

Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (repealed)

CHAPTER II

BASIC PRINCIPLES AND GUARANTEES

Article 17

Guarantees for unaccompanied minors

1 With respect to all procedures provided for in this Directive and without prejudice to the provisions of Articles 12 and 14, Member States shall:

- a as soon as possible take measures to ensure that a representative represents and/or assists the unaccompanied minor with respect to the examination of the application. This representative can also be the representative referred to in Article 19 of Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers⁽¹⁾;
- b ensure that the representative is given the opportunity to inform the unaccompanied minor about the meaning and possible consequences of the personal interview and, where appropriate, how to prepare himself/herself for the personal interview. Member States shall allow the representative to be present at that interview and to ask questions or make comments, within the framework set by the person who conducts the interview.

Member States may require the presence of the unaccompanied minor at the personal interview, even if the representative is present.

2 Member States may refrain from appointing a representative where the unaccompanied minor:

- a will in all likelihood reach the age of maturity before a decision at first instance is taken; or
- b can avail himself, free of charge, of a legal adviser or other counsellor, admitted as such under national law to fulfil the tasks assigned above to the representative; or
- c is married or has been married.

3 Member States may, in accordance with the laws and regulations in force on 1 December 2005, also refrain from appointing a representative where the unaccompanied minor is 16 years old or older, unless he/she is unable to pursue his/her application without a representative.

4 Member States shall ensure that:

- a if an unaccompanied minor has a personal interview on his/her application for asylum as referred to in Articles 12, 13 and 14, that interview is conducted by a person who has the necessary knowledge of the special needs of minors;
- b an official with the necessary knowledge of the special needs of minors prepares the decision by the determining authority on the application of an unaccompanied minor.

5 Member States may use medical examinations to determine the age of unaccompanied minors within the framework of the examination of an application for asylum.

In cases where medical examinations are used, Member States shall ensure that:

- a unaccompanied minors are informed prior to the examination of their application for asylum, and in a language which they may reasonably be supposed to understand, of the possibility that their age may be determined by medical examination. This shall include information on the method of examination and the possible consequences of the result of the medical examination for the examination of the application for asylum, as well as the consequences of refusal on the part of the unaccompanied minor to undergo the medical examination;
- b unaccompanied minors and/or their representatives consent to carry out an examination to determine the age of the minors concerned; and
- c the decision to reject an application for asylum from an unaccompanied minor who refused to undergo this medical examination shall not be based solely on that refusal.

The fact that an unaccompanied minor has refused to undergo such a medical examination shall not prevent the determining authority from taking a decision on the application for asylum.

6 The best interests of the child shall be a primary consideration for Member States when implementing this Article.

(1) [OJ L 31, 6.2.2003, p. 18.](#)