



Doc. 14568 – Compendium of written amendments
28/06/2018

(Revised version)

Striking a balance between the best interest of the child and the need to keep families together

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A. Draft Resolution

1. Recalling its Resolution 2049 (2015) and Recommendation 2068 (2015) "Social services in Europe: legislation and practice of the removal of children from their families in Council of Europe member States", the Parliamentary Assembly reaffirms that 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 absolutely 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, unless it is contrary to the child's best interests.
2. Despite the existence of clear international and European standards in this area of children's rights, there continues to be a lack of uniform application in decisions on child removal, adoption, placement and reunification across Council of Europe member States. Further action to bridge the gap between these standards and their implementation is thus needed, as well as improved data collection and research which could inform policymakers on how to implement these standards in the best possible way.
3. The Assembly reaffirms that the best interest of the child should be a primary consideration in all actions concerning children, in accordance with the United Nations Convention on the Rights of the Child. However, the implementation of this principle in practice depends on the context and the specific circumstances. It is sometimes easier to say what is not in the best interests of children: coming to serious harm at the hands of their parents, or being removed from a family without good cause.
4. It is with this caveat in mind that the Assembly reiterates the recommendations it made in Resolution 2049 (2015) and recommends that Council of Europe member States focus on the process in order to achieve the best results for children and their families alike. Member States should:

Amendment 8

Tabled by Mr Jonas GUNNARSSON, Ms Eva-Lena JANSSON, Ms Carina OHLSSON, Ms Azadeh ROJHAN, Mr Niklas KARLSSON, Ms Tineke STRIK, Mr Martin WHITFIELD

In the draft resolution, replace paragraph 2 with the following paragraph:

"Council of Europe member States that have ratified respective UN treaties and Council of Europe instruments in the area of children's rights are called upon to implement them and to further act in accordance with them in decisions on child removal, adoption, placement and reunification."

Sub-amendment 1 to amendment 8

Tabled by Mr Pavlo UNGURYAN, Mr Ion APOSTOL, Ms Iryna GERASHCHENKO, Mr Serhii SOBOLEEV, Ms Olena SOTNYK, Mr Leonid YEMETS

In amendment 8, replace the words: "replace paragraph 2 with" with the following words: "after paragraph 2, insert"

Amendment 9

Tabled by Mr Jonas GUNNARSSON, Ms Eva-Lena JANSSON, Ms Carina OHLSSON, Ms Azadeh ROJHAN, Mr Niklas KARLSSON, Ms Tineke STRIK, Mr Martin WHITFIELD

In the draft resolution, paragraph 3, delete the second and third sentences.

Amendment 10

Tabled by Mr Jonas GUNNARSSON, Ms Eva-Lena JANSSON, Ms Carina OHLSSON, Ms

Azadeh ROJHAN, Mr Niklas KARLSSON, Ms Tineke STRIK, Mr Martin WHITFIELD

In the draft resolution, paragraph 4, replace the first sentence with the following sentence: "Where State intervention is deemed necessary, due process safeguards should be given sufficient weight and consideration."

- 4.1. secure child-friendly processes throughout removal, placement and reunification: this includes guaranteeing full child participation by having properly trained and educated staff speak to and listen to the child, whose views should not only be heard, but also taken into account;

Amendment 1

Tabled by Ms Sybille BENNING, Mr Volker ULLRICH, Mr Andreas NICK, Ms Elisabeth SCHNEIDER-SCHNEITER, Mr Werner AMON, Mr Franz Leonhard ESSL, Mr Filippo LOMBARDI

In the draft resolution, at the end of paragraph 4.1, add the following words: "as long as this view is not against the best interest of the child;"

- 4.2. give the necessary support to families in a timely and positive manner with a view to avoiding the necessity for removal decisions in the first place, and to facilitating family reunification as soon as possible: this includes the need to build better collaboration with parents, with a view to avoiding possible mistakes based on misunderstandings, stereotyping and discrimination, mistakes which can be difficult to correct later on once the trust has gone;

Amendment 5

Tabled by Ms Emilie Enger MEHL, Ms Ingjerd Schie SCHOU, Ms Lise CHRISTOFFERSEN, Mr Emanuelis ZINGERIS, Mr Simonas GENTVILAS, Mr Mogens JENSEN, Ms Ulla SANDBÆK, Mr Jonas GUNNARSSON, Ms Carina OHLSSON, Ms Azadeh ROJHAN, Mr Niklas KARLSSON, Ms Eva-Lena JANSSEN, Ms Boriana ÅBERG

In the draft resolution, paragraph 4.2, replace the words: "and to facilitating family reunification as soon as possible" with the following words: "and to facilitating family reunification when possible and in the child's best interest".

Sub-amendment 1 to amendment 5

Tabled by Mr Pavlo UNGURYAN, Mr Ion APOSTOL, Ms Iryna GERASHCHENKO, Mr Serhii SOBOLEEV, Ms Olena SOTNYK, Mr Leonid YEMETS

In amendment 5, replace the following words: "when possible and in the child's best interest" with the following words: "as soon as circumstances permit".

- 4.3. ensure that child welfare systems are open and transparent with a view to bolstering the legitimacy of and trust in the system; this includes the necessity for decisions to be well-documented at all stages of the process and for court proceedings to be low-threshold, child-friendly and accessible, as well as for improved data collection and research;

- 4.4. ensure that all personnel involved in removal and placement decisions, including judges, are suitably qualified and regularly trained (including on international and European standards), have sufficient resources to

Amendment 11

Tabled by Mr Martin WHITFIELD, Ms Shabana MAHMOOD, Lord Don TOUHIG, Ms Carina

take decisions in an appropriate (neither rushed nor delayed) time frame, and are not overburdened with too great a caseload;

- 4.5. seek to end abusive practices, such as frequent recourse to the unwarranted complete severing of family ties, the removal of children from parental care at birth, to basing placement decisions on the effluxion of time, and to adoptions without parental consent;

OHLSSON, Ms Stella CREASY, Mr Vernon COAKER

In the draft resolution, paragraph 4.4, delete the words: "(neither rushed nor delayed)".

Amendment 6

(If adopted, amendment 2 falls)

Tabled by Ms Emilie Enger MEHL, Ms Ingjerd Schie SCHOU, Ms Lise CHRISTOFFERSEN, Mr Emanuelis ZINGERIS, Mr Simonas GENTVILAS, Mr Mogens JENSEN, Ms Ulla SANDBÆK, Mr Jonas GUNNARSSON, Ms Carina OHLSSON, Ms Azadeh ROJHAN, Mr Niklas KARLSSON, Ms Eva-Lena JANSSON, Ms Borianna ÅBERG

In the draft resolution, replace paragraph 4.5 with the following paragraph:

"seek to keep at a minimum the practices of removing children from parental care at birth, basing placement decisions on the effluxion of time, and adoptions without parental consent, and only in extreme cases. Where in the child's best interests, efforts should be made to maintain family ties;"

Sub-amendment 1 to amendment 6

Tabled by Mr Pavlo UNGURYAN, Mr Ion APOSTOL, Ms Iryna GERASHCHENKO, Mr Serhii SOBOLEV, Ms Olena SOTNYK, Mr Leonid YEMETS

In amendment 6, delete the last sentence: "Where in the child's best interest, efforts should be made to maintain family ties."

Amendment 2

(Falls if amendment 6 is adopted)

Tabled by Ms Sybille BENNING, Mr Volker ULLRICH, Mr Andreas NICK, Ms Elisabeth SCHNEIDER-SCHNEITER, Mr Werner AMON, Mr Franz Leonhard ESSL, Mr Filippo LOMBARDI

In the draft resolution, paragraph 4.5, after the words: "the removal of children from parental care at birth" insert the following words: "except in cases where this is in the best interest of the child,"

- 4.6. where children have been removed from the family home, ensure that:

Amendment 12

Tabled by Mr Martin WHITFIELD, Ms Shabana MAHMOOD, Lord Don TOUHIG, Ms Carina

- 4.6.1. such decisions are a proportionate response to a credible and verified assessment by competent authorities subject to judicial review that there is a real risk of actual and serious harm to the children involved;

OHLSSON, Mr Vernon COAKER, Ms Stella CREASY

In the draft resolution, replace paragraph 4.6 with the following paragraph:

"where the decision to remove a child from their family has been made, ensure that:"

Amendment 13

Tabled by Mr Martin WHITFIELD, Ms Shabana MAHMOOD, Lord Don TOUHIG, Ms Carina OHLSSON, Mr Vernon COAKER, Ms Stella CREASY

In the draft resolution, replace paragraph 4.6.1 with the following paragraph:

"a detailed decision is provided to the parents and a copy of the decision is also retained, that the decision is explained in an age-appropriate way to the child or that the child is otherwise granted access to the decision, and that the determination outlines the circumstances that led to the decision and provides reasons for the removal;"

Sub-amendment 1 to amendment 13

Tabled by Mr Pavlo UNGURYAN, Mr Ion APOSTOL, Ms Iryna GERASHCHENKO, Mr Serhii SOBOLEEV, Ms Olena SOTNYK, Mr Leonid YEMETS

In amendment 13, replace the words: "replace paragraph 4.6.1. with" with the following words: "after sub-paragraph 4.6.1., insert"

- 4.6.2. removing children is a last resort and is done for the shortest possible period of time;

Amendment 7

Tabled by Ms Emilie Enger MEHL, Ms Ingjerd Schie SCHOU, Ms Lise CHRISTOFFERSEN, Mr Emanuelis ZINGERIS, Mr Simonas GENTVILAS, Mr Mogens JENSEN, Ms Ulla SANDBÆK, Mr Jonas GUNNARSSON, Ms Carina OHLSSON, Ms Azadeh ROJHAN, Mr Niklas KARLSSON, Ms Eva-Lena JANSSON, Ms Boriana ÅBERG

In the draft resolution, paragraph 4.6.2, replace the words: "and is done for the shortest possible period of time" with the following words: "and should be done only for the necessary period of time".

Sub-amendment 1 to amendment 7

Tabled by Mr Pavlo UNGURYAN, Mr Ion APOSTOL, Ms Iryna GERASHCHENKO, Mr Serhii SOBOLEEV, Ms Olena SOTNYK, Mr Leonid YEMETS

In amendment 7, replace the words: "and should be done only for the necessary period of time" with the following words: "as a temporary

- 4.6.3. where possible, children are cared for within the wider family unit so as to minimise the disruption of family bonds for the children involved;

measure to be discontinued as soon as circumstances permit".

Amendment 4

Tabled by Ms Sybille BENNING, Mr Volker ULLRICH, Mr Andreas NICK, Ms Elisabeth SCHNEIDER-SCHNEITER, Mr Werner AMON, Mr Franz Leonhard ESSL, Mr Filippo LOMBARDI

In the draft resolution, after paragraph 4.6.2, insert the following paragraph:

"siblings are kept together in care in all cases where it is not against the best interest of the child;"

Amendment 3

(If adopted, amendment 14 falls)

Tabled by Ms Sybille BENNING, Mr Volker ULLRICH, Mr Andreas NICK, Ms Elisabeth SCHNEIDER-SCHNEITER, Mr Werner AMON, Mr Franz Leonhard ESSL, Mr Filippo LOMBARDI

In the draft resolution, replace paragraph 4.6.3 with the following paragraph:

"in cases where it is in the best interest of the child, the possibility of care within the wider family unit is taken into consideration;"

Sub-amendment 1 to amendment 3

Tabled by Mr Pavlo UNGURYAN, Mr Ion APOSTOL, Ms Iryna GERASHCHENKO, Mr Serhii SOBOLIEV, Ms Olena SOTNYK, Mr Leonid YEMETS

In amendment 3, replace the words: "in cases where it is in the best interest of the child, the possibility of care within the wider family unit is taken into consideration" with the following words: "as long as it is in the best interest of the child, children are cared for within the wider family unit so as to minimize the disruption of family bonds for the children involved".

Amendment 14

(Falls if amendment 3 is adopted)

Tabled by Mr Niklas KARLSSON, Mr Martin WHITFIELD, Ms Shabana MAHMOOD, Lord Don TOUHIG, Ms Carina OHLSSON, Mr Vernon COAKER

In the draft resolution, replace paragraph 4.6.3 with the following paragraph:

"due consideration is given to a child/children being cared for in a family placement. In consideration of such a placement, the welfare

interests of the child should be the paramount consideration;"

- 4.6.4. the facilitation of family reunification is always a central consideration in any proceedings, and that families receive appropriate support from the child welfare systems in this regard;

Amendment 15

Tabled by Lord Don TOUHIG, Ms Carina OHLSSON, Mr Vernon COAKER, Ms Stella CREASY, Ms Maryvonne BLONDIN

In the draft resolution, replace paragraph 4.6.4 with the following paragraph:

"regular consideration is given to family reunification and/or family access as is appropriate taking into account the best interests and views of the child;"

Sub-amendment 1 to amendment 15

Tabled by Mr Pavlo UNGURYAN, Mr Ion APOSTOL, Ms Iryna GERASHCHENKO, Mr Serhii SOBOLEEV, Ms Olena SOTNYK, Mr Leonid YEMETS

In amendment 15, replace the words: "regular consideration is given to family reunification and/or family access as is appropriate taking into account the best interests and views of the child" with the following words: "the facilitation of family reunification is always a central consideration in any proceedings, taking into account the best interests of the child, and that families receive appropriate support from the child welfare systems in this regard"

- 4.6.5. visitation and contact arrangements facilitate the maintenance of the family bond and work towards reunification unless manifestly inappropriate;
- 4.6.6. all related court proceedings are independent, with the equality of arms guaranteed, as well as parity between the resources available to the family and to the child welfare system;
- 4.6.7. religious, ethnic and cultural background and sibling bonds are taken into account when placing children in alternative care;
- 4.7. ensure appropriate checks and balances are built into the child welfare system, including regulatory oversight and parliamentary scrutiny where necessary.