

Explanatory Report

1. Definitions and scope

The aim of this Recommendation is to establish the overall guiding principles to be applied whenever a child is placed outside the family, particularly in a residential institution. Such placement is justified only when the child is in such danger that it is impossible for him or her to remain in the family environment.

Placement may take place with the parents' consent or as a result of a decision by the competent authorities. The best interests of the child are the decisive factor in all decisions concerning the child's placement or the termination of the placement.

The term "placement", considered in a broad sense, is to be defined as "the situation in which a child is placed day and night outside his or her family environment", in a large or small institution, an SOS Children's Village, a residential unit, a foster family, etc. The term 'placement setting' covers all types of placement.

Concerning foster families, this Recommendation may only be applied *mutatis mutandis* because a number of requirements of this Recommendation are not relevant (e.g. size of the institution and the qualifications of the staff). For this issue, attention should be drawn to Recommendation R (87) 6 on foster families. It should be noted that there are various types of foster family in Europe, which differ according to the type of care, the supervision exercised and the material and financial resources allocated to them. The quality of supervision is an important factor, for it provides a minimum safeguard against the foster family itself causing harm.

It has to be underlined that every placement must ensure that the child's human rights are fully respected. Regardless of the type of placement, what is important is that the various practices should ensure quality care, whether in an institution, preferably in small units, a foster family or elsewhere.

This Recommendation particularly concerns residential institutions and the reforms they may need to undertake to assure the children of the best possible development and future. It should be stressed that residential institutions continue to play an important role both in countries with a wide variety of forms of placement and in those where the choice of services and the resources allocated to them are more limited.

In certain cases, however, the children's rights and liberties may be restricted, particularly for legal reasons; in those cases it is important to bear in mind, and apply when appropriate, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Such restrictions should be justified and admitted in relevant public regulations, and should remain the exception. This Recommendation shall, whenever possible, be applied to children deprived of their liberty. Any restriction of liberty must be subject to a judicial review with the child represented, in accordance with Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and Article 37 of the United Nations Convention on the Rights of the Child. Under no circumstances may children be deprived of their rights of defence.

2. Basic goal of the Recommendation

Member states are recommended to ensure that their law and practice are fully in compliance with the principles and standards set out in the Appendix to the Recommendation; in this respect it is underlined that national regulations/guidelines should be drafted to create nation-wide standards for residential institutions.

In accordance with Article 42 of the United Nations Convention on the Rights of the Child, it is recommended to make this Recommendation, in a child-related form, widely known, particularly to children living in residential institutions. Without appropriate knowledge of their rights, children are not able to exercise them effectively.

Basic principles

3. The biological family is the best place for the development and well-being of the child

It should be stressed that children should, whenever possible, grow up in their family. The state should provide all necessary assistance to families in any crisis or difficult situations to solve problems which they face, taking into account their specific needs, potentials and abilities. Member states should make all efforts in fighting poverty and in reducing the large number of children in institutions who come from families, which find themselves in a situation of poverty. Poverty alone cannot be a reason for the child's placement.

There should be general awareness-building that members of parliaments and governments have responsibilities when allocating the necessary budgetary means for preventive measures and residential institutions.

According to Article 5 of the United Nations Convention on the Rights of the Child states have to respect the rights and responsibilities of parents to provide guidance for the child; they are the first caregivers of the child.

However in some situations, parents are unable to bring up their children or represent a danger for them and consequently this requires children and parents to be separated. These measures breaching parents' rights are taken either with parents' agreement or on the basis of a judicial decision. The work with the family should continue alongside the implementation of such measures.

4. Placement must therefore be an exception, and the prime aim should be the best interests of the child and his or her successful and prompt social integration or reintegration

Placement should occur only when it is in the best interests of the child; it is a special measure, which must be based on the needs of the child. Consequently:

- placement should not be motivated by material circumstances beyond the family's control;
- disability should not be the sole reason for placement except in cases where placement is in the best interests of the child;
- appropriate alternatives to placement should first have been explored and found to be unsuitable, if possible, by means of a comprehensive multidisciplinary assessment, taking into account the views and wishes expressed by the child, his or her parents and other members of the family;
- if placement is advisable, it should be considered as a temporary solution ensuring continuity of the relationship with the family environment; to reach this goal there should be close cooperation with the child's family, and, if necessary, their support during placement;
- placement is only called for if all the right conditions exist to establish clearly that this situation will be of benefit to the child in the short and long term; the child's best interests is always the decisive factor.

It is necessary, therefore, to determine in advance under which medical, psychological, educational, social or legal conditions placement is advisable and to set up precise placement procedures, relating in particular to the preparation of the placement order (multidisciplinary report, assessment of alternatives, etc), the notification of the placement to the family and the child, the choice of the placement, etc. Through these procedures it should be ensured that the child and his or her parents may voice their opinions in an appropriate way. The child's views should be taken into account with respect to his or her age and degree of maturity.

The main objective should be the development and fulfilment of the child and, if possible, his or her integration or re-integration within the family as well as within the community at large. Social integration should be rapidly achieved, so as to reduce the length of placement. However, the success of integration or re-integration can only be regarded as a desirable aim, to be pursued with all due diligence, and not as an obligatory result.

The decision to place a child, in particular in an institution, should be periodically reviewed and, if this is in the best interests of the child, changed or maintained.

Whenever possible placement in a foster family or in a family-type environment should have preference over placement in an institution. All institutions should aim at providing a family-like environment.

A post-placement plan should be established for children leaving care and in particular the institution based on an assessment of the child's need for support in order to facilitate his or her re-integration into the family and society.

5. Non-discrimination

No discrimination on the basis of gender, race, colour, social or ethnic or national origin, language, expressed opinions, property, religion, disability, birth or any other status of the child and/or his or her parents is allowed in respect of placing a child in an institution and during the placement. All children should be treated equally and should have equal opportunities and rights.

Having said this it must be underlined that certain groups of children have particular needs (e.g. disabled children, children belonging to ethnic minorities, unaccompanied asylum seeking and refugee children); due consideration has to be given to these needs without any discriminatory effects (see item 15 below).

6. The organisation and pedagogical concept of the placement should reflect a view of the child as a subject of law, both in general and as an individual

Decisions on placement should be taken in full knowledge of the facts and without any political, ideological or religious pressure.

The institution must be designed with this in mind and pursue the sole aim of ensuring the well-being and harmonious development of the child as primary criteria. As a means to that end it is recommended that national regulations and standards of care should be established.

Accordingly, the arrangements made to monitor the child within the institution should be one of the major concerns of the governing authorities of the institution. They should always bear in mind that the child should be considered in his or her entirety and that a compartmentalised approach should be avoided, as this can prove highly unsettling, irrespective of the quality of the work.

This would mean that, alongside the overall pedagogical strategy for the institution as a whole, a psycho-pedagogical strategy should be devised for each child, guaranteeing individual supervision throughout the placement and personalised guidance at its closure.

The key points of the strategy should always be to treat the child as a person and a subject of law, to reserve particular moments for exchange in which each of the partners gets to know the other, to encourage the child to improve his or her self-awareness and the awareness of his or her environment and to respect the child's own pace and his or her need for activity and independence.

The strategy should always be viewed in terms of continuity, the aim being to define a plan corresponding to the needs of the child, which will have been established clearly beforehand. Therefore, close cooperation with the child's family and the institution is of utmost importance.

It is important to underline that the right of the child to be heard is essential (Article 12 of the United Nations Convention of the Rights of the Child); his or her views have to be taken into account with due regard to the child's age and degree of maturity.

Specific Rights for Children Living in Residential Institutions

7. The right to be placed only to meet needs, which have been established as imperative, and to have the placement periodically reviewed

This presupposes that all alternatives to placement have been assessed and recognised as unsuitable (see item 4 above).

Particular attention must be paid to the problem of unaccompanied children, for whom it is vital that the member states provide care arrangements in accordance with Article 20 of the United Nations Convention on the Rights of the Child.

The review has to be made by the competent authority, which has to take the best interests of the child and his or her views into account; due weight should be given to these views according to the child's age and degree of maturity. If the placement is no longer in the best interests of the child, it has to be terminated.

There should be a regular dialogue with the child to ensure that he or she understands the reasons for the decisions, which have been or are to be taken.

8. The right to maintain family and social ties

This right covers family relations in the broadest sense. These relations involve not only the biological family but also the adoptive family, if the child has been adopted, or the foster family, if the child has previously been taken into foster care, and any other person having de facto family ties with the child, such as a stepfather, or a former foster parent with whom the child has established emotional links). This is expressed by the term "other significant persons".

With regard to the right to respect for family life under Article 8 of the European Convention on Human Rights, the European Court of Human Rights stresses in its case-law - especially concerning children in public care - that undue restrictions imposed on contact between children and their parents respectively, and persons having family ties with the child, create a violation of this right. The Court held that States have positive obligations inherent in an effective respect for family life (e.g. *Olsson v. Sweden* (no. 1), judgment of 24 March 1988, Series A no. 130; *Eriksson v. Sweden*, judgment of 22 June 1989, Series A no.156).

This right is recognised by Article 9 of the United Nations Convention on the Rights of the Child and elaborated in more detail by the Council of Europe Convention on Contact concerning Children [ETS no.192], which also

includes children living in residential institutions.

This right not only covers regular personal face-to-face contacts with the child but also information to such persons about the child and vice-versa.

Because the child's family has to be regarded as a partner in the care process, as much as possible should be known about the family background and the family's views and plans for the child; to this end discussions with the family might be desirable. The placement setting should be accessible and arrangements should be made for allowing and promoting contact with the child's family unless it is contrary to the best interests of the child. In some cases, during the child's contact with the family, it is necessary to provide for intervention or mediation by a third party.

Children should be placed geographically close to their families whenever possible. When the financial burden for travel expenses and lodgings becomes too heavy for the family, ways of supporting them should be organised.

9. The right of siblings to stay together or maintain regular contacts

Siblings should, whenever possible, be placed together unless this is against their best interests. If this is not possible, they should be enabled to maintain regular contact.

10. The right to an identity

According to Articles 7 and 8 of the United Nations Convention on the Rights of the Child all children have the right to an identity, which includes also that the identity is preserved and safeguarded.

Governments should therefore ensure that effective procedures are established to give children the right to obtain identity documents also in cases where their identity is in doubt or cannot be completely or partially established. This right includes name, nationality and family ties as from birth.

All placement settings have a duty to respect children's right to an identity.

11. The right to respect of the child's ethnic, religious, cultural, social and linguistic background

These rights shall be enjoyed unless they are contrary to the child's best interests (Article 20 of the United Nations Convention on the Rights of the Child). Their enjoyment may be subject to adjustments.

Account should be taken of the wishes of the child and of the parents.

The staff in charge of the child should encourage respect for the child's origin and allow the child to develop a positive attitude towards his or her origins.

12. The right to privacy, including the right to access to confidential advice and advocacy

A child being placed has the right to respect of his or her privacy (see item 14 below). The confidentiality of children's personal mail and other forms of communication and information concerning them must be guaranteed and protected. They should have access to their official files while third-party access to their files should be restricted.

Children should have access to confidential advice and advocacy in matters affecting them. They should be enabled to choose the person whom they trust and believe to be able to listen to them and give them advice, *inter alia*, for the purpose of lodging a complaint before the competent bodies (see item 20 below).

The child should have the right to comprehensive information recorded about his or her case and to be protected against any form of stigmatisation, in particular, any publicity concerning the reasons for his or her placement.

13. The right to good quality health care adapted to the needs and well being of the individual child

Medical check-ups should be carried out, and access to appropriate health care provided if necessary, as soon as the child enters into care and throughout his or her placement.

Medical treatment should be of a high quality and be in keeping with the psycho-pedagogical strategy because, whilst a good state of health is important, a successful and well-designed psycho-pedagogical strategy can create improved physical and mental conditions.

Health care includes mental and physical care for the child. It is also important to bear in mind that nutrition adapted to the age and needs of the child contributes to his or her good health.

In addition, Article 26 of the United Nations Convention on the Rights of the Child recognises that every child should have full enjoyment of the right to benefit from social security, including social insurance, in accordance with national law.

14. The right to respect for the child's human dignity and physical integrity; in particular the right to conditions of human and non-degrading treatment and a non-violent upbringing

This right is aimed to protect the dignity of the child as a person and covers in particular: the protection from physical or psychological ill-treatment including corporal punishment, humiliating behaviour, bullying, or day-to-day violence, such as inhumane living conditions, verbal and emotional abuse, constant references to origins, degrading punishments, threats and intimidation, etc.

Under all circumstances a child must be protected against sexual exploitation or abuse by members of the staff and by other children living in the institution. Appropriate means of protection against sexual abuse are imperative; members of staff should be sensitive to indicators of sexual abuse and to react in an appropriate manner.

Whatever the placement setting, this right may not be restricted for reasons of discipline within the institution and should be based on positive reinforcement of good behaviour and respect for the human dignity of the child. To this end appropriate provisions should be included in the rules of the institution.

15. The right to equal opportunities

No discrimination may be envisaged on grounds of the sex, social or racial origin of the child or a physical or mental handicap or any other ground (see item 5 above).

All children not living with their family have the right to be equally treated by their caregivers, schoolteachers, trainers, coaches, etc with a view to their future social integration or reintegration.

At the same time, individual child's needs, abilities, interests, linguistic, social and cultural heritage should be adequately met, according to the psycho-pedagogical strategy established for each child for the duration of his or her institutionalisation (see item 6 above).

16. The right to benefit from all types of education, vocational guidance and training available to all children under equal conditions

This right covers the availability and accessibility of all types of schools for children in care; subject to their physical and intellectual abilities, they should have access to education under equal conditions with children living in a family and notably in the light of principles stated in Articles 7, 9, 10, 15 and 17 of the Revised European Social Charter.

Children placed, notably those living in residential institutions should not be stigmatised. It is therefore preferable that such children attend local schools and training as any other children living in this area.

Furthermore, children should be able to attend lessons and training given in establishments – outside the institution – attended by all categories of children, except where a restriction on this right is justified, e.g. by a serious handicap making it impossible for the child to leave his or her placement setting, or by a court order. Detailed reasons should be given for such restrictions, which should remain the exception and should always be temporary and subject to regular review.

17. The right to be prepared for active and responsible citizenship through play, sport, cultural activity, informal education and increasing responsibilities

The time spent in care should be a time for the preparation of the child for responsible life in a democratic society, in the spirit of respect for human rights and fundamental freedoms, understanding, peace, tolerance for cultural identity, language, opinions and values of others, equality of sexes, respect for national values of the country in which the child is living as well as for the natural environment.

The care plan for placing children should be based on children's human rights, including among other rights their right to fully participate in and have effective and equal access to planning and decision-making processes concerning them (see item 18 below). The same applies to cultural, artistic, recreational, sport and leisure activities inside and outside the placement setting as they contribute to the child's individual development. The

individual capabilities of each child should be recognised and reinforced in various situations (see item 23 below). This approach would promote self-reliance and facilitate children's reintegration into their family and community of origin, and society as a whole.

A child or adolescent leaving care should be capable of being an active and constructive member of a democratic society in the future. This aspect of the care function is of the highest importance for the elimination of social exclusion of children who have been placed, notably in residential institutions during a substantial part of their life. The capacity of society to include those children on an equal basis should be considered as a proof of the good functioning of democracy and the importance that is attached to the suitable and human development in all the Council of Europe member states.

It should be recalled that Article 20 of the United Nations Convention on the Rights of the Child and Article 17 of the Revised European Social Charter call upon states to guarantee special protection and assistance to children temporarily or definitively deprived of their family's support. States should consequently make sure that children being placed are successfully socially integrated, through education, training, preparation for employment, and have access to housing, when leaving care without reintegrating their original family, (in the light of Article 31 of the Revised European Social Charter).

18. The right to participate in the management and in the decision-making processes concerning the child and the living conditions

The exercise of this right of participation of children, individually and collectively, should be fully guaranteed without restrictions based on age, it being understood that due weight is to be given to children's views in accordance with their age and degree of maturity.

Allowing participation may sometimes be time-consuming but it is absolutely justified in the light of promoting the child's involvement in matters affecting him/her (see Article 12 paragraph 1 of the United Nations Convention on the Rights of the Child and Article 3 of the European Convention on the Exercise of Children's Rights). This right covers in particular the right to be informed about the decision-making process, whether this concerns the placement decision itself, living conditions within the placement setting, the strategy for the child's integration or reintegration within the family, or the conditions for leaving care.

Throughout these processes children should have the right to a hearing regarding any wishes or any complaints they might have. These should be analysed in consultation with the child and followed up wherever appropriate.

When the child leaves care, he or she should be invited to provide his or her views, in appropriate conditions of confidentiality, on any aspects of the placement with the aim of improving the placement in the future.

19. The right to be informed about the rights and the rules of the placement setting in a child-related form

Children should be provided with targeted, regularly updated information about their rights, duties and the rules of the placement setting in which they live. This information should be given in simple and precise language, adapted to the individual child's age and degree of maturity and/or any other specific need. The spirit of Article 42 of the United Nations Convention on the Rights of the Child is not respected if children have no complete and accessible information, which allows them to exercise their rights fully (e.g. to make complaints, see item 20 below).

20. The right to make complaints to an identifiable, impartial and independent body

Member states should ensure that appropriate and effective complaint and appeal procedures are in place to give every child the opportunity to contest placement decisions concerning him/her or to have them reviewed. Furthermore children should have easy access to effective monitoring and complaints procedures about any aspect of their placement, including aspects of a general nature.

It is essential that bodies dealing with complaints are impartial and independent and have the opportunity to act without delay if a complaint is lodged. A complaint-mechanism inside the placement setting is not sufficient to comply with the requirement of an "independent body".

It is also essential to provide an effective preventive mechanism of periodic visits to placement settings by an independent entity/body combined with confidential meetings with children in care. This would enable states to counteract any problems in due time.

Complaints of a general and/or individual nature may be dealt with, according to the national legislation, by an official competent body or through the system of Ombudspersons for Children.

It is also imperative that children are informed about such a right and procedures in place in a form and language

that can be understood by them (see item 19 above).

Guidelines and quality standards

21. The placement setting should be located close to the child's home environment and the unit should be small in scale

The placement setting should be located as close as possible to the child's home environment so that his or her family, friends and other persons who are significant for the child may maintain regular personal contact with him/her, unless it is contrary to the best interest of the child. If it is determined that a child should be placed far from the child's home, measures – including financial support – should be taken to facilitate regular visits by his or her family. In this connection, care should be taken that the premises are suited to visits, i.e. that they enable those persons to create, recreate or maintain emotional links in a context providing a degree of privacy. It may be in the interests of the child to be allowed to leave the placement setting some time together with his or her parents or friends (for a trip or other leisure time activities). Such meetings with the family should be carefully prepared in advance. In some cases, during the child's contact with the family, it is necessary to foresee intervention or mediation by a third party.

In the case of an institution or pedagogical unit the living quarters in particular, should be of a small size so as to provide as family-like an atmosphere as possible. However, this does not preclude the grouping together of institutions for administrative purposes.

It is important for the member states to see to it that a planning system is introduced to ensure that placement settings are tailored to needs and that there is some control over their location. In particular it is important to avoid excessive centralisation, poor access due to a lack of transportation facilities, and poor distribution in relation to needs.

22. Priority should be given to the health and harmonious development of the child as a basic precondition for the success of the pedagogical strategy

It is important to restore the child's physical and intellectual abilities if necessary to the greatest possible extent in order to be able to design a psycho-pedagogical strategy geared to the child's full potential and ensure that it is as successful as possible. This strategy, its evolution and evaluation should be, as far as possible, regularly explained in a comprehensible way to the members of his or her family so that they can contribute and orient the strategy in the child's best interests and prepare him/her for reintegration into the family and society.

Health must be viewed in a broad sense, paying particular attention to children having special needs, e.g. children with physical or mental disabilities, children suffering from chronic illness, as well as children in difficulties such as those who are drug addicted. Placement in an integrated setting may be advisable.

As far as chronic illnesses are concerned, the situation of children who are HIV positive or suffering from AIDS, mental difficulties or alcohol or drug addiction should be among the priorities. It is important, therefore, that they have access to all possible forms of social integration under the same conditions as any other child.

23. The psycho-pedagogical strategy should be geared both to nurturing the child's abilities and respecting his or her independence while maintaining contacts with the outside world

It is very important for the child to maintain as far as possible contact with day-to-day life in the world outside his or her placement setting. In particular, children should be allowed to attend a school outside the institution as far as this is practicable; make small shopping trips accompanied by an adult or on their own depending on their age and situation; manage a sum of pocket money, however modest; and take part in sporting, cultural or play activities in groups accessible to all children of their age (see item 16 above).

It is also important to prepare the child for his or her future life after care (see item 17 above).

Attempts should be made to enable the creation of educational and proper emotional relationships between children placed in institutions and the members of staff. This can be achieved by careful recruitment and maintaining a stability of staff.

24. Internal organisation of the placement setting, in particular of the institution

Stability and quality of living quarters

It is important not to destabilise children during the placement, which should be as short as possible. They should be offered special psychological and emotional support. This aim can only be realised if the living quarters of the

children remain as stable as possible and if a family-type atmosphere is created. The quarters should as far as possible equate to normal family life.

Mixed living quarters

If it is in the best interests of the child living quarters should be formed like a family and both genders living together. Siblings of different sex could stay together. But there may be situations where it is not in the best interests of the children concerned to live with children of the opposite sex.

Staff

The staff should be very carefully recruited under procedures that include obtaining detailed references and assessing required skills and training. To prevent any risk for children being placed, criminal records of candidates should be checked seriously.

The governing authorities should endeavour to take on qualified, multidisciplinary staff with a sound, basic training, capable of adapting their own attitudes in line with the evolving situation of the child and the family. A pre-condition for recruiting qualified staff is adequate remuneration. Low salaries would lead to a less qualified staff, which is clearly against the best interests of children.

These basic skills should be continually reinforced and readjusted through supervision and further training on all aspects of child-care.

In addition to the fundamental theoretical training indispensable for knowledge of children's rights, family law, children's needs when in care, parental responsibilities or teaching and communication techniques, it is necessary to provide practical work experience, which should be as varied and comprehensive as possible so as to enable staff to experiment with the appropriate behaviour to adopt in the light of the rights of the child and the individual circumstances of each child, and while also respecting the child's culture, religion and race.

These skills should be regularly reviewed, updated and adapted throughout staff members' careers so as to prevent them from becoming set in their ways, creating a situation which may also gradually affect the dynamics of the whole institution.

In order to review and improve provisions for children in institutions, governing bodies should count amongst their priorities the devising and organisation of training programmes at all levels amongst their priorities, as well as the adjusting of resources so as to provide quality teaching.

It is important that the staff is "mixed" in a broad sense; this indicates that when children belonging to a minority are living in the institution, it would be advisable that a staff member belonging to that minority be also present. Furthermore, children should find a family-type model with men and women as staff members.

Importance of working in multidisciplinary team

To ensure consistency in treatment, the individual psycho-pedagogical strategy should be devised by a multidisciplinary team, which is called upon to support the relationship between the staff and the child within his or her living quarters. The various members of the multidisciplinary team required to deal with the many aspects of the child's personality should endeavour to work in a complementary manner on the basis of a joint strategy and its constant readjustment, and ensure that their work is coherent so as to counteract the feeling of fragmentation very often felt by the child. This presupposes that the team will arrange times to consult one another, pass on information and discuss matters.

When implementing the pedagogical strategy, the team should always bear in mind what is to happen at the end of the placement. The child's discharge should therefore be thoroughly prepared and decided on according to the changes of successful reintegration, taking into account both the changes observed in the child and those undergone by the family, as well as the family's future plans including the child after the period of absence.

The manager of the institution has a vital role to play in creating favourable conditions for the children and should act as a crucial driving force creating a sense of dynamism in the institution's work.

Code of Ethics

A Code of Ethics describes the standards of practice expected of the group of people to whom it refers. It is one of the hall-marks of a profession, because professionals are often in positions of trust and power, because of their specialist knowledge or power invested by law. A Code of Ethics can be an especially valuable tool to ensure that the rights of children in care are adhered to as well as to promote their social integration by empowering their

families. Furthermore, the Code can provide the professionals with increased confidence in their day-to-day work.

The efficient use of available resources

While it is important that the member states provide all or a part of the funds needed to run placement settings properly, it is also appropriate to assess the use of the resources that are currently available and look into ways in which they could be distributed more equitably in the interests of children.

Cooperation with parents

Cooperation with parents should be recognised as an essential quality element in the work of placement settings. Field practice, research work and the case-law of the European Court of Human Rights under Article 8 of the European Convention on Human Rights confirm that, when considering placement, the positive implication of parents should be sought and supported.

Violations of the rights of children in care and monitoring

If the rights of children in care are to be guaranteed, the member states must sanction all infringements of those rights by setting up complaint procedures and introducing appropriate criminal, disciplinary or administrative sanctions.

There should exist an efficient system of monitoring and external control of placement settings. By such a system it should be ensured that children's rights are respected and that any infringements – of a general or individual nature – are eliminated. To allow such a complete control all placement settings should be registered with the competent authority.

It is important to collect relevant statistical data and to arrange research projects to have a reliable basis for improvements of the whole system of care.

25. Role of NGOs and other private bodies

As regards residential institutions, non-governmental organisations (NGOs), religious organisations and other private bodies play an important role on the one hand in running residential institutions and on the other in promoting children's rights in such institutions. States should create and improve the necessary basis for these activities by providing clear standards, systems of accreditation and financial support. But they should not be released from their obligations towards children in care by entrusting a role to be played to NGOs or others (see item 17 above, 4th paragraph). States remain fully responsible for ensuring that children's rights are respected and are obliged to control the quality of the work (e.g. qualified staff) and the finances of non-governmental bodies. A mechanism should exist to withdraw an accreditation if such a body no longer meets the given requirements.