



Doc. 13060 – Compendium of written amendments

(Final version)

Human rights and family courts

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A. Draft Resolution

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 natural 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.

Amendment 1

Tabled by Mr René ROUQUET, Mr Christian BATAILLE, Mr Gérard TERRIER, Mr François LONCLE, Mr Jean-Yves LE DÉAUT, Ms Estelle GRELIER

In the draft resolution, paragraph 1, delete the word "natural".

Amendment 8

Tabled by Ms Liliane MAURY PASQUIER, Ms Marlene RUPPRECHT, Mr Valeriu GHILETCHI, Mr Bernard MARQUET, Mr Andrej HUNKO

Replace the present title with the following title: "Family courts and the child's best interests".

Amendment 4

Tabled by Ms Liliane MAURY PASQUIER, Ms Marlene RUPPRECHT, Mr Valeriu GHILETCHI, Mr Bernard MARQUET, Mr Andrej HUNKO

In the draft resolution, replace paragraph 3 with the following paragraph:

"The Assembly recalls that in normal circumstances, it is the biological family that affords the conditions most conducive to the child's development. Before a child is entrusted to a foster family or an institution, its family should be given the support needed to cope with any difficulties that may pose a threat to the child's bodily or emotional integrity and well-being."

Amendment 5

Tabled by Ms Liliane MAURY PASQUIER, Ms Marlene RUPPRECHT, Mr Valeriu GHILETCHI, Mr Bernard MARQUET, Mr Andrej HUNKO

In the draft resolution, after paragraph 3, insert the following paragraph:

"This support should come under a comprehensive policy on child protection and prevention of violence against children, be based on high-quality services provided by institutions that co-operate closely in order to guarantee at all times that the child's best interests are the paramount consideration, and involve the

4. Consequently, children ought to be separated from their natural parents only 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 United Nations Convention on the Rights of the Child of 1989.

consultation and participation of children in any decision affecting them.”

Amendment 2

Tabled by Mr René ROUQUET, Mr Christian BATAILLE, Mr Gérard TERRIER, Mr François LONCLE, Mr Jean-Yves LE DÉAUT, Ms Estelle GRELIER

In the draft resolution, paragraph 4, delete the word "natural".

Amendment 3

Tabled by Ms Liliane MAURY PASQUIER, Ms Marlene RUPPRECHT, Mr Valeriu GHILETCHI, Mr Bernard MARQUET, Mr Andrej HUNKO

In the draft resolution, paragraph 2, replace the words "Recommendation 874 (1979) on a European Charter on the Rights of the Child and Recommendation 1121 (1990) on the rights of children" with the following words: "Recommendation 1864 (2009) on Promoting the participation by children in decisions affecting them, Resolution 1714 (2010) and Recommendation 1905 (2010) on Children who witness domestic violence, Resolution 1762 (2010) and Recommendation 1939 (2010) on Children without parental care: urgent need for action".

Amendment 6

Tabled by Ms Liliane MAURY PASQUIER, Ms Marlene RUPPRECHT, Mr Valeriu GHILETCHI, Mr Bernard MARQUET, Mr Andrej HUNKO

In the draft resolution, paragraph 4, replace the word "Consequently" with the following words: "Following the intervention of the responsible social services".

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 the 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.

Amendment 7

Tabled by Ms Liliane MAURY PASQUIER, Ms Marlene RUPPRECHT, Mr Valeriu GHILETCHI, Mr Bernard MARQUET, Mr Andrej HUNKO

In the draft resolution, at the end of paragraph 5.6, add the following words: “, including the Assembly’s activities aimed at preventing domestic violence and sexual violence against children”.