 July 2015.

<sup>25</sup> UNHCR, UNICEF, *Safe and Sound* (2014) 49.

<sup>26</sup> D.Blecha, *Best practices for a coordinated approach to assist (former) unaccompanied minor asylum seekers in Austria* (IOM, Vienna 2012) 30.

<sup>27</sup> *Idem*, 22.

<sup>28</sup> UNHCR, UNICEF, *Safe and Sound* (2014) 49.

<sup>29</sup> D.Blecha, *Best practices for a coordinated approach to assist (former) unaccompanied minor asylum seekers in Austria* (IOM, Vienna 2012) 19.

### 3.4. Assisted Voluntary Return of Minors in Numbers

Subsuming data from the years 2013 and 2014, IOM Vienna assisted 5159 persons in returning from Austria to their country of origin. 782 persons of the returnees were below the age of 18, with 24 persons listed as unaccompanied minors (19 in 2013, 5 in 2014). Most of the children returning within their families returned to the Russian Federation/the Chechen Republic: 100 children in 2013 and 148 children in 2014. Other countries of return with relatively high shares of children returning accompanied by their parent(s) were Kosovo, Macedonia and Serbia, all of them recording more than 20 returning children each year. As to unaccompanied minors, in 2013 most of them returned to Kosovo (7 persons), to the Russian Federation/the Chechen Republic (3 persons) and Turkey (2 persons). In 2014 there were only five unaccompanied children returning each to a different country. The majority of assisted unaccompanied minors were between 14 and 17 years old (20 persons), only four being between 10 and 13 years old.<sup>30</sup>

## 4. Pre-Return

### 4.1. The Best Interest Determination (BID) for UAMs

The United Nations Convention on the Rights of the Child states that “in all actions concerning children [...] the *best interests of the child* shall be a primary consideration”.<sup>31</sup> The UNHCR defines BID as a “formal process with strict procedural safeguards designed to determine the child’s best interests for particularly important decisions affecting the child”.<sup>32</sup> According to the UNHCR, there are, moreover, three situations in which the BID must be taken: “(i) the identification of the most appropriate durable solution for unaccompanied and separated refugee children, (ii) temporary care decisions for unaccompanied and separated children in certain exceptional circumstances, and (iii) decisions which may involve the separation of a child from parents against their will.”<sup>33</sup>

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<sup>30</sup>Quantitative data provided by Andrea Götzelmann, Focal Point for Knowledge Management and Head of the Assisted Voluntary Return and Reintegration Unit; for 2014 see also ‘Statistical Overview 2014’ (IOM Austria) <<http://www.iomvienna.at/sites/default/files/Statistics%20voluntary%20returnees%202014%20for%20IOM%20web%20site.pdf>> accessed 1st August 2015.

<sup>31</sup> *UN Convention on the Rights of the Child* (General Assembly resolution 44/25 of 20 November 1989) Art.3.

<sup>32</sup> UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child* (Geneva, 2008) 8.

<sup>33</sup> *Idem*, 9.

When it comes to AVR, the BID should be the guiding principle leading all measures taken regarding UAMs. Different approaches are taken to accompanied and unaccompanied minors, because the former does not necessarily need to be considered “vulnerable”, and the latter necessarily is. Derluyn and Broekaert stress that UAMs face not only physical risks such as exploitation and abuse but also face emotional and behavioural problems such as depression, sadness, aggression, and suicidal acts.<sup>34</sup>

Fonseca et al. pointed to the fact that since UAMs are usually not considered orphans, they are not put into adoption in the host country but rather are transferred to specialized institutions, in Austria the Child and Youth Welfare.<sup>35</sup> This consequently causes a weight on the social system of the host country and becomes a challenge because member states truly committed to international conventions and guidelines on the protection of children need to place the best interest of child above national migration laws. The authors stress that for this reason the debate “has led to migration policies focusing on expediting family tracing and the return of UAM to their countries of origin”,<sup>36</sup> instead of focusing on integration measures. It happens, according to Boyden and Hart, as a result of the difficulty of addressing two key issues: protecting a state’s self-interest and taking responsibility for children regardless of their citizenship.<sup>37</sup>

#### **4.2. Protection of Children’s Rights**

One of the first steps taken once a (presumably) minor, unaccompanied or not is identified, is to determine his/her age. If no identification document is available, an age assessment is usually conducted. According to ECRE and Save the Child, practices of age assessment differ in Europe – in most extreme cases x-ray examination and even genital examination is conducted, which may be very humiliating for a minor. In Austria, since 2010, medical age assessment has been put in practice, and may include physical, dental and radiological examination.<sup>38</sup> Although the Austria Constitutional Court ruled those practices to be

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<sup>34</sup> I. Derluyn; E. Broekaert, ‘Unaccompanied refugee children and adolescents: The Glaring Contrast between a Legal and a Psychological Perspective’, *International Journal of Law and Psychiatry* 31 (2008) 319, 321.

<sup>35</sup> A. Fonseca, et al. ‘Unaccompanied migrant children and legal guardianship in the context of returns’, IOM, *Children on the Move*. (Geneva, 2013) 48.

<sup>36</sup> Idem.

<sup>37</sup> J. Boyden, J. Hart, ‘The Statelessness of the World’s Children’, *Children & Society* Volume 21 (2007) 246.

<sup>38</sup> S. Koppenberg, *Unaccompanied minors in Austria* (IOM/EMN, Vienna 2014) 38.

in accordance with the country's constitution, they go against the main international recommendations<sup>39</sup> and guidelines.<sup>40</sup> Smith and Brownless have shown that in some countries, including Austria, untrained immigration officers, and even social workers have overly relied upon the physical appearance of the minor during the process of age assessment.<sup>41</sup>

In relation to the safeguarding of children it can be noted that access to school is granted on the same ground as to Austrian nationals (see Appendix), accommodation is provided, and so is health care<sup>42</sup> (the latter may vary depending on the legal situation of the migrant and/or among different federal provinces). In relation to education, some barriers can be met by the child such as difficulty to adapt to the school system, and a language barrier; yet, as Blecha shows in her research, “several respondents referred to schooling when asked what they like about Austria and which aspects of their lives as (former) unaccompanied minor are good and satisfying”.<sup>43</sup>

Another key determinant in safeguarding children's rights is related to the roles of the legal guardian. Accompanied minors are usually under legal protection of the parents, except in the case of detention of both parents or if cases of violence and abuse are identified. In relation to UAMs, Austria provides that children may be assisted by an adult to ensure their protection and assistance. The obligations of legal guardians are basically the same as the parents, as stated in articles 3, 8 and 18 of the United Nations Convention on the Rights of the Child,<sup>44</sup> they are “in charge of the legal representation, the care, education and property administration of the minor”<sup>45</sup>. In general, the legal guardians can be individuals as well as public institutions and foster care centres. In Austria those guardians are under supervision of the Youth Welfare Authority, which appoints concrete individuals - usually social workers or pedagogues. These are certainly qualified workers. Nevertheless “no specific training is provided”<sup>46</sup> to Austrian social

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<sup>39</sup> SCEP, *Position Paper on Age Assessment in the Context of Separated Children in Europe* (2012).

<sup>40</sup> UNHCR, *Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum* (1997)

<sup>41</sup> T. Smith, L. Brownless, *Age assessment practices: a literature review & annotated bibliography*. (UNICEF, New York 2011) 35.

<sup>42</sup> *Idem*, 221-222.

<sup>43</sup> D. Blecha, *Best practices for a coordinated approach to assist (former) unaccompanied minor asylum seekers in Austria* (IOM, Vienna, 2012) 62.

<sup>44</sup> *UN Convention on the Rights of the Child* (General Assembly resolution 44/25 of 20 November 1989)

<sup>45</sup> EMN, *Policies on Reception, Return and Integration arrangements for, and numbers of, Unaccompanied Minors – an EU comparative study* (2010) 36.

<sup>46</sup> ECRE; Save the Children – EU Office, *Comparative Study on Practices in the Field of Return of Minors* (European Commission - Directorate-General Home, 2011) 220.

workers and social pedagogues to deal specifically with UAMs, and this can be an issue in the process of determining the best interest of the child. A key issue remains concerning the lack of communication between the carers and professionals in the host country and the country of origin, but also between the guardians and the minors.<sup>47</sup>

### **4.3. Family Tracing and Reunification for UAMs**

Family tracing is a key element in order to ensure a successful return process for the child. In some cases it is aimed exclusively on the return process itself, however, ECRE and Save the Children recommend that for a durable solution “tracing a child’s family [...] should have the initial aim of restoring contact between family members”.<sup>48</sup> Family tracing only for the purpose of returning the child to their country of origin does not ensure a successful return in which the well-being of the child is put in the first place.

It is important to stress that in the majority of the cases the process of family tracing is started by the willingness of the minor, or if the legal guardian believes it to be in the best interest of the child. Yet, Blecha points to some factors which can influence on reluctance from the part of the minor concerning the initiation of the process of family tracing, such as personal problems and difficult relationship with the family back in the country of origin, or fear of finding out the family member have passed away.<sup>49</sup> Who is defined as ‘family’ also depends on individual cases. As the concept of family differs within different cultures, it is also taken into consideration who the child considers to be his/her family member.

In relation to family tracing, Austria does not implement a standardized approach. In Austria, IOM “carries out its own standards in cooperation with offices in countries of origin.”<sup>50</sup> Furthermore, family tracing is an optional service IOM provides, but mostly the contact between family and legal guardian is established by the child and the legal guardian themselves.<sup>51</sup>

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<sup>47</sup> A. Fonseca, et al. ‘Unaccompanied migrant children and legal guardianship in the context of returns’, IOM, *Children on the Move*. (Geneva, 2013) 48, 56.

<sup>48</sup> ECRE; Save the Children – *EU Office, Comparative Study on Practices in the Field of Return of Minors* (European Commission - Directorate-General Home, 2011) 142.

<sup>49</sup> D. Blecha, *Best practices for a coordinated approach to assist (former) unaccompanied minor asylum seekers in Austria* (IOM, Vienna, 2012) 26, 27.

<sup>50</sup> *Idem*, 221.

<sup>51</sup> Interview with Agata Forys and Andrea Götzelmann, IOM Country Office for Austria, 22 July 2015.

Nevertheless, there are other issues that can hamper a child to return. This includes family denial to accept the child back, the lack of sufficient economic condition of the family to support basic needs of the child and violent family environment. Because of these issues, it is relevant to stress that although family tracing is a key element in the returning process, family reunification may not always be in the best interest of the child. As supported by O’Connell Davidson, “the right to leave the family and to independent existence may be more important than the right to grow up in family”,<sup>52</sup> especially when a child abuse is identified.

#### **4.4. IOM pre-return practices on AVR of UAMs**

The role of the legal guardian in determining the best interest of the child, as well as the process of family tracing are essential in ensuring a return in which the child can find suitable conditions to reintegrate in the society. However in the case of UAMs there are significant gaps in the contact between the legal guardians in host country and country of origin, and only few channels of contact between both are in place. IOM, through its AVR program, is one of the channels existing in order to establish this contact.<sup>53</sup>

During interviews conducted with IOM Austria we found out that, if IOM is engaged by its partners to conduct family tracing of an unaccompanied child, the IOM country office in the country of origin tries to track the family and asks whether they are willing to take the child back. IOM tries to identify whether the child would have access to basic needs such as healthcare and education. However, there is no further investigation regarding the family situation and decisions are taken based on what the family claims to be true. If there is any information IOM considers being problematic, or IOM notes the family unwillingness to take the children, then IOM does not support the return of the child.<sup>54</sup>

## **5. The Return Journey**

The next step IOM takes in organizing AVR projects is facilitating the return journey. This happens in close collaboration with return counseling organizations, for example when it

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<sup>52</sup> J. O’Connell Davidson, ‘Moving children?’, *Critical Social Policy* August vol. 31 no. 3 (2011) 471.

<sup>53</sup> A. Fonseca, et al. ‘Unaccompanied migrant children and legal guardianship in the context of returns’, IOM, *Children on the Move*. (Geneva, 2013) 56.

<sup>54</sup> Interview with Agata Forys and Andrea Götzelmann, IOM Country Office for Austria, 22 July 2015.

comes to organizing travel documents (e.g. obtaining or renewing passports or exit visas).<sup>55</sup> However, regarding this process, some problems were reported, which occur especially if the responsible embassy of the country of origin does not issue the passports or visas. In these cases, obtaining the necessary documents can take up to several months<sup>56</sup> – which can have a very negative psychosocial impact on a minor returnee returning with or without other family members. Once the documents are ready, IOM Austria – which is responsible for the operational part of this stage of the return – is entrusted with the booking of flights. Once at the airport, IOM staff help the assisted individuals or families with the check-in and hand out the start-up aid.<sup>57</sup>

When it comes to UAMs, IOM Austria provides them with an extensive airport service, since safeguarding of unaccompanied children is one of the most important elements of ensuring a safe return journey for assisted returnees. IOM staff have to take care of the unaccompanied minor at the airport (e.g. checking-in, helping with border control, meeting the UAM at the gate in a transit country, etc.), and if it is required (e.g. in case of sickness of the returnee), IOM Austria also arranges escorts during the flight, with IOM staff staying with the assisted UAM during the whole flight.<sup>58</sup>

Besides travel preparation, there is one additional essential component when it comes to setting up the return of UAMs, which is the handover to the legal guardian of the country of return.<sup>59</sup> In order to make sure that the legal guardian is responsible and trustworthy, an identity check is always undertaken before departure.<sup>60</sup> Since the handover to the legal guardian is of paramount importance to the procedure, before the travel, a written agreement is made with a parent/relative or legal guardian (who can be a representative of the Children and Youth Service Authority as well), who has to pick up the minor at the travel destination point and is responsible

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<sup>55</sup> Interview with Agata Foryś and Andrea Götzelmann, IOM Country Office for Austria, 22 July 2015.

<sup>56</sup> K. Kratzmann et al, *Programmes and Strategies in Austria Fostering Assisted Return to and Re-Integration in Third Countries* (IOM/EMN, Vienna 2010) 54.

<sup>57</sup> K. Kratzmann et al, *Programmes and Strategies in Austria Fostering Assisted Return to and Re-Integration in Third Countries* (IOM/EMN, Vienna 2010) 59-60.

<sup>58</sup> Interview with Agata Foryś and Andrea Götzelmann, IOM Country Office for Austria, 22 July 2015.

<sup>59</sup> Interview with Agata Foryś and Andrea Götzelmann, IOM Country Office for Austria, 22 July 2015, S. Koppenberg, *Unaccompanied minors in Austria: (IOM/EMN, Vienna 2014) 86.*

<sup>60</sup> ECRE; Save the Children – EU Office, *Comparative Study on Practices in the Field of Return of Minors* (European Commission - Directorate-General Home, 2011) 82.

for him/her from then on.<sup>61</sup> Unaccompanied minors can be met on arrival by IOM staff (reception assistance), too, and then they are transferred to their legal guardians of the country of return, generally their parents.<sup>62</sup> However, if the family assessment led to the conclusion that the youth authority in the country of return is needed to be involved in working with the minor and his/her family henceforth, this authority is usually made aware of the arrival of the child.<sup>63</sup>

Kratzmann et. al. highlight the lack of cooperation between the countries of origin and EU States as a challenge, particularly when it comes to travel authorization. Moreover, there were some complaints made by stakeholders about lack of coordination between different institutions. For example, it might happen that the Aliens' Police does not release persons in detention pending deportation for an Assisted Return because they think that he or she will be deported anyway.<sup>64</sup>

Besides these issues, all in all, we can conclude that Austria applies very high standards of protection when it comes to organizing the return journey of unaccompanied minors – its policy is generally in compliance with the principles of the United Nations Convention on the Rights of the Child (CRC).<sup>65</sup> However, more complex and dynamic challenges are to be noticed at the stage of post-return and reintegration situations.

## **6. Post-Return**

### **6.1. Reintegration Assistance in general**

Recently, a developing trend in both academic and NGO-based literature starts to conceptualize return migration and reintegration as broad processes dependent upon various aspects and actors instead of the simple journey of “returning home”. Consequently, also more

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<sup>61</sup> EMN, *Policies, practices and data on unaccompanied minors in the EU Member States and Norway* (Brussels 2015) 37., S. Koppenberg, *Unaccompanied minors in Austria: (IOM/EMN, Vienna 2014) 86.*

<sup>62</sup> Interview with Agata Foryś and Andrea Götzelmann, IOM Country Office for Austria, 22 July 2015, S. Koppenberg, *Unaccompanied minors in Austria: (IOM/EMN, Vienna 2014) 86.*

<sup>63</sup> ECRE; Save the Children – EU Office, *Comparative Study on Practices in the Field of Return of Minors* (European Commission - Directorate-General Home, 2011) 82.

<sup>64</sup> K. Kratzmann et al, *Programmes and Strategies in Austria Fostering Assisted Return to and Re-Integration in Third Countries* (IOM/EMN, Vienna 2010) 54.

<sup>65</sup> Idem, 63; EMN, *Policies on Reception, Return and Integration arrangements for, and numbers of, Unaccompanied Minors – an EU comparative study* (2010) 47, 71.



and more attention is paid to the difficulties reintegration processes bring with them, which often are manifold and increasingly complex.

Concerning AVRR, reintegration is understood as a “process that enables the returnee to participate again in the social, cultural, economic and political life”.<sup>66</sup> The key (or most tangible) precondition for this is repeatedly mentioned to be economic self-sufficiency, which on the one hand clearly serves to restore a financially secure surrounding, often including a safe housing situation and a stable income. On the other hand, specializing on the financial aspect of reintegration has severe implications for areas of life connected to social and health related reintegration processes. Favouring “economic embeddedness” of a returnee over “social or psychosocial embeddedness”, as is most often the case, has twofold consequences.<sup>67</sup> Firstly, only limited amounts of grants and funds are dedicated to the social and psychosocial aspects, which makes the already difficult endeavour of socially reintegrating a returnee even more complicated. Secondly, this has been responsible for linking AVRR post-return assistance subsequently with development aid. In Austria, this connection becomes particularly visible in the case of the federal provinces of Vorarlberg and Tyrol, which in the past supported returnees to Kosovo and Armenia “as part of a general development project for this region”.<sup>68</sup>

For a successful economic self-sufficiency of returnees, it is constantly mentioned to be of utmost importance that any assistance given is not only carefully tailored to individual needs and evaluated before and after the journey. It is seen as equally important that the amounts of cash assistance provided are considerably smaller than the amounts spent on in-kinds assistance as well as psychosocial and other kinds of support, such as that for income generating activities.

## **6.2. Types of Assistance in Reintegration Projects (Family / UAM)**

In general, IOM’s AVRR projects are envisioned through a holistic approach of emancipating the returnee through a diverse range of assistance, including the provision of skills-training, job-seeking assistance, wage substitution payments, formation and vocational trainings,

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<sup>66</sup> IOM, *Reintegration: Effective Approaches* (Geneva 2015) 13.

<sup>67</sup> R. Ruben et al., ‘What Determines the Embeddedness of Forced-Return Migrants? Rethinking the Role of Pre- and Post-Return Assistance’, *International Migration Review* Vol. 43 Nr. 4 (2009) 912; K. Kratzmann et al., *Programmes and Strategies in Austria Fostering Assisted Return To and Re-Integration In Third Countries* (IOM/EMN, Vienna 2010) 31.

<sup>68</sup> K. Kratzmann et al., *Programmes and Strategies in Austria Fostering Assisted Return To and Re-Integration In Third Countries* (IOM/EMN, Vienna 2010) 46.

the purchase of relevant tools and equipment, business trainings, and other forms of support for small business start-ups, sometimes relying on microcredits “managed by microfinance institutions”.<sup>69</sup> As to children returning with their families, one adult family member is beneficiary to IOM’s assistance, including in cash assistance thought to cover immediate financial needs, while no declared amount is specifically provided to be used for children, since the economical reintegration of children returning with their families is generally supposed to be taken care of by the family anyway.

For UAMs, reintegration assistance can either be provided to the minor him- or herself or also to his or her family in the country of origin.<sup>70</sup> It can be said that this reintegration assistance can consist of orientation in labour market or vocational training, schooling support and educational plans, healthcare, psychological assistance and rehabilitation support, accommodation or lodging supplies as well as in-cash assistance that can be spent on school fees, housing or starting a small business.<sup>71</sup> Still, the most common possibility among these is the provision of help with income-generating activities.<sup>72</sup>

### **6.3. Limitations of AVRR projects**

A few of the most common limitations of AVRR projects are the provision of too small grants, their uneven distribution, low availability or accessibility of assistance, or even the fact that people are either too proud to apply for financial return assistance or are suspicious about the way IOM is collecting information.<sup>73</sup> The biggest limitation, however, may be the short-term and donor-oriented timeframe of AVRR projects,<sup>74</sup> and the feeling of being abandoned by Austria after these projects have ended.<sup>75</sup> This last aspect in particular could even be said to contribute to the larger area of psychosocial difficulties returnees have to face upon rebuilding their existence in the country of origin, in the sense that already existing feelings of “shame, loss, failure,

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<sup>69</sup> IOM, *Reintegration: Effective Approaches* (Geneva 2015) 32.

<sup>70</sup> S. Koppenberg: *Unaccompanied Minors in Austria: Legislation, Practices and Statistics* (IOM/EMN, Vienna 2014) 87.

<sup>71</sup> EMN, *Synthesis Report: Policies, Practices and Data on Unaccompanied Minors in the EU Member States and Norway* (Brussels 2015) 39.

<sup>72</sup> Interview with Agata Forys and Andrea Götzelmann, IOM Country Office for Austria, 22 July 2015.

<sup>73</sup> H. Carr, ‘Returning ‘Home’: Experiences of Reintegration for Asylum Seekers and Refugees’, *British Journal of Social Work* Vol. 44 Nr. 1 (2014) 149.

<sup>74</sup> Interview with Agata Forys and Andrea Götzelmann, IOM Country Office for Austria, 22 July 2015.

<sup>75</sup> H. Carr, ‘Returning ‘Home’: Experiences of Reintegration for Asylum Seekers and Refugees’, *British Journal of Social Work* Vol. 44 Nr. 1 (2014) 149.

disorientation, anxiety, insecurity and stress” even get boosted by being abandoned by the institution facilitating responsible for their return journey.<sup>76</sup> This underlines once more the need for intensive and durable psychosocial support, possibly not only contributing to experiencing social cohesion again, but also alleviating the difficult task of (re-)finding one’s own identity, which can often appear to be distorted towards a transnational construct because of the migration experience.<sup>77</sup>

The relatively small amount of interest spent by host countries and IOM donors on reintegration efforts – the fact that they are rather promoting AVR programmes than spending significant resources on analysing their long-time consequences – as well as restrictive immigration policies tend to undermine AVR programmes. The latter especially happens because the ‘success’ of the return journey depends to large parts on the conditions migrants have experienced in the host country (such as the situation of housing, the right to work, etc.).<sup>78</sup>

#### **6.4. Children’s needs in Reintegration Processes**

Children are seen as major contributors to the ‘successful’ return of a family, “since having children [...] clearly favor[s] economic embeddedness”,<sup>79</sup> because of their likeliness to foster social networks within the community. Still, for children, the return journey and attempts of reintegration can often be extremely overwhelming, especially if they have spent significant parts of their lives (or even were born and raised) in host countries. Since also adults are almost never immune against a possible ‘return shock’, there is an additional special need for children to enjoy the return and reintegration phases without or only limited psychosocial unrest and trauma. The ‘success’ of a return journey and its reintegration depends to major parts not only on conditions in the host country as well as during the journey(s), but also on whether or not a child

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<sup>76</sup> IOM, *Reintegration: Effective Approaches* (Geneva 2015) 13.

<sup>77</sup> R. Ruben et al., ‘What Determines the Embeddedness of Forced-Return Migrants? Rethinking the Role of Pre- and Post-Return Assistance’, *International Migration Review* Vol. 43 Nr. 4 (2009) 916.

<sup>78</sup> H. Carr, ‘Returning ‘Home’: Experiences of Reintegration for Asylum Seekers and Refugees’, *British Journal of Social Work* Vol. 44 Nr. 1 (2014) 142f; R. Ruben et al., ‘What Determines the Embeddedness of Forced-Return Migrants? Rethinking the Role of Pre- and Post-Return Assistance’, *International Migration Review* Vol. 43 Nr. 4 (2009) 933.

<sup>79</sup> R. Ruben et al., ‘What Determines the Embeddedness of Forced-Return Migrants? Rethinking the Role of Pre- and Post-Return Assistance’, *International Migration Review* Vol. 43 Nr. 4 (2009) 925.

has been discriminated, bullied, or otherwise harmed, in both host and origin countries. It is also significant to the reintegration process if a child was given the decision to migrate, or not.<sup>80</sup>

Additionally, children are also influenced by the effect the return journey has on their parents, in case they are returning with them, in the sense that they often adopt negative attitudes of fear or shame. Unfortunately, social assistance can also be especially important for UAMs returning to their families, who sometimes might be, contrary to written agreements, rejected by their families or subjected to domestic violence.

The main factors influencing the reintegration process of children have been identified by UNICEF as the level of integration and length of stay in the host country, the knowledge of language in the country of return, administrative situations, the level of education and enforcement of school attendance, the availability (and accessibility) of social and medical services, the possibility to rely on family and social networks and the family situation in general, the quality of housing and availability of basic goods, and the availability of recreational activities.<sup>81</sup> Success of a reintegration process also depends to major parts on culturally developed values and norms. For example the access to and availability of medical care and psychosocial help depends not only on the development of a national standard, but also on cultural issues, as the enjoyment of these services can be culturally stereotyped and frowned upon.<sup>82</sup> The effects such basic considerations (such as recreational activities and psychosocial support) can have for the life-long development of children cannot be underestimated.

It lies in the very nature of the AVRR programs to establish a financially secure surrounding for the family and it seems as the logical result that also returning children profit from such an assisted return. Nevertheless, as has been already mentioned, too little assistance is provided for psychosocial and medical support, and too little attention is paid to factors of social embeddedness/reintegration.<sup>83</sup> Therefore, it seems that especially children as a vulnerable group suffer much more from migration and return journeys than anticipated. Also, most often,

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<sup>80</sup> Terre des Hommes: *Half way home. Monitoring the Reintegration of Children Returned from EU countries to South-East European Countries* (2014) 34.

<sup>81</sup> *Idem*, 35-41.

<sup>82</sup> UNICEF: *Silent Harm. A Report Assessing the Situation of Repatriated Children's Psycho-Social Health* (Pristina, 2012) 39.

<sup>83</sup> IOM, *Reintegration: Effective Approaches* (Geneva 2015) 13.

additional cultural and/or socio-political contexts are difficult to take into account when reintegration measures are applied.

For monitoring and evaluating the ‘success’ of returning and reintegrating children, IOM offices in origin countries can be supported in monitoring the reintegration of returning children by school or youth welfare organizations as well as the local police. As it is the case with another Austrian NGO specializing on returning UAMs, also bimonthly reviews as well as personal visits can be conducted for a limited amount of time to ensure a healthy and safe environment. IOM’s major task in evaluating the reintegration process, however, are personal (interview) sessions with returnees.<sup>84</sup>

Lastly, it has to be said that most return journeys IOM Austria has conducted in the past were not included in country-specific projects but only part of the General Humanitarian Return Programme, which means that most of the returnees (both adults and children) assisted in their journey were left without any access to reintegration measures. For example, in 2011, Austria has been among the Top 4 Host countries of IOM’s return projects, but has had a dramatically small share of reintegration assistance provided, as is demonstrated in chart 3 (see Appendix).<sup>85</sup> It is therefore of paramount importance for the physical and psychological wellbeing of returnees, not only for adult but also and especially for child returnees, to significantly increase the amount of reintegration assistance offered in the course of AVRR projects and also to expand the share of reintegration assistance projects within Return Programmes. Additionally, as was mentioned, the need for a separate AVRR project specifically targeting unaccompanied minors has not been addressed by IOM Vienna until now.

## **7. Conclusion**

In the course of this paper, we have given an overview on the main aspects concerning the AVR and AVRR of minors from Austria to non-EU countries, focusing on the question of whether or not these programs adequately adapt to the needs of minors, which challenges can be identified and how they could be overcome. After having showcased different motives of return,

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<sup>84</sup> S. Koppenberg: *Unaccompanied Minors in Austria: Legislation, Practices and Statistics* (IOM/EMN, Vienna 2014) 87.

<sup>85</sup> IOM, *AVRR: Annual Report of Activities 2011* (Geneva, 2012) 32.

we have focused on presenting the need to facilitate such returns in accordance with international human rights law, having in mind the best interest of the child. We have detected various challenges at all stages of the process, paying attention to the fact that children are often overlooked as distinct right holders, which is especially important taking into consideration global migration trends.

As particularly challenging we have considered the quality of the existing international dialogue of relevant stakeholders. This comes into play predominantly in the pre-return phase, where we identified significant gaps in the bilateral communication. For this stage of the process, we have also dealt with the importance of legal guardians in the case of unaccompanied minors. Moreover, we have highlighted the importance of facilitating the return journey with careful consideration of the individual situation the minor is in. One aspect that is unfortunately not paid enough attention to is the emotional stress any minor in migration situations has to face, unaccompanied or not.

For the post-return phase, we have identified the need for a stronger focus on access to and availability of psychosocial and health support, especially for children who might have spent large parts of their lives abroad. It can be said that the main part of reintegration assistance is carefully tailored to individual needs and is comprised of various different elements in order to emancipate the returnees economically, for example through job seeking assistance or apprenticeships. The biggest limitation of reintegration efforts, however, might be their short-term perspective and the underestimation of psychological support. Also, monitoring the ‘successful’ return has significant room for improvement. We have come to the conclusion that highlighting the extraordinary position and special needs of minors might possibly lead donors towards setting up an AVRR program specifically targeting them regardless of their country of origin.

## 8. Recommendations

Based on outlined arguments, the following recommendations could be identified:

- Transparency among Institutions:

Information on the legal situation of returnees should be shared transparently among institutions, who are involved in assisted return programs in order to better assess the motives of return and, moreover, to provide better assistance based on this information. This is especially true for unaccompanied minors, as the relevance of potential fears of reaching legal majority and being denied the continuity of protection, should be analysed, in order to find solutions to meet these kinds of situation which put at risk the well-being of the child and out-aging minor by undermining its rights to security.

- Harmonization of practices:

Setting a national guideline aimed at harmonizing different practices among the federal provinces would enable Austria to be more effective in providing assistance to migrant children – unaccompanied or not. IOM and other agencies which deal directly with migrant children are of extreme importance in giving recommendation based on their experiences.

Concerning the pre-return phase, the following is recommended:

- Clear standards and special training for legal guardians:

In relation to the pre-return phase, Fonseca et al. suggest harmonization and the “need for clearer standards and guidelines for legal guardians in the context of return of unaccompanied migrant children, greater operational cooperation between legal guardians in host countries and countries of origin” in the context of a best interest determination.<sup>86</sup> Similarly to what is suggested by Fonseca et al., special training should be provided to legal guardians in order to address the interests of the child and to correctly identify indicators which could put the minor in a risk of abuse within family tracing and return situations.

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<sup>86</sup> A. Fonseca, et al. ‘Unaccompanied migrant children and legal guardianship in the context of returns’, IOM, *Children on the Move*. (Geneva, 2013) 47.

- Systematization of family tracing:

As mentioned, Austria does not have a systematic approach toward family tracing, which is an important element in the return process. We found the need for a more defined approach on family tracing, which could ensure not only a safe return, but the reestablishment of family ties.

- Development of child-friendly information materials:

The development of information materials on return processes directed exclusively for children should be implemented, as the communication with children on these issues can constitute a challenge. This can include cartoons, films and all kinds of tailored approaches with a child-friendly language (in the main idioms of children returning from Austria, for instance, Russian).

Concerning the post-return phase the following is recommended:

- Reintegration assistance for children:

Reintegration Assistance should be granted to every child returning to the country of origin, especially to unaccompanied children, and respective projects should be elaborated to secure this kind of assistance by the country offices of IOM. Children and youth at any age find themselves in a delicate situation of their personal development, where traumas and personal failures can have deteriorating effects on their whole life circle. For that reason, unsuccessful reintegration may have highly problematic psychological consequences for the child and tailored assistance is of utmost importance.

- Reintegration assistance for aged-out minors:

Against this background such projects should also be extended to the assistance of “aged-out” minors. The transition from childhood to adulthood is not conditioned by a certain date, as legal definitions often make believe. It is fluent and processual. This is why specific return assistance, but also any other kind of assistance provided to minors, should not end with the 18<sup>th</sup> birthday of the person, but rather be extended to ensure a healthy development into adulthood and independence.



- Adoption of a long-term monitoring system:

A holistic long-term monitoring system should be put into place to accompany and evaluate the success of the reintegration of the child in its family or the reintegration of returning family into the local society in the country of origin, including economic but also social and psychological factors to ensure the well-being of the child and its family members.

- Rethinking the principle of sustainability:

It is important to shift the institutional paradigm regarding voluntary return measures from the “sustainability of return” to the “sustainability of reintegration”.<sup>87</sup> Human mobility is a highly complex and multidimensional field, including a series of external and internal factors why people decide to move. The institutional approach to support people in voluntarily returning to their country of origin should not focus on the prevention of mobility, but rather on improving their situation through reintegration.

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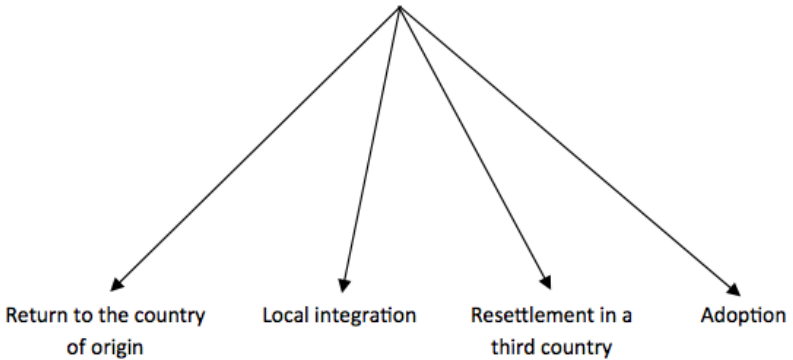
<sup>87</sup> Interview with Agata Forys and Andrea Götzelmann, IOM Country Office for Austria, 22 July 2015.

## 9. Appendix

### Chart 1

#### Principles, Protection Measures and Long Term Options

Source: International Organization of Migration, *International Migration Law Information Note: The Protection of Unaccompanied Migrant Children* (Geneva 2011) 8.

|   |   |
|---|---|
| <p><b>Principles:</b></p> <ul style="list-style-type: none"> <li>• Non-discrimination</li> <li>• Best interests of the child</li> <li>• Life and full development</li> <li>• Family unity</li> <li>• Evolving capacities</li> <li>• Participation</li> <li>• Confidentiality</li> </ul> | <p><b>Measures to prevent separation</b></p> <p><u>Initial assessment and measures:</u></p> <ul style="list-style-type: none"> <li>• <i>Non-refoulement</i> obligation</li> <li>• Identification of child as separated or unaccompanied / specific vulnerable groups (e.g. victims of trafficking)</li> <li>• Registration</li> <li>• Family tracing</li> </ul> <p><u>Specific protection needs:</u></p> <ul style="list-style-type: none"> <li>• Temporary care arrangements, including appointment of a guardian, child-appropriate accommodation, access to education, access to health care</li> </ul><br><p style="text-align: center;">Best Interests determination (BID) /<br/>Long Term Options</p>  <pre> graph TD     A[Best Interests determination (BID) / Long Term Options] --&gt; B[Return to the country of origin]     A --&gt; C[Local integration]     A --&gt; D[Resettlement in a third country]     A --&gt; E[Adoption]     </pre> |
|---|---|

## Chart 2

### Safeguarding of children during the pre-return phase in Austria

Source: European Council on Refugees and Exiles, Save the Children (EU Office), *Comparative Study on Practices in the Field of Return of Minors. Final Report* (European Commission - Directorate-General Home, 2011) 221-222.

| Safeguarding of children during the pre-return phase |   |  |
|--|---|--|
|  | Legislation   | Practice   |
| <i>Unaccompanied children</i>                        | <p>-Children have access to education on the same grounds as nationals until the age of 16.</p> <p>-Access to health care varies depending on the legal situation and federal province.<sup>460</sup></p> <p>-Unaccompanied children who did not apply for asylum are accommodated in youth welfare institutions, but also in guesthouses without any child specific support.</p> <p>-Information on voluntary return is provided within the framework of return counselling.</p> | <p>-Unless detained, children attend schools during this phase. They can also engage in social, sporting, recreational and leisure activities.</p> <p>-Children who are entitled to the "Basic welfare" benefits have full access to health care. Children accommodated in the specialized facility in Vienna (Drehscheibe) have unlimited access to healthcare until departure.</p> <p>-Unaccompanied children whose asylum application was rejected can stay in the same accommodation until return. Others are either placed in specialised facilities or detained.</p> |
| <i>Children within families</i>                      | <p>-Access to health care varies depending on the legal situation and federal province.<sup>460</sup></p>   | <p>-A family is usually understood as the parents and their minor children</p> <p>-Unless detained, children attend schools during this phase. They can also engage in social, sporting, recreational and leisure activities.</p> <p>-Children who are entitled to the "Basic welfare" benefits have full access to health care.</p> <p>-In some provinces, families have to move out of the asylum reception centre after their application is rejected. Moving may disrupt the schooling of children.</p>  |
|  | <p>-Information on voluntary return is provided within the framework of return counselling.</p>   | <p>-Within the voluntary return schemes accommodation can be provided for two to three days before departure and in exceptional cases up to three weeks. The costs are covered by the Ministry of Interior.</p>  |

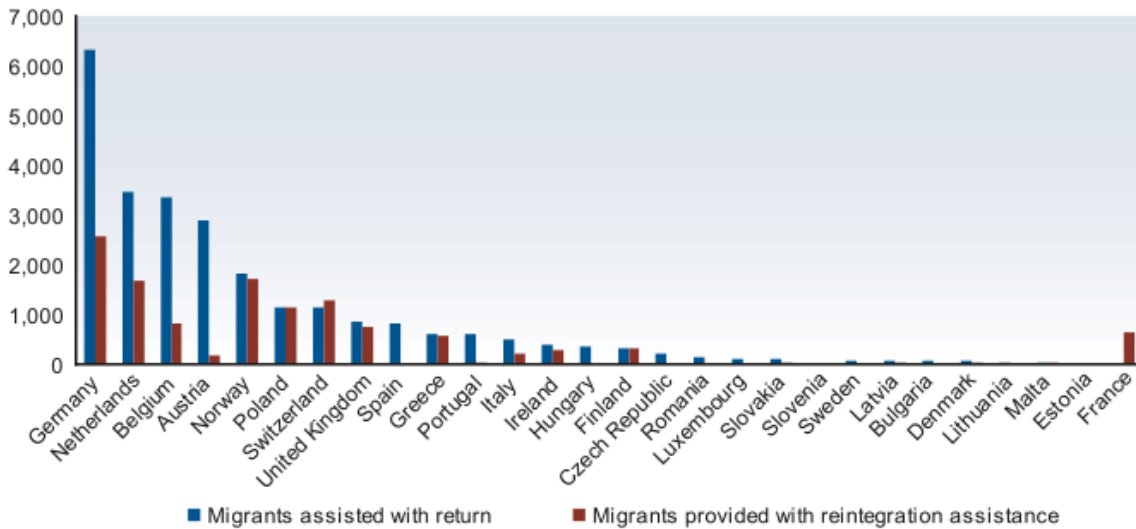
<sup>460</sup> In case of rejected asylum seekers access to Basic Welfare benefits, including healthcare, in some provinces depends on the agreement to return voluntarily, while in the others is granted until departure.

### Chart 3

## Voluntary Return and Reintegration Assistance from the EU, Norway and Switzerland in 2011

Source: International Organization of Migration, *Assisted Voluntary Return and Reintegration: Annual Report of Activities 2011* (Geneva, 2012) 32.

Figure 9: Voluntary return and reintegration assistance from the EU, Norway and Switzerland in 2011<sup>20</sup>



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