

## European Network of Ombudspersons for Children

### Policy Position Statement on *“Protecting and Promoting the Rights of Children in Alternative Care”*

**\*Adopted by the ENOC 28<sup>th</sup> General Assembly, 20 September 2024, Helsinki, Finland**

*“Every child and young person should live in a supportive, protective and caring environment that promotes their full potential”<sup>1</sup>*

#### **PREAMBLE**

The ENOC 2024 position statement is based on a general understanding across the ENOC membership that while children in alternative care are amongst the most vulnerable and invisible group of children, their rights are still massively undermined. There is a general concern that children whose parents are unable to meet their needs and who have been deprived of their parents' care, do not always receive a sufficiently supportive, safe, and nurturing environment from the state. There is also concern that children and young people in alternative care experience stigma and prejudice with low levels of understanding in the general population.

ENOC defines alternative care for children as a provision of care by public authorities or other recognised service providers following the country's/jurisdiction's legislation and administrative practices. Alternative care should be a protective mechanism for children who cannot be cared for by their families. It refers to services that aim to protect and promote the welfare of children due to the lack of parental care or the parents' inability, even with appropriate support, to provide adequate care and meet the child's needs. This can take various forms with the most common ones being family-based foster care, residential care, or formal kinship care.

There may be informal arrangements for the care of children without any involvement of public authorities. These arrangements may take place within families, with relatives, or with friends (e.g., informal kinship care). We refer to this as informal alternative care. The

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<sup>1</sup> 64/142. [Guidelines for the Alternative Care of Children](#), General Assembly, United Nations, 2010

focus of this statement is on formal alternative care, which is determined by the decision(s) of public authorities<sup>2</sup>.

In 2024, ENOC focused on the level of implementation of international and regional standards in the framework of alternative care of children and the critical role played by Ombudspersons for Children to independently report and redress violations of children's rights in the context of alternative care. The present position statement is informed by the research "*The Protection and Promotion of the Rights of Children in Alternative Care*" to which 34 ENOC member institutions contributed by providing relevant data regarding children's rights in alternative care within their jurisdictions. It is also informed and enriched by the views and direct experiences of young people participating in the ENYA (European Network of Young Advisors) 2024 project, and those of ENOC members<sup>3</sup>.

Efforts directed to enabling the child to remain in or return to the care of their parents, or when appropriate, other close family members, are often insufficient. ENOC members reported that children with disabilities, children with complex needs, children living in extreme poverty and those belonging to different minorities are referred to alternative care more often than others. Though recognising States' efforts to improve the alternative care for children, the UN General Assembly's 2009 Guidelines for the Alternative Care of Children (A/RES/64/142)<sup>4</sup>, setting the reference international standards on the matter, remain largely unimplemented. In many countries, quality alternative care is lacking and there are insufficient efforts to reconnect children with their families when it's in their best interest. Additionally, children are not given enough support to preserve their roots, language, and culture. At the same time, the possibility for children in alternative care to influence their situation, access legal remedies, participate in decision-making and have their views considered in accordance with their evolving capacities are hindered. Due to the combined effect of negative factors, children may leave alternative care with insufficient knowledge and skills to thrive in society and life.

With this statement, Ombudspersons for Children, members of ENOC, strive to pay special attention to the realisation of provisions enshrined in the CRC with relation to the rights of children separated from their parents. These include the general principles of the

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<sup>2</sup> A decision was taken not to include in this statement the experiences of refugee and asylum seekers or children in other forms of care, such as inpatient psychiatric services, secure care, or similar settings.

<sup>3</sup> Feedback from ENOC Spring Working Session on Alternative Care (3 June 2024, Tallinn, Estonia)

<sup>4</sup> Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly, UN. General Assembly (64<sup>th</sup> sess. : 2009-2010) - <https://digitallibrary.un.org/record/673583?ln=en&v=pdf>

CRC that is, the right of children to be heard and to have their views given due weight (Article 12); the right of children to have their best interests as a primary consideration in all decisions (Article 3); the right to life, survival, and development (Article 6); and non-discrimination (Article 2). It also includes the state's duty to ensure that a child shall not be separated from their parents against their will, except when such separation is necessary for the best interests of the child (Article 9); and the right to special protection and assistance provided by the State including alternative care for such a child, which pays due regard to the child's ethnic, religious, cultural and linguistic background (Article 20). We also acknowledge and support the full implementation of the UN General Assembly Guidelines for the alternative care of children (A/RES/64/142) and other relevant international and European standards on the matter<sup>5</sup>.

As ENOC members, we are aware that we must ensure, through our institutional powers and commitment, the protection and promotion of the rights of children living in alternative care. We also have the duty to hold relevant authorities accountable when the rights and needs of this group of children are not met. Children who have been removed from the family environment are in a particularly vulnerable position and their safety and wellbeing lie within the inherent responsibility of State authorities.

Therefore, we, members of the European Network of Ombudspersons for Children (ENOC), urge States, national and regional authorities but also relevant European and international organisations to fulfil their obligations by implementing the following recommendations:

- 1. Ensure the right of children in alternative care to freely express their views and have them taken into account, in accordance with their evolving capacities, and to participate in decision-making related to their lives and living conditions in alternative care as required by international children's rights standards**

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<sup>5</sup> Concept Note – 2021 Day of General Discussion: Children's Rights and Alternative Care: Concept Note & Outcome report. (<https://www.ohchr.org/en/events/days-general-discussion-dgd/2021/2021-day-general-discussion-childrens-rights-and#:~:text=it%20will%20take%20place%20over,Geneva%2C%20in%20the%20online%20format.>) & Lerch, Véronique & Anna Nordenmark Severinsson, Anna (2019) Target Group Discussion Paper on Children in Alternative Care. Feasibility Study for a Child Guarantee. European Commission ([\(PDF\) Feasibility Study for a Child Guarantee \(researchgate.net\)](#))

- Raise awareness of children's rights in general and more specifically on the right to participate among children living in alternative care and among practitioners working in this field through appropriate and continuous training programmes;
- Provide children with age-appropriate and child-friendly information and materials about their rights and the right to participate, enabling them to express informed views; provide this information and materials in various formats, such as illustrated books, videos, and mobile applications;
- Organise regular workshops and information sessions to educate children and young people about their rights in a supportive and interactive environment;
- Build trust with the child, provide transparency throughout the process, and make sure the child feels comfortable enough to share their views, and understands the process and any related consequences;
- Establish procedures and resources to make children's participation a standard practice in decision-making processes;
- Systematically involve children in all the stages of the care process, including in decision-making concerning them individually and in the system design. Special arrangements should be made available to ensure the meaningful participation of younger children, children with disabilities, and children with special needs;
- Set up more permanent participatory mechanisms and bodies (councils, focus groups, youth clubs etc.) supported by states, with children who are or have been in alternative care where they can freely express their views, share their experiences and contribute to the improvement of the provision and quality of care;
- Ensure the right to participate and the right to be heard are legally guaranteed and their implementation regularly monitored;
- Provide effective remedies and access to justice for children if they are not provided the right to participate.

**2. Support efforts to keep children in, or return them to, the care of their family, when it is in the best interests of the child**

- Develop and implement family-oriented social policies and programmes, including free psychological support, to prevent separation from parents and promote and strengthen parents' ability to take care of their children;

- Offer ongoing support to families during reunification, including regular follow-up visits and monitoring of reunification progress, family counselling, and practical assistance, to help them rebuild trust, adjust and ensure a successful transition;
- Provide comprehensive support services to families, including parenting classes, counselling, financial assistance, and substance abuse treatment, to address the issues that led to the child's removal and create a safe home environment;
- Use multiple channels to disseminate information about the availability of support services to parents and children, including social media, TV and radio, websites, printed materials, hotlines, community outreach, schools, childcare centres, and healthcare providers;
- Implement adequate means and processes to ensure early identification of children in particularly vulnerable situations, including regular health and well-being assessments of the child, training for caregivers and staff working with children, support programmes for parents and caregivers, and child-centred monitoring;
- Provide holistic and continuous support to families in need and facilitate active coordination between competent services;
- Address the root causes of family deprivation;
- Provide a multidisciplinary (multistakeholder) parental capacity assessment with a view to safeguard children's safety, best interests, and needs. The assessment should also include the affected child's/children's views, according to their evolving capacity and maturity;
- Foster strong communication and collaboration between social services, families, and other stakeholders to create a coordinated approach to family support and reunification efforts;
- Put in place practical solutions to maintain contact (phone or video calls, letters, care packages, etc.) whenever physical contact is not possible or not in the best interests of the child;
- Develop and implement evidence-based programmes and interventions;
- To facilitate family reunification, provide parents with necessary support and services and regularly assess the need for placement.

**3. Guarantee available and timely alternative care solutions and provide a thorough and careful assessment of the most appropriate form of alternative care**

- Ensure that all the available means, including family support, are carefully considered based on the best interests of the child before a decision is made to remove the child from the family;
- Evaluate alternative care options, such as foster families, and residential care, to determine which type of care meets best the child's individual needs and interests, with a preference for family-type care and small, home-like settings to provide a supportive and stable environment; the evaluation process should not be excessive in time;
- If possible do not remove the child or young person from their territory or culture once they become part of the protection system in order to reduce the amount of changes young people have to face;
- Proceed to an individual and multi-factorial (gender, culture, language, special vulnerability etc.) assessment of the child's personal situation and short- and long-term care and development needs. The assessment should be made by a multidisciplinary team, involve the child and other stakeholders, if appropriate (biological parents, foster carers, etc.);
- Develop individualised care plans for each child to address their specific needs and interests throughout their care journey, and regularly review and adjust these plans to ensure they remain effective; ensure that the child's preferences and views, and if appropriate, those of other stakeholders (biological parents, etc), are taken into account during the assessment process;
- Make provision of psychological support to help the child cope with emotional or other difficulties, including when entering a new environment, mandatory;
- Ensure that care professionals have appropriate support and training to develop diverse skills to avoid children being referred from one specialist to another;
- Deinstitutionalisation should continue where it has not been completed while also recognising ENYA's perspective that, in some cases, and under the specific individual circumstances of a child, residential care may be the most suitable option for a child;
- Guarantee consistent and stable care environment for children to form secure bonds, avoiding frequent changes in their care unless required by a careful and ongoing assessment;
- Provide foster families with extended support and sufficient resources to effectively meet the needs of the children in their care, and ensure that children and

caregivers have the opportunity to get to know each other before a placement decision is made;

- Develop a system for specialised foster families or, as a last resort and when in the best interest of the child, residential care, to better meet the unique and varied needs of children in alternative care;
- Implement UNCRC General Comment No.14 about ensuring the expertise of professionals who carry out the assessment of the most appropriate form of care.

#### **4. Ensure quality alternative care**

- Enhance States' obligation and responsibility to protect children's rights and to provide appropriate alternative care, with a priority given to family-type care, to every child who needs it;
- Implement the (minimum) quality standards provided for by the UN Convention on the Rights of the Child and the UN Guidelines for the Alternative Care of Children and those by the relevant country legislation;
- Develop and implement comprehensive standards for alternative care settings, covering aspects such as safety, health, education, and emotional support, to ensure consistent and high-quality care; whilst the care and support needs will change as a young person develops and matures, the standards should not change;
- Ensure that planned reforms in alternative care are designed to provide stable and sustainable solutions by using evidence-based practices, securing long-term funding, and establishing strong monitoring and evaluation systems;
- Strengthen collaboration and investment in and between alternative care providers, social services, and community organisations to ensure a comprehensive approach to meeting the needs of children in care;
- Ensure a violence-free environment where children feel loved, nurtured, and taken good care of and where their individual needs are met; this includes recognising and preventing child exploitation.
- Continuously prioritise the emotional, physical, and psychological well-being of children in alternative care to support their overall development and happiness;
- Provide all the necessary means, including financial, to ensure the retention of professional staff, especially in residential care;

- Provide adequate support and continuous and multidisciplinary training to foster carers and residential care workers to strengthen their professional skills;
- Ensure that there is equity of access and standards across rural and urban settings.
- Ensure regular, independent and child-centred monitoring and/or inspections which allow young people to speak freely without fear of retribution or negative consequences; this may include unannounced visits by Independent Children's Rights Institutions, of the provision and quality of care; ensure follow-up of the findings of the monitoring process and any required individual action.

**5. Maintain the child's meaningful relationship with their family, other close people, and child's ethnic, cultural, religious, and linguistic roots**

- Actively support children's connections to their cultural, ethnic, and familial background, ensuring their right to family life and identity is fully respected and nurtured;
- Ensure that children in alternative care have regular contact with their family members and other significant people in their lives unless it is not in their best interests; address any issues that arise to ensure that these relationships remain positive and beneficial;
- Make sure that children's views on maintaining relationships with their family members are actively sought and taken seriously, involving them in all relevant decisions;
- Provide and encourage multiple ways for children to maintain regular contact with their parents, siblings, relatives, and friends, ensuring these important relationships are preserved and supported;
- Provide training and guidance to foster families to prepare and encourage children to maintain the bond with biological families when appropriate; provide support to biological parents to maintain a relationship with their children;
- Design and provide specialised programmes and support to foster carers and other caregivers to support children to maintain their roots;
- Design and deliver specialised programmes that assist foster carers and other caregivers in preserving and nurturing children's cultural, ethnic, and familial connections;



- Train caregivers and staff in cultural competency to respect and integrate children's ethnic, cultural, and linguistic backgrounds into their daily care.

## **6. Systematically aim at preparing children in alternative care for independent living and integrating into the community**

- Help young people leaving care to develop their professional and personal plans by assessing their situation and guiding them towards independence. Consider their requests and needs and the resources available from relevant services;
- Enhance support for children and young people in choosing their educational and career paths based on their interests. Prioritise early and sustained preparation for their transition to adulthood, rather than initiating it only a year before they reach the age of majority;
- Ensure continuity and quality of care by conducting health assessments to provide individualised support and appropriate responses in cases of physical or psychological issues;
- Consider specific vulnerabilities, such as early parenthood, disabilities, mental health issues and the situation of unaccompanied minors. Focus on prevention, including risk behaviours, sex education, and addiction;
- Provide professionals and carers with the necessary tools to support young people toward independence by ensuring effective coordination with partners, organising services, and providing dedicated support areas for professionals;
- Provide adequate training for professionals, especially psychologists and social workers, including specialised modules on the rights of children in alternative care and access to services, to assist young people leaving alternative care with administrative procedures;
- Inform children and young people and make sure they fully understand their rights and the available assistance, including financial and psychosocial support, when they leave child protection and alternative care by simplifying and facilitating access to resources (housing, education, professional training, scholarship, etc);
- Promote and develop emotional, educational, and supportive connections, such as local mentoring programmes, with regular follow-ups (meetings, phone calls, house visits, etc.) after young people have left alternative care, to build meaningful relationships with adult volunteers and broaden support and solidarity networks;

- Create a right of return that allows young people to adjust or suspend the support they receive as their situation stabilises after leaving alternative care while ensuring they can reaccess it if needed due to setbacks or changes;
- States and all relevant stakeholders should adopt all the appropriate measures, actions, awareness raising campaigns etc. to prevent and fight stigmatisation of children who are or have been in alternative care.

## **7. Strengthen the inspection and monitoring of alternative care**

- Develop and implement clear regulatory frameworks outlining standards and procedures for inspecting and monitoring alternative care facilities, in both the public and private sectors;
- Guarantee the independence of inspection systems by using external organisations for oversight;
- Ensure compliance with standards through regular, unannounced inspections of alternative care settings. Independent Children's Rights Institutions should also conduct visits and make recommendations for improvements;
- Provide sufficient funding and resources to inspection and monitoring bodies to enable thorough and effective oversight of alternative care facilities;
- Require childcare facilities to submit regular, detailed reports on their operations, care practices, and the children's well-being. Ensure inspections result in comprehensive reports highlighting impacts, necessary improvements, and feedback from the children;
- Engage stakeholders from various fields, such as social workers, peer workers, child psychologists, and legal experts, in the inspection and monitoring processes. Ensure stakeholders are trained in inspection procedures and in interacting with children in alternative care to gather accurate feedback;
- Create safe, anonymous channels for children and young people in alternative care to provide feedback on their experiences and living conditions, ensuring their voices are integral to the monitoring process;
- Collect and analyse data on the performance and conditions of alternative care facilities to inform policy decisions and improve care practices;
- Take proactive, strategic, and creative steps to make sure children in alternative care have access to effective and child-friendly complaint mechanisms to provide redress to child rights violations.



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