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STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH)

DRAFTING GROUP ON MIGRATION AND HUMAN RIGHTS (CDDH-MIG)

Potential Guidelines

on

Alternatives to Immigration Detention for Children / Reception Conditions for Children in a Migration Context

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1st PRELIMINARY DRAFT¹

¹ As noted in the Annotated Agenda of the 6th CDDH-MIG meeting, this document is disseminated exclusively as a first and preliminary basis of discussion as to the direction in which the CDDH-MIG/CDDH may want to propose for potential Guidelines in the field.

Preamble

Scope and Purpose

Definitions

Child
Unaccompanied child
Separated child
Guardian
Caseworker
Parent
Family
Alternative family and community care
Residential accommodation

General Principles

- A. Protection from discrimination
 - Primacy of status of child over immigration status or parents' immigration status
- B. Best interests of the child
 - Effective and multidisciplinary procedures to assess best interests of child
- C. Care and protection from all forms of violence, abuse and exploitation
- D. Right to be heard and participation
- E. Dignity
 - Standard of living conditions
 - Towards independent living
 - Life projects
- F. Right to family life
 - Supporting families with children
 - Family unity
- G. Right to education and training

General Elements

- 1. Identification and registration
- 2. Responsible authorities and decision makers
- 3. Best interests of the child
 - Primary consideration
 - Multidisciplinary process
 - Best Interests of the Child Assessments
 - Best Interests of the Child Determinations
 - Identification and assessment of needs specific to a child (such as initial, health, protection, vulnerability, safety, gender, shelter, family, special needs)
 - Ongoing assessment and addressing of needs
- 4. Provision of information (including rights and procedures)
- 5. Legal assistance
- 6. Guardianship
 - Role of guardian
 - When appointed

7. Caseworker/Case Management
8. Formation of individual care plan
9. Participation of child in procedures that may affect him/her
10. Care and accommodation adapted to the needs of a child
 - Detention and the best interests of a child
 - Accommodation should not amount to deprivation of liberty
 - Accommodation adapted to child's age, gender, ethnic, religious, cultural background
 - Standard and nature of accommodation
 - Access and liberty
11. Modalities
 - Children with families
 - Alternative family-based care
 - Residential accommodation
12. Maintenance of dignity
 - Living conditions
 - Material support
 - Play and recreation
 - Education
 - Health (including mental health and psycho-social support)
 - Religion
13. Maintenance of family life and respect of privacy
 - Support to families with children in the community
 - Family unity (including non-separation of children from parents unless in best interests of child; accommodation of siblings together)
 - Privacy
 - Maintenance of communication with unaccompanied or separated child's family of origin
 - Family tracing
14. Caregivers
 - Responsibilities
 - Training and qualifications
 - Ongoing support
 - Monitoring
15. Transitioning and follow-up
 - Life projects
 - Towards independent living
 - Resolution of status
 - Reaching 18 years of age
16. Monitoring and assessment
 - Child-friendly complaints and requests procedures
 - Oversight
17. Domestic, regional and international cooperation