

1531st meeting, 10-12 June 2025 (DH)

H46-17 Moustahi v. France (Application No. 9347/14)

Supervision of the execution of the European Court's judgments

Reference document
CM/Notes/1531/H46-17

Decisions

The Deputies

1. recalled that this case concerns the measures taken following the illegal entry into Mayotte of the first applicant's children, aged three and five, namely their arbitrary "attachment" to a third adult in 2013, to enable their administrative detention and collective and expeditious expulsion on the same day to the Union of Comoros, in the absence of an effective remedy;
2. recalling the importance of fully and effectively executing this judgment, despite the significant migratory pressure on Mayotte and the challenges following the passage of the cyclone Chido in December 2024, which caused significant loss of life and immense damage, and noting that the authorities have indicated that, despite this, they remain fully committed to the execution of this judgment;
3. concerning the protection of UMs (unaccompanied foreign minors) in Mayotte, noted with interest several measures taken since the events in question, including partnerships concluded between the authorities and associations to detect as many UMs as possible in administrative detention, the existence since 2022 of a department dedicated to assessing minors and providing them with shelter, and a census, from 2021 onwards, of the annual number of minors' "detachments";
4. concerning the "attachment" of children to third-party adults, while noting the arrangements put in place to detect UMs and protect them, noted with concern the shortcomings reported by the national human rights institutions and civil society, based in particular on recent judicial decisions ; strongly invited the authorities to reinforce their efforts to ensure, in all circumstances, that the administrative authorities fully comply with the requirements of the Court and the Council of State regarding the checks to be carried out prior any "attachment" of minors to an adult and removal ; to this end, invited them to adopt new practical measures without delay, taking into account the avenues mentioned in the Secretariat's analysis and while reinforcing their cooperation with it; invited them also to keep the Committee informed of recent national case-law on this point and to provide it with more detailed information on the minors' "detachments";
5. concerning the conditions under which minors are returned and cared for in the country of destination, while noting the creation in 2022 of a family reunification service from an association aimed in particular at preparing their safe return to their country of origin, invited the authorities to explain more clearly the steps taken before removing minors in cases similar to those of the applicants (preparation for removal, supervision, guarantees of care at destination);
6. concerning the right to an effective remedy and the prohibition of collective expulsions, noted with interest the strengthening of the resources of the administrative tribunal of Mayotte and the authorities' indication that the average time between the removal order and its execution is 1.2 days for Comorians; however, in order to ensure the effectiveness of the remedy, invited again the authorities to provide information on the guarantees provided (in law or in practice) to ensure that all minors about to be removed from Mayotte are always given sufficient time (at least one clear day) to be able to effectively seize a judge; finally invited them to keep the Committee informed of their ongoing efforts in order to ensure that the suspensive effect of seizing the interim relief judge is strictly respected, in accordance with the current legislation;

7. decided to resume consideration of the case at one of their DH meetings in 2026.