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4.15.8 Return of minors



According to the Return Directive, Article 10, before removing an unaccompanied minor from a Member State, the authorities must ensure that the minor will be returned to a family member, a nominated guardian or an adequate reception facility in the country of return. The Netherlands made changes to the Aliens Circular to clarify how to effectively implement this provision.[1229] It specified which documents are required by the Dutch Repatriation and Departure Service (DT&V) to provide advice on the transferability of the child protection measure to the country of origin or another country that will grant entry to the child.

Along the same lines, a new legal position was adopted by the Swedish Migration Agency which aimed to provide guidance on the assessment of cases where there are practical impediments to expulsion, for example when a minor does not have a guardian and there is no adequate reception facility in the country of return. [lxiv] Under the project "Best interests of the child upon return" run by the Swedish Migration Agency and the municipality of Strömsund, additional tools were developed for officers who manage cases of unaccompanied children in the return process.[1230] The project came to an end in December 2020.

Similarly, France signed a Declaration of Intent with Morocco which is designed to provide magistrates with the necessary tools to take measures in the best interests of a child. It also included measures on the return of unaccompanied minors to Morocco.

In Estonia, an amendment was made to the Obligation to Leave and Prohibition on Entry Act to regulate the issuance of a return decision to an accompanied minor. Compliance with a return decision issued to a minor or an adult foreigner with limited active legal capacity will be organised by a parent, guardian or other responsible adult person who is staying with the person in Estonia.

In Luxembourg, the Grand Ducal Regulation[1231] was adopted which sets out the operation and work process of the interdisciplinary commission to evaluate the best interests of unaccompanied minors in return decisions. The regulation also defines the composition of the commission, and a revision is being discussed to allow a civil society representative to be appointed as a member of the commission.

[lxiv] Upon the request of Asylex, in January 2021, the UN Committee on the Elimination of Discrimination against Women (CEDAW) and CAT issued interim measures to immediately stop the deportation of two clients who were to be returned to Ethiopia. Despite the verdict by international organisations, Swiss authorities proceeded with the deportation of other Ethiopian deportees. In addition, rejected asylum seekers subject to deportation are regularly picked up without notice in the middle of the night by policemen. AsyLex Legal Advisory. (2021). *Input to the EASO Asylum Report 2021*. /sites/default/files/AsyLex.docx

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[1229] Besluit van de Staatssecretaris van Justitie en Veiligheid van 19 juni 2020, nummer WBV 2020/13, houdende wijziging van de Vreemdelingencirculaire 2000 [Decision of the State Secretary for Justice and Security of 25 19 june 2020, number WBV 2020/13, amending the Aliens Circular 2000], June 19, 2020. https://zoek.officielebekendmakingen.nl/stcrt-2020-33493.html

[1230] Strömsunds Municipality | Strömsunds kommun. (2021, May 12). *Projekt Barnets bästa vid återvändande | Project The best interests of the child upon return*. https://www.begripligt.nu/barnets-basta-vid-atervandande/

[1231] Règlement grand-ducal du 4 novembre 2020 relatif à la composition et au fonctionnement de la commission consultative d'évaluation de l'intérêt supérieur des mineurs non accompagnés prévue à l'article 103 de la loi modifiée du 29 août 2008 sur la libre circulation des personnes et l'immigration [Grand-Ducal Regulation of 4 November 2020 relating to the composition and functioning of the Advisory Commission for assessing the best interests of unaccompanied minors provided for in article 103 of the amended Law of 29 August 2008 on the free movement of people and immigration]. http://legilux.public.lu/eli/etat/leg/rgd/2020/11/04/a917/jo

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