

Resolution 2232 (2018)¹

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

Parliamentary Assembly

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. However, 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 their 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 policy makers on how to implement these standards in the best possible way.
3. Council of Europe member States that have ratified United Nations 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.
4. The Assembly reaffirms that the best interests 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, for example coming to serious harm at the hands of their parents or being removed from their family without good cause.
5. 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:
 - 5.1. ensure 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 as long as this view is not against the best interests of the child;
 - 5.2. 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 when possible and in the child's best interests: this includes the need to build better collaboration with parents, with a view to avoiding possible mistakes based on misunderstandings, stereotyping and discrimination. These mistakes can be difficult to correct once trust has been lost;

1. *Assembly debate* on 28 June 2018 (26th Sitting) (see [Doc. 14568](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Mr Valeriu Ghiletschi). *Text adopted by the Assembly* on 28 June 2018 (26th Sitting).



- 5.3. 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;
- 5.4. 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 take decisions in an appropriate time frame, and are not overburdened with too heavy a caseload;
- 5.5. seek to keep to a minimum, and use only in extreme cases, the practices of removing children from parental care at birth, basing placement decisions on the effluxion of time and adoptions without parental consent. Where it is in the child's best interests, efforts should be made to maintain family ties;
- 5.6. where the decision to remove a child from their family has been made, ensure that:
 - 5.6.1. 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;
 - 5.6.2. 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. The decision should outline the circumstances that led to the determination and provide reasons for the removal;
 - 5.6.3. removing children is a last resort and is only applied for the necessary period of time;
 - 5.6.4. siblings are kept together in care in all cases where it is not against the best interests of the child;
 - 5.6.5. as long as it is in the best interests of the child, children are cared for within the wider family unit so as to minimise the disruption of family bonds for the children involved;
 - 5.6.6. 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;
 - 5.6.7. visitation and contact arrangements facilitate the maintenance of family bonds and work towards reunification, unless manifestly inappropriate;
 - 5.6.8. 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;
 - 5.6.9. religious, ethnic and cultural background and sibling bonds are taken into account when placing children in alternative care;
- 5.7. ensure appropriate checks and balances are built into the child welfare system, including regulatory oversight and parliamentary scrutiny, where necessary.