



20 ANS
JAAR

Plate-forme mineurs en exil
Platform kinderen op de vlucht

The Belgian search for a durable solution for unaccompanied minors.

PICUM & SAVE THE CHILDREN WEBINAR:
« *GROWING UP UNDOCUMENTED IN EUROPE* »

11 JUNE 2021

Legal mentions of durable solutions for UAM

United Nations Commission on the Rights of the Child, General Comment Nr. 6, § 79 and following (2011)

EU Commission Action Plan on Unaccompanied Minors (2010 – 2014)

DIRECTIVE 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims

Belgian Law of 12/09/2011 “*with a view to the granting of a temporary residence permit to the unaccompanied minor foreign national*” → arts. 61/14 till 61/25 Alien’s Act

What is a durable solution?

UN CRC GC 6, §79: *“The ultimate aim in addressing the fate of unaccompanied or separated children is to identify a durable solution that addresses all their protection needs, takes into account the child’s view and, wherever possible, leads to overcoming the situation of a child being unaccompanied or separated. [...] Following a rights-based approach, the search for a durable solution commences with analyzing the possibility of family reunification.”*

- *Family reunification*
- *Return to the Country of Origin*
- *Inter-country adoption*
- *Local integration*
- *Resettlement in a 3rd country*

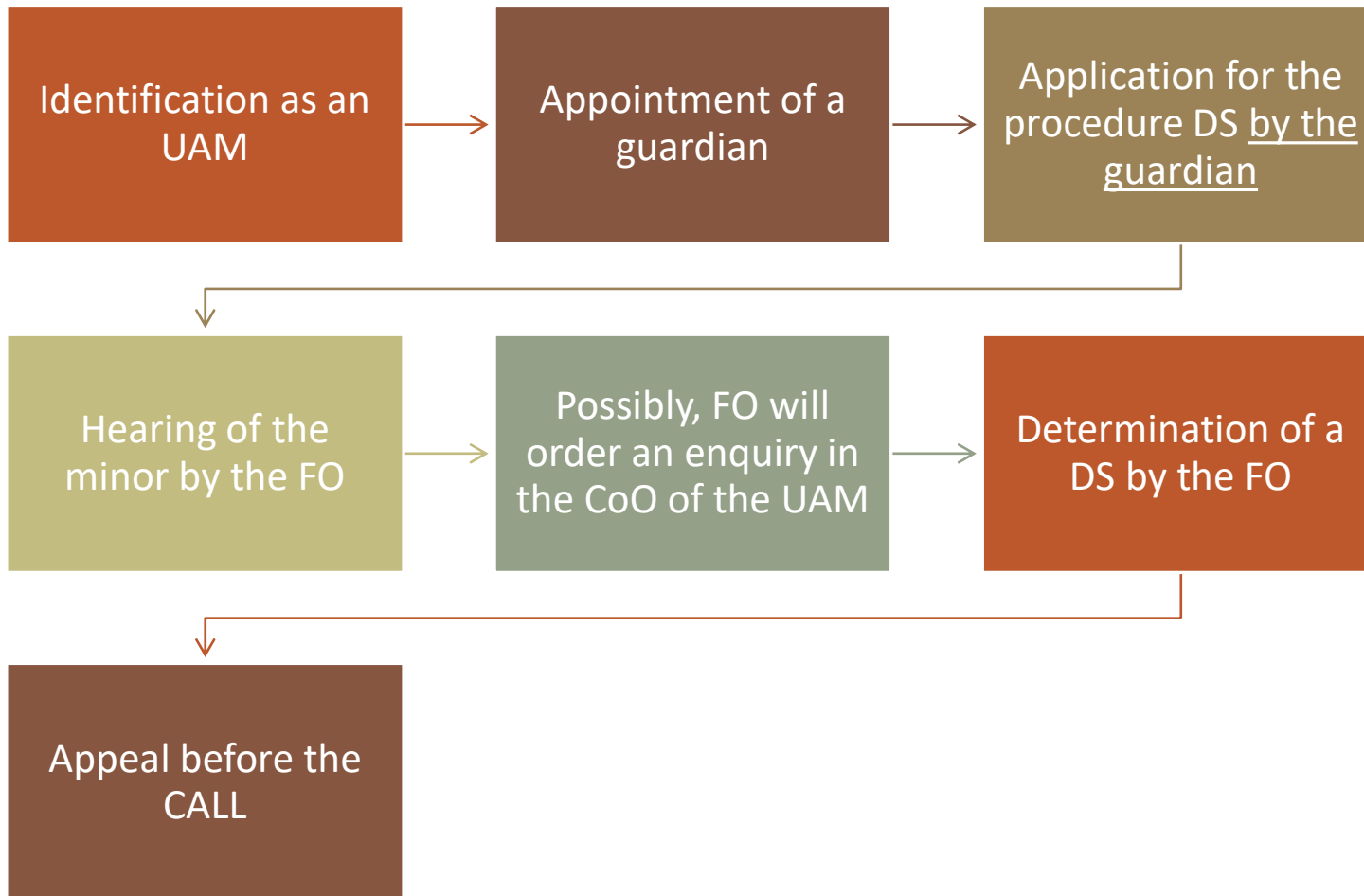
For its part, the UNHCR has established a clear link between the identification of a durable solution and a previous formal process of determination of the child’s best interest.

Durable solution in Belgian law

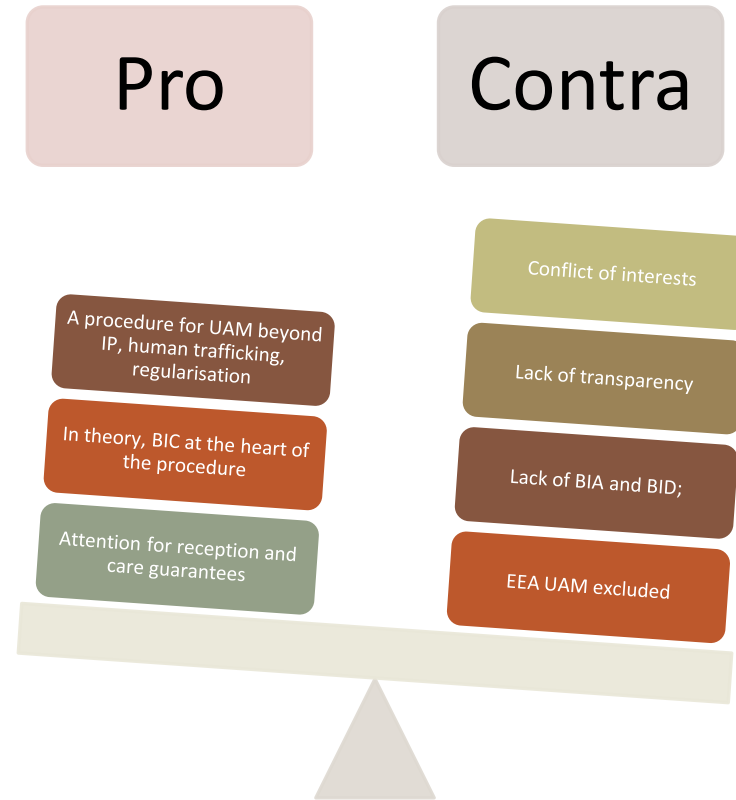
Art. 61/14 2° Aliens Act:

- either family reunification, in accordance with Articles 9 and 10 of the UN CRC, in the country where the parents are legally present
- or the return to the country of origin or to the country where the UAM is authorised or permitted to reside, with guarantees of adequate care and custody, according to his age and degree of independence, either by his parents or other adults who will take care of him, or by governmental or non-governmental bodies;
- or the authorisation to reside in Belgium, in compliance with the provisions provided by the law;

However, Art. 61/17 Aliens Act: “In determining the durable solution, the Minister or his/her delegate shall give priority to safeguarding family unity, in accordance with Articles 9 and 10 of the UN CRC and the Best Interest of the Child.”



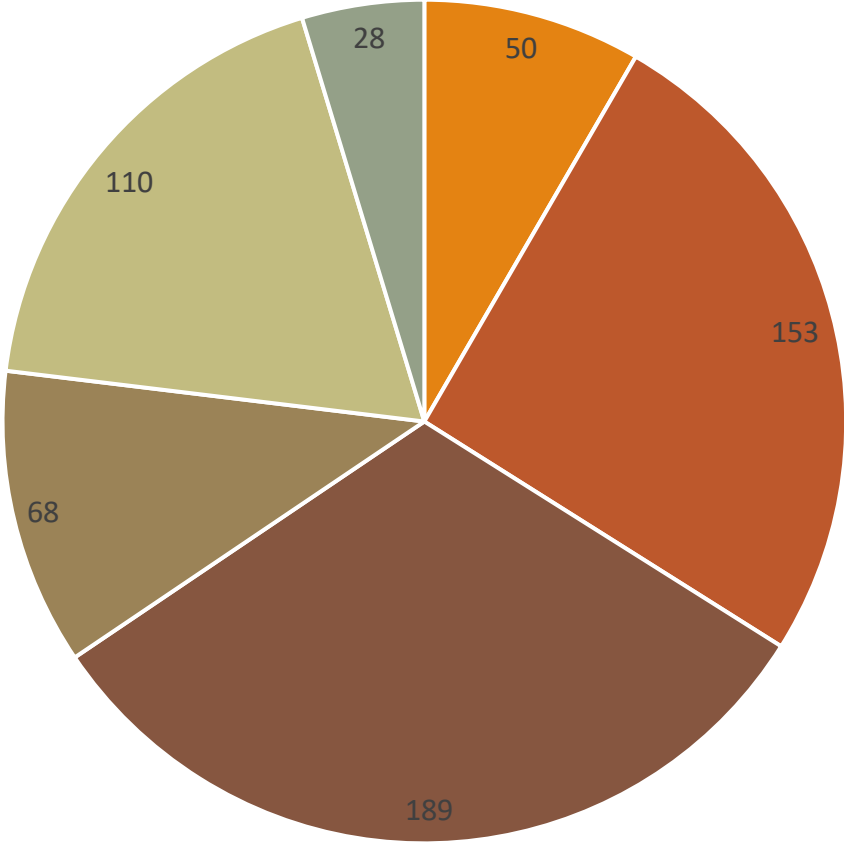
The Belgian procedure



The Belgian procedure

Decisions durable solution procedure UAM 2020

Outcome of the durable solution procedure



■ annexe 38 ■ orange card ■ prolongation OC ■ A card ■ prolongation A card ■ B card

Video: The rights of an unaccompanied minor in Belgium (2021)



THANKS FOR YOUR ATTENTION!

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