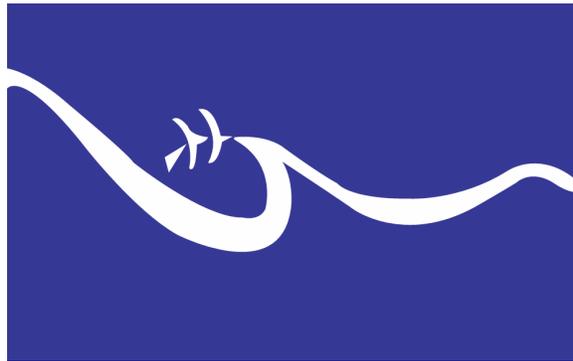


REGIONAL CONFERENCE ON MIGRATION



Guatemala City, Guatemala July 9th, 2009

REGIONAL GUIDELINES FOR THE ASSISTANCE TO UNACCOMPANIED
CHILDREN IN CASES OF REPATRIATION

Regional Conference on Migration (RCM)

Introduction

Repatriation of unaccompanied children, which constitutes their return to their country of nationality or residence, is a matter of high priority. Regional Conference on Migration (RCM) member countries place a high priority on providing the necessary assistance during the repatriation process, in an effort to ensure a legal, prompt, dignified, safe and orderly return, with respect to children's human rights taking always into account their best interest, age, gender, ethnicity, religion, and socio-economic and cultural background.

Member countries of the RCM can be countries of origin, transit, and destination of unaccompanied children. In addition, most RCM member countries are parties to an ample legal framework of international human rights instruments, including the Vienna Convention on Consular Protection, Convention on the Rights of the Child (UNCRC) and its Facultative Protocol on the Sale of Children, Child Prostitution, and Child Pornography; Convention 182 of the International Labor Organization on Eliminating the Worst Forms of Child Labor; Inter-American Convention on International Traffic in Minors; Supplementary Protocol to Prevent, Suppress and Punish the Trafficking of Persons, Especially Women and Children, which complements the UN Convention Against Transnational Organized Crime; among others.

These Guidelines recognize the existence of several principles, among which the best interest of the unaccompanied child, family reunification, and respect for their human rights are highlighted. In addition, member countries have committed to

protecting children from all forms of violations of their human rights, given their condition of vulnerability.

I. General Information

RCM member countries developed these Guidelines as a reference tool in carrying out a legal, prompt, dignified, safe, and orderly repatriation of unaccompanied children.

The contents of the Guidelines do not affect the rights, obligations, and responsibilities of countries and individuals stipulated under international law, including international humanitarian law, international human rights law and, particularly, the right to seek refugee status and protection from *refoulement*, when applicable, in accordance with the 1951 Convention relating to the Status of Refugees, or its 1967 Protocol.

1. Objective

The purpose of the “*Regional Guidelines for the Assistance to Unaccompanied Children¹ in Cases of Repatriation*” is to foster collaboration in the protection and repatriation among RCM member countries and serve as a reference, always safeguarding the human rights and best interest of the child, from the moment of their detection to the moment of their repatriation.

¹ The term “migrant” was excluded from the English version of this document because it is implicit in the concept of repatriation.

2. Definition

The term “Child” or “children”² refers to any person under 18 years of age.

II. Assistance for Unaccompanied Children

3. Specialized Assistance for Children

When an unaccompanied child is undergoing the process of repatriation in a RCM member country, specialized assistance should be provided according to these guidelines.

4. Assistance Activities

Each RCM member country should in accordance with its national legislation treat the unaccompanied child with dignity and respect, and provide the relevant assistance which could include, among others, the following:

- a. To transfer the unaccompanied child to a safe and appropriate location.
- b. To inform them about their rights and to reassure them that the primary intention is to protect their physical and psychological safety.
- c. To carry out interviews by qualified authorities with consideration for gender and age.
- d. If applicable, to administer basic emergency services considering their specific medical and/or psychological needs.

² For purposes of these Guidelines, the term "Boy, Girl, and Adolescent" will be used in the Spanish version; however, the term "Child" will be used in the English version.

5. Family Groups

In cases where unaccompanied children are members of the same family, the relevant institutions in the country in charge of the repatriation process and the receiving country should make every effort to ensure that members of the group are not separated, except in cases where separation is deemed necessary in virtue of the best interest of the child.

III. Protection for the Repatriation of Unaccompanied Children Considering the Best Interest of the Child

6. Assistance to be Provided.

The institution coordinating the repatriation should strive to ensure, in accordance with applicable national legislation, that appropriate assistance is provided to unaccompanied children who are under its custody or in the process of being repatriated. This assistance should include, among others and to the extent possible, the following:

- a. Accommodations and temporary shelters that are appropriate in terms of physical safety and protection of their human rights.
- b. Balanced nutrition, according to the needs of unaccompanied children, to the extent possible.
- c. Timely access to medical and psychological care as well as education and recreation.
- d. Personal information is only shared, when necessary, according to national privacy law.

- e. Unaccompanied children, and/or their representative, are duly informed about their legal status in a language that is comprehensible to them, according to their age and level of maturity.

IV. Communication between Relevant Authorities

7. Contact with Diplomatic or Consular Representatives.

In accordance with applicable international law and taking into consideration the best interest of the child, the responsible institution should communicate the location of custody and condition of the unaccompanied child to his/her country of nationality or residence through the corresponding diplomatic or consular channels so that appropriate protection action can be taken. The diplomatic or consular representative should initiate the process of identifying the unaccompanied child and issuing relevant documents in timely manner. In addition, the representative should provide consular protection and assistance, and aid in the process of repatriation.

8. Contact between Relevant Institutions.

The institutions responsible for coordinating the repatriation of unaccompanied children should communicate and coordinate with each other, without detriment to the actions of diplomatic or consular representatives. If more than one relevant institution exists, the involved countries should define which institution should be in charge of direct contact and communication with the institution in the other country.

9. Repatriation of Special Cases.

In accordance with applicable national legislation, the sending and receiving countries should determine the procedures to be applied in special cases in order to safeguard their physical and psychological wellbeing.

10. Alternatives to Repatriation.

When the protecting country considers that repatriation involves serious risk for the unaccompanied child, temporary or permanent legal and/or humanitarian alternatives to repatriation should be offered in accordance with international law and national legislation.

V. Transfer of the Unaccompanied Child

11. Repatriation of the Unaccompanied Child. The country in charge of repatriation and the country of nationality or residence should consider the following minimum procedures in order to strive to ensure prompt, dignified, safe, and orderly returns:

- a. Repatriation is carried out according to agreed upon procedures, hours, and ports of entry by countries involved with the aim of protecting the physical integrity and safety of the child and with full respect of his/her human rights.
- b. Unaccompanied children who are members of the same family group are not separated when being repatriated at the same time, provided it has been determined that no risk exists related to this.

- c. Authorities in the country in charge of the repatriation designate an appropriate escort for the unaccompanied child, taking into account the child's gender and age among other factors, should accompany him/her during transfer and ensure that the child is separated from adult passengers.
- d. Child travels through suitable and safe means of transportation, avoiding long and tiresome routes.
- e. Basic needs are met for the unaccompanied child for the duration of the journey.
- f. Notification, including the date of the repatriation, of appropriate authorities in the receiving country is provided with enough time in advance for authorities to take the required action for the adequate reception.

In accordance with national legislation, RCM member countries should carry out the repatriation of unaccompanied children taking into account these Guidelines and, where applicable, bilateral agreements. Interested countries may also want to consider arrangements to extend the application of these Guidelines and consider special cases, if necessary.

VI. Other Considerations

12. Officer Apparel. To the extent possible, it is recommended that officers interacting with unaccompanied children wear different outfits than those worn by public order officers.

13. Statistical Records. According to national legislation, the institutions coordinating the repatriation should keep statistical records of unaccompanied children who are repatriated, in order to, among other things, provide reliable information for national policy-making aimed at improving the protection of their human rights and strengthening international cooperation on this matter.

14. Technical Assistance, Training, and Cooperation. Interested RCM member countries should promote technical assistance, training, and cooperation in the different areas considered in these Guidelines, to help facilitate effective implementation.

15. Prevention Campaigns.

RCM member countries should promote, to the extent possible, campaigns to raise awareness and sensitize the public about the risks and consequences of irregular migration of unaccompanied children.