



universität
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MASTER-THESIS

Titel der Master-Thesis

"Adult over Night?"

Separated Young People in Transition to Adulthood
in Austria

Verfasserin

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angestrebter akademischer Grad
Master of Arts (MA)

Wien, 2014

Universitätslehrgang:
Studienkennzahl lt. Studienblatt:
Betreuer:

Master of Arts in Human Rights
A 992 884
Mag. Heinz Fronek

Acknowledgements

Particular thanks go to the young refugees who took their time to share their valuable personal experiences on their transition to adulthood, which was sometimes a positive one, but for some also a less pleasant experience. Further, I would like to thank all other interviewees and stakeholders for sharing their perspectives and also to all guardians, legal representatives and staff of accommodations for separated children who provided information.

I would also like to thank Heinz Fronek for his excellent thesis supervision, who was a great support and without whom many things would have not been possible.

Further, a very big thanks to Helmut Sax for fruitful discussions and much valuable input.

Finally, much gratitude goes to several other persons who were very helpful for the entire research process, and last but not least, of course much thanks to my family, who was an enormous support during the entire time of the master.

Abbreviations

ABGB	Allgemeines Bürgerliches Gesetzbuch (General Civil Code)
AMS	Arbeitsmarktservice Österreich (Public Employment Service Austria)
AVG	Allgemeines Verwaltungsverfahrensgesetz (General Administrative Procedure Act)
CRC	United Nations Convention on the Rights of the Child
CT	Computer Tomography
EU	European Union
Federal Office	Federal Office for Immigration and Asylum
FRA	European Union Agency for Fundamental Rights
FSW	Fonds Soziales Wien (Vienna Social Fund)
IOM	International Organisation for Migration
NGO	Non-governmental Organisation
PTSD	Posttraumatic Stress Disorder
SC	Separated Child/ren
SCEP	Separated Children in Europe Programme
SYPT	Separated young Person/People in Transition
UNHCR	United Nations High Commissioner for Refugees
VfGH	Verfassungsgerichtshof (Higher Constitutional Court)

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Introduction

As children, separated asylum-seekers and refugees have specific rights due to being under eighteen. However, after their eighteenth birthday, they are no longer entitled to these rights and are supposed to manage their lives independently, as any other adult asylum-seeker or refugee. Separated young people in transition (SYPT) are no longer entitled to special accommodation, legal representation and guardianship as well as easier access to education. However, considering that these former children have a different background as other adolescents who are supported by their family, they need to cope not only with the in itself difficult transition to adulthood and finding a new identity, but also with many other things such as a pending asylum procedure and an uncertain future in Austria. The aim of this thesis is to identify the main changes and challenges for SYPT as well as factors and facilitators influencing a successful transition to adulthood, as well as if there is a need for ongoing support for this group of young people. Further, available support and good practice in Austria regarding SYPT as well as shortcomings or lacking support should be identified.

In this paper I will try to answer the following research questions:

To which extent does majority age of separated young people in transition influence the protection and care which was guaranteed to them under the age of eighteen?

How do separated young people in transition themselves perceive these changes, what do these changes mean for their lives?

To which extent are further supporting measures available and also necessary?

To which extent and in which areas is continuous support lacking?

The main areas focused on in this thesis are accommodation, guardianship, legal representation, family reunification and education. Of course not only these areas of life of SYPT are affected, however, as further elaborated in the section "limitations", these were chosen in order to illustrate the most obvious and also partly most drastic changes when turning eighteen.

In the first chapter, there is an overview regarding numbers of separated children (SC) and their asylum procedure including the practice of age determination. Chapter two discusses children's rights in general and regarding the question if these really end at the age of eighteen. Chapter three revolves around the transition to adulthood, including international awareness on this topic, views of SYPT themselves, the level of information given to SYPT on changes when turning eighteen, the main changes and challenges, influential factors, facilitators as well as the psychological perspective of SYPT turning eighteen. In chapters four, five, six, seven and eight, several areas affected by the transition to adulthood as mentioned above are looked at more closely. These chapters highlight the legal provisions and also practice respectively before the age of eighteen and after, partly including differences between the federal provinces in Austria in practice. Finally, conclusions will be drawn and several recommendations regarding the main issues proposed.

i. Methods

Aside from literature review regarding the situation for SC in Austria before turning eighteen as well as literature regarding the transition to adulthood, a large part of the research was of empirical nature including guided interviews with various experts¹. Due to the situation regarding SC in Austria changing constantly (e. g. regarding laws or numbers of SC claiming for asylum) it was tried to include the most recent literature as possible. The qualitative approach including empirical research was chosen in order to find out what the current situation for SC in transition to adulthood is in Austria as well as to identify good practice and eventual shortcomings. In order to highlight the topic

¹ Flick, 2012, p. 214.

under research from different angles, various stakeholders with different areas of expertise were interviewed.

Five SYPT were interviewed during October 2013 in order to begin the research on the underlying topic including views of the main stakeholders concerned, not only to include a participatory element, but also to know where to go on with further research and to find out which areas are relevant. Contact with the SYPT was established via NGOs. The SYPT aged between eighteen and twenty, came from Somalia, Afghanistan and Algeria, including one female respondent. The SYPT were mainly accommodated in facilities for SC in Vienna (with the exception of one SYPT accommodated formerly in Lower Austria and one SYPT never having lived in an accommodation facility for SC due to being declared above eighteen during the admission procedure). It was planned to incorporate as much diversity as possible regarding nationality, gender, place of accommodation as well as asylum status, however, the choice of these interviewees was taken mainly due to availability. All interviews with the SYPT took place individually and were partly recorded, partly only written down as requested by the respective respondent. The respondents received the same interview questions and all were assured anonymity. The interview transcripts were sent to them after the interview in order to obtain their full consent on the content.

Further, seven² different stakeholders were personally interviewed in order to include different perspectives from different areas in the field of working with SC. These interviews were also partly recorded, partly only written down. The interviewees mainly had a different set of questions, depending on their area of expertise. Several interviewees received the written transcript for review as requested.

An in-house psychologist was also interviewed as well as a post-doctoral child-psychology researcher from the Centre for the Study of Emotion & Law based in London asked to answer several questions in order to include the psychological aspects of SC's transition to adulthood.

² Caretaker of accommodation facility for adult asylum-seekers, student and co-founder of NGO "Neuer Start", caretaker of post-care accommodation facility, in-house psychologist of accommodation facility for SC, guardian, expert of the NGO "Asylkoordination", caretaker of accommodation facility for SC.

Further, thirty-one accommodation facilities for SC from all federal provinces (*Bundesländer*)³ were sent the same set of questions via e-mail, of which twenty-four provided answers. Eight federal provinces could be covered including Vienna⁴, Lower Austria, Salzburg, Upper Austria, Tyrol, Burgenland, Styria and Vorarlberg. Including the personal interview with a caretaker of an accommodation facility for SC, a range of twenty-five SC facilities could be covered in this research paper.

Ten legal representatives were contacted and sent the same set of questions regarding their area of work with SC and the transition to adulthood, of which eight⁵ answered the questionnaire, covering six federal provinces. It was achieved to have a complete balance of legal representatives employed by an NGO and also by the Youth Welfare⁶.

Finally, four guardians⁷ (including a personal interview) were included in the research. Four received the same set of questions, of which three returned the questionnaires. Especially regarding the interviews with the SYPT, questionnaires from guardians, legal representatives and accommodation facilities, the method of qualitative structured content analysis was applied in order to filter certain aspects from the large amount of data.⁸ Further, it was decided and ensured to all respondents in this research paper that they would remain anonymous.

³ With the exception of Carinthia: the only facility there has only recently been established and mostly very young SC are accommodated there, it was therefore decided not to include it in the study due to lacking relevance for the topic of transition to adulthood.

⁴ Most accommodations covered per province are based in Vienna, however, this is also due to the fact that in other federal provinces there are less accommodation facilities available for SC in general.

⁵ Burgenland, Vienna, Lower Austria, Upper Austria, Tyrol, Styria.

⁶ Four respondents work for an NGO, four for the Youth Welfare, also gender wise there is a balance including four male and four female respondents.

⁷ Upper Austria, Tyrol, Vienna; three respondents are female, one is male.

⁸ Mayring, 2012, p. 468-475.

ii. Limitations

Due to the limited framework of this current study, all areas affected by the transition to adulthood for SC cannot be reflected in its completeness, further research would surely be necessary in order to do so. However, due to the multi-disciplinary approach and scope of the research, several conclusions can still be drawn regarding the current situation in Austria.

iii. State of research

Several studies have undertaken research on SC in Austria. However, mostly the general and overall situation was focused on - partly also turning eighteen was a topic in several studies, however, none of these studies went into depth in this specific area. Recently, there seems to be growing awareness also internationally for this specific area. During a consultative meeting in 2011 of the Council of Europe as well as UNHCR, challenges faced by SC in transition to adulthood were discussed.⁹ In September 2013 also the European Parliament brought up the issue of difficulties that SYPT face.¹⁰ At the beginning of 2014, a comparative study by UNHCR and the Council of Europe was undertaken in several European countries including Austria, looking at transition to adulthood of SC.¹¹ Shortly after followed a resolution by the Council of Europe regarding migrant children and their rights at the age of eighteen.¹² The resolution was based on a short report by the Council of Europe also from 2014.¹³

iv. Definitions

The term "separated child/ren" (SC) for asylum-seekers and refugees below the age of eighteen is used throughout this thesis for several reasons. The term "separated children" has established itself in many cases in literature and on an international

⁹ Cf. Council of Europe, 2011.

¹⁰ Cf. European Parliament, 2013.

¹¹ Cf. UNHCR, 2014 (b).

¹² Cf. Council of Europe, 2014 (a).

¹³ Ibidem, (b).

level.¹⁴ The Separated Children in Europe Programme (SCEP) which is an initiative of members of the International Save the Children Alliance in Europe and UNHCR, rather suggests to use the term "separated children" instead of "unaccompanied children" in order to more accurately reflect the circumstances of children who receive care by adults during transit and after arriving in the reception country, who are however not their parents or usual primary caregivers.¹⁵

Further, in order to include not only asylum-seeking children but also those who might already have some sort of protection status, it was decided not to focus on the legal status in the term used. Throughout this paper, for SC who are close to their eighteenth birthday or are already older than eighteen, the term "separated young people in transition" (SYPT) is used, also in order to include all different kinds of legal status possibly attained.

Further, the male form is predominantly applied in this thesis when referring to SC/SYPT as well as to stakeholders. This is firstly for the sake of readability, but also regarding the anonymity of all stakeholders included in the research. The chosen male form equally includes female persons.

¹⁴ Sax, 2004, p. 290.

¹⁵ Kohli, 2007, p. 4.

1 Background information

According to the most recent UNHCR global trends report, during the year 2013 there were 25.300 claims of SC worldwide in 77 countries. In Europe, 15.700 claims of SC were registered. Of all European countries, Sweden (3.900) and Germany (2.500) hosted the greatest number of SC, following the UK (1.200) and Norway (1.100).¹⁶

1. 1 Asylum applications of separated children in Austria

1. 1. 1 2013

In total, a number of 17.503 persons applied for international protection during the year 2013. The number of SC amounted to 999 (before 188 applicants were declared full-age the number amounted to 1.187), constituting 5,7 percent of all asylum applications during 2013. The largest group of 437 applicants originated from Afghanistan, the second largest group of 96 from Algeria, followed by 64 applicants from Syria, 59 from Pakistan and 39 from the Russian Federation. SC between the age of fourteen and eighteen accounted for 932 applications. The highest number of applicants below the age of fourteen (67) came from Afghanistan (24), the Russian Federation (23) and Syria (5).¹⁷

1. 1. 2 2014

Including May, a total of 6.695 persons sought protection in Austria in 2014. The number of SC consists of 515 (without indication on full-age declarations), representing 7,69 percent of all asylum applications including May 2014. In the group of SC between fourteen and eighteen years, 499 SC originate predominantly from Afghanistan (194), following Somalia (134) and Syria (44). The majority of SC below the age of fourteen (16) originate from Afghanistan (11) followed by Syria (2).¹⁸

¹⁶ UNHCR, 2014 (a), p. 29.

¹⁷ Cf. statistics by the Ministry of the Interior.

¹⁸ Ibidem.

1. 1. 3 Trends

The number of applications by SC in general has recently decreased and strongly fluctuated over the last few years. In 2008 the number of applications amounted to 770, increasing to 1.062 during 2009. During 2010 this number decreased to 687 and strongly increased again during 2011 to 1.121. During the year 2012 the number reached 1.574 and decreased again to 999 during 2013.¹⁹

According to a recent study by the UNHCR, the decrease of SC coming to Austria directly impacts the accommodation conditions for SC below as well as above the age of eighteen, due to more places being available and therefore more flexibility is possible.²⁰

1. 2 The asylum system for separated children

It is possible to file an asylum application²¹ either directly in one of the initial reception centres of the Federal Office (which are located in Thalham in Upper Austria, Traiskirchen in Lower Austria and at the Vienna International Airport in Schwechat; with the latter only being responsible for asylum-seekers who lodged their applications at the Austrian air border)²² or also with the police.²³

The admission procedure mainly revolves around the question if Austria or another EU member state is responsible for the asylum procedure according to the Dublin III²⁴ Regulation.²⁵ If SC arrive in Austria, it is necessary that they are provided with a legal representative. During the admission procedure, the legal advisers hold this function, after admission to the procedure, and after transfer to a special accommodation facility

¹⁹ Cf. statistics by the Ministry of the Interior (all yearly numbers do not include full-age declarations).

²⁰ UNHCR, 2014 (b), p. 22.

²¹ Possible outcome of an asylum application are either refugee status according to the 1951 Geneva Refugee Convention (§3), subsidiary protection (§8), a residence permit which needs to be renewed each year or every two years or the right of residence for victims of trafficking or a humanitarian right to stay (Asylum Act 2005).

²² Cf. Schumacher, 2012, p. 240.

²³ Ibidem, p. 242.

²⁴ SCEP, 2014, p. 25.

²⁵ Asylum Act 2005.

for SC in one of the federal provinces, the Youth Welfare is responsible for this task.²⁶

If prior to the initial interview in the admission procedure, the legal adviser in such case objects to an interrogation conducted outside that centre without the presence of a legal adviser, such interrogation shall be repeated in the presence of the legal adviser.²⁷

If a SC has no reliable certificates or other documentary evidence of being below eighteen years, the authority can request the SC to undergo radiological examinations, including x-ray, carried out under a multi-factorial examination technique for the purpose of age determination. Every examination procedure should be conducted with the least possible interference. Further, the SC's cooperation in a radiological examination should not be undertaken by force.²⁸ During the multi-factorial age determination, the age of the SC is momentarily assessed with three to four investigations as described in more detail below.

During the admission procedure, SC are accommodated in the Initial Reception Centre East where parts of one reception facility are exclusively used for the accommodation of SC. After admission to the asylum procedure and unless the Federal Office determines that they are adults on the basis of an age determination, SC are assigned and transferred to a special accommodation facility for SC in one of the federal provinces.²⁹

Then the territorially competent Youth Welfare Agency of the federal province in which the SC is assigned to an accommodation facility for SC undertakes the legal representation in the asylum procedure.³⁰

The Federal Office for Immigration and Asylum (*Bundesamt für Fremdenwesen und Asyl*) has replaced the Federal Asylum Agency (*Bundesasylamt*) in January 2014. Aside from decisions regarding international protection, it has the additional task of deciding on the issuance of residence permits. The Federal Office has also obtained new competences in foreigners police procedures, as the issuance of pre-deportation detention orders, the arrangement of forced removals from Austria, the granting of

²⁶ Schumacher, 2012, p. 269.

²⁷ § 10 para 3 Federal Office for Immigration and Asylum Procedure Act.

²⁸ Lukits 2012, p. 27.

²⁹ Blecha, 2012, p. 31.

³⁰ § 10 para Federal Office Procedure Act.

"tolerated stay" (*Duldung*) to persons who cannot be deported for specific reasons and the issuance of passports and identity documents to beneficiaries of international protection. In the Federal Office for Immigration and Asylum decision-makers are now responsible for a case from the initial application until the granting of international protection and issuance of a passport or identity document or issuance of a decision regarding return and also for initiating deportation.³¹

When admitted to the procedure, the further interview is conducted in one of the Federal Office's Regional Directorates located in each of Austria's federal provinces.³² Since 2014, the time limit for lodging an appeal has been extended for SC from two to four weeks.³³ The Federal Administrative Court (*Bundesverwaltungsgericht*) which is competent for all appeals against decisions by the Federal office has replaced the Asylum Court (*Asylgerichtshof*) and appeals are now decided by a single judge instead of formerly two.³⁴ Rulings by the Federal Administrative Court are final and only extra-ordinary legal remedies are possible. Since 2014 an asylum-seeker may again (this was already possible until the creation of the Asylum Court in July 2008) approach the Higher Administrative Court (*Verwaltungsgerichtshof*) also in asylum cases, next to the Austrian Constitutional Court (*Verfassungsgerichtshof*). Appealing to one of these courts, the appellant needs to be represented by a lawyer.³⁵

As stipulated in the § 73 para 1 of the General Administrative Procedure Act (*AVG*), a decision should be issued by the first instance authority within six months.³⁶ However, as stated by Fronek during 2010, SC might wait for several years until their asylum procedure (including the second instance) is completed.³⁷ This problem was also recently underlined in a diploma thesis regarding SC from Afghanistan, that in practice,

³¹ Cf. § 3 Federal Office Procedure Act.

³² Cf. Federal Office for Immigration and Asylum, 2014.

³³ Cf. § 16 para 1 Federal Office Procedure Act and § 7 Para 4 Administrative Court Procedure Act.

³⁴ Cf. § 2 Administrative Court Procedure Act.

³⁵ Cf. § 30 Administrative Court Procedure Act.

³⁶ General Administrative Procedure Act.

³⁷ Fronek, 2010, pp. 90-91.

asylum procedures might take years.³⁸ It was also stated by a caretaker of a post-care accommodation facility that several SYPT accommodatd there are partly waiting already for years to have a final decision in their asylum procedure.³⁹ According to a national assessment for Austria in the Separated Children in Europe newsletter from fall 2013, SC from Afghanistan are increasingly denied subsidiary protection and also issued expulsion orders to Afghanistan by the first instance (formerly the Federal Asylum Agency). Further, also requests for extending subsidiary protection were refused. This especially concerned beneficiaries who had turned eighteen and who had been granted subsidiary protection due to being under age. Due to this, caretakers from NGOs reported that many Afghan SC started feeling insecure due to these developments.⁴⁰

1. 2. 1 Age determination

Age determination is relevant in several ways; an erroneous determination may lead to a SC being declared full-age even though he is not yet that old, he might be declared older than he is and will therefore have an earlier transition to adulthood.

Since the amendment of the Asylum Act of 2009 and since 1 January 2010, the Austrian law entails a legal basis for radiological examinations for age determination.⁴¹ The law sets out that where an asylum-seeker cannot confirm his claimed age of being below eighteen years old with genuine documents or other evidence, the first instance authority or the appeal court may order a multi-factorial age determination including radiological examinations such as x-ray, every method applying the least intrusive interference. The participation in the age determination cannot be undertaken by force. If doubts concerning the age after the age determination remain, the SC should be declared as a child to his benefit.⁴²

³⁸ Neuböck, 2014, p. 69.

³⁹ Interview3.

⁴⁰ SCEP, 2013, p. 30.

⁴¹ Federal Office for Immigration and Asylum Procedure Act; Fronek, 2010, p. 67.

⁴² § 13 para 3 Federal Office for Immigration and Asylum Procedure Act.

1. 2. 1. 1 Methods

In practice, if the claimed age of the SC is doubted, first an x-ray of the carpus/wrist is undertaken. If the result lies above 30 Greulich/Pyle⁴³(for girls 27), the SC is requested to undergo the multifactorial examination.⁴⁴ The multi-factorial age determination is based on the following examination methods: The physical examination includes an inspection of the general physical appearance, the development of hair growth and secondary sexual characteristics.⁴⁵ This examination should be the basis for the further two because it helps to determine any developmental irregularities due to hormonal reasons and should be undertaken by medical practitioners, paediatrics, forensic doctors or public health officers. Further, the dental examination assesses the dental status through a panorama x-ray undertaken by a specialist for dental and oral medicine. The radiological examination encompasses an x-ray of the wrist which should be undertaken by specialists for anatomy or forensic doctors. If doubts remain after these examinations and especially if the x-ray of the wrist comes to the result that the ossification is completed, then computer-tomography images of the clavicle can be made for assessing if the SC is already twenty-one years old. All examinations should then be summarised by an expert as an overall opinion and then given to authority.⁴⁶

An age determination should not be requested if it is obvious that the applicant is still a below eighteen years. Only if there is doubt the age determination should be undertaken.⁴⁷ In the case that the SC submitted documents or certificates confirming his age, a verification of these documents should be undertaken first. If the documents are not able to be verified as genuine, then an age determination can be ordered.⁴⁸

The Youth Welfare as legal representative or guardian can refuse examinations for age determination. However, this might have negative consequences for the assessment of the individual case. In such cases the legal representative and the applicant should be

⁴³ Greulich/Pyle, Radiographic atlas of skeletal development of the hand and wrist (1959).

⁴⁴ Interview6.

⁴⁵ Lukits, 2012, p. 31.

⁴⁶ Ibidem, pp. 16-17.

⁴⁷ Muzak, 2013, p. 80.

⁴⁸ Ibidem, p. 5.

invited to an interview and sufficiently informed on the consequences of such refusal.⁴⁹ As stated by a SYPT interviewed for this research paper, an age determination can be extremely uncomfortable. He was shocked when he heard that he would have to undress in front of a female doctor and objected to do so. However, the doctor insisted that he had to do this and also the interpreter told him, that he should do as the doctor says. He stated that this was very strange for him, but in the end he cooperated.⁵⁰

According to an in-house psychologist of an accommodation facility for SC, an age determination is an unpleasant experience for the SC which have to undergo this procedure when they just arrived in Austria. Many are angered about the fact that a part of their identity is changed. There are SC for which the age is not so important, however for many others their age and birth date are an important part of their identity.⁵¹ Further a legal representative stated that some SC are very unhappy with their birth date being changed by the Federal Office and can't understand this practice, especially if their parents told them their exact date of birth.⁵²

1. 2. 1. 2 Numbers

According to Lukits, the legal foundation of the multi-factorial age determination has led to a significant increase of age determinations. In the first half of 2010, 498 SC applied for asylum, during the same time, the authority ordered 359 age determinations, amounting to 72 % of all applicants. In more than half of these cases majority age was declared.⁵³

According to a parliamentary query, during 2013, 395 age determinations were requested by the former Federal Asylum Agency. In 359 cases an age determination was undertaken. In 262 (73%) cases the persons were declared full-age, in 97 (27%) of all cases, the result of the age determination was that the minor age was confirmed or

⁴⁹ Muzak, 2013, p. 22.

⁵⁰ SYPT5.

⁵¹ Interview4.

⁵² LegRep8.

⁵³ Lukits, 2012, p. 33.

not able to be excluded due to variations of the results. In the latter cases the minor age was confirmed due to the principle "in dubio minore".⁵⁴

1. 2. 1. 3 Criticism

The applied methods for age determination have been and are criticized especially due to the newly introduced exposure to radiation as well as that x-ray cannot define ones age exactly.⁵⁵ It is also stated in a very recent report by the Council of Europe that an erroneous age determination can be very problematic, especially if the concerned child's age is wrongly determined and he is made older than he actually is.⁵⁶ Further it is stated regarding the current examinations for age determinations:

"However, the reliability of these have been brought into question and some techniques such as x-rays remain questionable from the medical and ethical point of view and are contested by international organisations."⁵⁷

Further, the study of Kellinghaus et al. which is referenced to when examining the clavicle, has been frequently criticized by other medical experts in the past. Taking this into account, UNHCR Austria recently commissioned a biometric report on two publications by Kellinghaus et al. The report, criticizing various factors of the study as insufficient or inadequate, was compiled by two experts on medical statistics. This document was shared with all stakeholders working with SC whose age is put in doubt in Austria.⁵⁸

As stated by Dr. Siroos Mirzaei, a doctor and co-founder of a Viennese organisation offering psychotherapy for traumatized persons, age determination can never be exact:

"All these methods have their certain range. Even if we put all together, we can't say, that we minimise this range. That is impossible. That means no matter what I do, I have to consider, that I will have a range from twelve to twenty-four

⁵⁴ Parliamentary enquiry, 2013.

⁵⁵ Lukits, 2012, p. 33.

⁵⁶ UNHCR, 2014 (b), p. 7.

⁵⁷ Ibidem.

⁵⁸ SCEP, 2013, p. 17; Ponocny, 2013.

months. And if that is sufficient for making a decision on the age determination with its legal consequences, I doubt that."⁵⁹

Further, the question of the best interest of the child is highlighted by Helmut Sax, a child rights expert from the Ludwig Boltzmann Institute for Human Rights:

"If adolescents coming from different cultural contexts who maybe are not even sufficiently prepared for what is expecting them here and if they are expected to undergo such examinations, that is also problematic from the aspect of human dignity and the best interest of the child (...)." ⁶⁰

1. 2. 1. 4 Being declared full-aged

In the case that a SC is declared full-aged, normally the applicant is informed on this during an interview through the respective adjudicator.⁶¹ Further, the birth date of the former SC is corrected to the extent that the declared age is calculated from the time of the examination and the 1 January is fixed as a birth date.⁶² This practice can be led back to the former Federal Asylum Agency's order on age determination from 2009. It is required that an asylum-seeker's age needs to be included in the identity card for the asylum procedure. However, taking the 1 January of the calculated birth year is discriminatory, because the SC counts until one year older than the final expert opinion's assessed minimum age. According to Lukits, this practice is obviously contradicting the principle of "in dubio pro minore", that in doubt, the applicant's claimed age should be accepted.⁶³ According to an expert by the NGO "Asylkoordination", in practice it is currently not consistent in which way the authority sets the SC's age after an age determination, however, the 1 January is often applied.⁶⁴ Further it is also stated in the guidelines on policies and procedures in dealing with SC

⁵⁹ Anderl, 2014, translated.

⁶⁰ Ibidem.

⁶¹ Lukits, 2012, p. 36.

⁶² Ibidem, p. 32.

⁶³ Ibidem, p. 35.

⁶⁴ Interview6.

from 1997⁶⁵ as well as by the CRC Committee⁶⁶, that in case of doubt regarding the exact age, the age should be declared to the benefit of the child. As stated by a SYPT from Somalia, whose birth date was set as the 1 January:

"(...) for us it is not important the (...) birth date, my mother did not tell me, my father did not tell me, but I just knew the years. Months and days I didn't know. The Federal Asylum Agency just determined 1 January."⁶⁷

Of the five SYPT interviewed, one underwent an age determination during the admission procedure. Aside from the age determination having been very uncomfortable for him, e. g. undressing in front of a female doctor, his problems with bureaucracy only began due to his newly declared age. He then had two different birth dates; his own (written on a certificate by the Immigration, Citizenship and Register Office regarding his date of birth in order to begin an educational measure) and the one of the former Federal Asylum Agency, stating that he was born on the 1 January. Due to this, there were different birth dates on his refugee convention passport, e-card, drivers licence and school certificates. As a result he has recurring problems when having to show ID/documents.⁶⁸ Differing birth dates have also been reported by other SC to be a strain in their daily lives.⁶⁹ Furthermore, two legal representatives underlined that different birth dates can complicate daily life.⁷⁰

⁶⁵ UNHCR, 1997, p. 5.

⁶⁶ Sax, 2012 (a), p. 426.

⁶⁷ SYPT1, translated.

⁶⁸ SYPT5.

⁶⁹ Interview2.

⁷⁰ LegRep2, LegRep7.

2 Children's rights and beyond?

The UN Convention on the Rights of the Child (CRC), in force since 20 November of 1989, with almost near universal recognition of 193 states to it, lays down several key human rights applying to all children below the age of eighteen years. The reason for setting the age limit at eighteen is to establish a group with specific rights, due to the fact that in many countries people are often in a weaker position to claim their human rights below the age of eighteen. According to Sax, age limits should be reviewed in relation to their function. In the case of protection purposes, higher age limits might be necessary than in other areas. Further, the CRC definition of "child" should not be used in order to limit certain rights, e. g. services of the Youth Welfare should not end abruptly with turning eighteen. Decisions should rather take into account the overall situation of the respective (former) child such as the ability to sustain himself.⁷¹

An expert of the NGO "Asylkoordination" also states in this regard:

*" (...) also if they are already eighteen - the best interest of the child plays a role, that you say, what would be important for the minors, knowing that with eighteen it is of course still important, that he can complete education and which support does he need for this."*⁷²

The CRC was ratified by Austria in 1992. However, the provisions of the CRC are only included into national law to a very limited extent.⁷³

According to the General Civil Code (*ABGB*) stated in § 21 para 2, minors are persons below eighteen years. It is distinguished between four age groups; until the seventh birthday (*Kind*), between seven and fourteen (*unmündig*), from fourteen to eighteen (*mündiger Minderjähriger*) and with the eighteenth birthday one is an adult (*volljährig*).⁷⁴ The Youth Welfare Act (*Kinder- und Jugendhilfe Gesetz 2013*) states in

⁷¹ Cf. Sax, 2012 (a), pp. 422-426.

⁷² Interview6, translated.

⁷³ Netzwerk Kinderrechte, 2014.

⁷⁴ General Civil Code.

§ 4 that "children and adolescents" (*Kinder und Jugendliche*) are persons below the age of eighteen. "Young adolescents" (*junge Erwachsene*) are eighteen, but not yet twenty-one years old.⁷⁵ In Austria, a minor is contractually capable when turning eighteen. Therefore also guardianship ends with majority.⁷⁶

2. 1 Best interest of the child

Article 3 of the CRC states that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child should be the primary consideration.⁷⁷ The Federal Constitutional Act on Children's Rights (*BVG Kinderrechte 2011*) which was enacted to incorporate the CRC into Austrian law illustrates the significance of the best interest of the child in article 1 in similar to Article 3 CRC⁷⁸:

*"(...) During all measures of public and private institutions concerning children, the best interest of the child must be a primary consideration."*⁷⁹

However, as stated in Article 7 of this provision, parts of it, including the principle of the best interest of the child, can be limited, if this is foreseen by law and is necessary for the protection of national security, public peace and order, the economic well-being of the country, the prevention of criminal acts, the protection of health or of the rights and freedoms of other people. According to the explanatory remarks of the legislator to Article 7, for example criminal or aliens law measures can limit certain rights of children.⁸⁰

⁷⁵ Youth Welfare Act.

⁷⁶ Fronek, 2010, p. 181.

⁷⁷ United Nations Convention on the Rights of the Child.

⁷⁸ Federal Constitutional Act on Children's Rights.

⁷⁹ Ibidem, translated.

⁸⁰ Fronek, 2010, p. 21.

Article 2 paragraph 2 of the same Act states:

"Every child, which is permanently or temporarily outside of his family environment, which is the natural environment for the growth and prosperity of all its members, especially of children, is entitled to special protection and assistance by the state."⁸¹

The best interests of the child are specifically mentioned and set out to some further extent in the Austrian General Civil Code.⁸² The General Civil Code stipulates in § 138:

"In all measures concerning the minor child, especially guardianship and personal contacts, the best interest of the child is always to be taken into account and to be guaranteed in the best possible manner (...)."⁸³

When SYPT turn eighteen, there are no significant obligations for states deriving from international or European provisions which SYPT would benefit from.⁸⁴ However, the standards developed for SC by the Separated Children in Europe Programme (SCEP), incorporating the CRC, the Committee of the Rights of the Child's General Comment No. 6 as well as the Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum by UNHCR from 1997, mention standards

⁸¹ Federal Constitutional Act on Children's Rights, translated.

⁸² Adequate provision of food, accommodation, medical and sanitary care as well as a careful upbringing of the child; welfare, comfort and protection of the physical and psychological integrity of the child; appreciation and acceptance of the child by the parents; promotion of talents, abilities, inclinations and developmental possibilities of the child; consideration of the views of the child in accordance with his comprehension and capacity to form opinions; avoidance of harm that the child might suffer through the implementation and enforcement of a measure against his will; avoidance of the risk for the child, to suffer from assault or violence himself or witness assault and violence to significant others; avoidance of the risk for the child, to be unlawfully removed or retained or to otherwise come to harm; reliable contacts of the child with both parents and significant others and secure relationships of the child to these persons; avoidance of conflicts of loyalty and feelings of guilt of the child; safeguarding the rights, entitlements and interests of the child and living conditions of the child, his parents and other surroundings (General Civil Code).

⁸³ General Civil Code, translated.

⁸⁴ Fronek, 2010, p. 181.

also going beyond the eighteenth birthday. It is mentioned regarding guardianship, that guardians should be appointed, until a durable solution has been identified and implemented. This may be until beyond the eighteenth birthday.⁸⁵ It is further noted that regarding the process of finding a durable solution, this must be started immediately. Further regarding accommodation, SC should not receive lesser treatment than national children leaving care and they should be supported through an after-care programme in assisting them in their transition to live independently.⁸⁶

⁸⁵ Separated Children in Europe Programme, 2009, p. 22.

⁸⁶ Ibidem, p. 39.

3 Separated young people in transition to adulthood

3.1 International awareness

Already in the year 1997 stated by UNHCR in the guidelines on policies and procedures in dealing with SC, SYPT who reach majority and who leave care should receive post-care support. A contact person should be defined and the SYPT should receive information and support regarding questions such as accommodation and education. This support should be offered to the SYPT as long as it is necessary.⁸⁷

The Council of Europe's Recommendation of the Committee of Ministers from 2007 on "life projects" for SC notes that:

"Where a minor involved in the implementation of his or her life project attains the age of majority and where he or she shows a serious commitment to their educational or vocational career and a determination to integrate in the host country, he or she should be issued with a temporary residence permit in order to complete the life project and for the time necessary to do so."⁸⁸

During a consultative meeting of the Council of Europe as well as UNHCR in 2011, the topic of challenges faced by SC in transition to adulthood was on the agenda. It was acknowledged that the transition to adulthood is challenging and emotionally demanding to everyone. However, for SC it is even more challenging due to their personal transformation coinciding with having to acquire living skills in another society in a new country. Further described as alarming is the situation for SC who have no family to rely upon, due to the loss of accommodation, financial means and their guardian. A "life project" as recommended by the Council of Europe includes social integration, personal development, education and vocational training, housing, health and employment.⁸⁹ Identified solutions of this meeting were that SYPT should be seen

⁸⁷ UNHCR, 1997, p. 12.

⁸⁸ FRA, 2010, p. 75.

⁸⁹ Council of Europe, 2011, pp. 9-10.

as a particular group while in transition to adulthood and to benefit from policies, laws and practices addressing their needs. Further, special attention should be paid to SYPT who were declared full aged due to an age determination and SC who undergo an age determination should be given the benefit of doubt. Furthermore, access to education should be opened to all asylum-seekers and refugees irrespective of their age, accessible accommodation should be part of the support provided to SC in transition to adulthood, and they should have access to free of charge language training. Regarding the length of support it is stated that SYPT should benefit from a mechanism providing assistance for at least six months after turning eighteen. A "life project" should be established for SYPT in the age between sixteen and approximately twenty-three years. Further it is recommended to create a mentoring system such as "big brother/big sister" programme, in order to rely on peers.⁹⁰

In September 2013, the European Parliament also brought up the idea of the "life project" in its report on the situation of SC in the EU. It is stated that it is condemned with which precarious circumstances SC are suddenly confronted with when reaching majority. It is further called upon Member States to share best practices and to institute procedures to assist these SYPT in their transition to adulthood. It is also stated that the work of the Council of Europe on this subject is welcomed and the Commission is called upon to include best practices for "individualised life projects" for and with the SYPT in its strategic guidelines. Additionally, the implementation, monitoring and ensuring of the coordination of such "life projects" should be undertaken by the Member States.⁹¹

According to a recent study by UNHCR and the Council of Europe on SC's transition of adulthood, even if the SYPT are no longer children, they still need support and guidance during this critical transitional phase. There is however no specific legal regime or safeguard for this category of SYPT who turn eighteen.⁹²

⁹⁰ Council of Europe, 2011, pp. 29-31.

⁹¹ European Parliament, 2013.

⁹² UNHCR, 2014 (b), p. 14.

Shortly after the above mentioned report by UNHCR and the Council of Europe, a resolution was passed by the Parliamentary Assembly regarding migrant children and the transition to adulthood.⁹³ It is stated that:

*"Whereas reaching the age of majority is a milestone to be celebrated for most young people, for unaccompanied migrant children it means losing their rights and in many cases, being obliged to leave the country where they have lived and forged links. (...) Consequently, it is necessary to fill this legal void in order to help those young people make a successful transition from childhood to adulthood, including in the case of young refugees or asylum seekers."*⁹⁴

The resolution further states that the benefit of doubt should be given in age determination, bearing in mind the child's best interest. Further recalled is the Committee of Ministers Recommendation CM/Rec (2007)9 on life projects for SC and also the European Union's Stockholm Programme 2010-2013, which aimed to help young migrants become fully responsible for themselves and achieve autonomy. In this regard, the resolution mentions establishing a transition category between the ages of eighteen and twenty-five, in order to facilitate successful economic, social and cultural integration while guaranteeing support and assistance measures for SC. This transition category would include measures for welfare assistance and education, access to information on relevant administrative procedures, extensions for accommodation support as well as health care.⁹⁵

⁹³ Council of Europe, 2014 (a).

⁹⁴ Ibidem, p. 1.

⁹⁵ Ibidem, pp. 1-2.

The report to this resolution also acknowledges the drastic changes SYPT are faced turning eighteen:

"Reaching the age of majority means freedom and independence, but not for all migrant children, for whom it signals the beginning of a nightmare. At a stroke, these children lose all their rights and all the benefits previously afforded to them, be it in terms of social welfare, education, housing or access to health care."⁹⁶

The above mentioned report mentions that there are currently no legal instruments designed to protect SYPT and to accompany their transition to adulthood.⁹⁷ The objective should be to provide young migrants with the best possible support for the transition to adulthood in order to become fully responsible and become autonomous. It seems necessary to establish a transition status for migrants who just turned eighteen in order to continue granting them the most elementary rights which are important for autonomy and successful integration. Social workers should also receive specific training for being able to support the SYPT adequately in the transition phase. If SYPT would be considered as a separate group, then they could benefit from policies and practices which meet their specific needs when turning eighteen. The report further recommends that policy makers should take into account the specific situation of SYPT who turn eighteen, to raise awareness of civil society as well as to give SC the benefit of doubt when assessing their age.⁹⁸ Further stated in a report from 2010 regarding the integration of SC, is that if a SC fulfils the criteria to receive extended care after turning eighteen, such care should be provided, such as any other child in the respective country would receive.⁹⁹

⁹⁶ Council of Europe, 2014 (b), p. 1.

⁹⁷ Ibidem, p. 5.

⁹⁸ Ibidem, pp. 8-9.

⁹⁹ Asylkoordination, 2010, p. 2.

3. 2 Views of separated young people in transition

According to SYPT interviewed during a study by IOM, they felt anxious regarding their future as an adult asylum-seeker. They expressed fear relating to accommodation, not knowing where they will live and if they would feel comfortable there. Further stated was fear regarding the outcome of their asylum procedure.¹⁰⁰ As stated in a report by the FRA, which included numerous interviews of SC in several countries under research, SYPT who had received a positive decision on their asylum application were more optimistic about their future perspectives as to be able to work or study. Others e. g. feared to be deported. Many SYPT were unaware of legal consequences of turning eighteen on their status as well as effects regarding accommodation, support, education or employment. Most SYPT interviewed seemed to be insufficiently prepared for the future challenges. Adults interviewed in the study by FRA were also concerned about these changes and stated that it would be necessary to have a transition period for the SYPT.¹⁰¹

The SYPT interviewed stated on the one hand several positive aspects regarding being above eighteen but at the same time negative factors were an issue. Positive factors mentioned were e. g. that no one tells you to get up in the morning, that you can sign documents yourself¹⁰², that you have more free time¹⁰³ and can come home whenever you want to and that you must not obey rules any longer¹⁰⁴. Negative factors included e. g. the living in an accommodation facility for adults¹⁰⁵, difficulties in finding a private flat, not being able to visit a regular school after turning eighteen¹⁰⁶, having to do everything yourself being overwhelming and having no more support for doing homework¹⁰⁷.

¹⁰⁰ Blecha, 2012, pp. 67-68.

¹⁰¹ FRA, 2010, pp. 76-77.

¹⁰² SYPT2.

¹⁰³ SYPT3.

¹⁰⁴ SYPT4.

¹⁰⁵ SYPT1.

¹⁰⁶ SYPT2.

¹⁰⁷ SYPT3.

According to one SYPT interviewed on what he would recommend for the transition to adulthood, he stated that SC should use the time when they are still under eighteen years to educate themselves as much as possible:

*"First, the children before they turn eighteen, they really have to try to learn something. (...) because when they are over eighteen, they have no chance, not no chance, but rather they have less chance, than when they are below eighteen. They have more rights and more chances when they are below eighteen."*¹⁰⁸

Another SYPT also stated that being able to speak German before turning eighteen is the key.¹⁰⁹ Further a SYPT stated, that if someone has no "godmother/father" ("Pate"¹¹⁰), then the caretakers should support the SYPT during the transition to adulthood. He also stated that one should be able to speak German before turning eighteen and that more "god families" should be available for SC.¹¹¹ A SYPT stated that it was not easy for him to turn eighteen:

*"(...) but what is not good, I am eighteen years, so nineteen, and I see myself so that I have no future, my future is broken (...) and these people, there are many people, who were like me, they were under eighteen in a normal accommodation, they were protected and after eighteen, they want to work and they don't want anymore an apartment like I am living (...)"*¹¹²

According to staff of accommodation facilities for SC, it was mentioned most frequently that SYPT encounter fear¹¹³ due to their eighteenth birthday regarding e. g. finding an accommodation or a job. However, mentioned almost the same amount of

¹⁰⁸ SYPT1, translated.

¹⁰⁹ SYPT3.

¹¹⁰ Further explained in chapter 3.8 regarding facilitators for the transition to adulthood.

¹¹¹ SYPT3.

¹¹² SYPT4, translated.

¹¹³ Accom4, accom5, accom6, accom10, accom11, accom13, accom14, accom15, accom16, accom17, accom19, accom20, interview7.

times, was happiness¹¹⁴ to turn eighteen due to e. g. having more freedom or thinking they will have more privileges. Further mentioned were insecurity¹¹⁵, worries¹¹⁶ e. g. regarding finding further accommodation and being afraid of a negative decision in the asylum procedure¹¹⁷. Mentioned a few times was that SYPT express the wish to stay in contact also after leaving the accommodation¹¹⁸, some stating that they want to stay close by¹¹⁹, some wanting to stay longer in the accommodation¹²⁰, sadness due to a phase of their life ending¹²¹, tensions¹²², nervousness¹²³, uncertainty, psychological symptoms¹²⁴, stress¹²⁵, frustration¹²⁶, panic¹²⁷ and also being unhappy with the unfavourable results of an age determination¹²⁸. As stated by staff of an accommodation facility for SC, questions asked by SYPT are:

"Where will I live? Who is then responsible for me? To which administrative bodies do I have to go? How does it work regarding money? Who will help me, if I have problems? Can I come visit you? Who is my lawyer, who can I ask? (...)"¹²⁹

3.3 Information

According to a student and co-founder of the NGO "Neuer Start" it is important that SYPT are well informed on changes upon turning eighteen. He stated that it would be useful to inform SC already upon arrival over a few months on the Austrian system:

¹¹⁴ Accom2, accom4, accom7, accom9, accom10, accom15, accom16, accom18, accom21, accom24, interview7.

¹¹⁵ Accom7, accom12, accom14, accom16, accom17, accom19.

¹¹⁶ Accom7, accom13, accom14, accom20, accom22.

¹¹⁷ Accom3, accom5, accom6, accom22.

¹¹⁸ Accom2, accom13.

¹¹⁹ Accom7.

¹²⁰ Accom24.

¹²¹ Accom2, accom4.

¹²² Accom3, accom9.

¹²³ Accom2.

¹²⁴ Accom3.

¹²⁵ Accom4.

¹²⁶ Accom7.

¹²⁷ Accom13.

¹²⁸ Accom22.

¹²⁹ Accom4, translated.

*"I am actually absolutely in favour that actually as soon as the minors are in Austria or as soon as they are accommodated in a facility, that one gives information for three to six months on how the whole system in Austria functions (...)."*¹³⁰

He also stated that information in the form of a age-appropriate brochure¹³¹ could be very helpful, in order for the SYPT to have something where they can always look into:

*"But there has to also be given something in writing, so that they always have something to consult."*¹³²

Further it would be useful to involve SYPT who have been eighteen for a longer time already and who could provide SYPT who recently turned eighteen with advice:

*"Because it is actually really too bad, if one doesn't include the experiences of the others, if they are also affected by this."*¹³³

Several stakeholders were questioned on their opinion of detailed information at an early stage for SC upon arrival. The opinions differed, however, the majority was not very much in favour of such an early beginning of intensive information for the SC. A

¹³⁰ Interview2, translated.

¹³¹ Similar to the child-friendly brochure created by UNHCR Austria including information regarding the asylum procedure for SC. The brochure which was originally developed 2012 with with co-funding from the European Refugee Fund and the Austrian Ministry of the Interior during the project "Further Supporting Authorities Conducting Asylum Procedures for Unaccompanied or Separated Children" ("Weiterführende Unterstützung der Behörden bei Asylverfahren unbegleiteter Minderjähriger" - UBAUM-II) is also available online in three bilingual versions English/German, Dari/German and Pashto/German. The brochure was especially distributed to legal representatives of SC. The brochure was developed in cooperation with the former Federal Asylum Agency, the former Asylum Court and further experts within the field of refugee protection as well as linguists and SC themselves (SCEP, 2013). The brochure is now available in its third edition, updated with the recent structural changes of the asylum system (UNHCR, 2014 (c)).

¹³² Interview2, translated.

¹³³ Ibidem.

caretaker stated that he had heard of this method, but was not in favour of it. However, the idea to have SYPT accompanying newly arrived SC would be a good incentive.¹³⁴

A caretaker of a post-care accommodation stated that this would be too much for the SC at the beginning. Because it would overwhelm them and might not be able to grasp it because they are not in the right phase of life. It would be important to give this kind of information in "well-dosed portions", because most SC first need to settle in their new home. Asked on the state of information that SYPT have when moving into the post-care accommodation, the caretaker stated that this was not sufficient. However, as from past experience working as a caretaker for SC, it is difficult to inform the SYPT on changes before turning eighteen. Usually one begins about half a year before they move out and information is given regarding organisations that can further support the SYPT. Further, the SYPT receive a kind of "care package" with relevant addresses. But in many cases this information is again forgotten and cannot yet be grasped entirely. One should not permanently remind the SC/SYPT of their eighteenth birthday and make them insecure. However, the preparation should also not be overseen.¹³⁵

An expert of the NGO "Asylkoordination" stated that it is especially difficult to sufficiently inform SC who come to Austria only shortly before their eighteenth birthday. Because then one already needs to begin preparing them for changes upon majority age and there is not sufficient time in order to do so properly.¹³⁶ It was also stated by staff of an accommodation facility for SC, that it is often difficult to sufficiently inform and prepare SYPT who only arrive at a late stage of their minority such as with seventeen and a half years.¹³⁷ A caretaker of an accommodation facility for SC further underlines this issue:

"It is more difficult for those who are here only for a short time, who can't speak German well and who just didn't have time yet to get a foothold here."¹³⁸

¹³⁴ Interview7.

¹³⁵ Interview3.

¹³⁶ Interview6.

¹³⁷ Accom24.

¹³⁸ Interview7, translated.

It is also mentioned in the study by UNHCR, that well-integrated SYPT are able to deal better with the transition to adulthood than those who arrived later and had to combine the integration process with their transition to adulthood.¹³⁹

3. 3. 1 Lack of information

According to most SC interviewed during the study by UNHCR it was recurrently expressed that there is a lack of adequate information and preparation regarding the transition to adulthood. Most stated that they were unaware of the consequences of turning eighteen especially regarding their rights and responsibilities. Few who seemed to be better informed said they had heard this from their friends who had already turned eighteen.¹⁴⁰ Two of the SYPT interviewed stated that friends informed them on changes when turning eighteen. As noted by one of these interviewees, his older friends informed him on how life would be when turning eighteen:

"Well, before I was eighteen, I knew how it all works. (...) they are already eighteen. We sat together somewhere always and talked about something and they tell us always how it will go on when you are eighteen. That's why we don't need a representative or anything. And I felt well, yes."¹⁴¹

This lacking information was an incentive for a self-empowerment initiative by a group of young SC from Afghanistan in Austria in creating their own NGO called "Neuer Start"¹⁴² to support newly arrived SC.¹⁴³ According to one of the founders of this NGO,

¹³⁹ UNHCR, 2014 (b), p. 35.

¹⁴⁰ Ibidem, p. 40.

¹⁴¹ SYPT2, translated.

¹⁴² "Neuer Start" (in English: "new beginning"), the organisation which is a response to the lacking support provided for by the state, aims at giving back what they received. The idea was developed when one of the founder's friends turned eighteen and had to move to an accommodation facility for adult asylum-seekers. He only received little financial support and no language courses were available in his region. To attend free courses he had to travel to Vienna, but needed to pay for transportation. Therefore the group of friends decided to collect money for his monthly transportation. They then decided to support other young refugees also with information, support and resources e. g. searching for free language courses, helping interpret at administrative appointments and welcoming newly arrived SC or SYPT from Afghanistan. Now they are a registered NGO based on the membership of (former)

SYPT often completely lack information. SYPT that have a "godfather/mother" have less difficulties, however, for those without external support the transition is more difficult. A further strain is not being able to speak sufficient German. He also stated that the SC are often not yet a very long time in Austria and therefore don't have much information on how everything works. Further, many SC might not have been confronted with such bureaucracies in their countries of origin as in Austria. The NGO therefore tries to explain issues as being eighteen, where one has to go e. g. to find an apartment, to register oneself, where German courses free of cost are offered or also where to find an apprenticeship.¹⁴⁴

3. 4 Main changes due to adulthood

As stated by numerous staff members of accommodation facilities for SC, the main changes affecting SYPT when turning eighteen are the loss of legal representation¹⁴⁵, loss of financial support such as tickets for public transportation¹⁴⁶, having to move into an accommodation facility for adult asylum-seekers¹⁴⁷, a lower daily rate (*Tagessatz*)¹⁴⁸, loss of budget for education¹⁴⁹, loss of guardianship¹⁵⁰, SYPT needing to be more independent¹⁵¹, family reunification no longer possible¹⁵² as well as the loss of caretakers¹⁵³. Often the caretaker is the only attachment figure the SYPT has in Austria.¹⁵⁴ Further mentioned were less support in general¹⁵⁵, leaving the familiar

SC/SYPT. Momentarily the organisation is financed on behalf of membership fees (UNHCR, 2014 (b), pp. 40-41).

¹⁴³ UNHCR, 2014 (b), p. 40.

¹⁴⁴ Interview2.

¹⁴⁵ Accom1, accom2, accom3, accom4, accom5, accom7, accom8, accom9, accom12, accom14, accom16, accom18, accom19, accom23.

¹⁴⁶ Accom2, accom7, accom8, accom9, accom13, accom14, accom15, accom18, accom19, accom20, accom24.

¹⁴⁷ Accom2, accom4, accom11, accom12, accom13, accom17, accom18, accom21, accom22, accom24.

¹⁴⁸ Accom1, accom8, accom9, accom11, accom13, accom14, accom15, accom18, accom19, accom22, accom23, accom24.

¹⁴⁹ Accom2, accom4, accom9, accom13, accom14, accom17, accom19, accom24.

¹⁵⁰ Accom1, accom3, accom4, accom5, accom7, accom8, accom23.

¹⁵¹ Accom1, accom2, accom4, accom11, accom15, accom19, interview7.

¹⁵² Accom1, accom2, accom4, accom12, accom19.

¹⁵³ Accom1, accom3, accom4, accom17, accom20.

¹⁵⁴ Accom4.

¹⁵⁵ Accom5, accom6, accom8, accom11.

environment¹⁵⁶, chances for education being decreased¹⁵⁷, difficulty in finding a new private flat¹⁵⁸, an increased chance of receiving a negative asylum decision¹⁵⁹, loss of roommates/friends¹⁶⁰, no more support through the Youth Welfare¹⁶¹, being assigned to a different city¹⁶², having no more assistance for going to appointments¹⁶³, integration becoming more difficult¹⁶⁴ but on the other hand also more freedom of the SYPT¹⁶⁵.

3. 5 Influential factors regarding the transition to adulthood

It was also mentioned by several accommodations that there are certain factors which influence the transition to adulthood. Most mentioned was the SYPT 's legal status¹⁶⁶ and that it is easier if the respective SYPT turning eighteen already has subsidiary protection regarding searching for a job or apartment, having access to education and also to benefit from means-tested Minimum Welfare Support.¹⁶⁷ Further stated were language difficulties¹⁶⁸ and the SYPT 's developmental status¹⁶⁹. Due to intensive care in the accommodation facility for SC, there is often dependence or also SYPT are not ready enough for being completely independent. The sudden lack of care can be a hard step for SYPT.¹⁷⁰ This is stated similarly by another accommodation, that due to the narrow structures in the accommodation facility for SC, in the worst case this can also decrease the development of the SC.¹⁷¹

¹⁵⁶ Accom2, accom4, accom6, accom14.

¹⁵⁷ Accom3, accom8, accom15, accom23.

¹⁵⁸ Accom2, accom4, accom15, accom17.

¹⁵⁹ Accom6, accom9, accom13, accom17.

¹⁶⁰ Accom1, accom14, accom23.

¹⁶¹ Accom9, accom19, accom22.

¹⁶² Accom14, accom23.

¹⁶³ Accom12.

¹⁶⁴ Accom13.

¹⁶⁵ Accom5.

¹⁶⁶ Accom2, accom3, accom4, accom15, accom19, accom20.

¹⁶⁷ Accom4, accom5, accom13, interview7.

¹⁶⁸ Accom14.

¹⁶⁹ Accom3.

¹⁷⁰ Accom8.

¹⁷¹ Accom12.

As a caretaker of an accommodation facility for SC stated:

"(...) they are sometimes cared for too much. It is cared for when they get up, when they eat, what they wear, where they go, when they go there, (...) That also leads - can also lead to dependence, if it is cared for too much. And I see that risk sometimes (...) It is very important that if they are seventeen, that they carry out their tasks themselves. (...) the caretakers are sometimes probably much too service-oriented. And that doesn't necessarily have to be for the benefit of the client."¹⁷²

Further, for those SYPT who come at a later age to Austria and cannot speak German well enough and are not yet settled as much have a more difficult transition.¹⁷³ According to another accommodation, it cannot be expected of SYPT who just turned eighteen that they take their life into their own hands.¹⁷⁴

3. 5. 1 Pending asylum procedure

As stated in the IOM study, the asylum procedure seems to be the issue preventing SYPT the most from making future plans.¹⁷⁵ Further, planning is accompanied with uncertainty. Due to SYPT not having a final decision in their asylum procedure yet, their worries for the future can be overwhelming.¹⁷⁶ It is stated further in guidance for planning transition to adulthood for care leavers in the UK, that planning the transition to adulthood for SC is a particularly complex process which needs to address the SYPT's care needs in the context of wider asylum and immigration legislation as well as how the needs change over time. Pathway planning to support SC's transition should cover all areas which would be addressed within all SYPT's plans, as well as additional needs arising from the specific immigration issues. Therefore planning might initially be based around short term achievable goals until the final legal status is determined.¹⁷⁷

¹⁷² Interview7, translated.

¹⁷³ Interview7, accom16.

¹⁷⁴ Accom24.

¹⁷⁵ Blecha, 2012, p. 58.

¹⁷⁶ Wade, 2011, p. 2427; Atlas, 2007, p. 21.

¹⁷⁷ Department for Education, 2010, p. 39.

For some SYPT it is the other way around; they would like to be more self-dependent, but due to a pending asylum procedure they are dependent on caretakers, because they have to move into an accommodation facility for adults due to not being able to work. It is difficult for these SYPT considering that they work towards independence, but then they are not allowed to be independent.¹⁷⁸

According to a student and co-founder of the NGO "Neuer Start", if a minor turning eighteen still has a pending asylum procedure, then it is very difficult to focus on other things such as education or finding an apartment. Those who have been granted refugee status or subsidiary protection have more security and relief, to at least have peace from side of the authority.¹⁷⁹ It is mentioned by several other stakeholders as well, that the transition phase is easier regarding being able to live by oneself, having access to the labour market and to education.¹⁸⁰ Stated by staff of a Viennese accommodation facility, if SYPT have a legal status, then it is possible for them to have a more social life and a private flat, which is a step to normalisation of life. The daily life is then more similar to the one of other young adults who don't live with their family anymore. Further the opportunity to earn their own money is important for those who have pressure by their families to do so.¹⁸¹

According to one legal representative, decisions of SYPT are often not decided until they turn eighteen and then have a negative outcome.¹⁸² It was also mentioned by the caretaker for a post-care accommodation facility, that often if SC already have subsidiary protection status, with turning eighteen the authority initiates a procedure of withdrawing this status with the argumentation, that it was only granted due to being under-age.¹⁸³

¹⁷⁸ Interview4.

¹⁷⁹ Interview2.

¹⁸⁰ Interview7.

¹⁸¹ Accom5.

¹⁸² LegRep6.

¹⁸³ Interview3.

3. 6 Challenges in turning eighteen

An expert of the NGO "Asylkoordination" sums up the increased significance of SYPT turning eighteen:

*"(...) that if you have parents you are also not put on the street when turning eighteen. That one says, you are turning eighteen and that does not interest me. That means in many cases they only have this professional support within the framework of Basic Care Support. They don't have other structures, because their parents are in the country of origin or have already deceased, were killed (...). And therefore of course this division is much more significant when turning eighteen as for other adolescents. Because then also the attachment figure, namely the professional caretaker is gone. And then of course the colleagues with one lived in the same accommodation which whom does not live together anymore due to moving somewhere else, maybe somewhere completely different. (...) there is a big problem, the potential risk, that one is isolated."*¹⁸⁴

According to Ravi Kohli, the transition to adulthood is challenging for any young person, regarding the development of autonomy, finding a new social identity, beginning further education or employment and preparing for independence. Further, the majority of SC deal with changes and transitions at a different speed. This depends on their personality, experiences as well as individual circumstances. Further, the SC face a number of cultural, social, relational, emotional and practical adjustments when arriving in a new country. These are e. g. acquiring a new language, entering the education system, making new friends and contacts, moving in to a new accommodation, learning about new and maintaining old customs and also developing routines to help restore a normal life.¹⁸⁵ As stated in the European Union Agency for Fundamental Rights (FRA) study from 2010 on SC in European Union (EU) Member States, the transition to adulthood is a even more difficult process for SYPT than for

¹⁸⁴ Interview6, translated.

¹⁸⁵ Kohli, 2009, pp. 76-87.

other children. Turning eighteen encompasses several changes concerning provision of care, living conditions, legal options and perspectives.¹⁸⁶

Regarding the transition itself, as stated by staff of accommodation facilities for SC, the most challenging aspects when turning eighteen is to arrange daily life themselves¹⁸⁷, that the transition requires high psychological and physical stability as well as organisational skills¹⁸⁸ and also that there is not sufficient post-care support available for the actual need of such¹⁸⁹.

3. 7 Psychological perspective on turning eighteen

Marginalised youth such as SC are in a different situation than youth in general. Often they must cope with several transitions at a time, at an earlier age and also with less social support and personal capabilities than youth in general.¹⁹⁰ As stated by Messinger in her diploma thesis, SC have an individual approach to the transition to adulthood due to their individual background. Their life experiences need to be especially taken into account regarding their development, therefore not all evidence on the development of European youth is applicable for all SC with a refugee background.¹⁹¹

Fronek also states that the transition to adulthood means additional stress for SYPT, who are often still trying to process their flight, experiences in their country of origin and are occupied with worries regarding their family and relatives, with whom they might be more or less in regular contact and want or should support these as well.¹⁹² According to a child psychology post-doctoral researcher, the experiences minors had will affect them differently depending on their developmental stage. They might be on the one side very mature for their age such as having to care for themselves from a

¹⁸⁶ FRA, 2010, p. 75.

¹⁸⁷ Accom1, accom2.

¹⁸⁸ Accom1.

¹⁸⁹ Accom5, accom22.

¹⁹⁰ Backe-Hansen, 2008, p. 1.

¹⁹¹ Messinger, 2000, p. 66.

¹⁹² Fronek, 2010, p. 187.

young age, but on the other side, might be less mature in other areas such as having difficulty managing their strong emotions.¹⁹³

Further, rates of mental health difficulties are much higher in SC compared to "normal" minors (e. g. ten times more likely to have PTSD). Therefore SC are in greater need of support to overcome emotional difficulties and to integrate into society.¹⁹⁴ Additionally, it was noted:

"Furthermore, the transition to adulthood and the additional responsibilities can be a difficult time anyway, so the added difficulties of relocation, separation from caregivers, learning a new language, new culture, - when securing education and employment, these minors are likely to need additional support. They may also lack role models to guide them and provide them with support and advice."¹⁹⁵

Regarding until which age it would be recommended that SYPT are further supported after turning eighteen the following was noted:

"I would recommend that support is available until the mid-twenties. Given ongoing development and that typically maturity is not achieved until mid-twenties. This would also allow for time for them to gain education and first employment."¹⁹⁶

This is reinforced by the another psychologist, that SYPT should be supported until the age of twenty-five.¹⁹⁷ It was also mentioned that young refugees often have a backlog of care and security. In order to establish this they would require more time.¹⁹⁸

¹⁹³ E-mail message by child psychology post-doctoral researcher, 14 May 2014.

¹⁹⁴ Ibidem, 16 May 2014.

¹⁹⁵ E-mail message by child psychology post-doctoral researcher, 16 May 2014.

¹⁹⁶ Ibidem, 14 May 2014.

¹⁹⁷ Interview4.

¹⁹⁸ Ibidem.

Regarding psychological consequences of a too abrupt transition to adulthood the above mentioned psychological researcher further stated:

"This may have all kinds of psychological effects. It would depend on how prepared they were for these changes. (...) The implication of being an 'adult' such as the way the legal system views that individual, no longer having access to certain support may leave them less supported and equipped to cope with difficult processes such as asylum claims. This is likely to leave them feel isolated and unsupported."¹⁹⁹

Psychologists interviewed during the UNHCR study explained that fear and uncertainty regarding turning eighteen prevents SYPT from settling, integrating and starting a mourning process of the past. This leads to further traumatising additionally to their initial trauma which they had gone through in the country of origin or during their flight. Sleeplessness and nightmares are known to almost all SC, however they seem to increase significantly when reaching adulthood. This leads to some SYPT even having suicidal thoughts. Further impacting on their psychological state is the impact of losing their guardian or caretaker when turning eighteen. The emotional bond created in the accommodation facility to this person is often lost by turning eighteen and the need to move out.²⁰⁰ According to the child psychology post-doctoral researcher there may be a variation in the quality of the relationships between the caretakers and the SYPT, therefore not all SYPT would necessarily experience grief and loss when moving out of the facility, however, many might.²⁰¹ The in-house psychologist of an accommodation facility for SC also stated that breaking off relationships is very threatening for the SYPT. As observed by this psychologist, it sometimes happens that the SYPT have a crisis before moving out. Through conflict it is then sometimes easier for them to part.²⁰²

¹⁹⁹ E-mail message by child psychology post-doctoral researcher, 14 May 2014.

²⁰⁰ UNHCR, 2014 (b), p. 38.

²⁰¹ E-mail message by child psychology post-doctoral researcher, 16 May 2014.

²⁰² Interview4.

According to the child psychology post-doctoral researcher, adequate support for SYPT turning eighteen would be psychological/emotional support to address the mental health difficulties such as trauma or depression, but also encourage positive resilience and normal emotional development. Social support would include e. g. navigating social systems, "befriender programs"²⁰³, social networks such as sporting events, religious pursuits, depending on the individual. Practical support would entail gaining access to employment, education and healthcare via e. g. a social worker as well as legal support. It was also noted that the continuity of support should not stop when SYPT turn eighteen.²⁰⁴ This implication is reinforced by the in-house psychologist, that it is helpful for SYPT to have long-term support/involvement such as an educational measure or an attachment figure such as a "godfather/mother".²⁰⁵

3. 8 Facilitators for the transition to adulthood

According to the Basic Welfare Support Agreement in Article 7, SC should be supported in clarifying future perspectives. However, this is not institutionalised but rather depends on the commitment of individuals as linked to projects such as "Connecting People" or "lobby.16", to assist SYPT with their educational and professional future.²⁰⁶

Mentioned by several SYPT, "godfathers/godmothers" ("Paten") as provided for by the project "Connecting People" play a positive role in supporting the transition to adulthood.²⁰⁷

An expert of the NGO "Asylkoordination" also mentioned that external support as in the form of "god families" is a valuable resource. There are also other projects facilitating

²⁰³ Comparable to "Connecting People" which exists since 2001 and is coordinated by the NGO "Asylkoordination" in Vienna. The project's goal is to facilitate long-term relationships for SC with a "godfather/mother" ("Pate") to support the SC with their daily lives, give them a feeling of security and also stability as well as to get familiar with the culture of the host country. Activities of the "Paten" include e. g. tutoring, support in learning German, leisure, assistance for the asylum procedure, employment, education etc. Before one can become a "Pate" there is a preparatory course. Further there is additional support and monitoring by regular exchange and meetings, training and events for the "Paten" as well as for the SC (Blecha, 2012, p. 52).

²⁰⁴ E-mail message by child psychology post-doctoral researcher, 14 May 2014.

²⁰⁵ Interview4.

²⁰⁶ Blecha, 2012, p. 57.

²⁰⁷ SYPT1, SYPT3, SYPT4.

these kinds of relationships next to "Connecting People" such as in Lower Austria, Upper Austria and Styria.²⁰⁸ As stated by professionals of the "Don Bosco Flüchtlingswerk" interviewed during the IOM study regarding "godparents", these are a very valuable resource for SYPT when turning eighteen:²⁰⁹

*"That's what I experience. The boys who have had a godparent have more opportunities. When they are confronted with finding a way through the complex bureaucratic system, to find ideas concerning education or internships or a flat. Then, this is always a very special resource in addition to the relationship which is already a resource itself."*²¹⁰

These families help SC discovering culture and traditions, support them in education and administrative procedures and take them out on the weekends. The project is not limited time-wise and therefore minors have support also after turning eighteen.²¹¹ Fronek also mentions that these families can be very supportive for minors during the transitional phase and its challenges.²¹² Ravi Kohli also states that research shows that SYPT benefit from trustworthy, reliable and companionable people who are helpful and make an effort to understand their life. According to Kohli, such persons are very helpful for making an effective transition.²¹³

Two SYPT interviewed stated that they had a "Pate" and that this was a big support for them.²¹⁴ Another interviewee stated that he had a "Pate", however, only for one year when he was still below eighteen.²¹⁵ As mentioned by one of the respondents, the "godmother" helped in finding an accommodation in Vienna after turning eighteen and after having to leave the accommodation facility for SC in Lower Austria. It was

²⁰⁸ Interview6.

²⁰⁹ Blecha, 2012, pp. 59-60.

²¹⁰ Ibidem, p. 60.

²¹¹ UNHCR, 2014 (b), p. 35.

²¹² Fronek, 2010, p. 187.

²¹³ Kohli, 2009, p. 89.

²¹⁴ SYPT1, SYPT3.

²¹⁵ SYPT4.

mentioned that due to having a "Pate", turning eighteen was worry-free and accompanied with happiness.²¹⁶

Further stated by a SYPT and representative of NGO "Neuer Start" interviewed during the UNHCR project on the transition to adulthood:

*"(...) When turning eighteen, you are usually left alone. And if on top of the new responsibilities you lose your emotional contact person, then that is a big, big change. I did not lose my host family, they continued supporting me after turning eighteen. That's the good thing about 'Connecting People': it does not stop at eighteen."*²¹⁷

A SYPT mentioned that his "god family" was a great support for him also after having turned eighteen:

*"I had the 'Paten' and they helped me. So I didn't really have worries. Until now I have them, they always help me. (...) There are some things with which I still can't deal with, then I go to my 'Paten' and ask what is this, how do you do this and so on (...)"*²¹⁸

However, there is also the opposite notion regarding less support upon turning eighteen as mentioned by a SYPT interviewed during the IOM study:

*"No, I am on my own. I have always been alone. I think it is better this way. For me, nothing has changed (with reaching majority age). Before, I did everything alone and now I do everything alone too."*²¹⁹

²¹⁶ SYPT3.

²¹⁷ UNHCR, 2014 (b), pp. 35-36.

²¹⁸ SYPT1, translated.

²¹⁹ Blecha, 2012, p. 57.

Stated by a SYPT interviewed for this research paper:

*"Especially good is, that you can sign things yourself. Also legal things and so on. You can open a bank account yourself, we don't need representation or anything."*²²⁰

As stated by staff of accommodation facilities for SC, useful factors for the transition to adulthood are e. g. friends of SYPT who have already turned eighteen²²¹, "god families"²²², teachers, legal representatives²²³, sports associations²²⁴, ones own community, contact to Austrian youth²²⁵, support for studying ("learning buddies"), contact to youth centres²²⁶ and to have a good network of contacts before turning eighteen regarding employment²²⁷.

²²⁰ SYPT2, translated.

²²¹ Accom1, accom2.

²²² Accom1, accom2, accom5.

²²³ Accom1.

²²⁴ Accom5.

²²⁵ Accom2.

²²⁶ Accom5.

²²⁷ Interview7.

4 Accommodation

4.1 Before eighteen

The Basic Welfare Support Agreement (*Grundversorgungsvereinbarung*) which entered into force on 1 May 2004, sets out in Article 7 regarding reception conditions for SC: Measures of initial assessment and stabilisation of the SC should be undertaken to stabilise SC psychologically and to establish trust. If necessary, socio-pedagogical and psychological support should be guaranteed. The accommodation takes place in a living group, an accommodation facility, in assisted living, individual accommodation or other adequate organised accommodation. SC who are in need of increased care should be accommodated in living groups. Accommodation facilities are addressed to SC who cannot care for themselves. SC who can take care of themselves should be placed in assisted living under supervision. Further, SC should be offered a structured daily routine (education, leisure time, sport, group and individual activities as well as household tasks) tailored to their needs. Further clarifying questions relating to the age, identity, origin and residence of family members, clarifying future prospects in conjunction with the authorities, arranging for family reunification, where appropriate, and formulating, where possible, an integration plan and measures for the organisation of educational, training and vocational preparation activities should be facilitated. Further, existing offers should be taken advantage of. The overall aim is that SC achieve self-sufficiency.²²⁸

The daily rates for the accommodation of SC can be split into three general categories; the highest rate are 79 Euros following 62 Euros (as in most facilities for SC) and the lowest being 39 Euros. However, in the few accommodation facilities further financed by the Youth Welfare due to the SC being in "full upbringing" (*volle Erziehung*²²⁹),

²²⁸ Basic Welfare Support Act.

²²⁹ § 26 Youth Welfare Act para 1 states that if the best interest of the child is at risk and it can be expected that the risk can only be prevented through care outside of the family or of the usual environment, children and adolescents should be entitled to "full upbringing" provided that the Youth

additional financial means are added to the highest daily rate.²³⁰ As a comparison, Austrian adolescents have daily cost allowances amounting to 120 Euros on average.²³¹ According to the NGO "Asylkoordination", this poses a discrimination in comparison to Austrian youth, contrary to international treaties such as the CRC and the Austrian law (e. g. Youth Welfare Act).²³²

In practice, SC are placed in accommodation facilities led by various NGOs such as "Caritas", "Diakonie", "SOS Kinderdorf" but also private institutions.²³³

4. 1. 1 Information

All SYPT (except one who was declared full age during the admission procedure) interviewed were informed by their caretakers that they would have to leave the accommodation facility upon turning eighteen.²³⁴ Some SYPT stated they had not otherwise been prepared much on changes regarding turning eighteen.²³⁵ However, one interviewee stated that the caretakers had tried to prepare the SYPT in becoming more independent such as by managing appointments themselves.²³⁶ Another interviewee noted that his caretaker had told him to use the time when being below eighteen years to study.²³⁷

In general, all accommodation facilities included in this research paper inform SYPT on changes when turning eighteen, usually by their main caretaker (*Bezugsbetreuer*). Many stated that the goal in the accommodation is to support the SYPT in becoming more independent step by step. According to the staff of the accommodation facilities, usually several meetings/discussions are held regarding such changes.²³⁸ Some stated that this

Welfare agency is completely responsible for care and upbringing. Para 2 stipulates that "full upbringing" includes care with close relatives, care personnel or in socio-pedagogic facilities.

²³⁰ Interview6.

²³¹ Blecha, 2012, pp. 32-33.

²³² Asylkoordination, 2005, p. 32.

²³³ UNHCR, 2014 (b), p. 28.

²³⁴ SYPT1, SYPT2, SYPT3, SYPT4.

²³⁵ SYPT2, SYPT3, SYPT4.

²³⁶ SYPT2.

²³⁷ SYPT1.

²³⁸ Accom4, accom5, accom6, accom9, accom14, accom15, accom19.

information is usually given between three and six months before the SYPT move out²³⁹ as well as six to eight weeks before moving out.²⁴⁰ In some cases the SYPT receive written information on e. g. important addresses where they can find support upon independence.²⁴¹ It was further stated that it is important to know where to get further support when moving out.²⁴² Regarding near adulthood, it is important that SYPT take on responsibility by themselves.²⁴³ A SYPT mentioned that only later he understood that having more responsibility was in the end useful:

"One thing I have to say and I always say. I sometimes visit XXX (accommodation facility for SC). XXX was the best facility I ever saw in Austria. Really. I didn't know it back then, back then I thought, it is too strict here. Because they always say you have to keep your room clean, you have to buy your groceries yourself, cook yourself, such things. Back home the men don't cook at all (Somalia). But now I understand everything. All these things have helped me now."²⁴⁴

It was also mentioned by one accommodation facility in Styria, that there is a house-internal workshop for SYPT "moving out with eighteen - a preparation for the future" as well as discussions with an in-house psychologist on the transition to adulthood.²⁴⁵ It was stated by an accommodation in Vienna that as a team they try to develop a "farewell ritual" in order to show the SYPT in a positive way that saying goodbye is also a new beginning and that by moving out the contact to the caretakers is not lost. But rather that they start a new phase of life which should be celebrated together.²⁴⁶ In another accommodation facility in Styria, there is a separate "moving out" group of SYPT, for which the main caretakers discuss topics such as apprenticeship (*Lehre*), employment, Public Employment Services (*AMS*), finding an apartment etc. The goal in

²³⁹ Accom4, accom8, accom13, accom17.

²⁴⁰ Accom2, accom5.

²⁴¹ Accom4, accom20.

²⁴² Accom7, accom14.

²⁴³ Accom3, accom23.

²⁴⁴ SYPT1, translated.

²⁴⁵ Accom19.

²⁴⁶ Accom3.

this accommodation facility if that SYPT only leave the facility once they have some kind of employment, apprenticeship or measure of the Public Employment Services in order for the SYPT to have a set daily structure when on their own.²⁴⁷

A facility in Lower Austria follows a similar approach, that SYPT should leave the accommodation with having almost finished school or to have an apprenticeship before moving out:

"When housing is clarified, that just takes time. And if someone is late or started late, then we just have to keep him until he is ready."²⁴⁸

In a facility in Vorarlberg, contact is established beforehand between the SYPT and future caretakers.²⁴⁹ Several facilities stated that it is important for the SYPT to have set goals for the future²⁵⁰, it was also mentioned once that it is important for the SYPT to find a new identity other than being a refugee.²⁵¹

The staff of the accommodation facilities was asked how they could in their role support SYPT going through the transition to adulthood. Most respondents answered that it is important to give SYPT more responsibility before turning eighteen, such as arranging and going to appointments by themselves, undertaking research in the internet or making telephone calls.²⁵² Further it was stated several times that it is important to provide SYPT with much information²⁵³, to be there for them²⁵⁴, to create a network of associations/volunteers²⁵⁵, to increase the SYPT 's self-esteem²⁵⁶, to plan further steps regarding their educational path²⁵⁷, encourage their strengths²⁵⁸ and to empower²⁵⁹

²⁴⁷ Accom20.

²⁴⁸ Interview7, translated.

²⁴⁹ Accom21.

²⁵⁰ Accom3, accom17, accom22, accom24.

²⁵¹ Accom1.

²⁵² Accom2, accom5, accom7, accom8, accom11, accom12, accom15, accom18, accom20, accom24.

²⁵³ Accom9, accom10, accom12, accom15, accom16, accom20, accom23, accom24.

²⁵⁴ Accom3, accom4, accom9, accom10, accom13, accom16.

²⁵⁵ Accom2, accom5, accom18.

²⁵⁶ Accom1, accom10, accom17, accom24.

²⁵⁷ Accom5, accom22.

them. It was also mentioned that it is important that SYPT learn to manage their financial means²⁶⁰, that one should offer positive examples such as establishing contact to SYPT who have had a good transition²⁶¹, and to establish an initial contact together with the SYPT with e. g. the Public Employment Services²⁶².

4. 2 After eighteen

According to a study by the FRA from 2010, a key concern of SYPT turning eighteen was accommodation, due to many SYPT having to relocate when turning eighteen, even if they didn't have sufficient income for adequate housing.²⁶³ As stated in a study by IOM, it also seemed that the gravest changes taking place when turning eighteen were related to accommodation and care. Professionals interviewed during that study had criticised that SYPT are abruptly transferred to the accommodation for adult asylum-seekers when turning eighteen, where care is (far) less intensive and specific needs of SYPT are not addressed. It was also voiced that there are not sufficient structures available for promoting independence of SYPT such as supervised shared flats where a caretaker would visit once a week are not sufficiently available.²⁶⁴ A seventeen year old SYPT interviewed in Austria during the FRA's study stated regarding relocation:

"I have heard that when I turn eighteen, they will send me to 'Caritas' like a dog."²⁶⁵

SYPT close to their eighteenth birthday interviewed in the context of the study by IOM during 2012 states that they were afraid of being transferred to another accommodation

²⁵⁸ Accom13, accom17.

²⁵⁹ Accom14, accom18.

²⁶⁰ Accom5.

²⁶¹ Accom1.

²⁶² Accom17.

²⁶³ FRA, 2010, p. 77.

²⁶⁴ Blecha, 2012, p. 66.

²⁶⁵ FRA, 2010, p. 77.

facility due to the such possibly being located in a rural area.²⁶⁶ As stated by an interviewee during this study:

*"I do not want to go to a facility for adults. This is the last option. (...) It could be on the countryside, and I don't want to live on the countryside."*²⁶⁷

A former guardian in Upper Austria also stated that the accommodation and care for SYPT is not sufficient after turning eighteen, because many have to go to the countryside and therefore access to education, and leisure activities are limited as well as the possibility to integrate into society is less.²⁶⁸ Other stakeholders have also underlined this problem.²⁶⁹ Professionals interviewed during the IOM study also thought it is better to accommodate SYPT in an urban area, due to facilitate more easily the integration process and also to enable appropriate educational measures such as German courses. This was also stressed by the head of the organisation "lobby.16", an NGO providing support in the field of employment, education and daily life for SYPT:²⁷⁰

*"The living conditions are not equally good. In the provincial capitals it is certainly better than somewhere on the countryside."*²⁷¹

Usually former SC have to move out of the accommodation facility for SC and can then live in an accommodation facility for adult asylum-seekers or they might benefit from after-care accommodations in apartments usually managed by the same NGO or might be able to live in a flat, depending on their legal status.²⁷² The Basic Welfare Support usually only pays the daily rate for adults when SYPT turn eighteen, therefore

²⁶⁶ Blecha, 2012, pp. 33-34.

²⁶⁷ Ibidem.

²⁶⁸ Guardian1.

²⁶⁹ Interview3.

²⁷⁰ Blecha, 2012, p. 34.

²⁷¹ Ibidem.

²⁷² UNHCR, 2014 (b), pp. 28, 36.

accommodation facilities for SC are usually unable to afford to accommodate these SYPT any longer.²⁷³

Some organisations such as the "Integrationshaus" ("Caravan") inform SYPT in much detail and support regarding turning eighteen as to find alternative accommodation and also maintaining contact to the SYPT after they have moved out. According to caretakers interviewed in the context of the UNHCR study, the potential of SYPT to be prepared to live independently when turning eighteen depends strongly on the time they have stayed in the accommodation facility and in Austria in general including having learned sufficient German.²⁷⁴

The SYPT interviewed for this paper made different experiences regarding housing after turning eighteen. One SYPT who had to move into an accommodation facility for adult asylum-seekers was not happy with his new housing.²⁷⁵ A SYPT living in a post-care accommodation in Vienna provided for the same organisation in which he was housed in as a SC was very satisfied with his new accommodation. Asked if he is satisfied regarding the amount of offered care in this accommodation he stated the following:

"No, it is not too little, no. I also don't need more. But there are still a few who need it because they can't speak German so well. My German is also not so good, but there are some who have difficulties, and XXX (caretaker) helps them."²⁷⁶

Another respondent was also satisfied with the choice to live privately in Vienna.²⁷⁷ The fourth interviewee, who had moved to a post-care apartment in Vienna where caretakers are available if needed e. g. via telephone, but are not constantly present, was also

²⁷³ Fronek, 2010, p. 182.

²⁷⁴ UNHCR, 2014 (b), p. 28.

²⁷⁵ SYPT1.

²⁷⁶ SYPT2, translated.

²⁷⁷ SYPT3.

happy with his new housing.²⁷⁸ The fifth SYPT however, after having been declared full-aged already in the admission procedure, having to live in an accommodation facility for adult-asylum seekers, did not feel well there. He could leave that accommodation after about three months due to having received asylum status quite rapidly, however, he stated further that it was extremely difficult for him to find a private flat.²⁷⁹

4. 2. 1 Social contacts

As mentioned in the UNHCR study on transition to adulthood, caretakers had mentioned that an essential element of turning eighteen and moving out of the accommodation facility is the loss of contact to caretakers of these facilities, who become important contacts for the SYPT. Accommodation facilities for adults also have caretakers, however they cannot offer the same amount of support.²⁸⁰ Two of the SYPT interviewed mentioned that they still have contact sometimes to their former caretakers. Regarding ongoing contact to their friends after turning eighteen and leaving their facility for SC, changes differed in this relation. One SYPT who moved in an accommodation facility for adults had less contact to his friends due to more restrictive policy for visitors in the new facility and due to lacking space.²⁸¹ Another respondent mentioned not much had changed due to the post-care accommodation facility being only one floor beneath his old accommodation for SC. However, this was only the case due to renovation of the accommodation for SC and its temporary relocation.²⁸² A further respondent mentioned that the best friend was now living in a different federal province.²⁸³

²⁷⁸ SYPT4.

²⁷⁹ SYPT5.

²⁸⁰ UNHCR, 2014 (b), p. 28.

²⁸¹ SYPT1.

²⁸² SYPT2.

²⁸³ SYPT3.

According to SYPT interviewed in the context of the IOM study, in general, many SYPT mentioned that the uncertainty of not knowing where they will live when eighteen made them feel uncomfortable, as stated by an interviewee:

"Until now, I have always been in an accommodation facility. In nine months I will turn eighteen. I need to find a flat. I have got a friend who is eighteen and who does not find any flat. I really want a flat, I do not want to live in a facility. But a flat is expensive. I am afraid of my eighteenth birthday."²⁸⁴

However, other SYPT interviewed in the context of the IOM study had also said that they were looking forward to turning eighteen, mainly in order to become more independent, not having to follow rules and in order to have more privacy.²⁸⁵ A SYPT interviewed during the IOM study mentioned:

"I feel good. There are no rules when I have to clean for example. I feel free."²⁸⁶

According to an in-house psychologist of an accommodation facility for SC, the daily structure of the SC is very important. SC need more occupation (especially as a distraction) than others. Already during the weekend or summer holiday it is sometimes difficult, when SC are not in school and are then overwhelmed by their psychological burdens. When they turn eighteen, this structure is less thorough due to less care and also educational measures already possibly being completed. This can lead to a downward spiral, finally leading to them being unable to work.²⁸⁷

²⁸⁴ Blecha, 2012, p. 36.

²⁸⁵ Ibidem.

²⁸⁶ Ibidem.

²⁸⁷ Interview4.

4. 2. 2 Post-care accommodation

As stated in the study by IOM, it is recommended that sufficient care should be provided to all SYPT also after turning eighteen.²⁸⁸

A student and co-founder of the NGO "Neuer Start" stated, that some sort of post-care for SYPT is important in order to assist them to a certain time, where they are still not so familiar with bureaucracy.²⁸⁹

According to two caretakers, in practice the SYPT in Vienna usually have the possibility to look at different accommodation facilities and choose as far as possible depending on availability and assignation by the Vienna Social Fund (*FSW*).²⁹⁰ As stated by an expert of the NGO "Asylkoordination" the preparation for turning eighteen is very important and that while they still are under-age, much time is invested that they are well-prepared. For those who don't succeed in becoming independent enough, there should be further possibilities in order that that what was achieved until they turned eighteen is not lost, but can rather be developed further.²⁹¹

The majority of the twenty-five accommodation facilities included in this research paper offers some kind of post-care accommodation for SYPT, at least this is possible in exceptional or seldom cases. The type of post-care which is offered, the preconditions as well as what is offered to the SYPT in such post-care differs greatly. In general, the main preconditions are that the Youth Welfare and/or the Basic Welfare Support agree(s) to prolonging measures for SYPT or/and for the necessary financial means to make this possible.²⁹² A further cited precondition was availability.²⁹³ The main reasons stated for the existence of post-care accommodation or for the possibility of such were ongoing educational measures²⁹⁴ of the SYPT (especially that they are able to complete

²⁸⁸ Blecha, 2012, p. 69.

²⁸⁹ Interview2.

²⁹⁰ Interview1, interview3.

²⁹¹ Interview6.

²⁹² Accom9, accom10, accom13, accom14, accom16, accom17, interview7.

²⁹³ Accom13, accom19, accom23, interview7.

²⁹⁴ Accom2, accom3, accom7, accom8, accom10, accom11, accom12, accom14, accom15, accom19, accom20, accom23, interview7.

these) following health and/or therapy²⁹⁵ as a relevant factor. Lower Austria is the leading federal province regarding the offer of post-care accommodation where SYPT have the possibility to stay in the accommodation facility for SC under certain preconditions or also in external apartments. In Vienna this is also sometimes possible. Further, Vienna disposes of the greatest number of external projects such as "Nuri" and "Daria" ("Caritas"), "Lares" and "Karibu" ("Diakonie") and "Moses" ("Don Bosco Flüchtlingswerk").

Further, Tyrol and Salzburg, following Styria offer some kind of post-care approach for SYPT. In Burgenland, Vorarlberg und Upper Austria this is also possible, however to lesser extent as in the before-mentioned federal provinces. It could also be identified that e. g. in Vorarlberg in one accommodation facility for SC there is no possibility at the moment for SYPT to remain in the facility however it is being planned to be able to offer this in the future.²⁹⁶

To the contrary, a facility in Upper Austria offers post-care accommodation for women until the age of twenty-one, however, the facility for post-care will soon turn into a regular accommodation facility for adults due to the provincial government not financing it any longer.²⁹⁷

4. 2. 3 Availability of post-care accommodation

4. 2. 3. 1 Vienna

In Vienna, four of eight accommodation facilities offer some sort of post-care accommodation inside their own facility, however the length until when SYPT can stay differs.²⁹⁸ The availability of such places depends on if there are new arrivals of SC and also depending on the financial and political situation²⁹⁹, it is possible in individual exceptions for a few days or weeks³⁰⁰ or under the condition that the SYPT was in "full upbringing" by the Youth Welfare - in this case the SYPT can remain until six months

²⁹⁵ Accom7, accom8, accom10, accom17, accom19.

²⁹⁶ Accom24.

²⁹⁷ Accom15.

²⁹⁸ Accom1, accom2, accom7, accom8.

²⁹⁹ Accom1.

³⁰⁰ Accom2.

longer in exceptional cases.³⁰¹ In one accommodation it is usually only known three weeks until one month before moving out where the SYPT will be able to live, due to the Vienna Social Fund only being able to give information on the decision on a shorthand basis. Therefore there is a great uncertainty which leads to tension in many SYPT. Along with uncertainty with what will happen with their asylum procedure, some SYPT have psychological and psychosomatic symptoms such as sleeping disorders, stomach or headache.³⁰²

Reasons to be able to stay are e. g. in order to complete education³⁰³, needing additional care³⁰⁴, lacking German skills³⁰⁵ or being in therapy³⁰⁶. It was also mentioned that moving out would mean great stress and could risk the completion of education.³⁰⁷ Further stated was that if subsidiary protection would be granted soon, then it would be easier to stay longer in order to have better chances to find an apartment, employment and then also receive needs-based guaranteed Minimum Income (*Bedarfsorientierte Mindestsicherung*^{308,309}).

Preconditions are e. g. that no other post-care is available elsewhere³¹⁰, clear goals of the SYPT and/or that new housing is in perspective. According to one facility, SYPT receive the same amount of money as before, they can further take part in activities and also have access to psychotherapy.³¹¹ It was also mentioned by two accommodation facilities, that the SYPT can come visit after turning eighteen.³¹²

³⁰¹ Accom8.

³⁰² Accom3.

³⁰³ Accom3, accom7, accom8.

³⁰⁴ Accom2, accom3.

³⁰⁵ Accom2.

³⁰⁶ Accom8.

³⁰⁷ Accom7.

³⁰⁸ Beneficiaries of international protection who receive needs-based guaranteed Minimum Income are covered by health insurance. This social support replaced the former social assistance scheme in 2010, with the aim for creating uniform minimum standards across Austria to ensure a living, accommodation and health insurance (Sax, 2012 (b), p. 88).

³⁰⁹ Accom1.

³¹⁰ Accom7.

³¹¹ Accom1.

³¹² Accom4, accom5.

4. 2. 3. 2 Lower Austria

In Lower Austria, all five accommodation facilities offer some kind of post-care accommodation for SYPT either within the facility itself or partly externally.³¹³ In three facilities, the SYPT can stay longer if the Youth Welfare agrees to this under certain circumstances.³¹⁴ In one of these facilities it was mentioned that they can stay for several months up to a year:

"(...) some clients are still in the middle of an education (...) and therefore don't want to be 'torn' out of it in the midst of it and the stress with searching for an accommodation and moving as well as that these big changes can then be done adequately after completing school. Further, also some adolescents can stay longer, because they are still asylum-seekers, did not yet receive paragraph eight (subsidiary protection) or paragraph three (refugee status) according to the Asylum Act and their extension in the accommodation seems reasonable regarding educational measures. So that one can still offer the clients a certain perspective."³¹⁵

As stated by a caretaker of an accommodation facility in Lower Austria, there was e. g. a SYPT who could stay even a year longer in the facility and could then start his apprenticeship and was ready to then move out.³¹⁶

In one accommodation facility, there are generally ten places available for SYPT within the same facility:

"(...) because in our view, a gentle transition to adulthood is much more goal-oriented for our clients and we still have better possibilities this way to dismiss the young adults into independence."³¹⁷

³¹³ Accom9, accom10, accom11, accom12, interview7.

³¹⁴ Accom10, accom11, accom12, interview7.

³¹⁵ Accom11, translated.

³¹⁶ Interview7.

³¹⁷ Accom9, translated.

A further reason for the possibility for post-care accommodation stated by this facility are erroneous age determinations:

"Yes, because the date of birth is often set quite arbitrarily and majority age only exists on paper and the need for care is still pre-existing."³¹⁸

In another facility, SYPT can stay up to their twenty-first birthday sometimes, however, usually in external apartments.³¹⁹ In these external apartments, there is telephone contact with the SYPT and caretakers every two days as well as personal contact every fourteen days within the apartment. These apartments are fully financed - including e. g. gas, TV, internet, food etc. Further, the SYPT receive pocket money, money for leisure time as well as for clothes and for school - unless they are doing an apprenticeship, then the financial support is less. This post-care offer was developed with the Youth Welfare for SYPT who are on the way to qualification and in order for them not to lose this possibility due to moving to an accommodation for adult asylum-seekers, where they might not be able to complete their education. According to the accommodation facility for SC responsible for this offer, transitions should always be cared for intensively, however ironically the resources are usually less.³²⁰ A different facility offers three external apartments with eight to twelve places, where three to four SYPT share a flat. One can stay until the age of twenty-one. Preconditions for these places are a negative asylum decision and taking part in some kind of educational measure. Less care is offered in these accommodations than in the facility for SC.³²¹

Reasons in general stated why SYPT can remain in the facilities in Lower Austria are mainly education³²² and health³²³. One caretaker interviewed stated that the SYPT should receive the possibility to finish the school year and also that they don't have to travel to the educational facility. Further mentioned were not disposing of sufficient

³¹⁸ Accom9, translated.

³¹⁹ Accom12.

³²⁰ Ibidem.

³²¹ Interview7.

³²² Accom10, accom11, accom12, interview7.

³²³ Accom10, interview7.

German skills³²⁴, an arbitrary date of birth set by the authority, the SYPT not being ready to move out due to his legal status or development and/or no vacancy elsewhere. It was further mentioned that the transition to adulthood should be approached more sensitive and more goal-oriented.³²⁵

Further, some SYPT may have some kind of legal status, however, due to much bureaucracy before moving into a private apartment, they can stay longer.³²⁶

Preconditions mentioned are that the Youth Welfare agrees³²⁷ as well as the decision being in accordance with the provincial government³²⁸ (*Landesregierung*), availability, as well as the SYPT's interest in staying³²⁹. It was mentioned several times that only the daily rate for adults is paid for SYPT.³³⁰ In one case the daily rate for SC is paid, then it is reduced until finally only the daily rate for adults is paid³³¹.

4. 2. 3. 3 Upper Austria

In Upper Austria, in general, no post-care accommodation is possible. In two accommodation facilities only in seldom exceptions this is possible and also only if the Youth Welfare ensures financial means and the provincial government agrees.³³² According to a legal representative in Upper Austria, further places for post-care are being arranged for four to six SYPT at the moment.³³³

It was mentioned that for the decision-makers responsible for financing post-care, increased needs for care are not arguable with eighteen, therefore no resources are provided for this.³³⁴ In another facility, there is momentarily still post-care possible for women from eighteen to twenty-one years, however, soon this offer will no longer be possible due to the provincial government not financing it and it turning into a regular accommodation for adults. At the time being, in this facility offering further

³²⁴ Interview7.

³²⁵ Accom9.

³²⁶ Accom10.

³²⁷ Accom9, accom10, interview7.

³²⁸ Interview7.

³²⁹ Accom9.

³³⁰ Accom9, accom11.

³³¹ Interview7.

³³² Accom13, accom14.

³³³ LegRep3.

³³⁴ Accom14.

accommodation, the SYPT are offered more money and care than in an adult facility, are supported with their homework, accompanied to their asylum interview and also their school fees are covered.³³⁵ To the contrary, one facility which only exceptionally makes a longer accommodation possible, merely the daily rate for adults is received.³³⁶ Reasons stated for additional accommodation after turning eighteen are doubts regarding the date of birth due to being changed during an asylum interview or by additional documents³³⁷, education³³⁸ and due to the Youth Welfare extending measures due to education or apprenticeship³³⁹. As stated by staff of one of these accommodation facilities:

"Majority should not be a reason not to further help these young people. In my opinion, there should be a facility with less care, where these people can slowly, but surely get a grip on their special situation."³⁴⁰

Preconditions are vacancy over a longer period in the facility, individual conditions in agreement with the Basic Welfare Support³⁴¹ as well as the Youth Welfare ensuring the financial means and the provincial government agreeing³⁴².

4. 2. 3. 4 Tyrol

In Tyrol only one accommodation could be included in this study. In this facility, SYPT in "full upbringing" can either stay in the accommodation facility or are cared for living privately per mobile care (*Unterstützung der Erziehung*). The SYPT must want this, it should be useful for all stakeholders involved including the Youth Welfare and an application must be written in order to extend the care. The district commission (*Bezirkshauptmannschaft*) then decides if this is granted or not. SYPT profiting of post-care support also financially benefit from the same offer as before. In the mobile care

³³⁵ Accom15.

³³⁶ Accom13.

³³⁷ Accom14.

³³⁸ Accom15.

³³⁹ Accom14.

³⁴⁰ Ibidem, translated.

³⁴¹ Accom13.

³⁴² Accom14.

the intensity depends on what is needed by the SYPT. Care ranges from twenty hours per month at the beginning and then ten to twelve hours monthly later on. The SYPT are accompanied to appointments and also have the possibility for contact via telephone.³⁴³

4. 2. 3. 5 Burgenland

Only one accommodation facility in Burgenland offers SYPT to stay for a longer period after their eighteenth birthday, however, the financial means available depend on the Basic Welfare Support as well as the Youth Welfare agreeing on further support. In general, there is no pressure by the Basic Welfare Support that the SYPT have to leave right away. In special exceptions it is also possible to stay in the accommodation with the full daily rate until the age of twenty-one. One reason for being able to remain in the facility longer is e. g. heavy trauma. The same care as before is offered to the SYPT (despite a possibly lower daily rate).³⁴⁴ Regarding the second accommodation facility, it is possible for SYPT to be accommodated in a facility for adults close by.³⁴⁵

4. 2. 3. 6 Styria

Under certain circumstances it is possible for SYPT to remain for a longer time in the accommodation facilities in Styria. In one accommodation, due to vacancy in general, it is possible to stay longer. There is also special accommodation for persons with increased care needs. Reasons for SYPT to stay are education as well as physical and psychological reasons. The SYPT are offered the same as before.³⁴⁶ In the second accommodation facility, they can stay as long as they are in education and also help out in the accommodation. The same daily rate is paid as for adult asylum seekers. Further, the house in which SC are accommodated is also accommodating adult asylum-seekers, therefore the SYPT could also stay there if they would like this.³⁴⁷ Many SYPT want to go to Vienna when turning eighteen thinking it is better there and also in order for the

³⁴³ Accom16.

³⁴⁴ Accom17.

³⁴⁵ Accom18.

³⁴⁶ Accom19.

³⁴⁷ Accom20.

community there to support them. Further it is easier to receive means-tested Minimum Welfare Support.³⁴⁸

4. 2. 3. 7 Vorarlberg

In one accommodation facility it is possible to stay for a maximum of two months longer after their eighteenth birthday under certain circumstances. The reason for this are lacking accommodation places elsewhere and due to difficult and acute life situations of the SYPT. Usually however the SYPT need to move into an accommodation for adults two weeks after turning eighteen.³⁴⁹ The second accommodation included does not have any possibility at the moment for SYPT to remain in the accommodation facility, however, it is being planned to be able to offer this in the future.³⁵⁰

4. 2. 3. 8 Salzburg

The two accommodations in Salzburg included in the study both offer post-care accommodation for SYPT. One accommodation has two external apartments in the city of Salzburg with space for seven SYPT in mobile care. Preconditions are a daily structure such as education or employment, sticking to appointments and being open to care. Offered are pocket and clothes money, study support, taking part in activities as well as support for education, employment and finding an apartment.³⁵¹

The second accommodation offers external post-care in small living groups in the city of Salzburg for eleven SYPT in order to finish their educational measures, especially if they have a link to the area. SYPT are offered a better infrastructure by this accommodation than in a rural area, a protective environment, contact persons, weekly meetings with caretakers as well as the possibility for German courses offered by the accommodation.³⁵²

³⁴⁸ Accom17.

³⁴⁹ Accom21.

³⁵⁰ Accom24.

³⁵¹ Accom22.

³⁵² Accom23.

However, for both of these external offers only the daily rate for adult asylum-seekers is paid.³⁵³ According to one facility, there is no age appropriate care considering maturity, health, development or status of the SYPT. These are no relevant criteria for the Basic Welfare Support to extend age-appropriate care, therefore only the daily rate of nineteen Euros is paid as soon as they turn eighteen. This puts the accommodation under financial pressure if further care is necessary.³⁵⁴

4. 2. 4 External post-care accommodation projects

The "Caritas" in Vienna has two different kinds of post-care accommodations for SYPT. One project especially designed for this group is "Nuri", the other is called "Daria".

4. 2. 4. 1 "Nuri"

"Nuri" is a separate accommodation facility for ten SYPT with a caretaker solely for them available thirty hours per week. It is very uncommon within the care system for adult asylum-seekers that a caretaker is responsible for such a low number of clients (in comparison, in facilities for SC usually there is one caretaker per fifteen SC). However, from Friday until Monday morning the SYPT are among themselves. The care is intended to be less intensive than for SC, because the SYPT are supposed to be supported in becoming even more independent. If one has to go to the doctor, then he has to do this on his own. In this accommodation, the daily rate is the same as for adult asylum-seekers (nineteen Euros per day). The caretaker mentioned that working there is very rewarding, because you see which response comes back from the SYPT. The SYPT can stay for a maximum of two years and the precondition is that they are within some kind of educational measure. The goal is that everyone is near to finishing their education and feels sufficiently confident in order to get a private flat and be independent.³⁵⁵

³⁵³ Accom22, accom23.

³⁵⁴ Accom22.

³⁵⁵ Interview3.

However, this is contrary to the reality that often the asylum authority does not issue timely decisions:

*"And if there is no status, where should I go? Then I can again only go to an accommodation facility for adults and that would really not be target-aimed (...)."*³⁵⁶

The demand for a place in this accommodation facility is very high (from all kinds of federal provinces) and the offer as the caretaker puts it is *"(...) nur ein Tropfen auf dem heißen Stein."*³⁵⁷ This was further underlined:

*"And every two weeks someone comes by, knocks and introduces himself and asks if he can have a room. So the interest for a room is extremely big."*³⁵⁸

4. 2. 4. 2 "Daria"

The post-care accommodation in the project "Daria" is quite different to "Nuri". "Daria" is actually a regular accommodation facility for adult asylum-seekers hosting about 194 persons within the framework of Basic Welfare Support. Integrated in this accommodation is a post-care accommodation project with capacity to accommodate for twenty-six boys and eighteen girls who have already turned eighteen. The goal is to make the change from the SC facility to the adult accommodation easier.³⁵⁹ There is one floor reserved only for the SYPT. There are about five caretakers for all persons living in this house. According to a caretaker, there is certainly some kind of sensitivity for the needs of SYPT, however, there is no special treatment for them. The daily rate in this case is also nineteen Euros. The facility has a separate room only for studying. There are no preconditions in order to get a room.³⁶⁰ However, SYPT should demonstrate that they are willing to complete educational measures. According to information by an

³⁵⁶ Interview3, translated.

³⁵⁷ Interview3; meaning in English: "Like a drop in the bucket".

³⁵⁸ Ibidem, translated.

³⁵⁹ Cf. Caritas, 2014.

³⁶⁰ Interview3.

accommodation facility for SC, "Daria" further offers organised learning support through volunteers, support for finding further courses, school or employment.³⁶¹

4. 2. 4. 3 "Lares" and "Karibu"

In Vienna there are two projects of the organisation "Diakonie" called "Lares" and "Karibu" addressing SYPT. "Lares" is a project addressing single adult men who within Basic Welfare Support. There is accommodation for fifty asylum-seekers funded by the Vienna Social Fund.³⁶²

However, there are two shared apartments where primarily SYPT are accommodated. Currently about five SYPT live there. Other SYPT live in other apartments together with adults, which however works quite well according to the caretaker. In the project "Karibu" there are two shared apartments with the capacity for eight persons, which directly address SYPT, who come there directly from the accommodation facility for SC. In "Karibu" capacity is always full and the SYPT usually stay for a long time. The SYPT can stay in "Lares" and in "Karibu" as long as they remain in Basic Welfare Support. The daily rate for these accommodations are nineteen Euros, the same as for adult asylum-seekers.³⁶³

Regarding care in these shared apartments, there is no increased attention that the SYPT receive in comparison to adult asylum-seekers. The focus is somehow different, however, the care depends on which capacities are available to the caretakers, who are also responsible for the adult asylum-seekers. There are two caretakers responsible for over seventy persons, which makes it a great challenge to balance attention for individual cases, shared apartments, conflicts and the apartments themselves, which also require some sort of renovation from time to time. The caretakers see the SYPT at least once a week during payment of pocket money and are also available per phone. While adult asylum-seekers only use this service during the regular office hours, SYPT

³⁶¹ Accom2.

³⁶² Diakonie, 2014.

³⁶³ Interview1.

sometimes also call Friday evening because of having e. g. stomach ache and not knowing what to do.³⁶⁴

A further possible disadvantage in these apartments for SYPT is that they are on their own regarding conflictual situations, which might be difficult if the SYPT are used to a thorough structure from their former accommodation for SC, e. g. where they are woken up in the morning to go to school. According to the caretaker, it really depends on the individual situation of the SYPT regarding how they will do in the new accommodation. Much depends on e. g. their psychological state, their social network, their environment, educational measures but also depending on the adult accommodation facility itself, with whom they share a room and also how moving in went.³⁶⁵

There have been cases where SYPT stopped going to their courses when moving into the new apartment in the "Lares" project:

"It was really horrible and I couldn't do anything. Because I can't go and wake him up every morning. We can't do that (...) it's not possible time-wise. And if I do that with one, then I have to do that with everyone. And that is not realisable here."³⁶⁶

4. 2. 5 Post-care support

The project "Moses" initiated by the organisation "Don Bosco Flüchtlingswerk", co financed by the European Refugee Fund and the European Integration Fund, is an offer for support and counselling for SYPT who lived in the accommodation facilities for SC by "Don Bosco Flüchtlingswerk" or also other facilities, who had to move out due to turning eighteen and live independently. Next to counselling regarding perspectives in Austria, the SYPT are supported in their further development and independence as well as for appointments with the authorities (including accompanying them), for education and employment, finding learning assistance through volunteers and other supportive organisations.³⁶⁷ Counselling is possible during two days per week.³⁶⁸ Momentarily

³⁶⁴ Interview1.

³⁶⁵ Ibidem.

³⁶⁶ Ibidem, translated.

³⁶⁷ Don Bosco Flüchtlingswerk, 2014.

about ten SYPT who live in private flats are supported within the framework of counselling.³⁶⁹ Further, German courses are also offered for SYPT who no longer dispose of their German lesson contingent. The prerequisite for benefitting from this post-care support is that the SYPT are not cared for by another post-care project³⁷⁰, that they are above eighteen years as well as that they either have a pending asylum procedure or are beneficiaries of subsidiary protection.³⁷¹

The project offers accommodation in Vienna (for six SYPT) and in Lower Austria (for seven SYPT). These apartments are rented by the organisation, in which the SYPT can still benefit from less intense care. SYPT who live in private flats can also be cared for if needed e. g. through counselling or preparation and accompanying to administrative appointments. The before mentioned care in the rented flats includes meetings every two weeks with all residents and the respective caretaker in the apartment as well as e. g. preparing moving in or out and crisis intervention. Prerequisites to move into one of these flats are e. g. wanting further care, a certain level of independence and responsibility, psychological and physical state in order to live by themselves in a shared flat as well as taking part in education or planning to do so. Reasons why SYPT have to move out are e. g. transition to independence, employment after education, not showing up to the meetings, no education, violence or also not paying the rent. The overall aim of the project is to support SYPT in becoming independent, develop perspectives regarding education or employment in order to ensure ability to care for themselves and also to facilitate social integration.³⁷²

As stated by a counsellor of this project, most issues raised during counselling by the SYPT are e. g. regarding Basic Care Support, needs-based guaranteed Minimum Income, housing possibilities, legal questions including asylum and criminal law, German courses, courses for graduation of secondary school, leisure time or

³⁶⁸ Accom5.

³⁶⁹ E-mail message by counsellor of "Moses" project by Don Bosco Flüchtlingswerk, 24 July 2014.

³⁷⁰ Accom5.

³⁷¹ E-mail message by counsellor of "Moses" project by Don Bosco Flüchtlingswerk, 24 July 2014.

³⁷² Ibidem.

administrative appointments. Further according to this counsellor, SYPT who lived in an accommodation for SC know the most important things regarding financial issues and the legal situation, however, concrete appointments with authorities still often need to be discussed further.³⁷³

4. 2. 6 Accommodation for adult asylum-seekers

Especially SYPT with a pending asylum procedure have no other choice than to move into an accommodation for adult asylum-seekers. However, living in such a facility is linked to many disadvantages.³⁷⁴ As stated by a SYPT interviewed during the IOM project, who had been transferred to an accommodation facility for adult asylum-seekers after turning eighteen had reported that his living conditions had worsened:

"I live in a small room together with a same-aged boy and I am allowed to do the laundry only twice a month for two hours (...) Before, I lived in a supervised accommodation and liked it very much. We were 13 boys and our care worker was really nice to us. He organised football matches and we had a lot of fun."³⁷⁵

According to a caretaker for adult asylum-seekers, the Basic Welfare Support system foresees five and a half square metres per person, therefore usually if a room has twenty-five square metres, then four or five persons share it.³⁷⁶ As stated by a SYPT, it was not easy for him to move into an accommodation facility for adults after having lived in an accommodation for SC in Vienna:

"If you have luck, you go out, if you don't have (luck), then you stay somewhere else, different accommodation facility. (...) It was really hard. Because you get forty Euro the whole month (...) and seven square metres (...) room, two people have to live, sleep. The kitchen belongs to the whole floor, toilet - whole floor, too loud, so the people there (...) they come from different countries, there is no

³⁷³ Ibidem.

³⁷⁴ Fronek, 2010, p. 186.

³⁷⁵ Blecha, 2012, p. 37.

³⁷⁶ Interview1.

*single person who you understand, everyone speaks a different language. And that was really hard. Back then I was the youngest in this accommodation. (...) The first three nights I didn't sleep. So I was awake. I still had to go to school in the morning. I want to sleep, but can't. (...) There sleeps a foreigner who you don't know and who you have never seen before. How can you sleep? Such things regrettably happen. But you have to hang on."*³⁷⁷

Further stated by the above cited SYPT, much changed when moving into the accommodation for adults, especially regarding contact to his friends:

*"Yes much changed. (...) The friends usually come when I was in XXX (accommodation facility for SC), they come to me because I had more space. But when I was in the new facility I could never invite a person. First, you can't come inside except Fridays if you don't live there. (...) Secondly, I had no more peace (...). I had to take my documents with me always, you don't trust anyone. (...) but in XXX (accommodation facility for SC), if you have documents or things, you put them in the office and you don't have to be afraid. (...) Because there lived over 200 persons, different countries, different age, you trust no one."*³⁷⁸

Another SYPT stated that his friends had told him that the accommodation for adults is not beneficial. There are permanent problems with the other housemates and one shares a room with sometimes even up to five people.³⁷⁹ As mentioned by a further SYPT who was declared over eighteen right from the beginning of his asylum procedure, he had never experienced living in an accommodation facility for SC but was transferred directly to a facility for adult asylum-seekers in Lower Austria after staying in the initial reception centre. He remembered that he had to share a bed with another man unknown to him for two weeks. The bed was initially intended for a married couple. There were no caretakers in this facility and the food was cooked for

³⁷⁷ SYPT1, translated.

³⁷⁸ Ibidem.

³⁷⁹ SYPT2.

them, which however consisted of a very unbalanced diet (e. g. three eggs a day).³⁸⁰ A caretaker for adult asylum-seekers further stated that also the financial side in accommodation for adults is disadvantageous for SYPT:

"And then we have to tell them first when they move in kind of like 'yes, (...) you have so many certificates, you are already at A2, A1, but sorry, you have to pay for your German course yourself now.' That is also kind of a nice welcome gift in the accommodation for adults. That you also receive much less."³⁸¹

According to a caretaker of SYPT, there are also SYPT who would however rather live in an accommodation for adults, because for them it is more comfortable to be one of 190 persons instead of formerly fifteen and also to have more freedom.³⁸²

4. 2. 7 Living in a private flat

As stated by a caretaker of adult asylum-seekers, there are not enough offers for holders of subsidiary protection and therefore these persons often are stuck within Basic Welfare Support.³⁸³ A SYPT with subsidiary protection status stated that it is not especially easy to live in a private flat. He could not do so, because his card for subsidiary protection had expired, therefore he could no longer receive means-tested Minimum Welfare Support:

"(...) and if you don't receive the means-tested Minimum Welfare Support then you can't live private. That's why I moved here (refers to post-care accommodation facility in Vienna). (...) No, I wanted to live private. Yes, because it is somehow self-evident, that there you receive what is really good, I mean that financially."³⁸⁴

³⁸⁰ SYPT5.

³⁸¹ Interview1, translated.

³⁸² Interview3.

³⁸³ Interview1.

³⁸⁴ SYPT2, translated.

According to a recently published study by UNHCR regarding refugee integration in Austria, difficulties of finding adequate housing are mentioned as a major problem by refugees and beneficiaries of subsidiary protection. Often they would face major challenges to have access to affordable and also appropriate housing within the private market. Further, refugees and holders of subsidiary protection also often face prejudices from landlords and real estate agents. It was reported by many respondents in the study that if the landlords would find out that they depend on social welfare, then they would not be rented an apartment. Further it was stated that being a beneficiary of subsidiary protection makes it even more difficult with the landlords, due to these often disposing of no information regarding legal status and entitlements of protection.³⁸⁵

A caretaker of a post-care accommodation facility for SYPT stated that often it is difficult to benefit from means-tested Minimum Welfare Support due to the SYPT receiving a notification of the authority that their subsidiary protection should be no longer prolonged because they are no longer under-age (due to the status only having been granted for being under-age). In some cases the SYPT also have to wait for a long time in general until their subsidiary protection status is prolonged and they receive a new card. If the SYPT then have no current identification card for their momentary residence status, then the social services might not further support them financially due to lacking awareness for this problematic area.³⁸⁶

According to a student and co-founder of the NGO "Neuer Start" it is very difficult for SYPT to have sufficient financial means for a private flat. Many wish to have private accommodation when turning eighteen, if they are already more independent. According to him it is also more difficult to find a flat without contacts.³⁸⁷ A caretaker also stated that there is a financial barrier regarding private accommodation. In reality it is hardly possible for SYPT to live by themselves, but they rather end up living in a shared apartment.³⁸⁸

³⁸⁵ UNHCR, 2013(a), pp. 73-110.

³⁸⁶ Interview3.

³⁸⁷ Interview2.

³⁸⁸ Interview7.

The main problem rests with finding an apartment, it has been observed that many persons have become depressed due to this fact:

"Because they really felt mocked. Now they have this subsidiary protection, with this they have rights written on paper. But they can't realize them, because there are no possibilities. Because try to find a private apartment as an eighteen-year old without an income (...)." ³⁸⁹

4. 3 Ideal situation?

The accommodation facilities were asked what would be the ideal preparation as well as post-care situation in their opinion regarding SYPT turning eighteen. Next to sufficient information, it was mentioned several times that on-going financial support such as for school fees or public transportation³⁹⁰ and the possibility to complete German courses, a basic education course and a course for graduation of secondary school (*Hauptschulabschlusskurs*) irrespective of the eighteenth birthday³⁹¹ would be important. Further mentioned were a place where one can study in quiet³⁹², knowing about ones own rights and duties³⁹³, visiting organisations in order to get informed on further support structures³⁹⁴, receiving a folder with important addresses regarding support³⁹⁵, opening a youth bank account and saving money³⁹⁶ and having a set daily structure³⁹⁷. It was also mentioned regarding guardians, that it would be helpful for SYPT to have a last meeting with their guardian (which is currently not always the case)³⁹⁸.

³⁸⁹ Interview1, translated.

³⁹⁰ Accom2, accom15, accom23.

³⁹¹ Accom7, accom10, accom12.

³⁹² Accom7.

³⁹³ Accom15.

³⁹⁴ Accom17.

³⁹⁵ Accom2, accom17.

³⁹⁶ Accom17.

³⁹⁷ Accom23.

³⁹⁸ Accom5.

Further mentioned was that SYPT should be accompanied in adult life as parents would see it as adequate for their children, which would make most sense also economically.³⁹⁹

Specifically regarding post-care and how it could ideally be organised, it was first and foremost mentioned (by more than half of all accommodations) that some kind of post-care accommodation is needed.⁴⁰⁰ Reasons are e. g. on-going educational measures⁴⁰¹, in order to get ones health stabilised⁴⁰² and also to get used to the situation of being independent due to less caretakers responsible⁴⁰³.

According to a caretaker of an accommodation for adult asylum-seekers, it would be constructive, if every accommodation facility for SC would have attached post-care apartments in order for the SYPT not to lose their caretakers. Because not only can the SYPT no longer live together with their friends, but they are forced to leave the caretakers who they have bonded with over time.⁴⁰⁴ According to an expert by the NGO "Asylkoordination", SYPT being able to remain in the facility for SC is worth thinking about.⁴⁰⁵ This was also underlined by a student and co-founder of the NGO "Neuer Start", that the post-care apartments should be close to the SYPT facility. Because this would make it easier for the SYPT to get used to the new situation and also the SYPT who live there longer would pose a great resource of information.⁴⁰⁶ Further stated by the caretaker of an accommodation facility for adults was that moving in a new apartment should be planned carefully and sensitively and that the SYPT should be able to choose where to move. However, it is also acknowledged, that this is probably not realisable financially.⁴⁰⁷ Mentioned by staff of an accommodation facility for SC was that an apartment close to the former accommodation facility would be supportive

³⁹⁹ Accom10.

⁴⁰⁰ Accom1, accom5, accom6, accom7, accom9, accom10, accom13, accom14, accom16, accom19, accom20, accom22, accom23, accom24.

⁴⁰¹ Accom7.

⁴⁰² Accom10, accom20, accom22.

⁴⁰³ Accom6, accom14, accom16, accom19, accom22, accom23.

⁴⁰⁴ Interview1.

⁴⁰⁵ Interview6.

⁴⁰⁶ Interview2.

⁴⁰⁷ Interview1.

regarding appointments and also to be able to meet the former caretaker here and there.⁴⁰⁸

Several respondents stated that they think mobile post-care would be beneficial for SYPT.⁴⁰⁹ One respondent stated that a kind of a "practice flat" would be useful for seventeen year-olds to move into when they feel they are ready in order to prepare for adult life, however with being cared for. In this one year goals should be set which are tried to achieve during this time.⁴¹⁰ Another proposal was to create a separate daily rate for SYPT which would make more care possible than it is now with the very low daily rate.⁴¹¹ Further mentioned were a slower and more flexible transition in general⁴¹², that transitions need intensive attention⁴¹³, that the Youth Welfare should prolong measures until twenty-one if needed⁴¹⁴ and an attachment person who remains for the SYPT such as a "god family"⁴¹⁵. According to the study by UNHCR, appropriate follow-up by caretakers should be provided even after turning eighteen to ensure continuous counselling. Further, the departure of SYPT from the accommodation facility should be carefully planned and decided on a case by case basis and suitable accommodation for SYPT should be provided for when reaching the age of eighteen.⁴¹⁶

4. 3. 1 Support until which age?

It was stated by staff of an accommodation facility that six months of intensive care for transition would be necessary, then following monthly contact by the caretaker.⁴¹⁷ In general, an in-house psychologist of an accommodation facility for SC claims that SYPT should be supported until the age of twenty five, including having the possibility to remain in the accommodation facility. According to the psychologist, more time is necessary for gaining maturity. Further, more space for individual considerations would

⁴⁰⁸ Accom4.

⁴⁰⁹ Accom5, accom13, accom19.

⁴¹⁰ Accom24.

⁴¹¹ Accom23.

⁴¹² Accom4, accom24.

⁴¹³ Accom12.

⁴¹⁴ Accom9.

⁴¹⁵ Accom4.

⁴¹⁶ UNHCR, 2014 (b), p. 30.

⁴¹⁷ Accom12.

be necessary. It was also mentioned that there are SC who are declared five years older from one day to the other due to an age determination. These SYPT then completely fall out of the support system and don't have the possibility for age appropriate education and support, taking them their future perspectives.⁴¹⁸

A student and co-founder of the NGO "Neuer Start" stated that he thinks eighteen is sufficient - but it depends on how much care one had before turning eighteen. In his opinion twenty-one would be too long. He himself would think it is unpleasant to be represented until the age of twenty-one. He has the feeling that many SYPT would like to be independent and e. g. have their own flat and be in charge of their own lives.⁴¹⁹ According to a caretaker, the length of care necessary is completely individual. He stated that there are some who don't need ongoing support and some would need it until the age of forty-five. However, someone who only recently arrived should have the possibility to be cared for longer. If it would be financially possible, he stated that care until the age of twenty-one⁴²⁰ would be useful. However, in this case, the care would have to encompass separate resources. Because if the same staff caring for SC would have to also care for SYPT in e. g. external apartments, then it would mean an additional workload, which would be too much considering that each caretaker usually already has about eight SC to care for.⁴²¹ According to an accommodation in Upper Austria, six to twelve months would already make a big difference.⁴²²

⁴¹⁸ Interview4.

⁴¹⁹ Interview2.

⁴²⁰ In the UK, SYPT who have been in care of the authority for more than thirteen weeks before turning eighteen after the age of fourteen are eligible for "leaving care support" (LCS) once they turn eighteen. The local authority then supports them where necessary and provides a personal adviser who develops a "pathway plan" with the SYPT. The LCS further supports the SYPT until the age of twenty-one and also up to twenty-four+ if the SYPT remains in full time education (EMN, 2010, p. 86).

In Sweden SYPT turning eighteen can move into an after-care accommodation for the transition to adulthood up to the age of twenty-one. SYPT, as other young foreigners, are under the state's responsibility until the age of twenty-one (for Swedish citizens in the welfare system the age is twenty). The SYPT are assisted by social workers, informed in detail on changes when turning twenty-one and self-empowerment is encouraged (UNHCR, 2013, p. 29).

⁴²¹ Interview7.

⁴²² Accom13.

4. 4 Conclusion

Despite different approaches regarding timing and content of information given, it is widely accepted that information regarding changes upon turning eighteen is important and also that SYPT are step by step given more responsibility. It appears to be the general goal of accommodation facilities to make SC more independent when turning eighteen, having in mind, that they will most probably have to manage their lives on their own after this turning point.

There seems to be a different level of awareness of the importance of post-care support for SYPT depending on the provincial governments and Youth Welfare. Where in some provinces e. g. in Vienna there is a variety of external post-care projects available, or in Lower Austria, where the provincial government including the Youth Welfare make post-care possible on a regular basis or it is planned to be offered in the future, this is not possible to the same extent elsewhere (or post-care support is even planned to be transformed into an adult accommodation due to lacking financial support).

Most accommodation facilities for SC offer some kind of post-care support for SYPT. This clearly demonstrates that there is an actual need for this group to be further supported after the eighteenth birthday. However, the type, intensity, length as well as preconditions to receive such post-care differs. The main reasons why SYPT are offered further support are education, health and lacking German skills.

Due to the usually decreased daily rate for adults, it is often not possible for facilities for SC to further accommodate SYPT. However, several facilities nevertheless attempt to only let SYPT move out once they have some kind of fixed daily structure when turning eighteen (e. g. finishing education or being part of some kind of educational measure/employment/apprenticeship and to dispose of a good network of contacts to support them). In cases where post-care accommodation is possible, within the accommodation for SC or externally, often merely the daily rate for adults is paid, which decreases the possibilities which can be offered to SYPT.

Due to the special needs of SYPT as well as the apparent impact of moving out upon eighteen, it can be concluded that there is not enough post-care available for the actual need at the moment. It would be necessary to have different kinds of post-care support, in order to address the individual needs of SYPT which differ greatly. It would be beneficial for SYPT to establish post-care support not far from the former accommodation facility for SC in order to maintain established relationships, to be located in urban areas with sufficient infrastructure in order for SYPT to finish educational measures or also to have access to these, as well as to facilitate integration into the host society.

Moving into an accommodation for adult asylum-seekers is frequently criticized as being contra productive for SYPT's successful transition to adulthood, especially regarding financial support, insufficient care and support regarding education.

However, also if SYPT have some kind of legal status, it is often difficult to find adequate private accommodation due to bureaucratic obstacles as well as having insufficient financial means.

5 Guardianship

5.1 Before eighteen

According to a ruling from the Austrian Supreme Court of Justice of October 2005 that SC must be appointed legal guardians (due to SC in need of support exceeding the fulfilment of their basic needs and their legal representation in the asylum procedure), SC in the admitted asylum procedure and assigned to one of the federal provinces, are now usually appointed guardians.⁴²³ In the case of SC below fourteen years, a guardian must be allocated immediately after arrival.⁴²⁴ Guardians according to § 138 of the Civil Code need to consider the best interest of the child and ensure it in the best possible way.⁴²⁵

§ 211 of the General Civil Code (*ABGB*) stipulates that if a minor child in Austria is found, whose parents are not identified, then the Youth Welfare is to obtain guardianship. Guardianship⁴²⁶ includes the areas of care (§ 160 ff General Civil Code), asset management (§ 164 ff General Civil Code) and legal representation (§§ 167 ff General Civil Code).⁴²⁷ The legal representation is either directly undertaken by the Youth Welfare or through (sometimes specialised) employees⁴²⁸ or a third party, usually NGOs, is commissioned by contract with this task. Further, parts of care are transferred

⁴²³ Asylkoordination, 2013, p. 10.

⁴²⁴ Ibidem, p. 11.

⁴²⁵ General Civil Code.

⁴²⁶ As stipulated in § 211 para 1 of the General Civil Code, the Youth Welfare has to apply for the relevant court injunction in the area of guardianship in order to ensure the best interest of the child. In the case of imminent danger the Youth Welfare is provisionally responsible for guardianship for these relevant measures and can decide itself to take on the necessary measures of care and upbringing with effect until the court order; such a court order should be applied for immediately or at least within eight days.

⁴²⁷ Asylkoordination, 2013, pp. 16-17.

⁴²⁸ E. g. in Linz SC are often present at the Youth Welfare due to legal advice on their asylum procedure. It is helpful that the legal representation is done by specially trained employees of the Youth Welfare agency. The counselling takes place in the same building where the guardian works. Sometimes also topics concerning guardianship are raised during the meeting with the legal representative. Due to the close distance as well as the good cooperation between involved employees, SC can directly voice their concerns with their guardian, further communicated by their legal representative (Asylkoordination, 2013, p. 35).

to accommodation facilities within the context of Basic Welfare Support. However, the overall responsibility still remains with the Youth Welfare.⁴²⁹

Additionally, the physical and mental development as well as education in school and work should be secured. The responsibility for asset management plays only a minor role due to the fact that minors are usually without means. However, in some cases SYPT might have significant money due to employment or compensation for having been falsely detained in detention pending deportation. The guardian is then responsible to develop savings plans and support the SC in becoming independent.⁴³⁰

According to a national assessment on Austria by the NGO "Asylkoordination" regarding guardianship of SC, months can pass until a SC is appointed a legal guardian.⁴³¹ Further, SC often don't know their guardian personally and are frequently only insufficiently informed on the role of the guardian.⁴³² During a workshop of the "Asylkoordination" with SYPT within the project "Closing a Protection Gap 2.0." it could be concluded that most SC are often poorly informed on tasks of a guardian.⁴³³

The following quotes underline this shortcoming:

*"Only after two years in Austria, I realised that I have a guardian."*⁴³⁴ (SYPT)

*"I do not know what is a legal guardian. Do I have one?"*⁴³⁵ (SC interviewed during a project by the FRA)

*"And we are guardians, but in reality - what should we do with guardianship? We make signatures, but often we do not even know them (the children) personally. We sit at interrogations, but are not at all legally trained, so that we could take any effect."*⁴³⁶ (anonymous)

⁴²⁹ Asylkoordination, 2013, pp. 15, 29.

⁴³⁰ Ibidem, p. 20.

⁴³¹ Ibidem, p. 11.

⁴³² Ibidem, p. 23.

⁴³³ Ibidem, p. 24.

⁴³⁴ Ibidem, p. 37.

⁴³⁵ FRA, 2010, p. 52, translated.

⁴³⁶ Ibidem, p. 38.

The four guardians included in this paper stated to be responsible for eleven to fifty SC.⁴³⁷ The majority of these guardians stated not to have sufficient time for this task. Reasons for this were having this task aside to the regular workload⁴³⁸, the department being under-staffed and also that other areas of work have a bigger priority, such as children at acute risk cases⁴³⁹. An employee of the Youth Welfare in Vienna underlines this deficit:

"Normally the separated children do not really know their guardian - and vice versa. There are insufficient resources for this work. I took on this task additionally next to my usual workload."⁴⁴⁰

Due to this, most guardians stated that there is hardly any trust established with the SC.⁴⁴¹ One guardian mentioned, that in cases where he sees SC more frequently, this was possible.⁴⁴² Another guardian mentioned to have more time now for SC than in the past and that it is being attempted to reduce the other workload to have more time for guardianship of SC.⁴⁴³

5. 1. 1 Involvement of guardians

There are major differences regarding the extent of involvement of guardians. This depends on local conditions and also the age of the SC. Additionally, due to disparities in quality standards and financial resources available, there is also a difference to whether a SC is accommodated in facilities by the Basic Welfare or in facilities by the Youth Welfare itself.⁴⁴⁴ In practice, younger SC and those with increased care needs are mostly placed in socio-educational institutions by the Youth Welfare in "full upbringing", meaning that the Youth Welfare has full responsibility for them. The accommodation facility is then obliged to send regular process reports to the guardian.

⁴³⁷ Guardian1, guardian2, guardian3, interview5.

⁴³⁸ Guardian1, guardian3, interview5.

⁴³⁹ Guardian3.

⁴⁴⁰ Asylkoordination, 2013, p. 34.

⁴⁴¹ Guardian1, guardian2, guardian3.

⁴⁴² Guardian2.

⁴⁴³ Guardian4.

⁴⁴⁴ Asylkoordination, 2013, p. 21.

However, the majority of SC does not benefit from this due to being accommodated within the framework of the Basic Welfare Support.⁴⁴⁵ Regular case discussions on the development of the SC and planning future measures are not common in the case of SC accommodated within Basic Welfare Support. Further, outreaching contact only takes place exceptionally. Guardians intervene especially then when there are disputes between SC and others such as problems in the accommodation facility, which could lead to a dismissal.⁴⁴⁶ Due to this, SC housed within the framework of Basic Welfare Support do not enjoy full support from their guardians.⁴⁴⁷ According to a guardian, SC who have psychological problems, are especially young and who require more than the Basic Welfare Support can offer are taken up in "full upbringing" by the Youth Welfare. In this case there are also regular meeting with the caretaker and SC, where the current situation is assessed and new goals are formulated. However, the guardian is also of the opinion that every refugee would first need to be placed within this kind of framework.⁴⁴⁸

The federal provinces as Youth Welfare carriers have internal regulations on how to fulfil guardianship, however, there are no legally binding instructions in the case of type and frequency of contacts to SC.⁴⁴⁹

Reasons for the limited extent of involvement of guardians are also that the Youth Welfare agencies often don't provide for additional resources for the fulfilment of guardianship of SC, which is often taken on next to their usual workload. This task is sometimes also shared among other employees.⁴⁵⁰

According to the study by "Asylkoordination", the personal contact to the guardian is sometimes limited to the initial contact. As voiced by SYPT, personal contact with the guardian was perceived as extremely important, which was similarly shared by guardians involved in the project "Closing a Protection Gap 2.0".⁴⁵¹ Regarding

⁴⁴⁵ Asylkoordination, 2013, p. 22.

⁴⁴⁶ Ibidem, p. 28.

⁴⁴⁷ Ibidem, p. 22.

⁴⁴⁸ Interview5.

⁴⁴⁹ Asylkoordination, 2013, p. 22.

⁴⁵⁰ Ibidem, p. 30.

⁴⁵¹ Asylkoordination, 2013, p. 36.

capacities for the work of guardianship, a guardian stated that one can easily "forget" to be responsible:

"(...) They don't scream like that. That is then not like in the other field, where a risk is reported or where the schools call all the time. So one can easily forget here and there that one is the guardian. Or that one also could or should do something."⁴⁵²

The four guardians stated that the contact with the SC was between at least one personal meeting to two times annually.⁴⁵³

One guardian stated that he sees some SC more often than on a monthly basis, depending on the quality of care in the accommodation facility and the SC's needs.⁴⁵⁴

Another guardian who is responsible for about ten to twelve SC who are in "full upbringing" stated that with these minors there is less contact, due to them being cared for sufficiently in the accommodation facility. However, also with SC in "full upbringing" there is an initial contact and regarding SC in Basic Welfare Support, there is monthly contact with the head of the accommodation facility and SC are also invited to come to the office.⁴⁵⁵ The fields for which SC need their guardians were elaborated by the guardians questioned. Mostly financial support was mentioned regarding e. g. sports clubs fees, leisure activities but also for further German courses.⁴⁵⁶ Further stated were disciplinary problems in the accommodation facility⁴⁵⁷, education⁴⁵⁸, support for finding a job⁴⁵⁹ and also turning eighteen⁴⁶⁰.

According to a caretaker, more personal contact between guardians and SC would not be useful. He thinks that the guardians are there for what they are needed, however too

⁴⁵² Interview5.

⁴⁵³ Guardian1, guardian2, guardian3, interview5.

⁴⁵⁴ Guardian2.

⁴⁵⁵ Interview5.

⁴⁵⁶ Guardian1, guardian3, interview5.

⁴⁵⁷ Guardian1, guardian2, guardian3.

⁴⁵⁸ Guardian1, guardian2, interview5.

⁴⁵⁹ Guardian1, guardian2.

⁴⁶⁰ Guardian3.

many social workers (due to the caretakers often already being social workers) would be too confusing for the SC. Even if he knows that other guardians get more involved, he doesn't think it is necessary to do so.⁴⁶¹ To the contrary, an expert of the NGO "Asylkoordination" stated that it would be important for SC to have continuous contact and a good relationship with their guardians from the beginning. Because the guardian can make important decisions such as extending measures after the eighteenth birthday.⁴⁶²

5. 1. 2 Information provided regarding turning eighteen

The "Core Standards" created within the project "Closing a Protection Gap" during 2009 aimed to harmonise the protection SC receive from guardians, reflecting the ideal standard of care for SC and addressing the role of the guardian and are further written from the perspective of SC as well as guardians.⁴⁶³ Core Standard number six⁴⁶⁴ notes that the guardian

"prepares the child for all predictable changes which will occur after he/she turns eighteen".⁴⁶⁵

As also stated in the SOS-Kinderdorf International "Quality4Children standards" from 2007, the guardian should prepare the SC for all predictable changes which can occur when turning eighteen (stated in standards 15 to 18).⁴⁶⁶

Of four SYPT interviewed, two thought that their caretaker has guardianship for them.⁴⁶⁷ One of these two SYPT stated that he never received any information that someone has or didn't have guardianship any longer.⁴⁶⁸ Two respondents also

⁴⁶¹ Interview7.

⁴⁶² Interview6.

⁴⁶³ Asylkoordination, 2013, p. 7.

⁴⁶⁴ "The guardian ensures the timely identification and implementation of a durable solution." (Asylkoordination, 2013, p. 26).

⁴⁶⁵ Asylkoordination, 2013, p. 31.

⁴⁶⁶ SOS-Kinderdorf International, 2007, pp. 49-56

⁴⁶⁷ SYPT2, SYPT3.

⁴⁶⁸ SYPT3.

mentioned to only have met their guardian once.⁴⁶⁹ Asked if they were informed on the guardian no longer being responsible, two stated that they received a letter informing them on this.⁴⁷⁰ In general, of these four respondents, two did not receive any information that the guardian is no longer responsible.⁴⁷¹ According to the four guardians, information regarding turning eighteen varies.⁴⁷² One former guardian from Upper Austria stated that SC were informed on changes during the meetings.⁴⁷³ Another guardian from Upper Austria stated that there are usually meetings to clarify the need for further support. However, if the SYPT are very independent, then usually this would only be clarified with the accommodation facility.⁴⁷⁴

A guardian from Vienna stated that a final meeting with the SYPT is planned before turning eighteen, however in practice this doesn't always work out. The SYPT are informed on where to get support e. g. regarding means-tested Minimum Welfare Support if one has subsidiary protection status. It is also offered that they can further come to the office if they still have questions later on. If a SYPT has any kind of savings due to e. g. courses undertaken within the Public Employment Services then this is handed to him when he turns eighteen.⁴⁷⁵

5. 1. 3 Birth date of separated children

The four guardians included in this research paper were asked which date of birth they apply. Almost all guardians stated that if there are doubts regarding the age or if there are documents on the SC's age, then this age (as written in the decision of the care taking court on guardianship) counts for the Youth Welfare and not the age set by the Federal Office. One guardian in Vienna stated that the birth date of the SC is taken which they claim to have. If the SC only know the year, then the 31 December of this year is taken. However, at the moment it is not clear how the caretaking courts in

⁴⁶⁹ SYPT1, SYPT2.

⁴⁷⁰ SYPT1, SYPT4.

⁴⁷¹ SYPT2, SYPT3.

⁴⁷² Guardian1, guardian2, guardian3, interview5.

⁴⁷³ Guardian1.

⁴⁷⁴ Guardian3.

⁴⁷⁵ Interview5.

Vienna will accept this in practice or not. The SC who have their birth date changed to the 31 December can also stay in the accommodation facility until this time and also receive support by their legal representative. The Vienna Social Fund lets the SYPT remain in the facility and pays the higher daily rates for SC until they are eighteen according to the date of the caretaking court. Often many months lie between this birth date and the one of the Federal Office.⁴⁷⁶

5. 2 After eighteen

According to § 183 General Civil Code guardianship expires when a SC turns eighteen. The guardian should then hand the SYPT his assets and all of his certificates and documents.⁴⁷⁷ As stated in a study by IOM during 2012, turning eighteen means legal independence and therefore the loss of guardianship. SYPT interviewed in this study said that losing their guardian was no big problem for them. However, there were also many who indicated that it was hard for them to manage their daily lives without a support system which they had before, also referring to guardianship. There are however exceptions made for SYPT who are still completing educational measures. In this case, guardianship can be extended up to the age of twenty-one with consent of the SYPT concerned.⁴⁷⁸ According to the study of "Asylkoordination", possibilities to extend educational assistance after reaching majority age are not regularly undertaken. However, the reason for this is not clear.⁴⁷⁹

It is stipulated in § 29 of the Youth Welfare Act that young adults can also receive support. Para 1 states that young adults can receive mobile care and support through care by close relatives, care personal or in socio-pedagogic facilities, if at the time of the eighteenth birth year, already measures for upbringing were granted before and this is necessary for reaching defined goals. The assistance can only be granted with the approval of the SYPT and can only be extended so long as it is necessary for the

⁴⁷⁶ Interview5.

⁴⁷⁷ Asylkoordination, 2013, p. 32.

⁴⁷⁸ Blecha, 2012, p. 25.

⁴⁷⁹ Asylkoordination, 2013, p. 32.

individual situation. The support definitely ends with the completion of the twenty-first year of age.⁴⁸⁰

Stated in the SOS-Kinderdorf International "Quality4Children standards" the child should also be empowered to participate in his care leaving process and also the institution responsible for care should continue offering support. Further, there should be the opportunity to remain in contact once the child has turned eighteen.⁴⁸¹

The FRA has recently published its handbook on guardianship for children deprived of parental care (with a focus on child victims of trafficking) in which the transition to adulthood is also mentioned in this context. It is stated that it is important that children are well prepared for the transition to adulthood and receive the necessary support. According to the FRA, EU Member States should consider establishing support for this vulnerable group beyond the age of eighteen in order to facilitate the transition.⁴⁸²

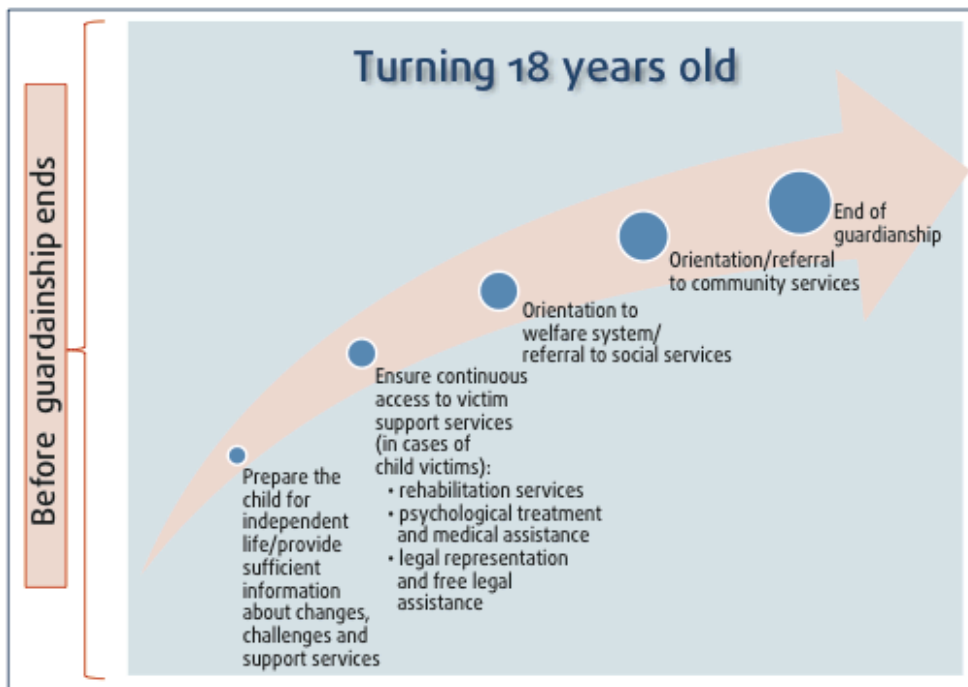
As illustrated below by the FRA, the guardian should support the child during transition and also prepare him for an independent life. Further, the guardian should make the child aware of changes regarding residence status, rights and obligations as well as protection entitlements if relevant. The guardian should also refer the respective SC or SYPT to social welfare services, should create links to community services and also assist in creating a social network which can support him and facilitate an easier transition to adulthood.⁴⁸³

⁴⁸⁰ Youth Welfare Act.

⁴⁸¹ SOS-Kinderdorf International, 2007, pp. 49-56

⁴⁸² FRA, 2014, p. 63

⁴⁸³ Ibidem, p. 97.



Source: FRA, 2014

It is also stated in the FRA report that the guardian should - similar to the recommendation from 2007 by the Council of Europe's Committee of Ministers promoting "life projects"⁴⁸⁴ - develop an individual care plan with the child in order to support the development of his capacities and skills to become independent. "Life projects" should facilitate the integration of children, their cultural development and needs regarding housing, health, education, vocational training and employment.⁴⁸⁵

An in-house psychologist of an accommodation facility for SC stated that it would be important for SYPT to have a guardian for a longer time, because they don't have the possibility to get support from other persons such as other adolescents have. They should have a social worker on their side who intensively supports them.⁴⁸⁶

⁴⁸⁴ "Where a minor involved in the implementation of his or her life project attains the age of majority and where he or she shows a serious commitment to their educational or vocational career and a determination to integrate in the host country, he or she should be issued with a temporary residence permit in order to complete the life project and for the time necessary to do so." Council of Europe, Committee of Ministers (2007), Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors (FRA, 2014, p. 98)

⁴⁸⁵ Cf. FRA, 2014, p. 99.

⁴⁸⁶ Interview4.

5. 2. 1 Support until which age?

The four guardians had different views regarding to which age SYPT should be supported. One guardian stated the Youth Welfare should not be longer responsible than eighteen - however, it was asserted that the prolonging of care measures through the Youth Welfare should be possible more easily.⁴⁸⁷ Another guardian stated that SYPT should be in the responsibility of the Youth Welfare longer than until they are eighteen, because then further support would be easier such as the clarification on the necessity of such and the application for this.⁴⁸⁸ The Viennese guardian stated that twenty-one years would be sufficient:

"But it is to hope that they then, I think with about twenty, twenty-one, that they basically established their social network. And that they maybe know someone, who they can ask. Because still, I am no mother."⁴⁸⁹

It was reported by the guardians, that some of the SYPT would like further support, but others don't. One guardian stated that about a third of the SYPT would like to be further assisted by the Youth Welfare.⁴⁹⁰

5. 2. 2 Support through the Youth Welfare after eighteen

Regarding further support of SYPT in practice, Tyrol appears to frequently further assist the SYPT. It is the same situation as for minors who don't have a flight background. In 2013, in over twenty-five cases the support through the Youth Welfare was extended because it was deemed as necessary in agreement of the SYPT. There are four different options regarding extended support through the Youth Welfare in Tyrol: i) "full upbringing" after turning eighteen in an accommodation facility for SC; ii) "full upbringing" in an accommodation facility of the Youth Welfare iii) "supported upbringing" (*Unterstützung der Erziehung*) in an own flat or iv) "supported upbringing" in an accommodation for adults. However, there are also SYPT who are not in any one

⁴⁸⁷ Guardian1.

⁴⁸⁸ Guardian3.

⁴⁸⁹ Guardian5, translated.

⁴⁹⁰ Guardian3.

of these measures who still come back to the office for information.⁴⁹¹ For SYPT who were not already in "full upbringing" there is the possibility in Tyrol to place them within this care system shortly before turning eighteen in order to extend measures by the Youth Welfare for them. According to an expert of the NGO "Asylkoordination", this should happen more frequently in Austria.⁴⁹² In Upper Austria one former guardian stated that there have been cases where SYPT were further supported within the course of "full upbringing" in order to e. g. finish school or apprenticeship. "Full upbringing" is prolonged in this case if the SYPT is not yet sufficiently independent, then it is possible to move to an own apartment and there is support by social pedagogues twice a week in the form of mobile support.⁴⁹³

It was also stated that a step between the accommodation for SC and accommodation for adults would be necessary, where the intensity of care is still a bit more increased.⁴⁹⁴ The guardian in Vienna stated that it would be necessary to offer the SYPT further support, because they often don't have other contact to Austrians if they don't have a "godfather/mother". It is also good to be a contact person for the SYPT and still offer support, for e. g. education which the Basic Support cannot pay for. In this guardians opinion, the Youth Welfare, responsible for former guardianship, should be obliged to do this.⁴⁹⁵ As further stated by the Viennese guardian, further support through the Youth Welfare can play a significant role for some SYPT, in these cases the SYPT can stay in the accommodation facility for SC:

"Lately we had several who we supported until nineteen (...). Because they were just finished with their course for graduation of secondary school and had started an apprenticeship. And then they also maybe received some kind of status and then you could help to find them an apartment. It is exactly this half year or year, which is decisive."⁴⁹⁶

⁴⁹¹ Guardian2.

⁴⁹² Interview6.

⁴⁹³ Guardian1, guardian3.

⁴⁹⁴ Guardian1.

⁴⁹⁵ Interview5.

⁴⁹⁶ Guardian5, translated.

5.3 Conclusion

According to SYPT and guardians themselves the amount of information given to SYPT regarding changes when turning eighteen varies. It depends strongly on the involvement and capacities of the guardian how strong the relationship is between guardians and the SC already during minority and also after the eighteenth birthday. There are big differences if SC are placed within the framework of "full upbringing" by the Youth Welfare or only within Basic Welfare Support. There is the possibility to extend measures for SC after turning eighteen, however, the approaches differ greatly if this is undertaken on a regular basis or not, also if this is possible only for SC who were already in "full upbringing" before turning eighteen or not. However, several guardians also offer to be a contact person after turning eighteen.

6 Legal Representation

6.1 Before eighteen

The legal representation of SC is stipulated in § 10 Procedure Act of the Federal Office for Immigration and Asylum (*BFA-Verfahrensgesetz*) concerning legal capability in para 3, 4, 5 and 6.⁴⁹⁷ According to § 19 para 5 Asylum Act a SC is only allowed to be interviewed with his legal representative present.⁴⁹⁸ During the admission procedure and as long as they reside in the initial reception centre or any other federal reception centre, SC are legally represented by the legal advisers in the admission procedure.⁴⁹⁹ Two different non-governmental organisations have been commissioned by the state with the legal counselling and legal representation of asylum-seekers in the initial reception centres, namely "ARGE Rechtsberatung" (consisting of "Diakonie" and "Volkshilfe" Upper Austria) and the "Verein Menschenrechte Österreich".⁵⁰⁰

The legal adviser in the initial reception centre is also the legal representative of an SC above fourteen years (*mündig*) as soon as an application for international protection is filed by a SC. A SC below fourteen years (*unmündig*) applying for international protection is assigned a legal adviser who is also the legal representative in the initial reception centre when arriving in the initial reception centre.⁵⁰¹ While in case of SC above fourteen years of age the initial interrogation outside the initial reception centre may be conducted by the police without the presence of a legal representative, in cases of SC below fourteen years, a legal representative must always be present during the initial interrogation.⁵⁰²

After an admission to the regular procedure and a minor's assignment to an accommodation facility for SC in one of Austria's nine federal provinces, the legal

⁴⁹⁷ Federal Office for Immigration and Asylum Procedure Act.

⁴⁹⁸ Asylum Act 2005.

⁴⁹⁹ Fronek, 2010, p. 89.

⁵⁰⁰ UNHCR, 2013, p. 12.

⁵⁰¹ Lukits, 2012, p. 18.

⁵⁰² According to § 10 para 6 Federal Office Procedure Act.

representation in the asylum procedure lies in the responsibility of the Youth Welfare authority. The legal representation becomes the responsibility of the local Youth Welfare office of the respective federal province.⁵⁰³ The Youth Welfare authority then either directly exercises this role through (sometimes specialised) employees or commissions a third party by contract with the respective activities, in most cases NGOs.⁵⁰⁴

However, there are also deficiencies regarding legal representation for SC. The legal advisers in the admission procedure should dispose of a legal background or previous experience in the field of asylum. But there is no requirement for them to be trained in working with SC. During the admitted asylum procedure, legal representatives might lack a law background or advanced knowledge of refugee and asylum law or training in skills with SC.⁵⁰⁵

Further, according to UNHCR Austria's report on the quality of legal aid in the Austrian asylum procedure it could be identified during 2012 that SC in the Initial Reception Centre East had reported of having been counselled in a group with further SC. It was also not always possible for the legal representatives to meet and counsel the SC before the initial interrogation. However, it was mentioned that in the course of the research, it was then at least possible for the legal advisers to introduce themselves to the SC and to inform them on the most important aspects of the initial interrogation.⁵⁰⁶

Additionally, in the admitted asylum procedure, constraints exist which limit the possibility to build and achieve a relationship of trust with the SC. Understaffing in the Youth Welfare and NGOs makes this task a challenge.⁵⁰⁷

⁵⁰³ § 10 para 3 Federal Office Procedure Act.

⁵⁰⁴ Asylkoordination, 2013, pp. 15, 29.

⁵⁰⁵ Fronek, 2013, p. 34.

⁵⁰⁶ UNHCR, 2013, p. 22-24.

⁵⁰⁷ Vogelsang, 2010 (a), pp. 225-227.

As stated by a SC:

“My legal representative informed me what I can expect from my interview. He asked me everything that I was already asked in Traiskirchen again. I was not sure if he is really on my side. He said this, but my feeling was different.”⁵⁰⁸

Additionally, the legal representation of SC usually changes at least once between the admission procedure and the admitted asylum procedure. A SC stated that he is confused about the number of legal representatives responsible for him:

“I don't know what my legal representative's name is. There were two different ones. During the first interview there was someone and then during the second interview someone different. (...) I think I only met both of them directly at the interview and afterwards I did not see them again. I think I have two legal representatives. Who I should consult if I have questions, I don't know.”⁵⁰⁹

The eight legal representatives questioned for this paper stated to represent between thirty and ninety-four SC (however, the ninety-four are split between three employees in Vienna - also in other cases such as in Linz, a town in Upper Austria, the Youth Welfare employs two legal representatives). Most represent between thirty and fifty SC. Regarding the frequency of contact between them and the SC, this ranges from three times during the entire asylum procedure to several times a week.

Most legal representatives claimed to have sufficient time for this task, however one legal representative stated to occasionally wish for more time.⁵¹⁰ A SYPT interviewed for this research paper stated the following regarding contact to his legal representative:

“XXX (year) before my interview I saw once, spoke together, and at the day where we had the interview, we met there and after the interview 'goodbye'. Then never again, never saw (the legal representative) again.”⁵¹¹

⁵⁰⁸ Fronek, 2013, p. 35.

⁵⁰⁹ UNHCR, 2013, p. 37, translated.

⁵¹⁰ LegRep5.

Regarding the establishment of trust, some legal representatives stated that it is not always possible to do so sufficiently, especially when it comes to the SC speaking of about his flight grounds.⁵¹² It was stated twice that it is very important that trust is established.⁵¹³ One legal representative responsible for SC in Burgenland stated that in order to establish a basis of trust, there are long meetings with the SC in the office in order to guarantee a neutral atmosphere. In this case the SC had often expressed the wish not to be individually counselled within their accommodation facility. It was also stated that trained and experienced interpreters are crucial.⁵¹⁴ A legal representative in Lower Austria stated that trust is increased by being present in the accommodation facility and being part of the SC's daily lives such as eating lunch there or also taking part in festivities of the facility. During a social event of the accommodation facility, the legal representative was also dancing to Afghan music and could feel more openness and trust from the SC during the following appointments. This legal representative also stated that it is helpful to have knowledge on culture and also trying to speak the SC's language, even if only some words or sentences.⁵¹⁵

6. 1. 1 Information

It was mentioned by staff of several accommodation facilities that the respective legal representative informs the SYPT on changes upon eighteen, as in Vienna⁵¹⁶, Lower Austria⁵¹⁷, Upper Austria⁵¹⁸ and Salzburg⁵¹⁹.

A few legal representatives questioned for this research paper stated that SYPT are aware of the changes regarding their legal representation when turning eighteen. Regarding the information and preparation of SYPT, approaches differ between the respective legal representatives.

⁵¹¹ SYPT1, translated.

⁵¹² LegRep4, LegRep6, LegRep8.

⁵¹³ LegRep4, LegRep5.

⁵¹⁴ LegRep5.

⁵¹⁵ LegRep2.

⁵¹⁶ Accom2 (However, in this case it was also mentioned that this does not always take place with support of an interpreter.), accom7.

⁵¹⁷ Accom10, accom11.

⁵¹⁸ Accom15.

⁵¹⁹ Accom23.

However, the SYPT interviewed in the course of this research paper were not all prepared for changes when they turn eighteen by their legal representative.⁵²⁰

One of the five interviewed who was declared full-aged via an age determination never saw a legal representative at all, not even during the initial interrogation.⁵²¹ The other respondents hardly had contact more than twice with their legal representative in general.⁵²² Only one respondent stated to be told by the legal representative, that the legal representation would end when turning eighteen.⁵²³ The others did not receive information on this fact at all.⁵²⁴

6. 1. 1. 1 Vienna

The Viennese legal representative by the Youth Welfare mentioned that SYPT are informed that the legal representation is soon ending via e-mail sent to the accommodation facility. In this e-mail a final meeting is offered. But according to the legal representative, the SYPT are well informed that the representation ends with eighteen due to thorough information regarding this subject.⁵²⁵

6. 1. 1. 2 Lower Austria

In Lower Austria, according to a legal representative of an NGO, preparation of SYPT turning eighteen is foreseen in the form of meetings with the representative and the caretaker, however, it is not possible to sufficiently prepare SYPT due to unforeseen situations and eventualities. However, if full power of attorney is not anyway taken, then it is explained not to forget deadlines such as for extending the status of subsidiary protection and that it is possible to further get in contact if there are questions.⁵²⁶

⁵²⁰ SYPT1, SYPT2, SYPT3, SYPT4.

⁵²¹ SYPT5.

⁵²² SYPT1, SYPT2, SYPT3, SYPT4.

⁵²³ SYPT3.

⁵²⁴ SYPT1, SYPT2, SYPT4.

⁵²⁵ LegRepl.

⁵²⁶ LegRep2.

6. 1. 1. 3 Upper Austria

In Upper Austria, one legal representative by the Youth Welfare informs SYPT on further legal advice by NGOs, with whom contact is established already before the SYPT turns eighteen. It is not possible for the legal representative to continue representing the SYPT after their eighteenth birthday. However, SYPT can further receive counselling as long as they live in their former accommodation. According to this legal representative, it is important that SYPT have sufficient information on legal and financial changes.⁵²⁷ Another legal representative of the Youth Welfare in a different region stated that no separate preparation of SYPT is foreseen. However, they are informed on their legal adviser, who is assigned to them. It is also offered that further contact is possible.⁵²⁸

6. 1. 1. 4 Burgenland

A legal representative by an NGO for SC in Burgenland said it is foreseen to inform SYPT on changes. Shortly before turning eighteen there is a meeting to explain the new legal situation and SYPT are offered to be represented by colleagues of the same NGO. It is planned to hold a workshop for SYPT who shortly turned eighteen, due to many remaining questions on legal changes, which were not sufficiently clarified for them. The SYPT are not necessarily represented by this organisation before. The goal of the workshop is to inform SYPT on legal changes and perspectives and also to have sufficient time for questions as well as to decrease fears and insecurities.⁵²⁹

Another legal representative by an NGO responsible for SC in Burgenland stated that SC are informed on these changes and consequences already during the initial meeting.⁵³⁰

⁵²⁷ LegRep3.

⁵²⁸ LegRep4.

⁵²⁹ LegRep5.

⁵³⁰ LegRep6.

6. 1. 1. 5 Styria

A legal representative of an NGO in Styria stated that such changes are generally explained during counselling sessions.⁵³¹

6. 1. 1. 6 Tyrol

A legal representative by the Youth Welfare in Tyrol mentioned that preparing SYPT before turning eighteen is foreseen. Each case is precisely examined and then it is decided if it is handed over to the further responsible NGO or if an addition to the appeal or a statement are additionally written. Already at the beginning of the representation it is explained that with eighteen legal representation is no longer possible. Sometimes SYPT are also accompanied to the new NGO in order to explain for which areas they are now responsible for.⁵³²

6. 2 After eighteen

The SYPT interviewed irrespective of their different legal status (refugee status, subsidiary protection, no status) all sought legal aid from different organisations such as "Diakonie"⁵³³ and "Caritas"⁵³⁴ and one had a privat lawyer⁵³⁵. As stated by several legal representatives, SYPT frequently would wish to be further represented by them after turning eighteen.⁵³⁶ Fears expressed are often regarding a negative decision with their eighteenth birthday.⁵³⁷

6. 2. 1 Further representation after turning eighteen

The approaches regarding further support or representation of the eight included legal representatives differed greatly. Whereas some clearly see their role as legal representative until the age of eighteen, there are also some legal representatives who try to further support or even represent SYPT fully.

⁵³¹ LegRep7.

⁵³² LegRep8.

⁵³³ SYPT2, SYPT4.

⁵³⁴ SYPT3, SYPT5.

⁵³⁵ SYPT1.

⁵³⁶ LegRep2, LegRep3, LegRep4, LegRep5, LegRep8.

⁵³⁷ LegRep7, LegRep8.

6. 2. 1. 1 Vienna

In Vienna, SYPT can still come to the office of the Youth Welfare if there are any questions.⁵³⁸

6. 2. 1. 2 Lower Austria

The legal representative in Lower Austria - as a sole exception of all legal representatives questioned - offers further legal representation and full power of attorney is taken if SYPT request this. Otherwise SYPT are offered appointments in case of receiving letters by the authorities. Especially in the case that SYPT don't seem independent enough, further representation is offered. In this case, the representation remains with the former legal representative. If full attorney is not taken, then SYPT are informed on NGOs based in Vienna who can further support them in their asylum procedure.⁵³⁹

6. 2. 1. 3 Upper Austria

A legal representative by the Youth Welfare further represents SYPT in their asylum procedure if they are still within a measure of the Youth Welfare and the SYPT agree to this.⁵⁴⁰ The other legal representative from the Youth Welfare based in another part of Upper Austria can only further personally counsel SYPT if they still live in the accommodation for SC, however, he cannot take procedural steps for them any longer or take direct actions as a representative in a pending asylum procedure.⁵⁴¹

6. 2. 1. 4 Burgenland

The two legal representatives from two different NGOs both stated that further representation is not possible. One legal representative stated that only in exceptional cases this is possible, usually other colleagues of the same organisation take over the representation which is accepted well by the SYPT in practice.⁵⁴²

⁵³⁸ LegRep1.

⁵³⁹ LegRep2.

⁵⁴⁰ LegRep4.

⁵⁴¹ LegRep3.

⁵⁴² LegRep5.

The second legal representative stated that only within the framework of legal advice if the respective SYPT is assigned to the same organisation it is possible to be further active.⁵⁴³

6. 2. 1. 5 Styria

The legal representative of an NGO stated that further legal counselling is possible if the client requests so. However, the possibility to also accompany SYPT to any appointments depends on available resources.⁵⁴⁴

6. 2. 1. 6 Tyrol

The legal representative of the Youth Welfare remains as a contact person for SYPT. However, if there is still a decision issued shortly after the SYPT's eighteenth birthday, then an appeal might still be written. But full power of attorney cannot be further taken.⁵⁴⁵

6. 2. 2 Turning eighteen due to an age determination

Aside from "naturally" turning eighteen, if the Federal Office determines the maturity age of an applicant following an age determination, then the asylum-seeker is informed accordingly in an interview to which also the legal representative is summoned. However, immediately after the respective part of the interview, the SC loses his right to a legal representative for the remaining interview as well as procedure. The determination of an applicant's adult age is done through an administrative act, which cannot be appealed against separately, but only together with a subsequent negative asylum decision.⁵⁴⁶ According to a judgement of the Constitutional Court, it could not counter the (former) Asylum Court's decision on a constitutional basis regarding an appeal on an age determination, which was rejected by the latter. The (former) Asylum Court had argued that the age determination is a separate procedural order which cannot

⁵⁴³ LegRep6.

⁵⁴⁴ LegRep7.

⁵⁴⁵ LegRep8.

⁵⁴⁶ Cf. Lukits, 2012, p. 32.

be appealed against. No violation of a constitutional right could be found in this regard by the Constitutional Court.⁵⁴⁷

The eight legal representatives were asked if they further represent the SC if they are declared over eighteen due to an age determination, the approaches taken differ greatly. In Vienna the legal representative by the Youth Welfare represents the SYPT as long as they are still minors according to the decision regarding guardianship by the caretaking court. If they are eighteen, they are offered further counselling, but SYPT can no longer be represented.⁵⁴⁸ The legal representative of an NGO in Lower Austria further represents the SC fully, by taking full power of attorney.⁵⁴⁹ A legal representative of the Youth Welfare in Upper Austria explains the SC the consequences, but can no longer represent them in their asylum procedure.⁵⁵⁰

As stated by the second legal representative by the Youth Welfare in Upper Austria, the legal representation does not end automatically if a SC is declared full-age due to an age determination during an interview:

"As long as the guardianship is regulated, the adolescent is further represented. If guardianship is not yet regulated, then the adolescent is at least represented further until the end of the procedure of the caretaking court. (...) The representation is upheld because the age determinations are fault-prone and are declined in this form by the Youth Welfare. The legal representation is undertaken fully."⁵⁵¹

The legal representative of an NGO for SC in Burgenland has appealed already against such decisions and legal representation was upheld. If there was no appeal against the age determination, then the legal representative would remain during the interview as

⁵⁴⁷ VfGH, U 2416/2013-8, 3 March 2014.

⁵⁴⁸ LegRep1.

⁵⁴⁹ LegRep2.

⁵⁵⁰ LegRep3.

⁵⁵¹ LegRep4, translated.

representative and then explain to the SC the legal changes.⁵⁵² The second legal representative from Burgenland and the one in Styria do not further represent the SC in this case.⁵⁵³ In the latter case, it depends if it is possible time-wise, however, other SC would be preferentially represented.⁵⁵⁴

6. 2. 3 Birth date 1 January

In its report from 2011 regarding children and adolescents in the aliens procedure, the Human Rights Advisory Council (*Menschenrechtsbeirat*) of the Austrian Ombudsman Board (*Volksanwaltschaft*) stated that in the sense of "in dubio pro minore" and the interpretation of the Committee on the Rights of the Child, the age should be set as high as possible. In databases in which the date of birth is registered such as Basic Welfare Support or in the asylum system, not the 1 January of the respective birth year but rather the 31 December should be applied.⁵⁵⁵ The legal representatives were asked to which extent they also apply the age given by the Federal Office often being the 1 January of the respective birth year. Opinions and practice differ greatly in this regard. Several legal representatives (Upper Austria, Styria and Tyrol) stated to apply the birth date as written in the decision of the caretaking court regarding guardianship, which is frequently dated the 31 December instead of 1 January.⁵⁵⁶ It was stated that the birth date of 1 January is problematic due to less financial and Basic Welfare support.⁵⁵⁷ One legal representative from Upper Austria stated that the caretaking court applies the 31 December as birth date, therefore the legal representation ends one year before the care and guardianship do.⁵⁵⁸ The legal representative in Lower Austria also doesn't apply the 31 December, however, both birth dates are written in appeals or letters. According to this legal representative, it is very problematic for SC to have different birth dates in daily life. Therefore if an SC wants one birth date which is different to the one

⁵⁵² LegRep5.

⁵⁵³ LegRep6, LegRep7.

⁵⁵⁴ LegRep7.

⁵⁵⁵ Menschenrechtsbeirat, 2011, p. 19.

⁵⁵⁶ LegRep4, LegRep7, LegRep8.

⁵⁵⁷ LegRep4, LegRep6.

⁵⁵⁸ LegRep3.

registered with the Federal Office, it is explained which consequences this could have.⁵⁵⁹

According to a legal representative by an NGO responsible for SC in Burgenland, it is often apparent that age is described differently in other cultures than in the European context. Often there are mistakes in interpretation (e. g. "I am in the 17th year" which means, that the minor hasn't had his seventeenth birthday at the time of the interview - consequently the responsible authority has to assume that the minor is sixteen at the time of the interview). In such cases, the legal representative in agreement with the SC write to the respective caretaking court in case the decision of the latter included the birth date which was registered with the Federal Office and informs on the before mentioned misunderstanding and asks to correct the birth date accordingly. If there are no clear facts on the actual birth date, then it is asked to take the last possible birth date according to the "best interest of the child-principle" according to the Persian calendar, which would be the 20 March. This way the respective SC can regain almost one year and three months maximum, if the interview was held shortly after the beginning of the Persian year (20 March). However, it depends on the caretaking courts if this argumentation is followed or not.⁵⁶⁰

6. 2. 4 Ideal situation of legal representation post-eighteen?

The legal representatives stated their opinion on how the ideal situation of legal representation after the SYPT turn eighteen would look like. Six out of eight legal representatives stated that continuous representation of SYPT would be ideal.⁵⁶¹ One legal representative from Upper Austria stated that changing legal representation is not beneficial for SYPT:

"A continuous representation until the end of the procedure would be ideal, irrespective of the actual age of the person (...). Every change of legal

⁵⁵⁹ LegRep2.

⁵⁶⁰ LegRep5.

⁵⁶¹ LegRep2, LegRep4, LegRep5, LegRep6, LegRep7, LegRep8.

*representation or interruption of the representation is harmful for the respective person.*⁵⁶²

Further, it would guarantee that established trust and necessary continuity and clarity for the SYPT are ensured, therefore the former legal representative should be given full power of attorney after the SYPT turns eighteen.⁵⁶³ It was also stated, that given the situation that SYPT are further represented, separate financed projects are necessary in order to make this possible, especially to have the necessary resources to also accompany SYPT to official appointments.⁵⁶⁴ A legal representative of the Youth Welfare stated it would be useful to be able to extend the legal representation as a measure of the Youth Welfare, such as is possible in the area of care, until the age of twenty-one if necessary. Because in the representative's view, there is no sufficient legal counselling available for adult asylum-seekers in Austria.⁵⁶⁵

Other opinions were that there should be a structured approach regarding the transition from the legal representative for SC to the legal representation of an NGO after turning eighteen.⁵⁶⁶

As another ideal situation it was stated that during the last months before turning eighteen, contact should already be established to the new legal counsellor for adult asylum-seekers in order to have a fluent transition of the representation. The information flow between the representatives should be ensured after handing over the representation.⁵⁶⁷

Regarding which support a legal representative can further give SYPT, it was stated that the SYPT's independence should be strengthened, as well as trust in his own skills⁵⁶⁸, that one should be there when needed⁵⁶⁹, on time information regarding legal and

⁵⁶² LegRep4, translated.

⁵⁶³ LegRep5.

⁵⁶⁴ LegRep7.

⁵⁶⁵ LegRep8.

⁵⁶⁶ LegRep1.

⁵⁶⁷ LegRep3.

⁵⁶⁸ LegRep1.

⁵⁶⁹ LegRep2.

financial changes should be given⁵⁷⁰, clarity⁵⁷¹ as well as informing them on how to handle letters, deadlines, punctuality and to stick to things which are agreed upon⁵⁷².

6.3 Conclusion

The amount of contact between legal representatives and SC varies, therefore also the trust established is not always of the same intensity. Information regarding changes upon turning eighteen is foreseen and undertaken by all legal representatives included in this paper, however approaches differ. Still, it seems that there is generally a lack of information for SYPT on changes regarding legal representation.

After reaching majority, continuous representation is only possible in very few cases and approaches differ in this regard as well. Whereas one legal representative fully represents SYPT after turning eighteen, others can only do this to some extent or depending on e. g. if the SYPT is still within a measure by the Youth Welfare. In other cases, resources don't permit further representation. Some legal representatives also stated that SYPT may still approach them for questions. Approaches also differ regarding further representation upon SC's age determination declaring them above eighteen.

Further, approaches of legal representatives regarding the birth date set by the Federal Office (1 January) contrary to the one possibly applied by the caretaking court regarding guardianship (31 December) differ regarding which age is applied and also to which age legal representation is undertaken.

Several legal representatives stated that ideally, legal representation would not end when the SYPT turn eighteen, but would rather continue in order to maintain the established trust and also in order to ensure a successful representation of the respective SYPT's asylum procedure.

⁵⁷⁰ LegRep3.

⁵⁷¹ LegRep5, LegRep6.

⁵⁷² LegRep7.

7 Family Reunification

7.1 Before eighteen

According to § 13 para 6 of the Federal Office Procedure Act, a SC above fourteen years should - as far as possible - cooperate in relevant measures in tracing family members in the country of origin, in a third or EU member state, independently of who undertakes the such and to inform the authority.⁵⁷³ Further, § 18 para 2 Asylum Act 2005⁵⁷⁴ requires the Federal Office to search for the family of SC who are above fourteen years and support SC below fourteen in searching for their family if requested by them.⁵⁷⁵ However, the obligation is not given if the tracing is not in the best interest of the child.⁵⁷⁶

According to the Basic Welfare Support Agreement⁵⁷⁷ of 2004 SC entitled to Basic Welfare Support must be assisted in finding their family and enabled to family reunification. SC who are not within Basic Welfare Support can be supported by the Youth Welfare in family tracing.⁵⁷⁸

As stipulated in § 35 para 2 Asylum Act 2005, in the case of holders of subsidiary protection, an application for family reunification can only be filed after the first renewal of this protection status.⁵⁷⁹

In practice not only the procedural length of family reunification which can take longer than a year, but also high costs for DNA tests or acquiring documents can make this procedure very difficult for SC.⁵⁸⁰ According to the Red Cross, the process of family reunification can take between six and eighteen months, however, when SC are involved, it may take even longer. As further stated by IOM, the Red Cross described

⁵⁷³ Federal Office Procedure Act.

⁵⁷⁴ Asylum Act 2005.

⁵⁷⁵ Federal Office Procedure Act.

⁵⁷⁶ Ibidem, translated.

⁵⁷⁷ Article 7 para 3 subpara 2.

⁵⁷⁸ Vogelsang, 2010 (b), p. 48.

⁵⁷⁹ Asylum Act 2005.

⁵⁸⁰ Fronek, 2010, p. 193.

the process of family reunification as difficult and also untransparent due to the high number of stakeholders involved.⁵⁸¹

7. 2 After eighteen

In practice, taking into account that SC can only reunite with their parents and minor siblings as long as they are not yet eighteen years old, according to Blecha, it is often a race against time.⁵⁸² SYPT who have turned eighteen do no longer qualify for reunifying with their parents in Austria.⁵⁸³ According to an employee of the Austrian Red Cross interviewed in the context of the IOM study, the application for reunification with the parents must be filed no later than the day before turning eighteen. However, that is not always possible. In general, family reunification for SC is always linked to a pressure of time.⁵⁸⁴ According to Knapp, if a SC is granted refugee protection, it can easily happen that due to delays in the family reunification procedure, that it might no longer be possible to reunite with the family.⁵⁸⁵ It was stated by several interviewees in the IOM study that there is suspicion that the asylum procedure of SC is purposely not decided on in a timely manner:

"It is striking that particularly in the case of Afghan adolescents, the asylum procedures are protracted. It is attempted not to conclude it before the eighteenth birthday."⁵⁸⁶

This is similarly underlined by Knapp, that in the case of SC, who usually originate from Afghanistan, it can be observed that their procedures which usually end with the

⁵⁸¹ Blecha, 2012, pp. 28-29.

⁵⁸² Ibidem, p. 29.

⁵⁸³ There is only little international recognition to be found regarding the possibility for minors to reunite with their family also after turning eighteen: Stated by the Council of Europe's Parliamentary Assembly in 2003, family reunification of SC with mental or physical disabilities including also former SC above eighteen years, with their parents or other adult family members who they were dependent on (in the former habitual residence or country of origin), and who (parents) are legally living in another member state, should be facilitated (Council of Europe, 2003).

⁵⁸⁴ Blecha, 2012, p. 30.

⁵⁸⁵ Knapp, 2010, p. 16.

⁵⁸⁶ Blecha, 2010, p. 30.

granting of subsidiary protection, take extremely long. Therefore it can be expected that as soon as the SC turns eighteen, he can no longer reunite with his family and the decision is issued soon after.⁵⁸⁷

A SYPT interviewed had to wait for one year before receiving a decision in the asylum procedure. The respondent wanted to reunite with the mother, however only received subsidiary protection four months before turning eighteen. Due to the application for family reunification only being possible after the first renewal of subsidiary protection and as long as a SC is still below the age of eighteen years, it was not possible to apply for family reunification.⁵⁸⁸ Another SYPT interviewed stated that he had gone to the Red Cross once, however, they had told him that he is already eighteen and therefore he cannot bring his family to Austria.⁵⁸⁹ A third interviewee also couldn't bring his family to Austria due to having received his decision only at the age of eighteen. Further, he also only found out about the whereabouts of his family at the age of nineteen.⁵⁹⁰

According to an in-house psychologist in an accommodation facility for SC, many SC would want to have their families in Austria or would like to at least promise them that they can come here as well. However, many then realise that it will not work out. In this case, many SYPT then completely isolate themselves and are incapable of developing new future perspectives, because their parents were their future perspective. These SYPT would need more time in order to be able to develop new perspectives.⁵⁹¹

As stated in the report by UNHCR, family reunification is important for facilitating the transition to adulthood. Therefore, the process should also be completed after turning eighteen. Further, family reunification procedures should be shorter and simpler.⁵⁹²

Having in mind that in other areas such as accommodation, guardianship or legal representation it is under certain circumstances possible for SC/SYPT to benefit from these child-specific standards until the 31 December (if their birth date was changed

⁵⁸⁷ Knapp, 2010, p. 19.

⁵⁸⁸ SYPT3.

⁵⁸⁹ SYPT5.

⁵⁹⁰ SYPT1.

⁵⁹¹ Interview4.

⁵⁹² UNHCR, 2013 (b), p. 10.

accordingly by the caretaking court), it was enquired with the Austrian Red Cross, if in the case of family reunification this is also possible to some extent. It was however informed that until now there has not been experience with SC/SYPT with two different birth dates (1 January as well as 31 December by the caretaking court regarding guardianship) applying for family reunification. Therefore it is not possible to state if in practice it would be feasible to apply the 31 December also for family reunification due to the best interest of the child principle. However, it is not assumed that in practice there would be much chance that this would be accepted, due to the authority usually applying only the birth date as written in the decision regarding international protection.⁵⁹³

7.3 Conclusion

By law and in practice it is not possible for SYPT to apply for family reunification if they have already turned eighteen and do not yet have a legal status, or in the case of subsidiary protection, have not renewed it before turning eighteen. If family reunification is no longer possible, this might leave SYPT who wanted to reunite with their family without future perspective and can even lead to isolation.

⁵⁹³ Telephone enquiry with employees of the Austrian Red Cross, 15 July 2014.

8 Education

According to Article 14 of the EU Reception Conditions Directive (recast), asylum seeking children should be entitled to access primary and secondary education, mentioning also majority age:

"Member States shall not withdraw secondary education for the sole reason that the minor has reached the age of majority."⁵⁹⁴

However, in practice SYPT often face difficulties, especially when near to being eighteen.⁵⁹⁵

8. 1 Before eighteen

8. 1. 1 Enrolling in school and other educational measures

In Austria school is only compulsory for all children including SC from the age of six until the age of fifteen.⁵⁹⁶ Usually minors below sixteen are enrolled in school when they arrive in an accommodation facility for SC. However, depending on the procedure and places available this can take up to six months. The majority of SC arriving in Austria are above fifteen years, therefore school is not obligatory for them. Therefore access to education is more difficult and also undermines ongoing access to education after turning eighteen.⁵⁹⁷

If compulsory education is completed or is not possible to complete, SC can enter a secondary school or undertake "second-chance education" (*zweiter Bildungsweg*⁵⁹⁸), which offers them to receive a school degree after completing regular school. Basic

⁵⁹⁴ UNHCR, 2014 (b), p. 30.

⁵⁹⁵ Ibidem.

⁵⁹⁶ Blecha, 2012, p. 39.

⁵⁹⁷ UNHCR, 2014 (b), p. 31.

⁵⁹⁸ This refers to all educational possibilities which are available for persons who did not complete compulsory education in a regular manner in order to be able to graduate from school (Blecha, 2012, p. 40).

education and literacy courses up to a course for graduation of secondary school⁵⁹⁹ are easier to have access to if places are available in the courses. It is very likely that SC will attend a course for graduation of secondary school. The reasons why it is so difficult for SC to be included in the Austrian school system is that their educational background, German language skills and age often don't match the requirements for the Austrian educational curricula.⁶⁰⁰ Further, SC have difficulties regarding necessary financial means for SC enrolling in the school system. In the framework of the Basic Welfare Agreement the financial means are usually limited to 200 Euros per school year, which is not enough to cover the costs for school material and to participate in excursions.⁶⁰¹

According to a caretaker, SC who are above fifteen years usually first undertake German courses, then when they are ready, they begin with a basic education course (*Basisbildungskurs*) and further enrol in a course for graduation of secondary school. After completion of the latter, it is possible to start an apprenticeship.⁶⁰²

8. 1. 2 Access to German lessons

Regarding German courses, those SC who are too old to enter regular schooling, have access to 200 hours of German lessons within the Basic Welfare Support. However, according to an expert of the NGO "Asylkoordination", this is not at all sufficient to properly learn a language. It is assumed that a person requires about 600 hours of lessons, if one is already literate. It also strongly depends in which federal province the SC are accommodated in. In some federal provinces it is self-evident that the Youth

⁵⁹⁹ The lower secondary school should provide students with basic general education within four years after finishing elementary school. Students should be prepared for employment and receive necessary knowledge to transfer to upper-secondary schools. Persons who however did not complete compulsory education can enrol in a course for graduation of secondary school (*Hauptschulabschlusskurs*) providing them with a degree in one year instead of normally four. This can be compared to the educational level of the secondary school. There are also preparatory courses (*Vorbereitungskurs für Hauptschulabschlusskurs*) for the this degree, which take another year and can be enrolled to before starting a course for graduation of secondary school (Blecha, 2012, p. 40).

⁶⁰⁰ Blecha, 2012, p. 40.

⁶⁰¹ Ibidem, p. 41.

⁶⁰² Interview6; An apprenticeship is a possibility for undertaking vocational training in Austria. Averagely forty percent of school leavers each year decide to start an apprenticeship (Sax, 2012 (b), p. 89).

Welfare pays for further German lessons once the 200 hours are completed - this is especially the case in Lower Austria. SC who already attained refugee status or subsidiary protection on the other hand have more possibilities for further educational measures.⁶⁰³ According to staff of an accommodation in Vienna, in principal every refugee should have the possibility for German courses, basic education and also to at least complete a course for graduation of secondary school. Further mentioned was that if a SYPT comes to the accommodation two months before his eighteenth birthday, he should have the possibility to have access to the full amount of German lessons as usually offered to SC. Currently it is possible for SYPT to take German lessons until two months after their eighteenth birthday.⁶⁰⁴

8. 1. 3 Apprenticeship

According to a student and co-founder of the NGO "Neuer Start" many SYPT start an apprenticeship after having finished the course for graduation of secondary school in order to financially support themselves.⁶⁰⁵ Since 2013 and due to a decision of the Ministry of Employment, Social Affairs and Protection of the Consumers, asylum-seekers can take on an apprenticeship in a field where there are lacking candidates in a specific region.⁶⁰⁶ Contrary to SC/SYPT still in a pending asylum procedure, those with subsidiary protection have access to all apprenticeships.⁶⁰⁷ However, at the age of twenty-one, any young person loses support of the state. If the apprenticeship is not finished by that age, they need to support themselves. In Vienna, the FSW makes funding available to cover for school fees and transportation costs up to the age of twenty-six if the person undertakes adult education such as an apprenticeship, alphabetisation courses or basic training.⁶⁰⁸ Further a caretaker for adult asylum-seekers stated that it is problematic that when SYPT start an apprenticeship and are paid, they lose their Basic Welfare Support, because they are no longer deemed to be in need.⁶⁰⁹

⁶⁰³ Interview6.

⁶⁰⁴ Accom7.

⁶⁰⁵ Interview2.

⁶⁰⁶ UNHCR, 2014 (b), p. 31.

⁶⁰⁷ Interview6, interview7.

⁶⁰⁸ UNHCR, 2014 (b), p. 31.

⁶⁰⁹ Interview1.

But the amount paid for an apprenticeship is hardly enough to cover the costs of private housing:

"And that is also a problem, where they did not think about it. They allow asylum-seekers to do an apprenticeship, but that you can't live with the apprenticeship compensation, especially not in Vienna, but that you can also not remain in the Basic Care, no one thinks of that."⁶¹⁰

8. 2 After eighteen

The SYPT interviewed all underwent some kind of education which was differently affected by turning eighteen. For one interviewee, due to moving to Vienna when turning eighteen, the secondary school was easier to reach due to it being located in the same city. Before it was necessary to travel from Lower Austria to Vienna on a daily basis.⁶¹¹ Another SYPT interviewed was not able visit the school in Vienna that he wanted to due to already being eighteen. However, he is now able to study electrical engineering at a different school.⁶¹² Three of the five SYPT interviewed took the course for graduation of secondary school, two did this after turning eighteen.⁶¹³

One of the SYPT wanted to work with elderly persons and underwent training with the "Caritas" in order to qualify himself. However, after three months he received a letter by the Social Welfare Office that he must go to the Public Employment Services and that they will not further support this kind of education.⁶¹⁴

According to a study by the FRA, in some countries concerns were expressed regarding the impossibility of completing education.⁶¹⁵ Similarly stated in the study by IOM, turning eighteen can have a severe impact on the education of SYPT. In most cases the

⁶¹⁰ Ibidem, translated.

⁶¹¹ SYPT3.

⁶¹² SYPT2.

⁶¹³ SYPT1, SYPT4, SYPT5.

⁶¹⁴ SYPT5.

⁶¹⁵ FRA, 2010, p. 77.

SYPT are required to leave their accommodation facility and are often transferred to other regions in Austria. In the following, SYPT are often forced to break off their education due to the great distance between the educational institution and their new accommodation facility. In the case of SYPT staying in the former region upon turning eighteen, this also has an impact on their education. The living conditions in accommodation facilities for adult asylum-seekers often lack sufficient privacy and quietness for studying as well as computers or also support in the case of learning difficulties.⁶¹⁶ As stated by a SYPT who had to move to an accommodation facility for adults, he did not have anymore space to study for school:

*"I had to go to the library if I needed space. (...) in XXX (accommodation facility for SC) there is a room only for studying (...)."*⁶¹⁷

It was stated by several stakeholders, that space for studying in a quiet atmosphere is important for SYPT.⁶¹⁸ A SYPT noted that he was unhappy regarding the possibilities for education when turning eighteen:

*"Yes the only thing that I think is bad is that you can't visit the normal school when you are eighteen. That I find very bad."*⁶¹⁹

SYPT with refugee status or subsidiary protection often have the possibility to live in a private apartment. However, due to sharing the flat with the "wrong" persons or due to the poor standards of the apartment, it might be difficult to stay focused on their education.⁶²⁰ Further in order to be able to benefit from means-tested Minimum Welfare Support, they must be registered with the Public Employment Services as searching for employment, which makes it difficult to continue schooling.⁶²¹

⁶¹⁶ Blecha, 2012, p. 43.

⁶¹⁷ SYPT1, translated.

⁶¹⁸ Interview2, interview6.

⁶¹⁹ SYPT2, translated.

⁶²⁰ Blecha, 2012, p. 43.

⁶²¹ Fronek, 2010, p. 186.

According to an expert of the NGO "Asylkoordination" it is very problematic if SYPT need to move to rural areas and then might not be able to continue their education as well as the financial means to cover it. There are organisations such as "lobby.16" or "PROSA"⁶²² who support individuals, however, a general concept as well as access to measures by the Public Employment Services also for young asylum-seekers is lacking. In his opinion, projects should be implemented to assist SC and SYPT regarding education. What is especially problematic is also that if SYPT receive protection status, they frequently discontinue their education in order to go work⁶²³ and in order to have an income as soon as possible, due to pressure from their families abroad. This is not beneficial for their future perspectives considering that they might not be able to work in higher segments of employment.⁶²⁴ Ravi Kohli also states that SC arriving in the country of asylum are often carrier of both family and community hope. In this respect, their life in the reception country is often characterized by extreme pressure to accomplish more than just gaining a legal status.⁶²⁵ It would be important also here to implement some sort of support in order for SYPT to continue their education:

"And finally this is of course whether beneficial for the adolescents and not beneficial at all for the Austrian society. Because we actually need persons with a good education."⁶²⁶

It was also stated by a legal representative that counselling for education and employment matters would be important for SYPT.⁶²⁷ As an outcome of a consultative meeting by the Council of Europe regarding the transition to adulthood in 2011, it was

⁶²² The project "PROSA" ("Schule für alle"/school for all), located in Vienna and initiated during 2012, aims to make education accessible to young asylum-seekers/refugees/migrants who would otherwise not have this possibility. They are offered free of charge access to basic education (*Basisbildung*) as well as are prepared for graduation of secondary school (*Pflichtschulabschluss/Hauptschulabschluss*). Further there is counselling regarding education and employment as well as learning support (Projekt Schule für alle, 2014).

⁶²³ Persons with refugee status or beneficiaries of subsidiary protection have free access to the labour market, the latter since 1 January 2008 (Limberger, 2010, p. 45).

⁶²⁴ Interview6.

⁶²⁵ Cf. Kohli, 2009, p. 88.

⁶²⁶ Interview6, translated.

stated that there is a clear need for tailor-made educational policies regarding young asylum-seekers and refugees.⁶²⁸

According to the study by UNHCR, it is recommended that access to education for SC should be given regardless of age. Further, access to apprenticeships should be facilitated and encouraged as a tool to adulthood. The choice of accommodation facilities should also be combined with the educational situation of SYPT to enable a continuation of such.⁶²⁹

8. 3 Conclusion

Especially if SYPT need to move into an accommodation facility for adult asylum-seekers, education is often difficult to complete. This is even more difficult, if SYPT are allocated in a different location especially in a rural area. However, also SYPT with a legal status face difficulties with further education due to pressure to have an income. Further, there is insufficient access to education, especially regarding German lessons, if SYPT arrived in Austria only short before their eighteenth birthday.

⁶²⁷ LegRep5.

⁶²⁸ Council of Europe, 2011, p. 21.

⁶²⁹ UNHCR, 2014 (b), p. 33.

Final conclusions

There is growing awareness since the past few years regarding SC's transition of adulthood, especially in the last months, this topic seems to receive more attention as by e. g. the Council of Europe and the European Parliament. Further, several international organisations, academics as well as stakeholders included in this research paper see a clear need for ongoing support of SYPT, who are not ready to be independent. However, until today there are no policies or specific support addressing this group. There is still lacking awareness for the issue at hand. It becomes apparent, that especially in Austria, it depends on e. g. which federal province a SYPT is accommodated in and which Youth Welfare Agency is responsible for guardianship if further support is offered and to which extent.

Not all SYPT seem to experience the transition to adulthood as a negative time in their life, many also are happy to finally turn eighteen, looking forward to an independent life. This also depends very much on which legal status SYPT have during this time and also if they have external support. Moving into an accommodation for adult asylum-seekers is clearly not something to look forward to for most SYPT.

It is clear, that for those SYPT who are in the need of continuous care and also who explicitly want this themselves, tailor-made support should be further facilitated - in order for all SYPT to profit from ongoing support, irrespective of which federal province they live in or which Youth Welfare Agency or legal representative is responsible. Further, SYPT who would wish to be more independent should be supported as far as possible in order for them to do so.

Facilitators for the transition to adulthood could be identified such as long-term support being a very useful factor, e. g. external persons such as "Paten". These were mentioned as the most supportive facilitator, because this support does not end at the age of eighteen. Further, ongoing education or employment, especially in order to have a daily structure also after turning eighteen are crucial factors. It was mentioned several

times, that it would be useful to also involve former SYPT who have had a successful transition themselves to support and accompany SYPT during their transitional phase.

It is acknowledged by different international institutions, organisations as well as stakeholders included in this research paper, that the transition to adulthood is a more difficult process for SYPT than for "normal" youth without a flight background, due to SYPT having more factors to cope with during this time, which is already quite difficult in itself.

The main challenges faced by SYPT turning eighteen are living conditions, legal support, future perspectives and also finding a new identity, arranging their daily life themselves, next to learning a new language as well as getting familiar with a new culture and customs. Further, transitions require psychological and physical stability. Aside from these challenges, psychologically SYPT go through several transitions at the same time at an earlier age with less social support than other adolescents. They still often need to process their flight and experiences in their home country. Further, the chances for SYPT to suffer from psychological problems is very high, therefore they would need more time and more support. SYPT might even face increasing psychological symptoms when reaching adulthood. Due to turning eighteen and having to move out of the accommodation facility, SYPT also lose their caretaker, which can further be a great psychological burden for SYPT. According to psychologists, support should not end at the age of eighteen. Further, it seems that a pending asylum procedure is a great hindrance of a successful transition to adulthood, due to fear of a negative decision upon the eighteenth birthday as well as lacking certainty regarding future perspectives.

Usually the main changes SYPT face when turning eighteen are moving out of the accommodation facility for SC, appearing to be the most drastic change due to automatically meaning the loss of friends/roommates and caretakers, further the loss of legal representation, guardianship, less chances regarding education, family reunification no longer possible, insecurity due to the asylum procedure as well as much less financial support. Further, SYPT need to be independent and if they have a legal

status, need to find a private accommodation and employment. Factors influencing the intensity of these changes are the e. g. the SYPT's developmental stage, health and psychological state, individual background, social network, education and external support. It is apparent that SYPT with a pending asylum procedure, face the most difficulties regarding the transition to adulthood - however, even if SYPT with a legal status such as subsidiary protection may legally have more possibilities such as access to employment or to private accommodation and social welfare, this is also not always easy to achieve in practice. Therefore also this group of SYPT are in need of further support, especially in order to have the possibility to complete education without having pressure to financially support themselves instead.

The transition to adulthood seems to be especially complicated for SYPT who arrive at a late stage of minority such as with seventeen and a half years, due to much less time to profit from an easier access to education and receiving age-appropriate support.

According to several stakeholders, it seems that information given to SYPT regarding changes upon adulthood is not sufficient or also cannot always be entirely absorbed by SYPT. There are different views regarding the right time to begin with this kind of information/preparation and also which information is most relevant.

Regarding the continuity of the best interest of the child and not to risk losing what has been achieved until the eighteenth birthday as well as in order to ensure a successful transition to adulthood, a transition category would be a useful approach to adequately support SYPT. Such a transition category would encompass a specific daily rate in between the one for SC and for adults for a certain age range. As stated by international institutions, organisations and stakeholders involved, a category of eighteen until twenty-five would be ideal. At least until the twenty-first birthday, as also in practice in other European countries would make a big difference for SYPT who are in need of further support. By taking such an approach, it would allow also for SYPT who arrive at a later age before eighteen to ensure their rights to education and sufficient support, as well as SYPT who come after the age of eighteen and would never benefit from child-specific standards anyway. Further, SYPT who underwent an erroneous age

determination making them older than they actually are or being declared over age would still be able to profit from ongoing support as well.

Recommendations

General

SYPT should receive sufficient and on-time information regarding changes and future perspectives in order to decrease fears and uncertainty when turning eighteen. Former SYPT who underwent a successful transition themselves should increasingly be included in this process. It is worth thinking about developing an age appropriate information brochure for SYPT in order for them to have something to consult whenever needed and also for all SYPT to have the possibility to have the same level of information.

External support such as "god families" should be facilitated in order for SYPT who would like this, to profit from continuous relationships and support also after turning eighteen.

As also proposed by the Council of Europe's Parliamentary Assembly and bearing in mind good practice from other European countries, a transition category should be established, incorporating a separate daily rate for SYPT, between the ages eighteen to twenty-five or at least twenty-one, in order to ensure necessary continuous support and to facilitate a successful transition to adulthood. Aside from access to housing designed for SYPT (or the possibility to remain in facilities for SC), access to psychological support and education should be ensured by this approach as well.

If SC need to undergo an age determination as a last measure, then the benefit of doubt should be applied more frequently. Further, if the exact birth date is unknown, not only the authority but also caretaking courts should apply the 31 December (or also if possible the 20 March according to the Persian calendar) in order to ensure the best interest of the child as far as possible. As already done in practice, a more structural

approach applying the 31 December in areas of guardianship, legal representation as well as accommodation should be facilitated.

Accommodation

A more standardized approach of accommodation facilities regarding timing and content of information given to the SYPT should be undertaken in order to give each SYPT the chance to be informed equally. Further, initiatives such as workshops regarding turning eighteen, farewell rituals as well as written information and establishing contact to future caretakers for SYPT should be facilitated more often.

Sufficient and different kinds of post-care accommodation in urban areas with good infrastructure should be made available in order to meet the individual needs of SYPT who are not ready to live independently and who wish this, especially due to a pending asylum procedure or other reasons. SYPT should be able to choose from a variety of offers to find the right option regarding their individual needs. SYPT should only need to move into an accommodation facility for adult asylum-seekers if this is their personal wish.

Keeping in mind SYPT who might explicitly wish to be housed within an accommodation facility for adult asylum-seekers, separate learning rooms including access to computers and internet should be implemented in every facility - which would also be beneficial for adult asylum-seekers in general.

Guardianship

Considering that guardians by law should act in the best interest of the child and despite outsourcing of areas of legal representation and care, the main responsibility remaining with the Youth Welfare, guardians should play a more active role in assessing the SYPT's best interests also beyond the eighteenth birthday. Ensuring the best interest of the child should not end with majority.

In any case, a last meeting with the SYPT should be offered and timely information regarding changes when turning eighteen should be guaranteed.

Further, the possibility for SYPT to be included in ongoing measures beyond the eighteenth birthday of the Youth Welfare should be possible more easily and facilitated more often.

Guardians should also remain as contact persons for SYPT who wish this after their responsibility has officially ended.

Legal representation

Legal representatives should have more resources in order to carry out continuous legal representation for the entire asylum procedure in order to maintain the established trust and also in order to ensure the best outcome possible for the respective SYPT's case.

In the case that legal representatives cannot continue legal representation, they should sufficiently inform SYPT in a timely manner on changes upon turning eighteen and on possibilities of legal representation as an adult. Innovative ideas such as workshops for SYPT turning eighteen should be further promoted.

Family reunification

Especially taking into account psychological consequences for some SYPT who cannot bring their family due to turning eighteen, exceptions should be made possible for especially vulnerable or psychologically affected SYPT.

A further possibility would also be - according to the best interest of the child principle - that as also sometimes possible in the areas of care, guardianship and legal representation, the more beneficial date of birth by the caretaking court is applied in order to facilitate family reunification (e. g. 31 December instead of 1 January).

Education

Educational possibilities should be accessible more easily for SYPT. As also recommended by the Council of Europe, tailor-made policies regarding education for SC and SYPT might be a possibility to ensure the best possible education and also the possibility to complete education, in order to ensure the best possible future perspectives, despite the need for having an income.

Further, a larger contingent of German lessons is needed for SC in general in order to adequately learn the language and in order to facilitate not only a successful transition to adulthood but also a sustainable integration. SYPT after the age of eighteen should also have full access to this contingent of German lessons.

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Interview (in German) with SYPT2, Vienna, 14 October 2013.

Interview (in German) with SYPT3, Vienna, 18 October 2013.

Interview (in German) with SYPT4, Vienna, 23 October 2013.

Interview (in German) with SYPT5, Vienna, 25 October 2013.

Interview1: Interview (in German) with caretaker of accommodation facility for adult asylum-seekers, Vienna, 8 May 2014.

Interview2: Interview (in German) with student and co-founder of "Neuer Start", Vienna, 12 May 2014.

Interview3: Interview (in German) with caretaker of post-care accommodation facility, Vienna, 22 May 2014.

Interview4: Interview (in German) with in-house psychologist of an accommodation facility for SC, Vienna, 22 May 2014.

Interview5: Interview (in German) with guardian, Vienna, 23 May 2014.

Interview6: Interview (in German) with expert of "Asylkoordination", Vienna, 2 June 2014.

Interview7: Interview (in German) with caretaker of accommodation facility for SC, Vienna, 26 May 2014.

x. Questionnaires

a) Legal representatives

LegRep1, Vienna, Youth Welfare.

LegRep2, Lower Austria, NGO.

LegRep3, Upper Austria, Youth Welfare.

LegRep4, Upper Austria, Youth Welfare.

LegRep5, Burgenland, NGO.

LegRep6, Burgenland, NGO.

LegRep7, Styria, NGO.

LegRep8, Tyrol, Youth Welfare.

b) Guardians

Guardian1, Upper Austria (former) guardian.

Guardian2, Tyrol.

Guardian3, Upper Austria.

c) Accommodation facilities for separated children

Vienna

Accom1, Vienna.

Accom2, Vienna.

Accom3, Vienna.

Accom4, Vienna.

Accom5, Vienna.

Accom6, Vienna.

Accom7, Vienna.

Accom8, Vienna.

Lower Austria

Accom9, Lower Austria.

Accom10, Lower Austria.

Accom11, Lower Austria.

Accom12, Lower Austria.

Upper Austria

Accom13, Upper Austria.

Accom14, Upper Austria.

Accom15, Upper Austria.

Tyrol

Accom16, Tyrol.

Burgenland

Accom17, Burgenland.

Accom18, Burgenland.

Styria

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Accom20, Styria.

Vorarlberg

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xi. Other

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Abstract

The thesis "Adult over night?" looks into changes with which SC are confronted with in Austria when turning eighteen. Below the age of eighteen, SC are entitled to special rights. They are accommodated in special facilities for SC, have easier access to education and are supported by a legal representative as well as a guardian. However, with their eighteenth birthday, these conditions often change from one day to another. In comparison to other youth without a flight background, SYPT have no family in Austria who supports them during this crucial phase. It is expected by them to care for themselves as soon as they turn eighteen. Looking at this in practice in Austria, it becomes clear due to various approaches to further support SYPT also beyond their eighteenth birthday, that there is a need for continuous support in different areas, in order to ensure a successful transition to adulthood. There are many SYPT who are happy to turn eighteen and to finally be independent, however, there also those who do not feel ready to do so or are not able to. For these SYPT, a comprehensive offer for support beyond the eighteenth birthday is lacking. As acknowledged already internationally, it is necessary to develop tailor-made support structures for the transition to adulthood of SC, in order to ensure their sustainable independence and successful integration.

Abstrakt

Diese Masterarbeit "Adult over night?" (Erwachsen über Nacht?) spürt jenen Veränderungen nach, mit denen unbegleitete minderjährige Flüchtlinge (UMF) beim Erreichen der Volljährigkeit in Österreich konfrontiert sind. Als Minderjährige haben UMF besondere Rechte. Sie werden in speziellen Unterkünften untergebracht und betreut, haben bessere Bildungsangebote und bekommen einen rechtlichen Vertreter sowie einen Obsorgeberechtigten zur Seite gestellt. Mit dem achtzehnten Geburtstag ändern sich diese Voraussetzungen schlagartig und grundlegend. Im Gegensatz zu anderen Jugendlichen, haben UMF keine Familie in Österreich die diese Auswirkungen abfedern kann. Von ihnen wird erwartet, dass sie, sobald sie volljährig sind, für sich selbst sorgen können. Die Praxis in Österreich zeigt durch verschiedenste Angebote für ehemalige UMF deutlich, dass Bedarf an einer weiterführende Betreuung in unterschiedlichen Bereichen notwendig ist, um ehemalige UMF bestmöglichst beim Umstieg ins Erwachsenenleben zu unterstützen. Zahlreiche ehemalige UMF wünschen sich schnellstmöglich auf eigenen Beinen stehen zu können, jedoch für diejenigen, die dies nicht wünschen oder noch nicht können, fehlt ein flächendeckendes Unterstützungsangebot in allen Bereichen über den achtzehnten Geburtstag hinaus. Wie international bereits erkannt wird, ist es notwendig für den Übergang zum Erwachsenenalter eigene Unterstützungsangebote zu entwickeln, um eine nachhaltige Eigenständigkeit von ehemaligen UMF sowie Integration dieser zu gewährleisten.

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