

Article 10(2) of the Return Directive 2008/115/EC provides that: *"Before removing an unaccompanied minor from the territory of a Member State, the authorities of that Member State shall be satisfied that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return."*

At the 11 February 2010 Contact Committee on the Return Directive, a focused workshop on this provision took place at which MS and IOs/NGOs which have concrete practical experiences could report and share their knowledge with members of the Contact Committee.

The results of this workshop can be summarised as follows:

Representatives from the International Committee of the Red Cross, the Dutch Ministry of Justice and IOM delivered presentations on already existing practices trying to ensure the fulfilment of the requirements laid down in Article 10 (2) of the Return Directive. ICRC focused on the return to family members and the aspect of family tracing by highlighting the respect of the free will of the child to be traced and the respect of data protection principles. The Dutch Ministry of Justice illustrated the national return policy concerning UAMs and shared first experiences concerning the return to reception facilities in countries of return (Angola and DRC). IOM, highlighting the principle of neutral counselling, illustrated in the context of a concrete project carried out together with the Italian government the complexity of the return process involving the UAM and its best interest, the authorities in the Member State and IOM representatives in the Member State and the country of return. These presentations were followed by horizontal and also summarizing presentations from representatives from the Garden Court Chamber and "Save the Children".

There was a common understanding that an *evaluation of the individual circumstances and needs of each child should be made before a decision is taken*, (e.g. need to ensure adequate child participation, have a team rather than an individual take the decision, ensure that child protection expertise is covered by the team etc).

It was also common understanding that the *return to family members should be in most cases the preferred option* provided by Article 10 (2). The return to *"adequate reception facilities"* may, however, be under certain conditions also an acceptable alternative, but should not be seen as a durable solution for the minor. In this context it was also pointed out by Member States that family tracing, carried out after return to an adequate reception facility in the country of return, could go hand in hand.

The *assessment of the "adequacy"* of the reception facilities was questioned (how to assess? adequate in which respect? adequate to the best interest of the child or in comparison to the circumstances in the country of return?). It was also highlighted by participating NGOs and IOs that initiatives in this area should try to strengthen the national child protection systems in the country of return as a whole having in mind that the reception capacity of the country of return is crucial.

Two States (UK, NO) shared plans to launch pilot projects focusing on the return to adequate reception facilities in the frame of a comprehensive "care program" including reintegration and education measures.

It was concluded that

- Article 10 (2) always has to be interpreted in the context of other relevant provisions of the Return Directive dealing with the return of UAMs (i.e. return is only one option for a durable solution, primacy is given to voluntary return etc.).
- Among the options provided by Article 10 (2), the return to family members should be the preferred one, but return to "adequate reception facilities" may - under certain conditions – be an acceptable alternative.
- The assessment before returning an UAM ("*the Member State should be satisfied ...*") should always be carried out on an individual basis taking into consideration the best interests of the child and his or her particular needs, the situation in the family and the situation and reception conditions in the concrete country of return.
- This assessment should ideally be carried out by a multi-experienced team and involve the nominated guardian.
- The return to adequate reception facilities should not be seen as a durable solution and preferably be accompanied by flanking reintegration and education measures.
- The term "*adequate*" reception facilities needs further concretisation.
- A "check list" for the return of minors, as foreseen as one outcome of a study on the treatment of minors funded under the Return Fund 2009 Community Actions could provide added value for all stakeholders involved.