



Resolution 2049 (2015)¹

Social services in Europe: legislation and practice of the removal of children from their families in Council of Europe member States

Parliamentary Assembly

1. Children have the right to be protected from all types of violence, abuse and neglect. But they also have the right not to be separated from their parents against their will, except when competent authorities subject to judicial review determine that such separation is necessary in the best interests of the child. Even when such separation is necessary, children have the right to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
2. In most Council of Europe member States, it is the social services which take the initial decision to remove a child from his or her family (in particular in urgent cases where the child is deemed to be in immediate danger), or which apply to the court to have such a decision taken. In the majority of member States, this initial decision is taken on the basis of the child being judged to be at risk or imminent risk of suffering serious harm, in particular physical, sexual or psychological abuse, or of being badly neglected.
3. The number of children taken into care varies widely from country to country, as does the percentage of children taken into care who are later reunited with their family. Most countries place children with relatives, with foster families, in public or private institutions, or – more rarely – give them up for adoption (again with varying percentages).
4. Most countries do not have detailed statistics on the ethnic and religious minority status, immigrant status or socio-economic situation of children taken into care. Statistical analyses providing an authentic picture of which groups of children are more exposed to being removed from their families are also lacking, although evidence suggests that children from vulnerable groups are disproportionately represented in the care population of member States. There is, however, no evidence to suggest that, in similar contexts, parents who are poor, less educated, belong to an ethnic or religious minority or who have a migration background are more likely to abuse or neglect their children.
5. Financial and material poverty should never be the only justification for the removal of a child from parental care, but should be seen as a sign for the need to provide appropriate support to the family. Moreover, showing that a child could be placed in a more beneficial environment for his or her upbringing is not enough to remove a child from his or her parents, and even less of a reason to sever family ties completely.
6. The Parliamentary Assembly is concerned about the violation of children's rights in some countries (or regions thereof), when social services take some children into care too rashly and do not make enough effort to support families before and/or after removal and placement decisions. These unwarranted decisions usually have a – sometimes unintended – discriminatory character, and can constitute serious violations of the rights of the child and his or her parents, which are made all the more tragic when the decisions are irreversible (such as in cases of adoption without parental consent).

1. *Assembly debate* on 22 April 2015 (15th Sitting) (see [Doc. 13730](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Ms Olga Borzova; and [Doc. 13760](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Olena Sotnyk). *Text adopted by the Assembly* on 22 April 2015 (15th Sitting).
See also [Recommendation 2068 \(2015\)](#).



7. The Assembly is also concerned about the violation of children's rights in some countries (or regions thereof), when social services do not take children into care quickly enough, and return children too rashly to abusive or neglectful parents. These decisions can constitute equally – or more – serious violations of the rights of the child, and can put his or her life and health in danger. Removal decisions taken by social services are very fraught, and should thus only be taken by social workers with special professional training and qualifications, an appropriate caseload and in an appropriate time frame.

8. The Assembly thus recommends that member States:

8.1. sign and/or ratify, if they have not yet done so, the relevant conventions of the Council of Europe relating to the rights of children, most notably 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), and implement all pertinent recommendations emanating from the Committee of Ministers;

8.2. put into place laws, regulations and procedures which truly put the best interest of the child first in removal, placement and reunification decisions;

8.3. continue and strengthen their efforts to ensure that all relevant procedures are conducted in a child-friendly manner, and that the children concerned have their views taken into account according to their age and level of maturity;

8.4. make visible and root out the influence of prejudice and discrimination in removal decisions, including by appropriately training all professionals involved;

8.5. support families with the necessary means (including financially, materially, socially and psychologically) in order to avoid unwarranted removal decisions in the first place, and in order to increase the percentage of successful family reunifications after care;

8.6. ensure that any (temporary) placement of a child in alternative care, where it has become necessary as a measure of last resort, be accompanied by measures aimed at the child's subsequent reintegration into the family, including the facilitation of appropriate contact between the child and his or her family, and be subject to periodic review;

8.7. avoid, except in exceptional circumstances provided for in law and subject to effective (timely and comprehensive) judicial review, severing family ties completely, removing children from parental care at birth, basing placement decisions on the effluxion of time, and having recourse to adoptions without parental consent;

8.8. ensure that the personnel involved in removal and placement decisions are guided by appropriate criteria and standards (if possible in a multidisciplinary way), are suitably qualified and regularly trained, have sufficient resources to take decisions in an appropriate time frame, and are not overburdened with too great a caseload;

8.9. collect anonymised data on the population in care in member States which is disaggregated not only by age and gender and alternative care type, but also by ethnic or religious minority status, immigrant status and socio-economic background, as well as by length of time spent in care until family reunification, while ensuring the effective protection of personal data;

8.10. ensure that, except in urgent cases, initial removal decisions are based only on court orders, in order to avoid unwarranted removal decisions and to prevent biased assessments.