

Decree reforming certain articles of the Immigration and the Refugees, Complementary Protection and Political Asylum Acts regarding child migrants

On November 11, 2020 the decree amending certain articles of the Immigration Act and the Refugees, Complementary Protection and Political Asylum Regarding Child Immigrants Act was published in the Official Federal Gazette, with the primary purpose of promoting, protecting and defending the human rights of child and adolescent immigrants.

Given that the Rights of Children and Adolescents Act entered into force on December 5, 2014, after the current Immigration Act, this Decree incorporates specific obligations for the National Immigration Institute to work in coordination in the immigration processes relative to this vulnerable group, constituting an important advance in the human rights of children and adolescents.

For this purpose concepts are defined and principles are incorporated in the immigration processes for the protection of the right to legal security and due process, the right to consular assistance, the right to request asylum, the right to the protection of the family unit, the right to human dignity, the right to not be criminalized, the right to not be deprived of freedom for immigration reasons and the right to dignified accommodations.

Those concepts and processes include the following:

1. Social Assistance Center: the establishment, place or space of alternative care or residential shelter for children and adolescents without parental or family care provided by public and private institutions and associations;
2. Immigrant child or adolescent: any immigrant person, national or foreign, under eighteen years of age. Children are those under twelve years old and adolescents are persons between twelve years and eighteen years of age.
3. Protection Agencies: The Federal Agency for Protection of Children and Adolescents and the state agencies for protection of children and adolescents.
4. The powers and obligations of the National Immigration Institute in relation to foreign children and adolescents, particularly its obligation to immediately notify the Protection Agency and channel the child or adolescent to the corresponding DIF System.
5. An administrative procedure is established for the assisted return of a child or adolescent through the National Immigration Institute with the collaboration of the Protection Agency.

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