



## Guardianship of Unaccompanied Foreign Minors in Six European Countries

### FRANCE

#### The Guardianship System

In France, unaccompanied foreign minors who are officially recognized as such are placed under the care of child protection services, known as **Aide Sociale à l'Enfance (ASE)**. This is carried out through a juvenile court order that appoints a service or a person responsible for meeting the minor's healthcare, social, and educational needs. However, this type of assistance covers only "ordinary acts" and does not grant full decision-making powers comparable to complete parental authority.

Legal representation remains with the juvenile court judge, who, in exceptional cases, can authorize ASE to carry out certain parental acts. This temporary measure is granted on a case-by-case basis and does not transfer full parental authority to ASE. Parental authority is defined in Articles 371 and following of the French Civil Code as "a set of rights and duties whose ultimate purpose is the child's best interests."

There are three types of guardianship depending on the situation:

- **Delegation of Parental Authority:** If the minor's parents are unable to exercise their authority due to distance, ASE can request the court to delegate parental authority. This delegation allows ASE to make important decisions on behalf of the minor, but only in specific situations, which can include asylum applications
- **Guardianship (Tutelle):** If the minor's parents cannot be contacted, a guardianship measure is applied, granting the designated entity full decision-making powers, including legal and criminal procedures. The appointed entity assumes parental responsibilities.

ASE must formally request either a guardianship measure or a delegation of parental authority from the family court.

- **Ad Hoc Administrator (Temporary Guardian):** This figure is appointed by the public prosecutor when the minor's interests are not fully protected by their legal representatives. For unaccompanied minors, the ad hoc administrator intervenes specifically in asylum applications and in waiting areas.

According to the Fédération Nationale des AAH (FENAAH), an ad hoc administrator is "a natural or legal person appointed by a magistrate who acts in place of the parents to exercise the rights of the minor child on their behalf and in their interest." This role covers both financial and non-financial interests.



## Who Can Be Appointed as a Guardian?

The **ad hoc administrator** represents the minor in legal, administrative, and civil proceedings, ensuring that their rights are protected. To become an ad hoc administrator (temporary guardian) in France, one must be registered on a list managed by the Courts of Appeal and High Courts.

The requirements are:

- Be between 23 and 70 years old.
- Demonstrate interest and competence in child protection.
- Reside within the jurisdiction of the competent Court of Appeal.
- Have no criminal record or disciplinary sanctions that could compromise their integrity.
- Have no history of financial insolvency or legal restrictions.

The Law of June 17, 1998, mandates the appointment of an ad hoc administrator in all proceedings where legal representatives cannot protect the minor's interests. The role varies across jurisdictions, ranging from simple procedural representation to social and educational support for the minor.

## How Is a Guardian Appointed?

The list of individuals and associations with ad hoc administrator status is compiled **every four years** within each Court of Appeal's jurisdiction and may be updated annually.

Applications for inclusion on the list must be submitted to the **Public Prosecutor of the district court** where the applicant resides. The Public Prosecutor must obtain opinions from the guardianship judge, the juvenile judge and, the liberty and detention judge, the president of the departmental council and the inter-regional director of judicial youth protection. The application is then reviewed by the **General Assembly of the District Court**, followed by an examination by the **General Assembly of the Court of Appeal**.

## Challenges of the System

The **French guardianship system** aims to ensure the protection and rights of unaccompanied minors. However, the **lack of guardian designation** and the **complexity of the procedures can create barriers to the effective protection of minors' rights**.



## GREECE

### The Guardianship System

The **guardianship system for unaccompanied minors** in Greece has undergone significant changes with **Law 4960/2022**, which established a national legal framework for the protection and accommodation of these minors. The **new legislation introduced a national guardianship system under the Ministry of Migration and Asylum**, ensuring an integrated and strategic approach to their protection.

Previously, guardianship appointments were the responsibility of the **Public Prosecutor**, who designated an individual guardian for each minor. Under the new law, guardianship has been delegated to legal entities, including public agencies, NGOs, and international organizations, which appoint trained guardianship mandated persons (henceforth referred to as "guardians") to assist minors.

The system has three key functions:

1. Representation in civil matters: Guardians assist minors in administrative and judicial proceedings.
2. Custody: Ensuring access to housing, healthcare, and education.
3. Assistance in Property (financial) matters: Guardians help minors access social benefits and labor market opportunities.

The **Institutional Protection Unit** within the Ministry of Migration and Asylum is responsible for monitoring and implementing the program.

### Who Can Be Appointed as a Guardian? How Is a Guardian Appointed?

The **guardianship system** is managed by the General Secretariat for Vulnerable Persons & Institutional Protection, under the Ministry of Migration and Asylum. Guardians shall be assigned by the Guardianship Service Provider (GSP) designated by the Prosecutor, under employment relationship or form of employment with the GSP.

Requirements include among other:

- Being over 18 years old and residing in Greece.
- Degree in humanities or law or social sciences & language skills.
- And Registration in Registry of Members of Non-Governmental Organisations

Additionally, according to the Greek law, guardians must complete a specific training on children's rights, psychological support, and legal assistance and have assigned a maximum of 15 minors per guardian.



In **2023**, the NGOs **METAdrasi and Praksis (GSP)** were selected to implement the national guardianship program, launched on **November 1, 2023**, and so far funded until **December 31, 2025**.

Within the first months, **120 guardians were appointed**, with plans for further expansion as needed. The system prioritizes **children under 15, girls, and vulnerable minors**.

## Challenges of the System

- **Limited financial sustainability:** the program's funding is secured only until 2025, raising concerns about long-term continuity.
- **Heavy workload for guardians:** Each guardian may oversee up to 15 minors, impacting individualized care.
- **Complex coordination:** The guardianship system relies on collaboration between NGOs, public authorities, and judicial actors, requiring efficient management and creating delays and administrative overburden in certain cases.

## POLAND

### The Guardianship System

In Poland, the guardianship of unaccompanied minors seeking international protection is regulated by the **Act on the Protection of Foreigners and the Act on Family Support and Foster Care System**. The system provides for two main legal representation figures: the **curator** and the **guardian**.

The curator is responsible for representing the minor in international protection and repatriation procedures. They must be appointed by the Family Court whenever an unaccompanied minor crosses the Polish border.

The guardian, on the other hand, has a broader role and assumes a function similar to that of a parent, with legal and decision-making responsibilities. The court must verify the guardian's reliability, and they typically operate in orphanages or foster families. Unlike the guardian, the curator is verified only by the court, which sets the eligibility criteria.

Since **2024**, a **new legal representation figure** with powers higher than the curator but lower than the guardian has been introduced. However, this does not apply to unaccompanied foreign minors, for whom the appointment of a curator remains mandatory.

When a minor expresses the intention to apply for international protection, the **Border Guard** transmits the request to the Family Court, which must appoint a curator within three days. In practice, the curator is often selected through informal networks between the court and the Border Guard, as there is no official list.



The curator is responsible for submitting and managing the application for international protection, including participation in interrogations and interviews with the authorities. They may be assisted by NGOs or international organizations providing legal support. While submitting the application, the minor is placed in a foster family or an emergency facility. Poland does not have specialized facilities for unaccompanied foreign minors, so they are treated the same as Polish minors.

The **Family Court** must decide without undue delay on the placement of the minor in foster care. During the international protection application process, the state covers the minor's living costs, including food, accommodation, medical care, and education, funded by the Ministry of the Interior. Polish law mandates compulsory education until the age of 18, so every minor should be enrolled in an educational institution.

## Who Can Be Appointed as a Guardian?

When an unaccompanied minor arrives in Poland and declares their intention to apply for international protection, the Border Guard notifies the Family Court, which must appoint a curator within three days. There is no official list of eligible persons for this role, and selection is often done informally.

- **Any person deemed suitable by the court.** The court has broad discretion in choosing the curator and can appoint anyone it considers reliable for this role.
- **Candidates identified by the Border Guard or the Court.** Often, the Border Guard assists in identifying curators by contacting available individuals among lawyers, social workers, or volunteers. In many cases, curators are selected through informal networks without a structured selection process.
- **Members of NGOs or humanitarian organizations.** NGOs operating in the field of child and migrant protection can recommend qualified individuals for the curator role. These individuals are often lawyers or social workers with experience in immigration law and child protection.

**Individuals who voluntarily apply.** Anyone with the required skills can apply individually to the court to become a curator. There are no specific training requirements, but the court assesses the candidate's suitability on a case-by-case basis.

## How Are They Appointed?

The guardian of an unaccompanied minor must be appointed by the Family Court, but the process is more complex than appointing a curator. The guardian assumes a broader role, similar to that of a parent, and is therefore subject to stricter verification. The selection is made from:

- **Reliable individuals verified by the court.** The Family Court must ensure that the candidate is trustworthy, morally suitable, and capable of providing adequate care. Unlike the curator, who is selected quickly for handling the asylum application, the guardian must provide long-term support.



- **Staff of Residential care facilities for children and foster families.** The guardian is often selected from the staff of residential care facilities for children or professional foster families. These individuals must meet specific requirements and are supervised by specialized institutions to ensure proper care of the minor.
- **Individuals with a pre-existing connection to the minor.** If possible, the court may assign guardianship to a relative, family friend, or acquaintance of the minor. However, this option is rare for unaccompanied minors, as they usually do not have family members in Poland.
- **Members of NGOs or humanitarian organizations (rarely).** In some cases, members of non-governmental organizations dealing with child protection may be appointed as guardians. However, this practice is less common than appointing guardians from among staff in reception facilities.

## Challenges of the System

- **Curators who are solely responsible for handling asylum applications,** are often not involved in other aspects of the life of a minor.
- The **selection process** for guardians could be more structured.
- There are **no specific monitoring and complaint procedures for child guardianship** in the context of international protection.

In summary, **the Polish guardianship system clearly distinguishes between those who assist minors with asylum applications (the curator) and those who take on legal responsibility (the guardian).** Although the state provides assistance and financial coverage, the system could be improved in terms of selection and monitoring of those responsible for protecting the most vulnerable minors.

---

## SLOVENIA

### Who Can Be Appointed as a Guardian?

In Slovenia, **all unaccompanied foreign minors are entitled to a legal guardian** who represents them and protects their rights. This guardian is responsible for assisting them in international protection procedures, accessing medical care, education, and managing rights related to reception and property, such as the monthly allowance.

When a minor is identified as unaccompanied during a police check, social services are involved, and they immediately appoint a temporary guardian to protect the child's interests. Subsequently, it is assessed whether the minor will apply for international protection or initiate repatriation procedures. If they request international protection, they are taken to a reception center and assigned a legal guardian to support them during the international protection procedure.



A legal guardian can represent up to three minors at the same time (or five in exceptional cases). This role is voluntary and honorary: no salary is provided, but reimbursement for expenses incurred and a compensation of 20 euros per hour for legal representation are granted.

## Who Can Be Appointed as a Guardian?

To become a legal guardian, it is necessary to:

- Attend a mandatory **40-hour training course** at the **Faculty of Social Work at the University of Ljubljana**. The courses cover topics such as family law, psychology, human rights, and asylum law.
- Participate in an **8-hour refresher course every three years**.
- Have **no conflicts of interest** with the minor.
- Have **not been deprived of parental rights** or committed crimes that could call their moral integrity into question.

## How Is a Guardian Appointed?

The guardian is selected from a list managed by the **Ministry of Labour, Family, Social Affairs and Equal Opportunities** and appointed by the **Center for Social Work** responsible for the area.

Legal guardians must submit an **annual report** (or more frequently, if required) to the Center for Social Work, which evaluates it to ensure the minor's well-being. Additionally, the Ministry of Labour, Family, Social Affairs and Equal Opportunities **periodically verifies that guardians comply with all legal requirements**. If a guardian fails to fulfill their duties, does not update their mandatory training, or refuses the appointment twice, they are removed from the list.

The guardian is also obligated to provide all known information regarding the minor's identity and age, as well as report any circumstances that could hinder the granting of international protection.

## System Challenges

One of the main issues in the Slovenian system is the **shortage of qualified guardians**. To address this problem, the Ministry of Labour, Family, Social Affairs and Equal Opportunities launched a new recruitment call for legal guardians in 2024.

In summary, the Slovenian system aims to ensure the protection and rights of unaccompanied foreign minors, but challenges related to the continuity of guardianship and the shortage of qualified volunteers require further measures to improve the system's effectiveness.



## ITALY

### The Guardianship System

In Italy, every unaccompanied foreign minor must have a legal guardian who assists them in legal and asylum procedures. This system is based on trained and selected citizens and is regulated by **Law 47/2017, known as the "Zampa Law"**, which guarantees:

- The right to protection and integration through educational and employment pathways.
- The appointment of a volunteer guardian, selected and trained by the Juvenile Courts.
- A prohibition on pushbacks at the border for unaccompanied minors.
- The possibility of assisted repatriation, but only if it is in the best interest of the minor.

The guardian holds legal representation of the unaccompanied foreign minor and works in cooperation with the reception facility, legal operators, and other actors involved in supporting the minor to ensure their access to fundamental rights (residency, education, medical care, etc.).

The role of the volunteer guardian is particularly significant when the minor applies for international protection, as the law requires the guardian to be present during the hearing before the territorial commission.

The **volunteer guardian is neither a foster parent nor a substitute parent but has the duty to legally represent the minor and ensure the protection of their rights.**

- They accompany the minor in administrative and legal procedures, including applications for international protection or residence permits.
- They promote the minor's social and educational inclusion, assisting them in accessing education, healthcare, and training opportunities.
- They collaborate with reception facilities and institutions to ensure the well-being and development of the minor.

### Who Can Be Appointed as a Guardian?

Volunteer guardians are **private citizens**, carefully selected and trained, who are available to take responsibility for **one or more unaccompanied foreign minors** (up to a maximum of three, except in specific and relevant circumstances).





Citizens can become guardians after completing a training course organized by the National Authority for Children and Adolescents. The main requirements include:

- From 25 years old and residing in Italy.
- Having no criminal record.
- Having time and availability to support the minor in legal and social matters.
- Being selected and registered in the official list managed by the Juvenile Court.

## How Is a Guardian Appointed?

Guardians are included in a regional list through the following procedure:

1. Citizens interested in becoming volunteer guardians must apply to the Regional Authority for Children and Adolescents, which handles selection and training.
2. They must attend a specialized training course, which includes modules on children's rights, legal protection, psychological and social support, and immigration.
3. At the end of the course, candidates are included in a regional list of volunteer guardians.
4. When an unaccompanied foreign minor arrives in Italy without a legal guardian, the Juvenile Court responsible for the area where the minor is located proceeds with the appointment of a volunteer guardian from the regional list.
5. The Authority for Children and Adolescents may propose suitable candidates to the court, which will evaluate the most appropriate choice.
6. The court issues a decree of appointment, which officially grants the guardian the duty of legally representing the minor.

## Challenges of the System

- Overcrowded reception centers: Especially in Southern Italy, the reception system often operates at maximum capacity.
- Disappearance of minors: Many minors leave the centers shortly after arrival, often attempting to reach family members in other European countries.
- Age assessment is a critical issue: The Zampa Law provides for a multidisciplinary assessment, but with Decree 133/2023, the use of less accurate methods, such as wrist X-rays, has been reintroduced.
- Difficulties in integration: Bureaucratic delays and legal uncertainties can hinder the integration process for minors.

The Italian guardianship system is one of the most advanced in Europe, thanks to the Zampa Law, which introduced significant protective measures for unaccompanied minors. However, many challenges remain, particularly in terms of reception capacity, legal protection, and integration into the country's social and economic fabric.



## SLOVAKIA

### The Guardianship System

In Slovakia, the **protection of unaccompanied foreign minors (UFM) is regulated by various laws**, including the **Act on Social and Legal Protection of Minors and Social Guardianship, the Code of Non-Contentious Civil Procedure and the Family Act**. There is no specific legal framework for the guardianship of foreign minors.

When a foreign minor is identified on Slovak territory without a responsible adult, the **Authority for Socio-Legal Protection of Children and Social Guardianship** must immediately request, as an interim measure, that the child is placed in the care of an individual or in a **Centre for Children and Family**. The decision of the court about a child's placement is followed by a measure relating to guardianship. The authorities also try to locate the parents or other relatives to facilitate family reunification, if possible.

A guardian is appointed to ensure the legal representation of the minor. However, the system distinguishes between custody and guardianship:

- Custody: Assigned only in cases where the parents are deceased or have been deprived of parental authority.
- Guardianship: Granted for limited time and specific purposes specified by the Court, such as legal representation in asylum applications or ensuring the minor's legal rights.

### Who Can Be Appointed as a Guardian?

As there is **no specific legal framework for guardianship**, the main requirements, inferred from **Family Law, child protection regulations** and other legal acts are:

- Being a person who is close to the minor and willing to undertake this role.
- Having no conflicts of interest with the minor.
- Having full legal capacity (being of legal age and not subject to legal restrictions of their legal capacity).
- The Court assumes that they will act in the best interests of the minor.

A guardian may be either:

- A natural person (an individual) who can be any individual that is willing to undertake this role such as a relative, family acquaintance or educator.
- An institution (such as the Office of Labour, Social Affairs and Family or the municipality) if no suitable individual is available.



## How Is a Guardian Appointed?

The appointment of a guardian follows a legal procedure, which can be initiated in two ways:

1. Upon request to the Court by the individual wishing to be appointed as a guardian or by UPSVaR
2. Ex officio (automatically) by the court: The court can appoint a guardian if it deems it necessary to ensure the proper care of the child.

The court must decide on the appointment of a guardian within 30 days, but in practice, it can take longer. If a minor lacks any form of assistance, the court must issue an urgent interim measure within 24 hours.

## System Challenges

There is a **need to systematically and proactively identify unaccompanied and separated children in Slovakia so that they can access appropriate child protection services.** This includes having a more comprehensive legal framework for guardianship that facilitates the appointment of a vetted, trained, supported and supervised guardian without delay.

The recent Concluding Observations and Recommendations from the Committee of the Rights of the Child in relation to Slovakia noted that official court appointments of guardians for unaccompanied children are lengthy, and guardians are not properly trained. Many children displaced from Ukraine, who are without parents and in higher education, are not provided with guardians. The Committee called on Slovakia to expedite the procedure for appointing trained guardians for unaccompanied migrant children and ensure that they are provided with a longer-term solution for a legal stay in the country; and ensure that unaccompanied children enrolled in universities, are provided with guardians and the necessary care and support.