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Press Release

European Committee of Social Rights:

Eviction of undocumented children from Dutch reception centers should be banned

Undocumented children evicted from Dutch reception centers following failed residence proceedings are put in a situation of outright helplessness and living on the street, according to the European Committee of Social Rights in response to a collective complaint submitted by Defence for Children International - The Netherlands Section. The current eviction policy of the Netherlands denies to these children their basic right to protection. In its decision, the Committee points out that the right to shelter is directly linked to the rights to life, social protection, and respect for the child's human dignity and best interests. "This decision is a milestone for the protection of children who are unlawfully present in the Netherlands", said Carla van Os, migration & children's rights advocate at Defence for Children International.

General principle of the best interests of the child

On 14 January 2008, Defence for Children International - The Netherlands Section submitted a collective complaint to the European Committee of Social Rights together with Fischer lawyers, UNICEF the Netherlands and LOS (support centre for undocumented persons), and with the support of the Dutch Section of the International Commission of Jurists. According to the complaint, the current policy of the Netherlands of the eviction of children and their families from reception centers following failed residence proceedings is in violation of the European Social Charter. The Committee monitors the implementation of the European Social Charter by States Parties. The European Social Charter is a significant treaty at the European level for the protection of human rights. It complements the European Convention on Human Rights, and reflects the rights of children recognized in the United Nations Convention on the Rights of the Child (CRC). Importantly, as shown in its decision, the Committee considers the general principle of the best interest of the child, as recognized in article 3 of the CRC, as a binding principle under the European Social Charter.

In its decision, the Committee finds that the rights of children to social protection and shelter also flow from the State obligation to respect the general principle of the best interests of the child. It further points out that, in their policies on migration and the treatment of persons who are lawfully and unlawfully present in their countries, States Parties must take into account their obligation to ensure the right of every person to respect for his or her human dignity. The Committee considers that, "the right to shelter is closely connected to the right to life and is crucial for the respect of every person's human dignity." The Committee further observes that all children are vulnerable and growing up in the streets leaves a child in a situation of outright helplessness, and concludes that, "children would adversely be affected by denial of the right to shelter" (para. 47).

Defence for Children International considers this definitive ruling on the child's right to shelter as a unique opportunity for all stakeholders, including local and governmental authorities and lawyers, to work together for a humane reception of undocumented children and their parents in the Netherlands, as well as other European countries.

For further information please contact Defence for Children, Carla van Os + 31 71 516 09 80 or + 31 6 2000 3200.

In the attachment you will find the decision on the merits and on the website of the European Committee of Social Rights you will find the other documents of the complaint under number 47: http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints_en.asp

Read more about the experiences of undocumented children without shelter in the brochure 'A home for every child': <http://www.defenceforchildren.nl/images/20/998.pdf>