

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

12 April 2021

Children's rights and alternative care

**Survey prepared by the Secretariat of the Steering Committee for the Rights
of the Child (CDENF)**

children@coe.int

www.coe.int/children

Background

The Council of Europe's Steering Committee for the Rights of the Child (CDENF) is planning to hold a regional discussion with member states Delegations, and other stakeholders, on children's rights and alternative care. The aim of this discussion will be the consideration of topics and information that will inform the Steering Committee's contribution to this year's UN Committee on the Rights of the Child's General Day of Discussion (DGD) on children's rights and alternative care.

Specific objectives of the 2021 UN Committee on the Rights of the Child's DGD include:

1. Create meaningful engagement for children and young people who have experience of the child protection system and/or of living in alternative care of any type so they can voice their opinions on what constitutes quality care and advocate for legislative and systemic changes;
2. Acknowledge the harms of care and the abuse of children in care, and explore the measures that can be taken to ensure prevention, intervention and access to justice, accountability and suitable reparation;
3. Draw lessons from the impact of the COVID-19 pandemic on children's care and alternative care, including on efforts to strengthen and reform alternative care systems, and make recommendations for the response and preparedness for future public health as well as social and environmental global crises;
4. In order to prevent family separation, expand opportunities for learning from best practice in reducing the number of children admitted to formal alternative care, through enhanced prevention and gatekeeping initiatives;
5. Expand opportunities to learn from evidence about alternative care options and evidence about what constitutes quality alternative care, with a view to establishing a meaningful process for developing guidance on this;
6. Explore efforts towards the development or strengthening of fully-integrated child protection systems;
7. Explore innovative approaches to alternative care for children in particularly vulnerable situations, such as humanitarian contexts and migration, and learning from existing good practices.

In order to fully inform the upcoming CDENF regional discussion, and subsequent submission to the CRC DGD, we would like to explore a number of topics identified in the objectives listed above. To this end, we would be most grateful if you could complete this survey.

Privacy Notice

1. Who is responsible for data processing?

The Council of Europe is the “data controller” with respect to processing of your personal data in relation to the survey, which means it has the decision-making power concerning the data processing.

2. What data do we process and for what purpose?

We process personal data that we receive from you in response to the first five questions of the survey. We process these data for two purposes:

- (i) we need your name, surname and professional information in order to understand who the respondents to the survey are and to further analyse the responses given by respondents falling within different professional categories;
- (ii) we ask for your e-mail address in order to be able to contact you with follow up questions provided you gave your consent to be contacted by responding “yes” to Question 6.

3. What is the legal basis for our processing of your data?

We process your personal data on the basis of the Council of Europe’s legal instruments and its internal rules in order to carry out activities necessary for the performance of the Council of Europe’s tasks.

4. How are your data stored and who has access to your data?

We store your information electronically on the Council of Europe’s servers. We have put in place measures to protect the security of your information such as appropriate security measures, including account access techniques, to prevent your personal information from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed.

Only those units or persons within the Council of Europe who need your personal data in order to analyse the responses to the test will have access to them. We shall not share your personal data with third parties. In particular, whereas we may contract external consultants to help us analyse the survey’s responses, we will not share your personal data with them. Your personal data will not be included in the Compendium of responses to the survey ether.

5. How long will your data be stored?

We will store the complete responses to the test for the duration of the preparation and completion of the Compendium of responses to the survey. Once the Compendium is prepared, we will delete your personal data and only retain professional category of the respondents.

6. Is data transferred to a third country?

We will store your data within the European Union and will not transfer it to any country outside of the European Union. However, for collection of responses to the test we use Microsoft Forms as data processor. You can find a link to Microsoft Forms Terms of Use at the bottom of the first page of the survey. If you follow it, you will be provided with a link to Microsoft Forms Privacy Statement.

7. What are your data protection rights?

You have the right to:

- request access to your personal information held by us;
- request that we correct incomplete or inaccurate personal information that we hold about you;

- request we delete or remove your personal information when there is no valid reason for us to keep it;
- object to the processing of your personal information on specific grounds relating to your situation.

If you want to exercise the above rights, or for any queries, concerns, or requests you may have in connection with the way your data is collected and used, please contact the Council of Europe by:

- sending an email to children@coe.int,
- sending an email to the Council of Europe's Data Protection Officer at dpo@coe.int.

Consent

*Required

1. If you are happy to proceed with answering the questions in this survey please choose 'yes'.

If you choose 'no' we will be unable to use the information you provide us.

- yes**
- no**

Before Starting

*Required

Please note that data will be processed according to GDPR and used for the purpose of the survey, and that no personal data will be published.

2. Please specify which country you are providing information on.*

Enter your answer

3. Name / Surname

Enter your answer

4. Organisation/Position*

Enter your answer

5. Email*

Enter your answer

Definitions

For purposes of this survey, definitions relating to alternative care have been based on those contained within the [UN Guidelines for the Alternative Care of Children](#) including:

- Formal alternative care: ‘all care provided in a family environment which has been ordered by a competent administrative body or judicial authority, and all care provided in a residential environment, including in private facilities, whether or not as a result of administrative or judicial measures’.
- Foster care: ‘situations where children are placed by a competent authority for the purpose of alternative care in the domestic environment of a family other than the children’s own family that has been selected, qualified, approved and supervised for providing such care’.

(Please note: in some countries foster care is also the formal placement of a child by a competent administrative body or judicial authority into the care of an extended family member)

- Residential care: ‘care provided in any non-family-based group setting, such as places of safety for emergency care, transit centres in emergency situations, and all other short- and long-term residential care facilities, including group homes.’

(Please note: this might also include such settings as boarding school and those known as ‘internat’, sanatorium and orphanages etc.)

For the purposes of this survey the definition of a child, taken from the UN Convention on the Rights of the Child, is: ‘every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.’

Research on abuse of children in all forms of formal alternative care

The term ‘abuse’ is used in relation to all forms of violence against children as identified in Article 19 of the UN Convention on the Rights of the Child : ‘all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse’.

6. Are you aware of any **research or reports that provide evidence**, or other information, about abuse in different forms of formal alternative care settings in your country - including foster care and different residential settings?

Yes Opgroeien? (Kind en gezin?) – bevraging Tim Stroobants

What we do know and can deliver, is the importance of a positive living climate related to a normal or disruptive development in residential youth care. Van der Helm (2011)

no

7. We would be grateful if you could share any research or reports you have on abuse of children in formal alternative care. This would include children in all forms of formal alternative care including residential and foster care. Please send to: (children@coe.int)

Abuse in alternative care, access to justice and redress

All forms of abuse, including neglect, are a breach of the human right to be free from torture or other cruel, inhuman or degrading treatment. Anyone who has been subjected to abuse has the right to access justice, to effective remedies and reparation, including those who have been placed in alternative care. Others affected by abuse of children in care, including family of victims/survivors, and current or former staff in alternative care services, also have rights that should be upheld including the right to a fair hearing.¹

We are now seeking information about the protection of children currently in care. Furthermore, in recognition of learning from the past so as to improve ongoing protection in care settings, we are also seeking information on any historic abuse procedures that have been undertaken, or are still in progress.

8. Is it a statutory requirement that all formal alternative care settings and services in your country **have reporting and complaint mechanisms** by which children and young people can report abuse in a safe manner that is without fear of retribution?

- Yes
- No

9. If you answered yes – please provide details **Opgroeien – W&S?**

1712, recht op (gratis) advocaat indien gerechtelijke jeughulp), jongere kan gesprek aanvragen bij jeugdrechter, Jo-lijn, VK's, Nupraatikerover.be

10. Are there **mechanisms that facilitate investigation, justice, redress, and reparation (including restitution and compensation) for those that are being/have been abused whilst in different forms of formal alternative care?** Please choose all the options appropriate to your country.

Reparation, Inquiry and Access to Justice – **Opgroeien? VK en OCJ en W&S?**

- Government/Public institution led enquiry
- Ombudsman led enquiry
- Independent Commission led enquiry appointed by the Government
- Independent enquiries brought by private organisations (Associations of persons with lived experiences, lawyers, etc.)
- Criminal court arbitration
- Civil court arbitration
- Reparation in the form of financial redress
- Reparation in the form of personalised services in kind e.g. funding reunification of families, access to education and educational resources
- Truth and reconciliation process
- Criminal sanctions
- Other -please list

Enter your answer

¹ Adapted from: Scottish Human Rights Council & CELCIS (2013) Action Plan on Justice for Victims of Historic Abuse of Children in Care. Available at: https://www.celcis.org/files/6615/9649/4700/7._ii_-_Action-Plan-on-Historic-Abuse-of-Children-in-Care-Nov-2013.pdf

11. Acknowledgement and Apology – W&S

- Acknowledgement and/or formal apology by Government on behalf of agencies that provided alternative care services
- Acknowledgement and/or formal apology by a non-governmental agency that provided the alternative care service
- Confidential Forum (e.g. allowing for sharing of survivor narrative outside of any inquisitional/legal setting)
- Removal of barriers to allow survivors access to justice - for example, review of existing laws or administrative barriers that prevent survivor's claims (e.g. removal of time limits etc.)
- Commemoration e.g. commissioning of memorial etc.
- Establishing a publicly accessible national record
- Restorative Justice (focussing on rehabilitation of offenders through reconciliation with victims and community at large).
- Other – please list

Enter your answer

If you have selected any of the processes listed in Question 2, please indicate what stage these processes have reached?

Please list mechanisms under relevant stage of process:

12. Planned but not yet started

Please list relevant mechanisms:

13. In process

Please list relevant mechanisms:

14. Finalised but not yet implemented

Please list relevant mechanisms:

15. Finalised and implemented

Please list relevant mechanisms:

16. Finalised, implemented and reviewed by stakeholders

Please list relevant mechanisms:

17. Are those who have been victims of abuse in alternative care able to fully participate in these procedures?

- always
- sometimes
- never

18.

Please describe ways in which the participation of those affected by abuse is facilitated:

19. Are there support services available to those that are being/have been abused whilst in different forms of alternative care and are seeking redress?

- Support to trace and easily access information including personal records
- Access to information and resources that are specifically child-friendly
- Access to free legal aid for individuals
- Access to free legal aid for groups
- Access to financial aid
- Access to mediation
- Access to counselling and other support with pain and suffering
- Support services to search for origin of birth
- Support in preparing and delivering evidence/testimony
- Family reunification services
- Access to other personalised services (e.g. access to education and other missed opportunities)
- Other – please list

Enter your answer

Children in alternative care because of difficult behaviour - Opgroeien

Definition

Difficult behaviour can include such terminology as:

- Socially unacceptable behaviour.
- Problem behaviour.
- Challenging behaviour

For the purposes of this survey, examples of words that may be being used to describe children with difficult behaviour might include: troubling/ challenging/problematic/disruptive / anti-social / aggressive or violent/argumentative/deviant/socially inappropriate/bullying/destructive

Some examples of behaviour that challenges include:

- Children who cannot visit other people's homes or public places as they would be at risk of destroying property or behaving aggressively towards strangers.
- Children that are unable to attend school because they are aggressive towards other children or towards staff.

- Children that may have been identified by law enforcement agencies but have not been arrested/sentenced.

For the purposes of this survey this does **not include:**

- Children with a diagnosed emotional, psychological, or psychiatric condition or disability. (Although it is recognised that children thought to have 'difficult' behaviour may have undiagnosed mental health conditions, emotional and learning disabilities, attention deficit hyperactivity disorders etc.)
- Children in the juvenile justice system that have been arrested/sentenced for alleged criminal behaviour

20. Are children with difficult behaviour placed in formal alternative care in your country? - **Opgroeien**

Please choose all the options that are applicable.

- Residential care institutions (more than 6 children)
- Residential care group homes (less than 6 children)
- Foster care
- Secure facilities
- Medical institutions
- Specialised boarding schools
- Placement outside the State
- Other, please indicate

- Children with difficult behaviour are not placed in formal alternative care

21. If children with difficult behaviour are being placed in formal alternative care, which government authority is administering these placements? - **Opgroeien**

- The child protection system (e.g. social services)
- The criminal justice system
- Both the child protection service and the criminal justice system working together
- Other, please indicate

22. Do you have programmes that work to prevent separation of children with difficult behaviour from their families?

- yes
- no

23. We would be grateful if you could share any evaluations, research, reports, and examples of promising practice relating to prevention of family separation involving children with difficult behaviour. Please send to (children@coe.int)

24. Are children who are in conflict with the law and have been sentenced, placed in the same alternative care settings as children who are in the alternative care system due to protection concerns?

- always
- sometimes
- never

Sending children across borders to formal alternative care provision

The following questions refer to the placement of a child in formal alternative care in another country. This does not include children who go to live with family members unless this is a formally arranged care placement with a family member that has been ordered by a judicial or other competent administrative body e.g. social services.

Placement - may be defined as a measure of child protection which occurs when a child cannot be adequately cared for by their parents or other legal primary caregivers.

Cross Border - in this instance, placement is also characterized by a 'cross-border' dimension derived from the fact that the protection measure is decided by the judicial or other competent authority of the State of origin, but it is put in practice by a competent authority within the borders of the receiving State.

State of origin – the State where a child is habitually resident and may agree to the formal care of this child, in another State.

Receiving State – the State that may agree to provide formal care for a child, that is habitually resident in another State.

25. **Sending States: Are children being sent from your country to formal alternative care settings in another country?**

- yes
- no

If yes: **Conventie Brussel II Bis regelt de internationale jeugdhulpmaatregelen in de Europese Lidstaten (uitgezonderd Denemarken). Haags Verdrag van 1996 regelt internationale familiale aangelegenheden, inclusief jeugdbescherming voor alle jeugdhulpvragen die buiten de scope van Brussel II Bis vallen. Vb. Kafalaverzoeken uit Marokko, Guinee, ...**

26. Which countries are children being sent to (inside and outside Council of Europe Member States)?

Alle Europese lidstaten uitgezonderd Denemarken

27. Which agencies facilitate the process of sending children to formal alternative care placements in another country? Please select all those that are appropriate.

- Government agencies**
- Not-for profit organisations/NGOs
- Private companies

- Other please provide details

Enter your answer

28. What are the reasons your country is sending children into formal alternative care placements in another country? You may choose as many answers as are applicable

- access to superior quality of care not available in your country
- access to specialist care not available in your country
- cost effectiveness
- other – please provide details

Meestal omdat familieleden in het buitenland de zorg voor de kinderen willen opnemen als de ouders hier niet meer toe in staat zijn (foster care)

29. /30. Which formal alternative care settings are children being sent to and on average, how many children are being sent into these different forms of alternative care each year?

Number of children

- residential care
- foster care
- other - please provide details:

Het aantal ken ik niet (hou dit niet bij) Het aantal neemt de 2 laatste Jaren wel toe (betere kennis BRU II Bis ?)
We krijgen meer vrag van buitenland aan ons dan wij naar buitenland.
PS: in principe is FOD Justitie de centrale autoriteit hierin maar omdat Jeugdhulp gemeenschapsmaterie is, is er per gemeenschap een aanspreekpunt. Misschien kan FOD Justitie cijfers geven?

31. Who are the children you are sending to formal alternative care placements in another country?

- children with protection orders
- children with disabilities
- children with difficult behaviour
- unaccompanied and separated refugee and migrant children

- other – please provide details

Elke kind dat door omstandigheden niet bij de ouders kan verblijven in België
Het aantal ken ik niet (hou dit niet bij) Het aantal neemt de 2 laatste Jaren wel toe (betere kennis BRU II Bis ?)
We krijgen meer vrag van buitenland aan ons dan wij naar buitenland.
PS: in principe is FOD Justitie de centrale autoriteit hierin maar omdat Jeugdhulp gemeenschapsmaterie is, is er per gemeenschap een aanspreekpunt. Misschien kan FOD Justitie cijfers geven?

32. Are parental rights removed before or after a child is sent into formal alternative care in another country?

- always
- never
- sometimes

33. What quality assurance procedures are in place to ensure a child is being offered a superior quality of placement than can be obtained in your own country?

Social investigation by official Youth care actors

34. How is regular contact facilitated between parents, or other legal caregivers, and a child whilst the child is in an alternative care placement in another State?

Afhankelijk van de situatie, maatwerk

35. What processes ensure the reunification of a child back with their parent/s or other legal primary caregiver facilitated as soon as it is safe to do so?

Ook dit is maatwerk, er zijn geen vaste procedures of richtlijnen, belang van het kind primeert

36. Please describe any process that guarantees the child's best interests are of primary consideration when choosing to send the child to an alternative care placement in another country

Ordonnantie Brussel II Bis, Haags Verdrag van 1996
Er gebeurt steeds een maatschappelijk onderzoek

37. Please describe the process undertaken to ensure children are able to fully participate in any decision making about their alternative care placement

Als wij vragen om kinderen elders te plaatsen: er gebeurt een maatschappelijk onderzoek waar de kinderen gehoord worden (net zoas bij een normale interne procedure)

Wanneer we de vraag krijgen van het buitenland, kunnen we vaak de kinderen niet spreken net omdat ze in het buitenland verblijven

38. Receiving States: Does your country receive children to be placed in formal alternative care settings from other countries

- yes
- no

If yes: idem als vragen 25 tot 37

Tot

39. Which countries are you receiving children from (inside and outside Council of Europe Member States)?

idem als vragen 25 tot 37

40. Which agencies facilitate the process of receiving children into formal alternative care placements that have been sent by another country? Please select all those that are appropriate

- Government agencies
- Not-for profit organisations/NGOs
- Private companies

Enter your answer

- other - please provide details

41. What are the reasons other countries are sending children into formal alternative care in your country?

- access to superior quality care not available in the sending State
- access to specialist care not available in the sending State
- cost effectiveness on behalf of the sending State
- other – please provide details

idem als vragen 25
tot 37

42. /43. Which formal alternative care settings are children from another country being sent to, and on average, how many children are being sent into these different forms of formal alternative care in your country each year?

Number of children

- residential care

- foster care
- other - please provide details

Alle bestaande hulpvormen zijn ook toegankelijk voor kinderen uit buitenland

44. Who are the children that are being sent from another country into formal alternative care placements in your country?

- children with protection orders
- children with disabilities
- children with difficult behaviour
- unaccompanied and separated refugee and migrant children
- other – please provide details

idem als vragen 25 tot 37

45. What quality assurance procedures are in place to ensure a child is being offered a more superior quality of placement than can be obtained in their own country?

idem als vragen 25 tot 37

46. How is regular contact facilitated between parents, or other legal caregivers, and a child whilst the child is in an alternative care placement in your country?

idem als vragen 25 tot 37

47. What processes ensures the reunification of a child back with their parent/s or other legal primary caregiver in the sending State as soon as it is safe to do so?

idem als vragen 25 tot 37

48. Please describe the process undertaken to guarantee the child's best interests are of primary consideration when you receive a child into a formal alternative care placement from another country

idem als vragen 25 tot 37

49. Please describe the process undertaken to ensure children are able to fully participate in any decision making about their alternative care placement when sent from another

idem als vragen 25 tot 37

country

Closure of residential alternative care settings during the COVID-19 pandemic

50. Since the onset of the COVID-19 pandemic in early 2020, have any of the children's residential alternative care settings in your country closed with the result that all, or some, of the children in those particular settings were sent back to live with their families?

yes

no

If you answered yes, please provide details:

BY

Enter your answer

PRESSING THE NEXT BUTTON YOU WILL BE SUBMITTING YOUR SURVEY. PLEASE TAKE TIME TO REVIEW YOUR ANSWERS BEFORE SUBMITTING.

THANK YOU