

10356/1/95

REV 1

~~LIMITE~~

ASIM 267

NOTE

from : Presidency

to : Migration Working Party (Admission)

Subject: Draft joint position on the situation of unaccompanied alien minors who have been abandoned in the Member States

Delegations will find attached a new revised Presidency proposal following discussions at the meeting of the Migration Working Party (Admission) on 10 October 1995.

Amendments to the previous Presidency proposal are underlined.

This new proposal will be examined at the meeting of the Migration Working Party (Admission) on 9 November 1995.

**DRAFT JOINT POSITION ON THE SITUATION OF
UNACCOMPANIED ALIEN MINORS
WHO HAVE BEEN ABANDONED ON THE TERRITORY
OF THE MEMBER STATES**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Article K.3(2)(a) of the Treaty on European Union, which lays down that "the Council may adopt joint positions and promote, using the appropriate form and procedures, any cooperation contributing to the pursuit of the objectives of the Union";

Whereas Article K.1(3)(a) and (b) of the Treaty on European Union states that the Member States regard, inter alia, the conditions of entry and residence by nationals of third countries on the territory of the Member States, as a matter of common interest;

Whereas Article K.1(3)(c) of the Treaty also establishes that the Member States regard combating unauthorized immigration and residence by nationals of third countries on the territory of Member States as matters of common interest;

Whereas the situation of unaccompanied alien minors on the territory of the Member States requires that common principles for dealing with such situations be established;

Whereas the presence of unaccompanied alien minors on the territory of the Member States calls for measures to be laid down which prevent such minors from entering and remaining unlawfully;

Whereas the special circumstances affecting such minors require that specific protective measures be adopted to guarantee their situation, within the territory of the Member States;

Whereas this joint position is without prejudice to Community legislation, the European Convention for the Protection of Human Rights and Fundamental Freedoms, of

4 November 1950, or the Geneva Convention of 28 July 1951 relating to the Status of Refugees, as amended by the New York Protocol of 31 January 1967;

HEREBY DEFINES THE FOLLOWING JOINT POSITION:

Point 1

The Member States shall coordinate their action to prevent the presence on their territory of unaccompanied alien minors who have been abandoned and in dealing with the situation of such minors on their territory, in accordance with the following principles.

Point 2

These principles shall apply to alien minors who have been abandoned, who are not accompanied by their legal representative and who are not nationals of a Member State of the European Union or the European Economic Area.

Point 3

Alien minors who wish to enter the territory of any of the Member States must be in possession of the documentation required to enter that territory which proves their identity and nationality.

Point 4

1. In the event of alien minors being abandoned once they are on the territory of any of the Member States, the competent bodies of that Member State shall collaborate in reuniting the family of the minor in his country of origin or in the country in which the members of his family are.
2. Similarly, the minor may be repatriated where the departments competent for the protection of minors in his country of origin take responsibility for him. In any case, steps shall be taken to ensure that the return of the minor does not involve any danger to his safety or any persecution of the minor or of members of his family.
3. To that end, account will be taken of what is laid down in the Hague European Convention of 28 May 1970 on the Repatriation of Minors.

Point 5

Such alien minors shall be dealt with in accordance with the provisions of the 1989 United Nations Convention on the Rights of the Child and shall be entitled to free compulsory primary education, the corresponding school certificates and to public health services in accordance with each Member State's legislation.

Point 6

Alien minors who have been abandoned shall be afforded the protection provided for in the legislation of the Member States and may be entrusted to the department competent for the protection of minors but may not be the subject of an expulsion order.

Point 7

1. The minors referred to in the previous point shall be identified and granted a residence permit as soon as their presence is recorded on the territory of the Member State.
2. When the minor has been in the care of the competent department for one year and it has not been possible to repatriate him, a residence permit shall be granted with retroactive effect from the time when the minor was placed in the care of the competent department.

Point 8

When groups of minors arrive on the territory of any of the Member States, the necessary control measures shall be taken beforehand so that they do not arrive without documentation proving the identity and nationality of the minors, or without the prior authorization of their guardians or of the authorities of their country where it has not been possible to obtain the guardian's authorization.

Point 9

The Member States shall endeavour to ensure that their legislation complies with these principles.
