

GUIDE FOR SWISS
PROFESSIONALS ON

international standards relevant to foster care



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Introduction

Following the Federal Act on Coercive Measures for The Purpose of Assistance and Extra-Familial Care Prior to 1981, of 30 September 2016, the National Research Programme 76 Welfare and Coercion was launched in 2017.

The NRP 76 “tackles the legal and social dimensions of welfare and coercion in Switzerland from a historical perspective and the perspective of the relevance of these measures to the present and the future.” This Guide is based on the NRP76 research focusing on Coercive decisions in Switzerland through the lens of international standards : foster care placements.

This Guide seeks to give professionals practical guidance in implementing international standards relevant to alternative care, in order to better equip them in their daily work with children and families. Better alignment with these international standards will help ensure that removal and placement decisions are taken in the best interests of the child. Such decisions are inherently coercive as they involve interference with the private lives of families. This is why international standards provide safeguards for when such decisions may occur, such as protecting children from abuse. Whenever coercive decisions do not comply with these safeguards, they can result in “unnecessary” removal and “unsuitable” placements.

This Guide provides information on key decision-making stages in order to align them with international standards to prevent “unjustified” removal and placements in foster care with:

- a description of international safeguards
- references to international standards
- indicators for compliance
- promising practices in Switzerland and abroad

1 What are the relevant international standards?

Conventions

- [Convention on the Rights of the Child \(1989 CRC, most widely ratified human rights treaty\)](#)
- [Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography \(2000 OPSC\)](#)
- [Optional Protocol to the Convention on the Rights of the Child on a communications procedure \(2011 OPIC\)](#)

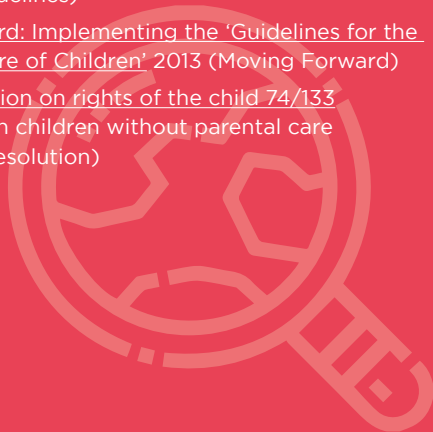
Other norms

- [Guidelines for the Alternative Care of Children \(2009 UN Guidelines\)](#)
- [Moving Forward: Implementing the 'Guidelines for the Alternative Care of Children' 2013 \(Moving Forward\)](#)
- [UNGA Resolution on rights of the child 74/133 with a focus on children without parental care \(2019 UNGA resolution\)](#)

- [Council of Europe Recommendation Rec\(2006\)19 on policy to support positive parenting](#)
- [Securing Children's rights – A guide for professionals working in alternative care \(2013 by COE and SOS Children's Villages\)](#)
- [Quality4children Standards for Out-of-Home Child Care in Europe](#)

Human Rights Reporting through the Committee on the Rights of the Child (CRC Committee) etc.

- [CRC Committee concluding observations on the combined second, third and fourth periodic reports to Switzerland in 2015 \(CRC/C/CHE/CO/2-4\)](#)
- [CRC Committee concluding observations on the combined fifth and sixth periodic reports to Switzerland in 2021 \(CRC/C/CHE/CO/5-6\)](#)



2 Why are these standards important for Switzerland?

International standards help ensure that Switzerland complies with its obligations, having ratified the CRC in 1997 so that children notably:

- can fully enjoy all their rights;
- are protected from abuse and all forms of violence;
- are not unnecessarily separated from their families ([sec 3](#));
- are heard and able to fully participate in decisions that affect them ([sec 6](#));
- have access to quality alternative care when it is necessary ([sec 7](#)); and
- have their identity preserved ([sec 9](#)).

Every five years, Switzerland must report about its compliance to these standards to the CRC Committee - the body of 18 independent experts that monitors implementation of the 1989 Convention.



The CRC Committee's recommendations in 2015 and 2021 to Switzerland stress the need to have among other safeguards:

- a national coordinated approach to child protection, including adequate investment;
- a children's ombudsperson;
- robust data collection system; and
- systematic training on international standards, for all professionals working for and with children, in particular those working in child protection, social protection and alternative care.

This Guide responds in part to these recommendations and need for better equipping of professionals. It provides them with a concrete pathway for removal and placement decisions that are "justified" and aligned with international standards.

3 How to support families and prevent unnecessary separation?

International standards encourage States to support parents in their caregiving role at three levels of prevention.

States have a responsibility to prevent family separation at a:

- Primary level through access to basic services for the general population (e.g. education, health, social services);
- Secondary level through access to targeted services for families at risk of separation (e.g. unemployment, domestic violence, mental health, disability, drug and alcohol abuse);
- Tertiary level by promoting re-integration efforts following family separation, whenever in the best interests of the child. Services addressing the reasons for (initial and ongoing) separation should go beyond maintaining family ties (e.g. respite care, continuous support to birth families).

1989 CRC (Arts. 20(1) and 27(3))

2009 UN Guidelines (§. 3, 9-10, 15, 32-34, 36, 39-48, 155)

2019 UNGA resolution (§. 21-23, 27-32, 34)

Moving Forward (Chapter 5)

- efficient coordination and communication between all relevant actors
- realistic expectations of parents and their capacity
- full access to services without costs unduly being imposed upon parents

Switzerland – la Maisonnée in the Valais provides support to mothers in vulnerable situations

Norway – the Child Welfare Services offers comprehensive services and programmes to support parents in different situations where their caring role is at risk.

4 How to promote family re-integration when separation occurs?

Despite all support offered to families in terms of basic and targeted services, some children may nevertheless be in need of alternative care.

In these situations, States have an obligation to, firstly, maintain contact with the child and family and, secondly, promote family reintegration when in the child's best interests.

Efforts at this stage focus on securing conditions that enable a positive re-start and returning the child to the care of his or her parents wherever possible, at an appropriate moment and under suitable conditions. Such efforts include:

- analysis of the reasons for separation including assistance to resolve them;
- evaluation of family setting to ensure a secure re-integration;
- elaboration of plan for re-integration; and
- follow-up support to re-integration.

1989 CRC (Arts. 9(2))

[2009 UN Guidelines \(§. 2a, 3, 11, 14, 15, 40, 49-52, 60, 67, 68, 119, 123, 166-168\)](#)

[2019 UNGA resolution \(§ 17, 27, 35 \(c, o, p and s\)\)](#)

[Moving Forward \(Chapter 5\(c\)\)](#)

[Guidelines on Children's Reintegration](#)

- adequate support to address initial and ongoing reasons for separation
- robust risk assessment so that placement is secure
- comprehensive plan for re-integration between all relevant parties and professionals
- preparation of all relevant parties
- follow-up support of the plan, including providing access to basic and targeted services

[Cambodia - with the support of UNICEF, the country drafted a Capacity Development Plan for improving child care with the target of safely returning 30 per cent of children from residential care institutions.](#)

[Moldova - A 2021 report on Knowledge, Attitudes, and Practices of Reintegrating Children into Families has been prepared to prevent child-family separation and remove existing obstacles children and families face during reintegration.](#)

5 How to enable professional decision-making?

Removal and placement decisions are life-impacting.

Professionals address difficult circumstances that can involve uncertainty, time pressures, resource constraints, multiple interests and lots of emotions. Such decisions should therefore at all stages:

- be based on rigorous assessment, planning and review, through established structures;
- be carried out on a case-by-case basis by suitably qualified professionals in a multidisciplinary team;
- involve full consultation of all parties, especially the child; and
- be within the framework of State supported services, resources and training.



1989 CRC (Art.3(3) and 25)

2009 UN Guidelines (§ 11, 12, 57 to 68)

2019 UNGA resolution (§ 34(k and l))

Moving Forward (Chapters 6a, 6d, 6e, 8a and 8b)

- well-equipped decision making tools (e.g. evaluation grids, initial and continued training)
- adequate resources to avoid case over-load
- mechanisms encouraging coordination and communication between all the relevant actors

Accreditation of service providers – in Australia, the Child Safe Standards for Permanent Care form the basis for how agencies become accredited to provide statutory out-of-home care services.

Australia and UK – specialist child’s rights lawyers are accredited by the Law Society and trained on child law: lawsociety.org.uk and lawsociety.com.au

6 How to facilitate the participation of children and their families?

The participation of the child and his or her family at each stage of the proceedings and during the placement is closely linked to consideration of the child's best interests.

To facilitate the child's participation:

- he or she should have access to all relevant information to reach well-founded conclusions about available options;
- consultation with appointed representative and significant person(s) should occur;
- a person of trust should be available and chosen by the child;
- he or she should actively participate in any plans including contracts that are developed;
- communication channels should be adapted to the profile of each case; and
- access to complaint mechanisms should exist ([sec 10](#)).

[1989 CRC \(Art. 12\)](#)

[2009 UN Guidelines \(§ 6,7,40,42,57,65,67,72\)](#)

[2019 UNGA resolution \(§ 34\(k\)\)](#)

[Moving Forward \(Chapter 2\)](#)

- availability of child friendly version tools about their rights, child protection procedures; etc.
- consultations with the child and family occur in adapted environment (e.g. neutral place)
- views of the child are given adequate consideration

[Switzerland Quality4Children brochure](#)

[Missing Children in Europe have a smartphone application on rights, procedures and support.](#)

[RELAF child friendly version of the 2009 UN Guidelines](#)

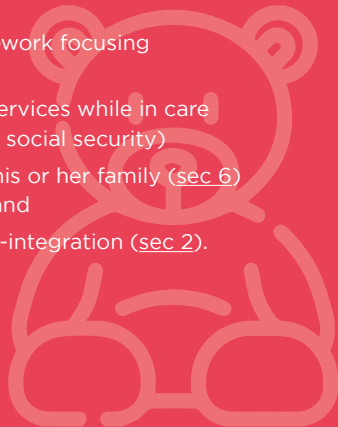
[SOS Children's villages with the Council of Europe developed a professional Guide](#)

7 How to ensure quality foster care placements?

Once all efforts to support the family have been exhausted, alternative care may become necessary.

The care setting should be suitable and of a high quality, including :

- minimum quality standards for all care placements;
- adequate State budget;
- solid system to assess, approve, support and supervise foster families;
- preparation of all relevant stakeholders for the placement;
- robust matching framework focusing on needs of the child;
- access to all relevant services while in care (e.g. education, health, social security)
- participation of child, his or her family ([sec 6](#)) and the foster family; and
- adequate efforts for re-integration ([sec 2](#)).



[1989 CRC \(Arts. 3, 20, 27\)](#)

[2009 UN Guidelines \(§. 55, 71, 73, 83 à 91\)](#)

[2019 UNGA resolution \(§. 35\)](#)

[Moving Forward \(Chapters 6 to 8\)](#)

- agreed national standards including accreditation and supervision of all service providers
- written agreement between all relevant parties about the conditions of the placement
- placement of siblings together

CARITAS in Switzerland has developed a placement agreement in two stages. Firstly there is a meeting of all the actors prior to placement with a presentation of all parties, listening to one another, various clarifications and a reflection period. Secondly, questions are addressed to achieve consensus. This preparatory and support work lessens conflicts of loyalty and “unsuitable” placements. Weekly follow-up goes well beyond international standards

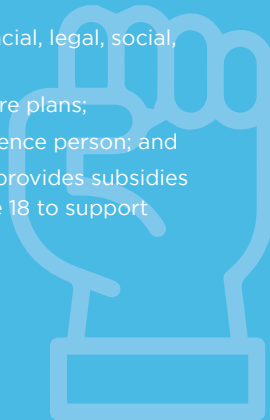
[National association of foster families exist to provide support to each other.](#)

8 How to support independent living following care placement?

Sufficient attention should be given to this key transitional period in a child's life to avoid disastrous consequences (e.g. unemployment, homelessness, offending, substance abuse, suicide) when he or she is not adequately supported.

Young people can benefit from gradual supported transitions to achieve independence through for example :

- professional support to acquire social and daily-life skills;
- ongoing State support (financial, legal, social, health, training);
- inclusion of views about future plans;
- availability of a specific reference person; and
- schemes whereby the State provides subsidies to foster families beyond age 18 to support transition period.



1989 CRC (Arts.6(2) and 20)
2009 UN Guidelines (§. 131 to 136)
2019 UNGA resolution (§. 35(l)
Moving Forward (Chapter 9)

- national framework including budget that covers State support for the transition period
- promotion of careleaver groups to ensure that they have a voice
- specialised services within the child protection office / social services

Switzerland – careleaver networks include careleaver.ch & leaving-care.ch

Leaving care in Scotland – law and regulations set up the duties of the State to provide after care support up to 26 (or beyond in some cases).

9 How to preserve the child's identity?

International standards require the preservation of, and accessibility to, information about removal and placement decisions so that each child can enjoy his or her right to identity.

Loss and deprivation of an identity or constitutive elements can have massive legal, medical and psychosocial repercussions on the child's life into future generations, which can be prevented through :

- comprehensive collection of all relevant information on the child's file (e.g. police report; efforts to prevent separation, maintain ties and re-integration; family relations; evaluation reports, CAPA decisions)
- preservation of all information through centralised archives for an indefinite period;
- access to information with support being available.



1989 CRC (Arts. 7, 8 and 20)
2009 UN Guidelines (§. 110 and 111)
2019 UNGA resolution (§. 8 and 22)
Moving Forward (Chapter 2a)

- digitalisation of all records
- each child/ family/ caregiver should systematically be given a copy of their file
- data protection rules that respect the child's privacy

Family life story book – this includes pro-active collection of all relevant information about the child's history.

Primero platform – is a protection-related information management system that helps social workers, child protection practitioners and service providers to manage, store and analyse data on children, including information about families. Primero manages three types of data, including case management, incident management and information about the localisation and reunification of families. This platform could be used as a framework for the collection of national statistics.

10 How to facilitate access to complaint mechanisms

International standards dictate that for all decisions involving children, that there is a complaints mechanism including for children in care.

Complaint procedures for removal and placement decisions should include frameworks that are adapted for and known to children:

- informal and formal processes;
- an independent organisation that can receive and act upon complaints;
- support from trusted adults;
- awareness of the extent and limits of confidentiality when making complaints;
- access to legal remedies and judicial review;
- access to legal representatives;
- systematic feedback on how their concerns have been dealt with; and
- regular review of the decisions and/or complaints.

1989 CRC (Art. 12)

2009 UN Guidelines (§. 47, 66, 98 to 99)

2019 UNGA resolution (§.16 and 35(k))

Moving Forward (Chapter 7c)

- seek the views and ongoing participation of children in how to improve complaints mechanisms”
- impartial and independent body which can monitor complaints
- broad availability of services that are known and adequately resourced

Switzerland e.g. KESCHA, Pro Juventute, LAVI
European Network of Ombudsman – gathers 44 independent children’s rights institutions in 34 countries which could inspire a Swiss model.
Children’s Rights Commissioner Scotland - a national, independent organisation with statutory powers and regulations which has a legal duty to promote and protect the rights of all children. The Children’s Commissioner takes on a crucial role, sitting at the heart of Government, delivering for children, and championing their voices and needs.

Acknowledgements:

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Notes: