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Preventing the first form of violence against children: abandonment at birth

Report

Social, Health and Family Affairs Committee

Rapporteur: Mr Mike HANCOCK, United Kingdom, Alliance of Liberals and Democrats for Europe

Summary

The abandonment of children at birth is far from disappearing in Europe. It is a complex issue which involves rights other than those of the mother, such as those of the child and the father.

The Assembly confirms the right of children to live with their family and to find out about their origins, which is a fundamental human right and crucial for their development.

To fight against abandonment, the Assembly invites member states, *inter alia*, to ensure the right of women to freely choose maternity, appropriate social support and financial assistance to young pregnant women and to the mother and her child, the free-of-charge registration of newborn children and fair and transparent abandonment procedures for the purpose of adoption.



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A. Draft resolution

1. The Parliamentary Assembly is aware that the abandonment of children, particularly newborn babies, has always existed and always will. There will always be mothers in distress who feel they have good reasons to abandon their child at birth (denial of pregnancy, pregnancy outside marriage or at an early age, poverty, HIV/Aids, etc.). In the past, certain east European states also had policies which “institutionalised” the abandonment of babies or which encouraged parents experiencing difficulties to hand their babies over to the state; traces of these policies can be found in the attitudes of the public and maternity hospital staff.
2. Nevertheless, the Assembly is concerned since today, unfortunately, we are far from seeing an end to the abandonment of infants. Due to financial difficulties, poverty, HIV/Aids, a high rate of abandonment of newborn babies persists in certain states of central and eastern Europe, and this is also coming once again to light in west European states, even though clearly not to a comparable extent.
3. It notes, moreover, that data on the subject are rare; in order to respond with relevant measures, we need to quantify the problem more accurately and put figures on it, particularly in terms of a breakdown by sex of the babies abandoned. We also need to have a clearer picture of and to identify, with any certainty, the typical profile of the mother who abandons her child. In western Europe, most cases of abandonment would appear to involve very young women lacking independence (either from abroad, illegal immigrants, or prostitutes).
4. The Assembly notes that adoption has become a market and that the shortage of adoptable babies in the west makes matters worse. Adoption is closely tied up with abandonment, just as it is with child trafficking. Non-governmental organisations often complain that mothers in distress are not sufficiently well informed about the options open to them and that their vulnerability is exploited to persuade them in effect to abandon their newborn children.
5. The abandonment of children at birth is a complex issue, which involves rights other than those of the mother, such as those of the child and the father. It is impossible nowadays to overlook the rights of children, particularly the right of children to live in a family and to know their origins; it is just as difficult to ignore the rights of fathers.
6. The Assembly notes that in Europe and throughout the world, we are currently witnessing the controversial reintroduction of the foundling wheel system used in Europe in the Middle Ages. In many cases, the abandonment of children is considered a crime, and this system is seen by some as inciting crime and taking responsibility away from mothers. Advocates of the system argue that bringing it into general use will reduce the number of abortions, prevent infanticide, ill-treatment and the abandonment of babies in public places and make sure that the children are adopted.
7. For the Assembly, the abandonment of newborn babies clearly raises the question of access for women – particularly migrant women – to sexual rights and reproductive health services. Even where voluntary termination of pregnancy is permitted, it is subject to countless administrative formalities all of which constitute obstacles to many women in distress.
8. The Assembly reasserts its position in favour of the de-institutionalisation of abandoned infants and of priority being given to the provision of alternative and family-based care for these children. It also reiterates that national adoption should take precedence over international adoption.
9. The Assembly invites the member states to:
 - 9.1. centre their family policy on one inviolable and pre-eminent principle, namely respect for the rights of children, in particular the right of children to live with their families and find out about their origins, which is a fundamental human right and crucial for their development;
 - 9.2. provide support for pregnant women and young mothers through measures including medico-social monitoring of pregnancies, protection against the HIV/Aids virus and measures to prevent mother-to-child transmission, assistance at childbirth, non-separation of the child from the mother after delivery and post-natal medical and social support for both mother and child;
 - 9.3. take due account of the financial pressures that the birth of a child creates;
 - 9.4. recognise a woman’s full right to freely choose pregnancy, which means legal and easier access to sexual rights and reproductive health services;
 - 9.5. and to pay particular attention to especially vulnerable groups of young girls and women, such as migrant women, women with HIV/Aids and women from minority groups.

10. Member states are also invited to frame a proactive policy to prevent the abandonment of newborn babies which:

10.1. prohibits all incitement or pressure brought to bear on mothers from medical and paramedical staff or government authorities to abandon their children;

10.2. prevents “dumping”, which endangers the life of the newborn baby, by appropriate measures such as accessible reception facilities;

10.3. prevents early and unwanted pregnancies through information and sex education, particularly at school;

10.4. provides mothers, especially mothers belonging to vulnerable groups, with better information about all the assistance available to them, particularly financial support to help them cope with the added expense that a child represents;

10.5. helps with the setting up and expansion of care and temporary accommodation centres for mothers and their children.

11. Council of Europe member states should urge mothers to give their identity, even though at the same time, protected forms of childbirth should be introduced offering some confidentiality for the mother. Children must not be deprived of the right to find out about their origins and should be allowed to do so even before they reach the age of majority.

12. In order to combat the trafficking in newborn infants, the Assembly recommends that the registration of all children at birth be an obligation totally free of charge for parents; provision could be made for incentive measures for such registration, for example by means of a grant paid on the birth of the child.

13. The Assembly calls on member states to introduce transparent procedures for the giving up of newborn babies for national and international adoption purposes; mothers should be given a reasonable length of time within which to change their mind and wherever possible the consent of the father should not be overlooked; recourse to national and international adoption should not prevent or prohibit children from finding out about their origins.

14. Finally the Assembly considers that it would be a failure on the part of any state in the Council of Europe which does not adopt policies that give every child, irrespective of where they live or their origin, the opportunity to develop to their full potential. Every state should have an obligation to ensure that each child is always in a place of safety either with his/her family, a foster family or a family of adoption. No child should needlessly be put in harms way when education, health or the general social infrastructure of life is available. Failure to do this would be a disgrace to the individual country and its continued membership of the Council of Europe. The Council of Europe as a whole should endeavour to ensure that each state lives up to the obligations it has towards its children and there should be regular reports to the Assembly about the fulfilment of these obligations by member states.

B. Explanatory memorandum, by Mr Michael Hancock

1. The motion "Preventing the first form of violence against children: abandonment at birth", [Doc. 10921](#), initially tabled by Mrs Bargholtz (Sweden), was entrusted to the Chairperson of the Sub-Committee on Children, Michael Hancock (United Kingdom), who was appointed rapporteur.
2. The rapporteur opted to send a questionnaire directly to the member states. He particularly wishes to thank his assistants, Mrs Vanessa Metcalf and Ekaterina Zatuliveter, whose hard work has enabled the Sub-Committee on Children to receive replies from 20 countries (Austria, Belgium, Bulgaria, the Czech Republic, Finland, Greece, Latvia, Liechtenstein, Lithuania, Netherlands, Norway, Poland, Romania, San Marino, Slovakia, Slovenia, Switzerland, Turkey, United Kingdom and Ukraine) and to come to some conclusions on the basis of the information provided.
3. At a meeting in Berlin, the committee held an exchange of views with, *inter alia*, Sister Chiara, Head of the St Joseph Hospital, who provided detailed information regarding the "baby hatches" set up in 2001. The rapporteur was authorised to make an official visit to Ukraine (27-30 August 2007) and he would like to thank the Ukrainian authorities and all those he met for the reception he was given and for the valuable information he was able to obtain while there.
4. The abandonment of children, particularly newborn babies, has always existed and always will. There will always be mothers in distress who feel they have good reason to abandon their child at birth (denial of pregnancy, pregnancy outside marriage or at an early age, poverty, etc.). In the past, certain east European states had policies which "institutionalised" the abandonment of babies or which encouraged parents experiencing difficulties to hand their babies over to the state; traces of these policies can still be found in the attitudes of the public and maternity hospital staff.
5. Unfortunately we are a long way off seeing an end to the abandonment of infants. Due to financial difficulties, poverty, HIV/Aids, etc., a high rate of abandonment of newborn babies persists in certain states of central and eastern Europe. Although by comparison the phenomenon seems to be much less common in western Europe, it does exist and seems to be on the rise. The existence of a market for adoption and the shortage of adoptable babies in the West appear to be making matters worse.
6. It seems that national statistics on the number of abandoned newborn babies are rare or (as in Belgium's case) non-existent. Figures on the number of children placed in the care of institutions are available. Some states claim that abandonment of newborn babies does not exist in their country (for example, Slovenia and Liechtenstein) or is very rare (Finland). Recognising that it has underestimated the phenomenon (1 549 cases of abandonment in 2004, but only 998 in 2006), Ukraine has recently decided to set up a computer database to manage its information.
7. Newborn babies are often found abandoned on the street, in dustbins, etc.: this is referred to as "dumping", with little likelihood of the babies' survival; some babies are luckier and are anonymously abandoned in a safe place, are legally abandoned for adoption in a hospital or are left with a children's institution.
8. We are currently witnessing the controversial reintroduction of the foundling wheels used in Europe in the Middle Ages. In Germany, Switzerland, Austria, Hungary, Slovakia, Belgium and Italy, parents can leave their baby, via a flap in an outside wall, in a baby hatch, where carers are alerted by an alarm whenever a new baby is put inside. The baby is then nursed, fed and cared for by foster parents while awaiting adoption. Normally, the child's birth is registered immediately, and it is given a forename and surname.
9. Europe is not the only place witnessing what is now a global phenomenon. The Japanese have just set up the same system in the city of Kumamoto. Since the United States' Safe Haven laws came into force in 1999, parents in most states can anonymously leave their baby (newborn up to one year of age) in special safe locations without risking criminal prosecution.
10. In most cases a letter is sent to the mother explaining how to get the baby back if she changes her mind and advising her of the various forms of assistance available that might help her to care for her child herself.
11. There is much controversy over the baby hatches. In many countries, abandonment, particularly in a public place, is considered a crime, and the system is seen by some as inciting crime and taking responsibility away from mothers. While these schemes often have no legal basis (in Belgium, for example), in Germany permission was recently granted to advertise them.

12. Advocates of the initiatives argue that bringing baby hatches into general use will reduce the number of abortions, prevent infanticide, ill-treatment and the abandonment of babies in public places and make sure that the children are adopted.

13. The same arguments apply to giving birth anonymously, which, curiously, is not very widespread. Parents in most countries, particularly mothers, have a legal obligation to officially register the birth of the child.

14. France has a well-developed system of anonymous birth and is one of the few countries where the practice has existed for a long time. The procedure allows the mother to give birth in complete anonymity. The child's maternal descent is not registered and it is put up for adoption.

15. Recently, in order to respect the rights of the child to find out about his/her origin, the procedure has been somewhat modified (see 1989 UN Convention on the Rights of the Child): women are prompted to state their identity, which is kept secret but, if the mother agrees, can be revealed to the child when it reaches adulthood enabling it to trace its parents. This is now referred to as "discreet birth".

16. It is impossible nowadays to overlook the rights of children, but it is just as difficult to ignore the rights of fathers. So what rights do fathers have in the event of anonymous or discreet births? The father has no say in the matter. He may be unaware of the pregnancy, has no part in the decision to give birth anonymously and his paternity will not be recognised. In France, anonymous birth denies fathers all rights even where they have acknowledged paternity of an unborn child. This was challenged by a judgment of the Court of Cassation in April 2006 (the Peter case).

17. There are some 500 anonymous births in France each year, compared with 10 000 in the 1960s when contraception and abortion were still illegal.

18. It is difficult to identify, with any certainty, the typical profile of the mother who abandons her child. Most cases of abandonment in western Europe involve very young women, often from abroad and lacking independence (illegal migrants, prostitutes or women from a Muslim background), who for some reason were unable to use contraception or have an abortion.

19. Abandonment of children raises the question of access for women (particularly migrant women) to contraception and abortion. Abortion has not been decriminalised in all countries. Even where it is permitted, it is subject to countless administrative formalities which form obstacles to many women in distress. In some cases and in some countries, doctors' conscience clauses or strict time limits on terminations of pregnancies may sometimes render this right, granted to women in principle, worthless in practice.

20. In eastern and central Europe, there is still a strong tendency for parents to leave their infants in the care of institutions. This is particularly the case in Romania, a country still influenced by the legacy of the communist dictatorship of leaving children in the care of the state. Poverty and the inability to take on the responsibility of bringing up a child explain today's abandonments. In Ukraine, the reasons put forward in explanation are family pressure on the mother, lack of adequate housing or resources, the fact that the mother was herself an abandoned child, and problems of drug dependency or alcoholism. Sometimes, there is still a mentality favourable to institutionalisation, which is a source of employment and income; but thanks to the current efforts by the government to change this view, there have been real improvements in Ukraine, as well as in Romania and Bulgaria. In this connection, the rapporteur would refer to his previous reports ([Recommendation 1601 \(2003\)](#), [Doc. 9692](#), and [Recommendation 1698 \(2005\)](#), [Doc. 10452](#)) on the lot of abandoned children in institutions.

21. There is also the special case of mothers with HIV/Aids who abandon newborn babies who have or are likely to have the virus, particularly in the Russian Federation, Ukraine, Georgia, etc. Because of the lack of adequate resources and the stigma surrounding those who are HIV-positive, newborn babies are segregated in specialised institutions (if such institutions exist at all; other-wise segregation takes place in ordinary hospitals: in 2005, Human Rights Watch estimated this to be the case for 50% of all children born in these circumstances) where it is allegedly easier to care for them. Existing institutions often refuse to admit them, even where it is illegal to do so, and can always find an excuse.

22. Such institutions often lack staff capable of looking after and nurturing these infants, which results in major developmental problems. This is especially harmful for the children, particularly those who turn out to be HIV-negative when tested at the age of eighteen months.

23. In a large number of the countries which replied to the rapporteur's questionnaire, it seems that there is a legal requirement for the authorities to search for the family of a child who is found abandoned (for example, in Germany, Norway, Poland, Slovakia, Switzerland and the Czech Republic). However, very little information is provided about the form that these searches take and how long they last.

24. The rapporteur does not wish, at this stage, to go into the highly complicated legal matter of the rules governing legal proceedings connected with the abandonment of children –a matter which it would be worth investigating in more detail, but in another report. These proceedings are governed by different rules in different countries. Their emphasis varies according to whether the aim is to encourage a complete or partial break in any ties with the family of origin, promote the adoption of young children, or make provision for the child to be reintegrated into his or her family of origin in the longer term. These choices will depend on the country's family policy.

25. Adoption is closely tied up with abandonment, just as it is with child trafficking, and it has become a very lucrative business. Babies are becoming rarer in western Europe. Often associations complain that mothers in distress are not sufficiently well informed about the options open to them and that their vulnerability is exploited to persuade them in effect to abandon their newborn children.

26. Reference has already been made above to the practice of inciting mothers to abandon their children, which held sway in central and eastern Europe for many years and has left its mark on people's mentalities. European newspapers regularly report cases involving the sale of, and trafficking in, newborn children for the purposes of illegal adoption. The rapporteur has already prepared several reports on the situation of children in institutions and would reiterate that national or even international adoption is always preferable to institutionalisation.

27. Bearing in mind the alarming situation in certain central and east European countries as regards abandonment, many NGOs and international organisations such as UNICEF have decided to set up care centres which offer young mothers and their children temporary care so as to prevent children being abandoned in institutions. UNICEF has already set up several centres in Ukraine, which accommodated 60 or so women and their newborn babies in 2006 and whose activities help them to reconstruct their family life. During the rapporteur's visit to Ukraine, he visited such a centre in Cherniliv. There have also been centres of this kind in Georgia since 2003.

Conclusions

28. The abandonment of children at birth is a complex issue, which involves rights other than those of the mother, such as those of the child and the father. The first point to make is that data on the subject are rare. An attempt should be made to quantify the problem and put figures on it, particularly in terms of the breakdown by sex of the babies abandoned. The reasons for abandonment are complex; they vary according to circumstances and sometimes they fall outside the realm of politics.

29. However, in Europe, particularly in central and eastern Europe, the main reasons seem to be poverty, financial insecurity and the inability of the mother to cope with the financial burden that a child represents.

30. This means there is a need for family policy choices which take account of the financial pressures that the birth of a child creates, and a need to monitor pregnancies and childbirth and support young mothers.

31. All the measures proposed should centre on one inviolable and pre-eminent principle, namely respect for the rights of children, particularly the right of children to live with their families and to know their origins, which is a fundamental human right and crucial for their development.

32. Particular attention must be paid to vulnerable groups such as young migrant women, women with HIV/Aids and women from minority groups.

33. A proactive policy to prevent the abandonment of newborn babies should:

33.1. prohibit all incitement or pressure brought to bear on mothers from medical and paramedical staff or government authorities to abandon their children;

33.2. prevent "dumping", which endangers the life of the newborn baby, by appropriate measures such as accessible reception facilities;

33.3. not allow anonymous childbirth to be legally possible; mothers should be required to give their identity, even though it should of course be possible to establish protected forms of childbirth offering some confidentiality for the mother, but children must not be deprived of the right to find out about their origins and should be allowed to do so even before they have reached the age of majority;

33.4. encourage the registration of all children at birth; this should be an obligation and totally free of charge for parents; provision should be made for incentive measures, including a grant paid on the birth of the child. A system of financial allowances sufficient to help care for children should be introduced, payable with effect from the birth of the first child;

33.5. introduce transparent procedures for the giving up of newborn babies for adoption purposes; mothers should be given a reasonable length of time within which to change their mind and wherever possible the consent of the father should not be overlooked; recourse to national and international adoption should not prevent or prohibit children from finding out about their origins;

33.6. recognise a woman's full right to freely choose pregnancy, which means legal and easier access to contraception and abortion;

33.7. prevent early and unwanted pregnancies through information and sex education, particularly at school;

33.8. provide support for pregnant women and young mothers through measures including medico-social monitoring of pregnancies, protection against the HIV/Aids virus and measures to prevent mother-to-child transmission, assistance at childbirth, non-separation of the child from the mother after delivery and post-natal medical and social support for both mother and child;

33.9. provide mothers, especially mothers belonging to vulnerable groups, with better information about all the assistance available to them, particularly financial support to help them cope with the added expense that a new child represents;

33.10. and help with the setting up of care and temporary accommodation centres for mothers and their children.

Reporting committee: Social, Health and Family Affairs Committee.

Reference to committee: [Doc. 10921](#) and Reference No. 3244 of 26 June 2006.

Draft resolution adopted by the committee on 14 March 2008.

Members of the committee: Mrs Christine **McCafferty** (Chairperson), Mr Denis Jacquat (1st Vice-Chairperson), Mrs Minodora **Cliveti** (2nd Vice-Chairperson), Mr Konstantinos Aivaliotis, Mr Farkhad Akhmedov, Mr Vicenç Alay Ferrer,

Mrs Sirpa Asko-Seljavaara, Mr Jorodd Asphjell, Mr Lokman **Ayva**, Mr Zigmantas Balčytis, Mr Miguel Barceló Pérez, Mr Andris Berziņš, Mr Jaime **Bianco García**, Mr Roland Blum, Mrs Olena **Bondarenko**, Mrs Monika Brüning, Mrs Bożenna Bukiewicz, Mr Igor Chernyshenko, Mr Imre Czinege, Mrs Helen D'Amato, Mr Karl Donabauer, Mrs Daniela Filipiová, Mr Ilija Filipović, Mr André Flahaut, (alternate: Mr Philippe **Monfils**), Mr Paul Flynn, Mrs Pernille Frahm, Mrs Doris Frommelt, Mr Renato Galeazzi, Mr Henk van Gerven, Mrs Sophia Giannaka, Mr Stefan Glăvan, Mr Marcel Glesener, Mr Luc Goutry (alternate: Mr Geert **Lambert**), Mrs Claude Greff, Mr Michael **Hancock**, Mrs Olha **Herasym'yuk**, Mr Vahe Hovhannisyan, Mr Ali Huseynov, Mr Fazail Ibrahimli, Mrs Evguenia Jivkova, Mrs Marietta Karamanli (alternate: Mr Jean-Paul **Lecoq**), Mr András Kelemen, Mr Peter Kelly, Baroness Knight of Collingtree, Mr Haluk Koç, Mr Slaven Letica, Mr Andrija Mandić, Mr Michał Marcinkiewicz, Mr Bernard **Marquet**, Mr Ruzhdi Matoshi (alternate: Mr Aziz **Pollozhani**), Mrs Liliane **Maury Pasquier**, Mr Donato Mosella, Mr Felix **Müri**, Mrs Maia Nadiradzé, Mrs Carina **Ohlsson**, Mr Peter Omtzigt, Mrs Vera Oskina, Mrs Lajla Pernaska, Mrs Marietta de Pourbaix-Lundin, Mr Cezar Florin Preda, Mrs Adoración Quesada Bravo (alternate: Mrs Bianca **Fernández-Capel**), Mrs Vjerica Radeta, Mr Walter Riester, Mr Andrea Rigoni, Mr Ricardo **Rodrigues**, Mrs Maria **de Belém Roseira**, Mr Alessandro Rossi, Mrs Marlene Rupprecht, Mr Indrek Saar, Mr Fidas Sarikas, Mr Andreas Schieder, Mr Ellert B. Schram, Mr Gianpaolo Silvestri, Mrs Svetlana Smirnova (alternate: Mr Vladimir **Zhidkikh**), Mrs Anna Sobecka, Mrs Michaela **Šojdrová**, Mrs Darinka Stantcheva, Mr Oleg Țulea, Mr Alexander Ulrich, Mr Mustafa **Ünal**, Mr Milan Urbáni, Mrs Nataša Vučković, Mr Victor Yanukovich, Mrs Barbara **Žgajner-Tavš**.

NB: The names of those members present at the meeting are printed in bold.

The draft resolution will be discussed at a later sitting.