



## Resolution 1908 (2012)<sup>1</sup>

# Human rights and family courts

### Parliamentary Assembly

1. The Parliamentary Assembly is concerned about the functioning of family courts in some member States of the Council of Europe, and especially about cases where children are taken away against the will of their parents and in violation of the right to respect for family life and the principle of a fair trial.
2. Recalling its previous work on this subject, and in particular [Recommendation 874 \(1979\)](#) on a European Charter on the Rights of the Child and [Recommendation 1121 \(1990\)](#) on the rights of children, the Assembly reaffirms its commitment to defend and promote the rights and welfare of children.
3. The Assembly recalls that a family environment offers the best conditions for the proper development of children. Before children are placed in the care of outsiders or in institutional care, their own families should be granted any assistance needed in order to cope with their problems.
4. Consequently, children should only be separated from their parents in very exceptional circumstances, subject to judicial review and in line with the requirements stemming from the European Convention on Human Rights (ETS No. 5) and the 1989 United Nations Convention on the Rights of the Child.
5. The Assembly therefore calls on member States to:
  - 5.1. fully implement the United Nations Convention on the Rights of the Child;
  - 5.2. if they have not yet done so, sign and/or ratify the relevant Council of Europe conventions on the rights of children, in particular the European Convention on the Adoption of Children (Revised) (CETS No. 202) and the European Convention on the Exercise of Children's Rights (ETS No. 160);
  - 5.3. promote, disseminate and monitor the implementation of the 2010 "Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice";
  - 5.4. ensure that domestic procedures concerning the adoption and placing into care of children are established in line with the principles stemming from the European Convention on Human Rights;
  - 5.5. ensure that the competent domestic authorities, when deciding on the adoption and/or placing into care of children:
    - 5.5.1. take into account the requirements stemming from the European Convention on Human Rights and the United Nations Convention on the Rights of the Child;
    - 5.5.2. give priority to the best interests of the child;
    - 5.5.3. provide practical assistance to families in trouble so as to minimise the number of cases in which a child must be separated from his or her parents;
    - 5.5.4. act speedily so as to avoid irreversible damage to the parties' family life;
  - 5.6. continue to support the relevant activities of the Council of Europe bodies in the field of child protection and welfare.

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1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 30 November 2012 (see [Doc. 13060](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Chope).*

