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The alternatives to immigration detention of children

Reply to Recommendation¹: Recommendation 2056 (2014)

Committee of Ministers

1. The Committee of Ministers has carefully examined Parliamentary Assembly Recommendation 2056 (2014) on “The alternatives to immigration detention of children”, which it has communicated to the Steering Committee for Human Rights (CDDH), to the European Committee on Legal Co-operation (CDCJ) and to the Committee of Experts on the Council of Europe Strategy for the Rights of the Child (2016-2019) (DECS-ENF), for information and possible comments.

2. The Committee of Ministers shares the Assembly’s concerns and points out that children’s rights are a priority for the Council of Europe. It refers in particular to the situation of migrant children, particularly unaccompanied minors, and considers that the Council of Europe, drawing on the work that it has done in this field, has a role to play in bringing to an end the immigration detention of migrant children and in identifying alternatives to that practice. In this context it points to the Twenty Guidelines on forced return (2005), the Guidelines on child-friendly justice (2010) and the principles put forward by the Council of Europe Strategy for the Rights of the Child (2012-2015). The Committee of Ministers encourages effective implementation of the Organisation’s relevant instruments in this sphere.

3. The Committee of Ministers takes note of the Assembly’s recommendation that a study be started to collect qualitative and quantitative information about child immigration detention practices and the use of non-custodial, community-based alternatives thereto, and to promote the sharing of those practices across Europe. It should be noted that the European Union Agency for Fundamental Rights (FRA) has started several data collections and comparative analysis research projects on children, which partly meet the Assembly’s request. The Committee of Ministers considers that the FRA, in view of its competence in conducting studies of this kind in the field of children’s rights, and in order to avoid duplication of efforts, could at this stage be the appropriate body, on the basis of the results of previous research, to carry out the data collection proposed by the Assembly. The Committee of Ministers nevertheless expresses its readiness to study subsequently, on the basis of any work done by the FRA in this field, the possibility of collecting data concerning other Council of Europe member States relating to, in particular, the use of alternatives to the immigration detention of migrant children, thereby contributing to the dissemination of the best existing practices amongst Council of Europe member States.

4. Where the proposal that guidelines appropriate to migrant children be drawn up for the application of age assessment procedures is concerned, the Committee of Ministers acknowledges the importance of this issue and points out that the Council of Europe has already co-operated with some of its member States to ensure that the age assessment procedures used are compatible with the Organisation’s human rights standards. It nevertheless notes the lack of consensus about the procedures to be applied for more accurate determination of an individual’s age. In this context, it draws attention to the study by the European Asylum Support Office (EASO) on age assessment practice in Europe, which covers EU member States. The Committee of Ministers welcomes the work already done by the Assembly in relation to migrant children and suggests that, on this basis, the Assembly could identify more of the best current age assessment practices in

1. Adopted at the 1227th meeting of the Ministers’ Deputies (12-13 May 2015).



Council of Europe member States. This work could serve as a sound basis for continuing co-operation with the member States which express a wish for this, as well as for a further examination of the feasibility of drafting guidelines.