



Ad-Hoc Query on Family Returns and Alternatives to Detention

Requested by UK EMN NCP on 10th June 2010

Compilation produced on 9th August 2010

Responses from [Austria](#), [Belgium](#), [Estonia](#), [France](#), [Germany](#), [Italy](#), [Latvia](#), [Lithuania](#), [Malta](#), [Netherlands](#), [Portugal](#), [Slovak Republic](#), [Sweden](#), [United Kingdom](#) (14 in Total)

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1. Background Information

The new UK Government is committed to ending the detention of children for immigration purposes. A review is now taking place to consider how best to fulfil this commitment in a way that protects the welfare of children, while ensuring the removal of those who have no right to be in the UK. As the UK does not detain unaccompanied children (other than in narrowly defined exceptional circumstances), the review is focusing solely on children who are here with their families.



We would like this review to be informed by the experiences of our European partners. We would therefore be very grateful to receive answers to the following questions. For each question it would be helpful to know how many and what proportion of families leave the country in that way if the statistics are available.

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- 1) What is your definition of a child for immigration purposes?
- 2) Do you have schemes to encourage families with children to leave the country voluntarily when they have no legal right to remain? If so, what are those schemes and how effective are they in securing departure?
- 3) Do you have alternatives to detention for those who refuse to leave the country voluntarily? If so, what are they and how effective are they in securing departure?
- 4) Do you enforce departure if the family refuses to comply?
- 5) Do you use detention as a means of enforcing the departure of those who refuse to leave the country voluntarily? If so, do you detain families together with their children and are there any limits on the length of detention? How many children do you detain each year in this way?

It would be very much appreciated if we could receive your answers by **30th June 2010**.


2. Responses¹

		Wider Dissemination ? ²	
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that their response is not disseminated further.
	Belgium	Yes	1) What is your definition of a child for immigration purposes? <i>we do not use the word "child" in this context, but the words "minor child"; families with minor children are families with children under 18 years. If there would be family with</i>

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.


² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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			<p><i>both minor and adult children, this family would be considered as a whole. Families with only adult children could still be detained.</i></p> <p>2) Do you have schemes to encourage families with children to leave the country voluntarily when they have no legal right to remain? If so, what are those schemes and how effective are they in securing departure? <i>Families can apply for AVR (eventually with reintegration scheme and / or specific support for vulnerable groups). Basic AVR is 250 euros for adults and 125 euros for children. Reintegration scheme and specific vulnerable groups support, which will be given in form of material support in the country of origin (e.g. housing, schooling, medical support, job mediation, micro business ...) and can be for a period between 6 months and 2 years for a maximum amount of approximately 3500 euros.</i></p> <p>3) Do you have alternatives to detention for those who refuse to leave the country voluntarily? If so, what are they and how effective are they in securing departure? <i>We do have alternative housing facilities for families with children (see also presentation in annex). In these "open" houses, the families are put with the same kind of decisions as if they were detained in a detention center, but since it concerns "open" houses, there is freedom of movement under certain criteria. On the 87 families who have departed from these houses, 19 have absconded, 41 departed for their country of origin or for a third country and 27 families have been liberated (for various reasons: 7 families were recognized as refugee, 4 obtained staying permit, 2 were freed because of court decisions, 3 others could not be removed because of medical reasons, ...). The families are under the responsibility of 4 coaches (return officers), who will prepare with the families their return file and control whether all legal or other barriers have been lifted, in order to ensure an effective return. The coaches are also responsible for the contacts with the Immigration Office, the other official instances as well as the lawyers of the families; the also ensure all material, medical, ... needs of the families.</i></p> <p>4) Do you enforce departure if the family refuses to comply? <i>If a family refuses to leave, a police escort can be organised. The families remain (for now) in the family housing facilities pending their forced return. This said, this option is for the moment more theoretical than practical, because most families who are unwilling to depart, will abscond. In only two cases a police escort had been foreseen, but this was mainly because of public order issues for one of the parents.</i></p> <p>5) Do you use detention as a means of enforcing the departure of those who refuse to leave the country voluntarily? If so, do you detain families together with their children and are there any limits on the length of detention? How many children do you detain each year in this way? <i>Detention of families can be used as a last resort. As for now, we are not able to detain families with children, since we have to adapt our detention infrastructure on the basis of an ECHR decision against Belgium (<u>Muskhadzhiyeva and others v. Belgium</u> - application no. 41442/07 - DETENTION OF CHECHEN CHILDREN UNLAWFUL AND CONDITIONS OF DETENTION UNACCEPTABLE – 19.01.2010). These infrastructure changes will be started this year. It is also foreseen to make the necessary legal arrangements in order to fix which categories of families can be detained, and for how long this detention can be maintained.</i></p>
	Estonia	Yes	1. According to Aliens Act the definition of minor child is as follows: “minor child is a person under 18 years of age. A person who is

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			<p>married, has a separate family or leads an independent life is not deemed to be a minor child.”</p> <ol style="list-style-type: none"> 2. In cooperation with IOM and with funding from European Return Fund voluntary return of illegal immigrants to the country of origin is encouraged with financial help and reintegration measures. There are no special schemes for voluntary return of families. There have not been any families assisted under this project since there have not been any families subject to expulsion. It is difficult to assess the effectiveness of the programme, because the project started only in the beginning of 2010. 3. According to the Obligation to Leave and Prohibition on Entry Act the alternative surveillance measures to ensure compliance with precept to leave are: <ul style="list-style-type: none"> • residing in a determined place of residence; • appearing for registration at the Police and Border Guard Board at prescribed intervals; • appearing at the Police and Border Guard Board to establish circumstances ensuring compliance with a precept; • notifying the Police and Border Guard Board of changes of residence of the alien and of his or her prolonged absence from the place of residence; • notifying the Police and Border Guard Board of changes in the alien’s marital status. <p>The use of surveillance measures is assessed case by case and is used to ensure the presence of an alien for proceedings. The effectiveness is difficult to evaluate. If an alien does not wish to cooperate with the authorities concerning voluntary repatriation or expulsion, then alternative surveillance measures are not effective either.</p> 4. The enforced return of a family is seldom practiced, in general families leave voluntarily. 5. Yes, Estonia uses detention to enforce departure also to families with children. Every decision to detain an alien in Expulsion Centre is taken by the Administrative Court. Children are detained in the Expulsion Centre with their parents, but every effort is taken to take into account the best interest of a child. For example as every child must comply with compulsory school attendance, the children in Expulsion centre continue to acquire education. The regulation on detention is judicially reviewed after every two months, the maximum period of detention is 18 months. In 2007 family with 1 child was detained for 6 days; in 2008 1 family with 2 children were detained for 38 days; in 2009 1 family with 2 children was detained for 88 days. As can be seen from these numbers, it is not possible to make any statistical generalisations or draw conclusions – detention of each family depends on personal circumstances and is evaluated case by case.
	<p>France</p>	<p align="center">Yes</p>	<ol style="list-style-type: none"> 1) The definition of a child is a minor (under 18) who crosses a border to enter the national territory. 2) In France, illegal migrants wishing to return to their country of origin can benefit from Assisted Voluntary Return (AVR) and Assisted Humanitarian Return (AHR) programs. The organization that implements these programs is the OFII (French Office for Immigration and Integration). Families with children are entitled, as any other illegal migrants, to benefit from these programmes. <p>Assisted voluntary returns (AVRs) are granted after illegal migrants have received a removal measure (prefectural order for escort to the border – APRF -, or obligation to leave French territory – OQTF – which is accompanied by refusal of a residence permit or expiry of a residence permit). It should be noted that the AHR was introduced to take into account illegal migrants groups with major social or health problems.</p> <p>The assistance scheme for AVRs includes financial assistance:</p>


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			<ul style="list-style-type: none"> - €3 500 for a couple - €2 000 for a single adult - €1 000 per minor child, up to and including the 3rd child - €500 for every child thereafter. <p>This financial assistance is paid in 3 instalments: 30 % paid in France prior to departure, 50 % 6 months following return and 20 % 12 months following return, with sums paid abroad through French Embassies and Consulates or by OFII agencies abroad.</p> <p>The OFII also implements resettlement assistance (or reintegration) programmes to help migrants setting up a business or an economic activity in their country of origin. These programmes are an integral part of mutually supportive development actions with source countries of immigration.</p> <p><u>Figures:</u> in 2009, nearly 12 000 foreigners have benefited from assisted return.</p> <p>3) and 4) After the removal order is issued by the prefect, the foreigner can be placed in an administrative detention centre (CRA) and receive a deportation measure under police escort.</p> <p>Unaccompanied minors can not be subject to removal.</p> <p>5) The administration (prefect) may detain, for a limited period, in controlled facilities (administrative detention centres):</p> <ul style="list-style-type: none"> - Foreigners who are subject to a removal order - and who can not leave France immediately. <p>This is called administrative detention.</p> <p>It takes place in detention centres (which are not prisons) controlled by the police or the gendarmerie. The maximum duration of detention is 32 days. During the entire procedure, the foreigner, his lawyer and, where applicable, the interpreter can access the case.</p>
	<p>Germany</p>	<p>Yes</p>	<p>In Germany persons who have not yet completed their 18th year of life are considered to be minors. However, in accordance with the Residence Act of Germany, aliens are deemed to be able to perform procedural acts as of the completion of their 16th year of life.</p> <p>2) There is no programme especially for families.</p> <p>With the help of the <i>REAG/GARP-Programme</i> (<i>REAG</i>: Reintegration and Emigration Programme for Asylum-Seekers in Germany; <i>GARP</i>: Government Assisted Repatriation Programme) the following persons - and thus also families - can be entitled to an assistance to return:</p> <ul style="list-style-type: none"> - persons who are beneficiaries in accordance with Art. 1 of the Law Governing the Benefits for Asylum seekers, - recognised refugees, - other aliens whose residence status has been granted for reasons based on international law, for humanitarian or political reasons, - victims of forced prostitution or human trafficking.


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			<p>The following support is granted within the framework of the programme:</p> <ul style="list-style-type: none"> - payment of transport costs, - petrol costs in the amount of 250 Euro per car, - travel allowance in the amount of 200 Euro per adult/youth and 100 Euro per child below the age of 12 years, - GARP- start-up aid* in the amount of 300 Euro per adult/youth and 150 Euro per child below the age of 12 years for nationals from the following countries: Egypt, Algeria, Ethiopia, Bangladesh, Ivory Coast, China, Eritrea, Guinea, Ghana, India, Jordan, Lebanon, Morocco, Nigeria, Pakistan, Sierra Leone, Somalia, Syria and Vietnam, - GARP- start-up aid* in the amount of 400 Euro per adult/youth and 200 Euro per child below the age of 12 years for nationals from the following countries: Armenia, Azerbaijan, Bosnia-Herzegovina, Georgia, Iran, Kosovo (except for members from the ethnic minorities Serbs and Roma), Macedonia, Montenegro, Russian Federation, Serbia, Turkey and Ukraine, - GARP- start-up aid* in the amount of 750 Euro per adult/youth and 375 Euro per child below the age of 12 years for nationals from the following countries: Afghanistan, Iraq and Kosovo (this applies only to members of the ethnic minorities Serbs and Roma). <p>* Within the framework of the GARP-start-up aid, there are no limits to a maximum amount for families. These amounts are paid on a per person basis.</p> <p>Upon request, the IOM is in a position to offer low priced flights and to book joint flights for spouses and children (<i>SMAP-Programme: Special Migrants Assistance Programme</i>) if such persons are not sponsored within the terms of the REAG/GARP-programme. Either the airfares have to be transferred to the IOM before the departure or a declaration for the assumption of costs must be produced by a social welfare office, by an aliens' office or by an advisory centre.</p> <p>3) The German Federal States (Länder) can create repatriation centres for aliens who are subject to an obligation to leave the country. These repatriation centres are intended to encourage voluntary returns by offering assistance and advice and at the same time to secure the availability of aliens for the authorities and the courts as well as for the implementation and execution of the departure. There is no information available if and to what extent these centres are efficient.</p> <p>4) If the obligation to leave is not obeyed on a voluntary basis, the deportation will be carried out.</p> <p>5) Yes, by means of a custody to secure deportation, the departure is ensured if the voluntary obligation to leave does not seem to be complied with. The duration of the detention is restricted by law and in individual cases determined by a judge. The residence in repatriation centres (see answer to question number 3) is not limited in time. There are no findings as to what extent these measures are applied to families, nor is there any information available to the other questions since the termination of residence falls within the area of responsibility of the German Federal States.</p>
	<p>Italy</p>	<p>Yes</p>	<p>1. A child is a person who is under 18 years.</p>



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			<ol style="list-style-type: none"> 2. There are no specific national schemes that promote the assisted voluntary return for families, but through the RF there may be schemes at local level related to this particular category. 3. There is no provision for the detention of children. 4. No. 5. For children the detention is not used to enforcing the departure of those who refuse to leave the country voluntarily.
	<p>Latvia</p>	<p>Yes</p>	<p>1) What is your definition of a child for immigration purposes?</p> <p>The Latvian Republic Immigration law does not include definition of a child for immigration purposes, but the definition of a child derives from the Law on Protection of the Rights of the Child, which determines that a child is a person who has not attained 18 years of age. The Immigration law defines that a minor who has not reached the age of 14 years can not be detained and such minors are placed in the Child care centre.</p> <p>2) Do you have schemes to encourage families with children to leave the country voluntarily when they have no legal right to remain? If so, what are those schemes and how effective are they in securing departure?</p> <p>Taking into account that there are no so many cases on return of families, he Republic of Latvia does not have any special schemes for encouraging families with children to leave the country voluntarily. Currently is used IOM AVR program, within the framework of which voluntary returns of families, who are staying illegally on the territory of Latvia, are realized.</p> <p>3) Do you have alternatives to detention for those who refuse to leave the country voluntarily? If so, what are they and how effective are they in securing departure?</p> <p>Currently the Immigration law of the Republic of Latvia does not foresees any alternatives for detention of aliens.</p> <p>4) Do you enforce departure if the family refuses to comply?</p> <p>The Latvian Republic legislation defines that if an alien, inter alia family, who is illegally staying on the territory of the Republic of Latvia, does not return voluntarily (person refuses to return voluntarily or does not fulfil a decision taken by the competent authorities of Latvia on voluntary return with the certain time provided for voluntary return), with regard to his person (family) should be applied forced return procedure.</p> <p>5) Do you use detention as a means of enforcing the departure of those who refuse to leave the country voluntarily? If so, do you detain families together with their children and are there any limits on the length of detention? How many children do you detain each year in this way?</p> <p>The competent authorities of the Republic of Latvia use detention for enforcing departure of those aliens who do not or do not wish to return voluntarily.</p>


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			<p>The competent authorities of the Republic of Latvia have the right to detain an alien for the time period not exceeding 10 days and pursuant to a decision of a judge of a district (city) court for two months. The total time period of detention may not exceed 20 months.</p> <p>The competent authorities of the Republic of Latvia have no right to detain a minor who has not reached the age of 14 years and such minors are placed in the Child care centre. A detained alien minor who at the age of 14 to 18 years and is not accompanied by parents or his or her legal representative, up to the end of the time period of detention shall be accommodated in the relevant State Police structural unit 's special premises for minors.</p> <p>Under the immigration law alien minor (de jure) shall not be forcibly returned, but a return procedure is carried out.</p> <p>In accordance with the Immigration Law if a detained alien has a child who has not been detained, on the basis of a request from the detained alien, in order to preserve family unity, the child may be accommodated in the accommodation centre together with the detained third-country national. Detained alien minor shall be accommodated together with detained parents or his or her legal representative.</p> <p>There were no cases of detained UAM. Statistics on aliens accompanied minors detained: 2009 – 4 minors; 2010 (6 months) – 2 minors.</p>
	<p>Lithuania</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. We use the general definition, established by the Law on Fundamentals of Protection of the Rights of the Child that the child is a human being below the age of 18 years. 2. Yes, such schemes are available, though they are not provided by a state. These schemes can be offered by the IOM based on AVR projects. Families having two or more children can request and be provided with humanitarian escort. 3. We have measures alternative to detention: <ol style="list-style-type: none"> 1) the alien is required to regularly at the fixed time appear at the appropriate territorial police agency; 2) the alien is required to, by means of communication, at the fixed time inform the appropriate territorial police agency about his whereabouts; 3) entrusting the guardianship of an unaccompanied minor alien to a relevant social agency; 4) entrusting the guardianship of an alien, pending the resolution of the issue of his detention, to a citizen of the Republic of Lithuania or an alien lawfully residing in the Republic of Lithuania who is related to the alien, provided that the person undertakes to take care of and support the alien; 5) accommodating the alien at the Foreigners' Registration Centre without restricting his freedom of movement. <p>The decision is taken by the court, and the court evaluates every particular case and the risk of absconding. Therefore the alternative measures are effective.</p> 4. Yes. There is no possibility according to the law to postpone or to cancel the removal if the family refuses to comply with the decision. By the way, if aliens apply to courts against the expulsion decisions, the implementation of the expulsion decisions is suspended until the final decision of the court.


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			5. Yes, for now everyone who fails to leave the country voluntarily is detained at the Foreigners registration centre, including families. It should be noted that the Return directive, which prohibits detention of families with minors, is going to be transferred to the national law until the end of the year.
	Malta	Yes	<p>1) What is your definition of a child for immigration purposes? Under Maltese law, a child is defined as a person under the age of 18</p> <p>2) Do you have schemes to encourage families with children to leave the country voluntarily when they have no legal right to remain? If so, what are those schemes and how effective are they in securing departure? Voluntary return is an option available to all illegal migrants including families with children. Since 2008, a number of AVR projects have been implemented with the assistance of EU funding, and such projects include a financial incentive which varies according to the composition of the unit (i.e. number of adults and children). Eight (8) families with children, (including single parents), have so far returned to their country of origin voluntarily under AVR programmes.</p> <p>3) Do you have alternatives to detention for those who refuse to leave the country voluntarily? If so, what are they and how effective are they in securing departure? Unaccompanied minors are considered vulnerable persons and are not detained – they are accommodated in residences specifically designated for unaccompanied minors. Families with children are not detained either: they are accommodated in separate open centres. The freedom of such persons is restricted only until such time as the relevant medical clearances are obtained. Illegal migrants who do not fall within a category considered as vulnerable are detained for a maximum of 18 months.</p> <p>4) Do you enforce departure if the family refuses to comply? Escorted return is sought if the family refuses to return voluntarily. However, in practice, Maltese authorities face several difficulties in effecting forced return to certain third countries, the main hurdle being the identification and procurement of documents. It should be noted that practically all illegal immigrants reach Malta undocumented.</p> <p>5) Do you use detention as a means of enforcing the departure of those who refuse to leave the country voluntarily? If so, do you detain families together with their children and are there any limits on the length of detention? How many children do you detain each year in this way? Unaccompanied children and families with children are not detained. Upon illegal arrival, children and families with children have their freedom restricted until such time as age assessment of the alleged children is completed and medical clearance is given.</p>
	Netherlands	Yes	<p>1) What is your definition of a child for immigration purposes? Individuals aged under 18.</p> <p>2) Do you have schemes to encourage families with children to leave the country voluntarily when they have no legal right to</p>


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			<p>remain? If so, what are those schemes and how effective are they in securing departure? Families with children who's legal right to remain in the Netherlands has expired, are encouraged to leave the country voluntarily. The Repatriation and Departure Service which is responsible for carrying out the Dutch return policy, works according to the principle of case management. On every file a casemanager is assigned. Case management is a tailor-made approach aimed at eliminating resistance and obstacles of the departure. The main scheme to encourage families with children to leave the country is the reintegration scheme (HRT). The reintegration scheme is facilitated by IOM. Numbers on the reintegration scheme are therefore not available by the Repatriation and Departure Service. There is an active referral to IOM by the Repatriation and Departure service.</p> <p>3) Do you have alternatives to detention for those who refuse to leave the country voluntarily? If so, what are they and how effective are they in securing departure? The alternative to detention is the movement restriction centre where persons who no longer have a legal right to stay in The Netherlands, can stay for a maximum period of 12 weeks. In the movement restriction centre the repatriation facilitation is intensified. This means that the casemanager has more conversations on the subject departure with the returnee. Also the focus on forced return is stronger. The returnee has to report his presence every day by electronic fingerprint.</p> <p>The movement restriction centre is part of a series of introduced measures to enhance the asylum- and return procedure. The effectiveness will later be monitored in its entirety.</p> <p>4) Do you enforce departure if the family refuses to comply? Yes. If a family does not leave The Netherlands voluntarily, it will be returned forcibly.</p> <p>5) Do you use detention as a means of enforcing the departure of those who refuse to leave the country voluntarily? If so, do you detain families together with their children and are there any limits on the length of detention? How many children do you detain each year in this way? In case a family is not prepared to leave the country voluntarily, detention can be used as a means to enforce the departure. Families are detained only when they have exhausted their appeal rights and there are no other barriers to removal.</p> <p>Detention of families is kept to the shortest possible time, with a maximum of two weeks. If all members of a family are detained, they will be kept together. Children in detention are accompanied by at least one adult family member. In certain cases only the father of the family is detained while the other family members stay in the movement restriction centre or in a reception centre.</p>
	<p>Portugal</p>	<p>Yes</p>	<p>1. The legal concept adopted is "minor" (individual aged under 18). Minors could not be detained or removed from the country.</p> <p>2. For families illegally present with minors assisted voluntary return is particularly encouraged. Anyway, TCN illegally entered or stayed in national territory, in duly grounded cases, are not arrested, but notified to voluntarily abandon national territory within the settled period. Also legalization schemes could eventually be applicable. For instance; temporary residence permit could be granted to TCN minors born in national territory who have stayed here and are attending preschool education or primary school, secondary or professional education.</p>

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			<p>3. As said, minors could not be detained or removed from the country. But usually they could keep company with their parents in those cases, according to the judge decision. When a TCN refuses to leave the country (voluntary, after notification), if there is a suspicion of flight, courts may determine, the following enforcement measures (addressed to adults only):</p> <p>a) Periodical presentations at Borders and Aliens Service (SEF);</p> <p>b) The obligation of staying at home using electronic surveillance means according to law;</p> <p>c) Placement of the concerned person in a temporary lodging centre or a matching facility.</p> <p>Those measures are applicable by a judge, and detention is use as a last option, when serious suspicion of flight occurs.</p> <p>4. If there are not alternative solution, adult family members could forced to leave the country.</p> <p>5) Detention can not exceed more than the necessary period to allow the execution of the removal decision, which is of 60 days. Minors' permanence in temporary lodging centres is decided by a judge (when defining parents coercive measure), in the light of the children's best interest.</p> <p>Minors in temporary lodging centres 2009 - 3 ; 2010 (till mid june) – 3.</p>
	<p>Slovak Republic</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. The term minor child is defined in the Act on Stay of Aliens (No. 48/2002) in a way that in the matters of residence the legal representative acts on behalf of the minor child younger than 18 years of age. In case that the minor child does not have a legal representative a guardian appointed by the courts acts on his/her behalf. According to the national legislation (Civil Code) the full age (adulthood) is reached when reaching the age of 18. It is possible to reach the full age also by concluding the marriage, while the full age reached in this way is not lost even when the marriage is dissolved or proclaimed null. 2. As for the legislation the issue of the voluntary returns is defined in the Act on Stay of Aliens, which defines the term assisted return, conditions for granting tolerated stay permit in case the foreigner applies for the voluntary return, impossibility to realize the administrative expulsion in case the foreigner applies for voluntary return before the realisation of the administrative expulsion as well as the obligation of the police department to inform the detained foreigner about the possibility to apply for the voluntary return with the IOM International Organisation for Migration. IOM is as of 2004 carrying out regular information meetings with the target group on the possibilities of the assisted voluntary return programme (AVR), while the campaign is strictly informative and not persuasive. The campaign is conducted in the form of personal meetings with the target group – e.g. in the asylum and/or detention facilities for foreigners. Families with children usually use the AVR programme while the decision on participation is strictly on them. IOM considers this scheme as effective. 3. The Slovak Republic prefers the realisation of the voluntary return, in case the foreigner applies for it, fulfils the necessary criteria and the circumstances of the case allow this. In case the foreigners (families with children) do not want to return to their country of origin by means of the voluntary return, they are issued the decision on administrative expulsion and they are placed in the

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			<p>detention facility for foreigners. After the completion of the administrative procedures (issuance of the emergency travel document, plane ticket) the administrative expulsion is performed (i.e. the transfer of the foreigner to his country of origin/return is secured). Act on Stay of Aliens in the Article 62 defines number of reasons when the detention of the foreigner is possible. Foreigners who do not use the possibility of voluntary return and they are issued the decision on administrative expulsion can be detained for the purpose of the realisation of the administrative expulsion.</p> <p>Detention in many cases seems as an effective tool for securing the return, especially in case when it is obvious that the foreigners have no intention to return to their country of origin and by all means they want to prevent the performance of the return. In case of the unaccompanied minors the expulsion is not possible according to the national legislation. The expulsion of the minors is possible only if it is in their interest (e.g. when they are expelled with their parents). The unaccompanied minors are granted tolerated stay permit by which is their stay in the country legalised.</p> <p>4. In case the stay of the foreigners (family) in the Slovak Republic is not legal, this constitutes the legal ground for the issuance of the decision on administrative expulsion from the Slovak Republic (i.e. reason for the realisation of forced return). However before issuing the decision the police department is obliged to investigate if no impediments to administrative expulsion exist (Article 58 of the Act on Stay of Aliens). If the foreigner have family ties in the SR (e.g. child or spouse) in the decision making process the police department has to take this fact into account in line with the international agreements (convention on children's rights, human rights and fundamental freedoms convention) and state this reasoning in the decision on administrative expulsion.</p> <p>5. Yes. In case the foreigners (family) are issued decision on administrative expulsion and they are not given any period for the voluntary departure, they can be detained for the purpose of the realisation of this decision. When this concerns families with children, they are apprehended in the detention facility for foreigners in Sečovce, which is specially adapted for the placement of this group of foreigners (families with children). The foreigners can be apprehended only for the necessary period, maximum for 6 months. In specific cases this period can be extended for next 12 months. It concerns cases when the period was extended due to the fact that the foreigner is not cooperating, or the embassy did not issue the emergency travel document in the period of 6 months. As for the statistics of the apprehended children with their parents and placed in the detention facility for foreigners in Sečovce – in 2008 – 34 children, in 2009 – 14 children, in 2010 (January – May) – 9 children.</p>
	<p>Spain</p>	<p>Yes</p>	<p>1. Child concept is used according to the legal concept envisaged in Civil and Penal Law, which is a person under 18.</p> <p>2. There is a voluntary return program oriented to (irregular or legal) migrants in vulnerable situations, but there are no measures of compulsion. This program is advertised in various media. People who are interested may contact through a telephone number or directly through the agencies administering the program.</p> <p>3. There is no specific procedure for detention in the case of families, nevertheless when families have to be detained and whenever possible, they are kept on special units within detention centres to guarantee the family unity and privacy</p> <p>4 & 5. There has been very few cases of detention of families and forced departure. Maximum detention period according to national law is</p>

UK EMN Ad-Hoc Query: Family Returns and Alternatives to Detention

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			60 days. Detention is carried out fulfilling the requisites and circumstances settled down in the national law, but there is no special provision for families.
	Sweden	Yes	<p>1) The Swedish legislation defines a child as a person under the age of 18.</p> <p>2) Yes, all persons (including families) are encouraged to leave the country voluntarily. There is active counselling from the Swedish Migration Board's Handling Officers from the time of a negative decision is taken up till after the decision has taken legal effect and it is assessed that force may be necessary to effectuate the decision on removal or expulsion. Thereafter the return is handled by the police. This policy applies to all rejected families – asylum seekers or not.</p> <p>If a returnee complies with the decision, he/she can receive financial reintegration support depending on what country he or she is to return to. The support equals 30 000SEK for an adult and 15 000SEK for a child with a maximum of 75 000SEK per family. To some countries Sweden also offers practical reintegration assistance through IOM. Last year 36% (1672 families) of families with expulsion orders decided to accept assisted voluntary return.</p> <p>3) There is always an option of placing the family under supervision if assessed as needed.</p> <p>4) Yes. See answer to question 3.</p> <p>5) Yes. If a family does not comply with the decision on removal or expulsion the alternative often is to detain one of the adults in a family, while allowing the other family members to reside in a Reception Centre nearby the Detention Centre. A child can never be separated from both of the parents or guardians due to a decision on detention, so the practice of detaining one parent requires that both are present in Sweden.</p> <p>A child may be detained for a limited time under the condition that the family have failed to comply with an order to live under supervision. The use of detention of children is rare in Sweden, yet a child may be detained with his or her parents for up to 72 hours in special situation just prior to the deportation. The 72 hours can be prolonged for another 72 hours making the absolute maximum stay in detention for a child 144 hours. Last year (2009) 60 children were detained.</p>
	United Kingdom	Yes	<p>1) What is your definition of a child for immigration purposes?</p> <ul style="list-style-type: none"> • Individuals aged under 18. <p>2) Do you have schemes to encourage families with children to leave the country voluntarily when they have no legal right to remain? If so, what are those schemes and how effective are they in securing departure?</p>

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			<ul style="list-style-type: none"> • We think it is better for families with children to leave the country voluntarily if possible when they have no legal right to remain in the UK. We recognise that families and children can be more vulnerable so have developed a family focus within our Assisted Voluntary Return scheme to improve and extend the availability of assistance to resettle to families with irregular status as well as those in the asylum process through a new pilot programme launched on 1 April 2010. • Assisted Voluntary Return for Families and Children (AVRFC) is for family groups including adults and minors (under 18) or unaccompanied minors under 18 and includes both those who have sought asylum and those who are in the UK illegally. This includes support in acquiring travel documentation, flight to country of origin and onward domestic transport, airport assistance at departure and arrival airports and up to £3,000 worth of reintegration assistance per family member, including a £500 relocation grant in cash on departure for immediate resettlement needs, an additional luggage allowance and, once home, a range of reintegration options delivered “in kind”. • Since the launch of the programme there have been applications from 86 families with 6 having already travelled. <p>3) Do you have alternatives to detention for those who refuse to leave the country voluntarily? If so, what are they and how effective are they in securing departure?</p> <ul style="list-style-type: none"> • Under the current policy, detention is a last resort. In addition to the scheme to promote voluntary return described above, the UK Border Agency is participating in a pilot of a family returns project in Scotland. The project’s aims to reduce the need for forced removals and detention in Scotland by: <ul style="list-style-type: none"> ○ using social workers to work intensively with families to help them to make sense of their stay in Scotland; ○ confronting issues delaying a return to their country of origin; ○ building up skills and prepare for a voluntary return; and ○ working closely with children to prepare them for return. • The project started in summer 2009 and is due to run for three years. It is too early to evaluate the success of the project as it needs a cultural change in attitude towards voluntary returns amongst failed asylum seeking communities. Central to the project is joint working between different organisations. This is progressing well. <p>4) Do you enforce departure if the family refuses to comply?</p> <ul style="list-style-type: none"> • Yes. If a family has been found to have no legal right to be in the UK and has refused to leave voluntarily despite being offered financial and practical assistance to do so, the UK Border Agency will take steps to enforce their departure. <p>5) Do you use detention as a means of enforcing the departure of those who refuse to leave the country voluntarily? If so, do you detain families together with their children and are there any limits on the length of detention? How many children do you</p>
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			<p>detain each year in this way?</p> <ul style="list-style-type: none"> • The usual current practice is that families with children are detained when they have no right to be here and have refused to leave voluntarily. Families are detained only when they have exhausted their appeal rights, there are no other barriers to removal and a flight has been booked. Decisions to detain are made on a case-by-case basis, after considering all the circumstances of each family, including the potential impact of detention on the children. We aim to keep family groups together as far as possible, and children in detention will be accompanied by at least one adult family member. • A range of measures is in place to safeguard and promote the welfare of children while they are in detention and the aim is to restrict detention to the shortest possible time. In many cases families are removed or released within a matter of days. Detention may be extended for a number of weeks, particularly where families actively resist removal attempts, raise last minute representations or apply for judicial review. • In 2009, 1,065 children were detained under immigration powers. In 2008/2009 the average length of detention was 16 days; since the start of 2010 it has been around 11 days. (Source: local management information)
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