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**Special Series – Draft UN Guidelines for the Appropriate Use and Conditions of  
Alternative Care for Children:  
*Implementation of the principle of the child's right to participate  
in the context of alternative care*  
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## **An introductory briefing on its background, core principles and scope**

*In the months leading to their possible adoption by the United Nations General Assembly, a new Special Series of the Monthly Review will address and explore the principles and recommendations enshrined in the Guidelines, as well as their concrete implications for the protection of children in alternative care.*

**W**ith a view to ensuring the understanding and dissemination of the Guidelines amongst professionals worldwide, the ISS/IRC offers to dedicate a special series of articles to the Draft United Nations Guidelines for the Appropriate Use and Conditions of Alternative Care for Children. These are reaching the final stages of their drafting and possible adoption by the United Nations General Assembly before the end of 2008. The Guidelines undoubtedly offer a comprehensive framework within which to develop, decide, and implement child protection measures, which respond to the best interests of the child.

### **Historical background**

The process was initiated three years ago, in 2005, as the United Nations Committee on the Rights of the Child held a discussion day on children without parental care. Amongst the many recommendations set out in its final report, the Committee recommended the establishment of an expert meeting to prepare a set of international standards for the protection and alternative care of children without parental care for the UN General Assembly.

Following the discussion day and its final recommendations, and following up on a previous joint UNICEF-ISS project also calling for such guidelines, both organisations initiated a process of drafting and consultation. Indeed, a NGO working group began to meet in order to draft an initial version of the guidelines. This comprehensive initial version was then submitted to the Committee, which reviewed the document, and provided additional comments and recommendations. The subsequent consultation stage, designed to ensure the involvement of States and Governments in the process, took place in Brasilia in August 2006. An important number of these showed great interest in the guidelines, and provided additional inputs. As a result of this intergovernmental meeting, a 'Group of Friends' – which is led by the Government of

Brazil and represents most regions of the world – was established to finalise the draft.

It is expected that the Guidelines will now be submitted to, and adopted by, the General Assembly during this year. Thus, a strong advocacy process is currently taking place and, as part of this, the current Special Series is intended to contribute and pursue it by exploring its main themes, principles, and recommendations, and by incorporating practical example and inputs.

### **Principles and objectives of the Guidelines**

The Guidelines are intended to enhance the implementation of the Convention on the Rights of the Child, and of other relevant provisions of international and regional human rights law, in matters of protection and well-being of children who are in need of alternative care, or who are at risk of so being. It therefore focuses on two main aspects: (1) to ensure that children do not find themselves placed in alternative care unnecessarily; and (2) that, where out-of-home care is provided, it is provided in appropriate conditions and of a type that responds to the child's best interests.

The Guidelines reflect, to a large extent, the principles and perspectives widely recognised in matters of child protection. Indeed, they reiterate that efforts should primarily be directed at enabling children to remain in, or return to the care of their parents, or where necessary, of other close family members – i.e. the removal of a child from his family should be considered an option of last resort and for the shortest possible duration. Only where the family is unable, even with appropriate support, to provide adequate care for the child, the State is responsible, for ensuring appropriate alternative care. Any alternative care placement should therefore be decided and provided on a case-by-case basis, by qualified professionals, and should respond to the best interests of the child concerned, in consultation with the child.

Any decision on the child's alternative care therefore ought to take account of the following factors:

- the desirability of maintaining the child as close as possible to his usual place of residence in order to facilitate contact and possible reintegration into his family, and to minimise disruption in his educational, cultural and social life – i.e. community and domestic solutions, rather than international options;
- the stability of the home and other attachments to relatives and caregivers, including the prohibition of separating siblings – i.e. permanency as a key objective, rather than temporary measures;
- the need for care to be provided in family-type settings, rather than in residential institutions, except where this is specifically appropriate, necessary and constructive for the individual child – i.e. the institutionalisation of children should be an option of last resort.

These provisions should guide the social services in deciding the alternative care of individual children, but should also provide the ethical basis and the fundamental principles for the development of governmental policies and strategies, designed to provide children with appropriate alternative care. As a result, States should, to the maximum extent possible, allocate sufficient human and financial resources to ensure the implementation of these principles and Guidelines.

### Scope of implementation of the Guidelines

The Guidelines are applicable to the appropriate use and conditions of alternative care for all persons under the age of 18 years, regardless of the care setting, of its formal or informal nature, and of the public or

private status of the care provider'. They are also applicable, 'as appropriate, to young persons already in alternative care, and who need continuing care or support for a transitional period after reaching the age of 18'. It is, however, also essential to emphasize that the scope of alternative care, as foreseen in these Guidelines, does not extend to care by adoptive parents from the moment the child is placed in their care (as of which moment the child is considered to be in parental care); to persons under the age of 18 who are deprived of their liberty by decision of a judicial or administrative authority as a result of being alleged as, accused of, or recognised as having infringed

the law; and to informal arrangements whereby a child voluntarily stays with relatives or friends for a limited period and for reasons not connected with the parents' inability to care for him.

The specific chapters of the Guidelines, which will be explored in the forthcoming articles of this Series, are dedicated to the establishment of clear policies and agreed procedures for authorities and

professionals. It is therefore hoped that this Special Series, which will put a strong emphasis on practical initiatives designed to implement the Guidelines, will contribute to the understanding and use of the Guidelines, and to the development of strategies, required to integrate the principles into domestic legislation and practices.

The most recent version of the Draft United Nations Guidelines for the Appropriate Use and Conditions of Alternative Care for Children are available from the Better Care Network webpage: <http://www.crin.org/bcn/initiatives.asp>

Initiatives advocating for and supporting the Guidelines
<ul style="list-style-type: none"> <li>▪ The UN General Assembly Resolution A/C.3/62/L.24/Rev.1 on the Rights of the child and the Human Rights Council have encouraged States to adopt and enforce laws and improve the implementation of policies and programmes to protect children growing up without parents or caregivers, as well as the advancement of the UN guidelines for the appropriate use and conditions of alternative care for children.</li> <li>▪ SOS Children's Villages, the International Foster Care Organisation and the International Federation of Educative Communities have issued the Quality4Children Standards in Out-Of-Home Child Care in Europe (<a href="http://www.quality4children.info">http://www.quality4children.info</a>).</li> <li>▪ The International Social Service has published a series of thematic training and information fact sheets on the protection and care of children deprived of parental care (<a href="http://www.iss-ssi.org/Resource_Centre/Tronc_DI/tronc_dif.html">http://www.iss-ssi.org/Resource_Centre/Tronc_DI/tronc_dif.html</a>).</li> <li>▪ The NGO Subgroup on Children without Parental Care is pursuing its advocacy activities and intends to ensure the wide dissemination of the Guidelines and to support initiatives at country level.</li> </ul>

# ROMANIA: An advice, information and support centre for mothers and families at risk of child abandonment

The Fondation Children Action opened the Kairos Centre in Bucharest in order to provide support to young girls in their role as mothers and in their socio-professional reintegration and, whenever possible, to help them re-establish contacts with their family.

The Romanian environment is still a difficult one for young mothers and families in extreme living conditions. From this perspective, the Fondation Children Action, based in Geneva, opened the Kairos Centre in Bucharest in 2004, in order to provide support these young mothers (up to the age of 35) and their families in difficult situations, and at risk of abandoning their baby (from birth to the age of five). Managed by a team of Romanian professionals (psychologists, social workers and lawyers), the Centre also supports young families without resources as well as any other individuals (adoptive mother, grandmother and aunt) who face difficulties in raising their child. The beneficiaries of the services provided by the Kairos Centre are identified by the maternity hospitals, maternal centres, within the communities, thanks to the support of preschools, of the medical and social assistance network, and of the Child Protection Directorates, as well as to the intervention of other institutions or individuals who inform the Kairos Centre of such difficulties.

## Objectives of the Kairos Centre

More precisely, the Centre psychologically supports mothers in order to enable them to

stay with their child if they so wish, and if they are capable of assuming this role. An assessment of the child is therefore carried out so as to identify his level of development and specific work is undertaken with each mother in the framework of her individual assistance plan. The Centre's staff works on strengthening the specific and early ties between the mother and her child, in order to create stronger maternal attachment, which is essential in preventing abandonment. Furthermore, it intends to strengthen the mother's autonomy and to increase her self-confidence, in order for her to care for her child on her own. Furthermore, the Kairos Centre

supports her in facing social problems, which she may experience, and helps her, whenever possible, in renewing relationships with her own family.

In order to achieve this, the staff proceeds with a psycho-social evaluation of the mother/family, and subsequently establishes

The principles of the Guidelines governing the prevention of resort to alternative care
<p>The Guidelines develop the prevention of alternative care at three levels:</p> <ul style="list-style-type: none"> <li>- <i>Promoting the maintenance of the child with his parents</i></li> <li>• This part outlines the responsibility of governments in matters of family support policies, and in the implementation of effective measures (nurseries, parental courses, mediation services, day care...), designed to maintain or reintegrate the child in his family, whenever this is possible. Thus, techniques and methods are suggested, such as home visits or group meetings with other families. Special attention should be drawn to the establishment and promotion of assistance and care services for single-parent families, adolescent parents and their children, siblings who have lost their parents, as well as for child-headed households. In all cases, an assessment of the child and the family's situation should be carried out, so as to guide the decisions concerning the withdrawal or the reintegration of the child in his family.             <ul style="list-style-type: none"> <li>- <i>Specific measures to avoid family separation</i></li> </ul> </li> <li>• The second part advocates, in particular, for States to act as promptly as possible in order to prevent family breakdowns, and if necessary, as early as pregnancy, through counselling and social support activities. The Guidelines also encourage States to issue clear policies in order to address the situation of children who are abandoned anonymously, and to include the care of children born or living in prison with their parent(s).             <ul style="list-style-type: none"> <li>- <i>Specific measures for family reintegration</i></li> </ul> </li> <li>• Finally, in cases in which the child is reintegrated in his family, the Guidelines provides for an assessment by a multidisciplinary team, with the involvement of all affected actors, based upon the best interests of the child, and providing for the objectives, the stages and the supervision of the family reintegration.</li> </ul>

a specific intervention strategy with the active participation of the mother/ family, in order for the latter to benefit, as much as possible, from the services offered by the Centre. The proposed intervention is subsequently implemented, and its effects are evaluated.

### **Services offered by the Kairos Centre**

Specifically, the range of services offered by the Kairos Centre is large and varied:

- *Individual support through psychological consultations:* The mothers are listened to and counselled in relation to the difficulties they may face with regards to their children. In accordance with each situation, some psychotherapeutic treatments may be envisaged in order to find solutions to the child's various problems or difficulties: behavioural, opposition crises, anger, sleeping and/or feeding difficulties...

- *Social advice, information and guidance:* The social worker provides the mother/family with information relating to the social rights she is entitled to, to council housing or useful rents for beneficiaries, to available places in day-care centres or preschools for children, and to other public or private social services. In addition, it mediates relations and supports the mother vis-à-vis the authorities, the social staff of the State, or individuals, so as to ensure a higher level of effective communication, the respect for social rights and solutions to various problems.

- *Legal guidance:* The social worker works in collaboration with a lawyer in order to implement some rights (paternity, housing...), and to find solutions to the various legal questions.

- *Support and guidance with a view to employment:* Mothers/families are helped in finding employment thanks to a database of available vacancies, while taking account of the wishes and training of the interested party. At the same time, the Kairos Centre's team assumes responsibility for mediating between the job seekers and the employers.

- *Medical support:* The Centre collaborates with a doctor specialised in family practice, so as to take care of the

child's health, if the mother cannot have access to her private doctor or paediatrician.

- *Support group – meeting of mothers:* Creation of a public space, designed on the principle of communication and reciprocal support; debates on different topics of common interest and group outings.

- *Workshop of creation and expression:* Discovery of the creative nature of individuals involved in the workshop, through the use of play and on the basis of various environments of expression; an opportunity for the beneficiaries to communicate in a group of individuals with common interests.

- *Material support:* Distribution of free social tickets, payment of day-care centres, of preschools, of specialist medical consultations or examinations, in the framework of a cooperation agreement, signed by the beneficiary and the Kairos Centre.

### **Promising results**

In 2007, the Kairos Centre registered an increase of 42% in the number of cases under its responsibility, in particular thanks to its increased recognition within the Romanian social network and to the authorisation granted by the Ministry of Labour and Social Protection. Thus, last year, the Centre supported 35 mothers and 39 children, either punctually or more generally, during periods ranging from six to 36 months.

For eight children, the Centre played a positive role in the prevention of abandonment and/or in treating psychological disorders linked to delays in their development. It also enabled 11 children to overcome their communication and behavioural difficulties, thanks to long-term clinical and therapeutic work. Unfortunately, the Centre is also faced with a significant number of children at great risk (considerable developmental delays at the intellectual, motor, relational and communication levels), for whom it remains difficult to find solutions.

For further information: *Fondation Children Action*,  
<http://www.childrenaction.org>; E-mail:  
[crcopil@yahoo.com](mailto:crcopil@yahoo.com).

## CHILE: Creating a system of alternative care provision for children, that is uniform and centred upon the family

*The regional application of policies and national strategies for the protection of children has enabled the country to significantly reduce the institutionalisation of children.*

The system of child protection in Chile has improved considerably in recent years. The direction that the country has taken largely matches the standards promoted by the UN Guidelines for the usage and appropriate conditions for providing alternative care for children, particularly with the choice regarding the most appropriate means of care chosen and the political–legal and financial framework in which it is registered.

### A joint political, legislative and financial framework

In concrete terms, Chile has chosen to centralise decisions in matters of policy and strategies for child protection within SENAME (National Service for Minors) so as to set up a framework for a unified protection for the whole national territory. Thus SENAME is in charge of elaborating government policy for child protection and the standards for applying it. It is also responsible for the supervision of the system. The application of decisions is regional and undertaken by the

recently set up local offices endowed with qualified staff for the protection of the rights of children.

### The principles of Guidelines for the framework of child care and determining the most appropriate means

The Guidelines invite States to gather the following elements for setting up their alternative care framework:

- Gather adequate legislative, political and financial conditions that give priority to family and community solutions.
- Envisage the availability of a wide range of suitable options for providing alternative care for emergency situations and those that are short and long term.
- All persons involved in providing care and those in authority should be subject to supervision and inspection by a competent authority.
- Guarantee that competent authorities are informed of informal placements and that they are provided with the necessary support as well as regular supervision of the child's welfare.

Furthermore, the Guidelines propose various standards for determining the most appropriate form of care provided, particularly:

- Elaboration of legal and administrative procedure based on a process of evaluation, planning and rigorous review as well the structures and mechanisms established, in order to enable a multidisciplinary team of qualified professionals to succeed in making case by case decisions in the shortest amount of time.
- Use this evaluation report as a rapid planning tool for making decisions so as to prevent, in particular, contradictory steps and interruptions of the process.
- Plan permanent care provision based, among other things, on the nature and the quality of the child's bonding with his family, and clearly indicating the aims of the placement and the means to achieve them.
- Guarantee information and the participation of various actors involved in respecting the special needs, the convictions and the wishes of the child.
- Envisage a thorough and regular review - preferably at least every three months - of the suitable nature of the treatment and care that the child is receiving.

*For more information, consult the ISS/IRC Fact Sheets for training at the following address:*

<http://www.iss-ssi.org/Resource Centre/Tronc DI/tronc di fic.html>

These structures constitute new openings for children in the child protection system, in addition to the already existing legal procedures. Their direct intervention with children and families is supplemented by the activities of civil society, whose role is also important. Chile has allocated part of its public budget to developing this system of protection for children. This funding is completed by the contributions from the private sector. At the legislative level, and along the lines

of the International Convention on the Rights of the Child, the country has armed itself with a series of laws dedicated to protecting the rights of the child, of which it would be prudent to unify in the future for greater legibility.

### A mixed palette of child care options

Measures for alternative ways of caring for children deprived of their family, proposed by the Chilean system vary greatly. They extend from placement in specialised institutions to family placement, and various complimentary programmes centred upon the family, notably the strengthening of the family of origin. Furthermore, in accordance with international standards for alternative child care, keeping the child or reintegrating him in his family of origin is given priority by SENAME. In the event such an option proves to be impossible, placement in the extended family is preferred to an adoption placement, and a permanent placement in a family kind of institution only occurs as a last resort.

### **Promising results for keeping the child in a family environment**

The search for the best option for each child on this palette and setting up this protective system for children throughout the territory, have made it possible to reduce the institutionalisation of children and their separation from their family of origin. Thus in 1990, 62% of children followed up by SENAME were in institutions, compared with 2005 when there were no more than 26.3 %. In the same year, there were 73.3%,

benefiting from the one of the complimentary programmes centred on the family, while there were only 38% in 1990. Furthermore, the total number of children profiting from protection has increased. There were 67,746 in 2005, whereas there were only 52,566 in 2000, making one think that less and less children are excluded from the protection system. Moreover, Chile has improved its programme of foster families in developing standards for setting them up. Amongst the breakthroughs in this field, the extended family is henceforth, recognised as a foster family and as such receives the necessary aid for providing child care.

These results bear witness to the Chile's significant progress in implementing the Convention on the Rights of the Child, and particularly the child's right to be brought up in a family environment.

For more information: SENAME,  
[www.sename.cl/](http://www.sename.cl/).

*The ISS/IRC would like to thank Matilda Luna, who is responsible for projects within the RELAF (Network of Latin America for placement in foster families) for her valuable contribution to this article.*

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## GLOBAL PERSPECTIVES: Implementation of the principle of the child's right to participate in the context of alternative care

*This article seeks to share a few examples of the implementation of the principle of the child's right to participate from a recent desktop review conducted by ISS/IRC around the world.*

**A**rticle 12 of the UN Convention on the Rights of the Child is dedicated to the principle of the child's right to participate in decisions affecting him. The participation principle is considered one of the four core principles of the Convention. Its importance is revealed by the fact that the next General Comment of the UN

Committee on the Rights of the Child will be on this thematic issue and published soon. Not surprisingly, the Draft UN Guidelines for the Appropriate Use and Conditions of Alternative for Children as a text that elaborates on the principles already in the Convention also promotes child participation as one of its underpinning principles as outlined in Article 6. That is all decisions in the context of Alternative Care 'should respect fully the child's right to be consulted and to have his/her views duly taken into account in accordance with his/her evolving capacities...'. This review cites some of the relevant articles in the Draft UN Guidelines relating to the child's right to participate and is illustrated by a few global practices. Although these practices have not been evaluated and are not exhaustive, ISS/IRC believes that the

child's right to participate is nevertheless promoted by these efforts.

### Article 6 of the Guidelines: A holistic approach (Australia)

The CREATE Foundation provides an example of a service providing a holistic approach concerning the participation of

children in all the different phases in the care system through activities, programs, training, research and policy advice. CREATE believes in the spirit of youth participation and as such is run by, with and for children and young people in care. CREATE provides opportunities for children to participate in decisions by providing children with tool kits to equip them and by providing forums so that they can interact with each other sharing their ideas and experiences.

### Article 77 of the Guidelines: Development of Alternative Care policies (England)

In England, a National Voice is an organisation run for

and by young people who are or have been in care. Its goals include ensuring young people from care have a say in all decisions that affect them and to inform and influence central and local government decisions about the care system in England. It helps young

#### In addition to Article 6 in the Guidelines, other Articles promoting the participation principle in the same instrument:

- Children should be fully consulted about decisions regarding their removal or reintegration (art 41)
- Children should be involved with the assessment team who decide whether the reintegration of the child in the family is possible (art 50)
- Determination of most appropriate form of care should involve the child at all stages (art 58)
- Children should be provided with all the necessary information about the alternative care options to make an informed decision (art 66)
- Children may request that other important persons in the child's life be consulted (art 67).
- Children should be fully involved in regular and thorough reviews of the appropriateness of his/her temporary care arrangement (art 69)
- Process of identifying and assessing care practices in developing policies should include children (art 77)
- All carers should promote and encourage children to develop and exercise informed choices (art 92)
- Children in care should have access to a known, effective and impartial mechanism whereby they can notify concerns regarding their treatment or conditions of placement. Young people with previous care experience should be involved in this process, due weight being given to their opinions (art 97)
- In designating an individual vested with both the legal right and responsibility to make daily decisions, this individual must consult with the child so that the child's views are taken into account by decision-making authorities (art 107)
- Children in care should be able to participate in the inspections of their agencies, facilities and professionals providing care (art 132 and art 134)
- Children leaving care should be encouraged to take part in the planning of after-care life (art 136).

people from all over England to set up and join in local in-care/aftercare groups; helps young people change the care system for the better; helps young people speak up and have an effect on decisions about the care system.

**Article 107 of the Guidelines: Encouraging caregivers to take into account the child's views in daily decisions (Canada and Spain)**

The Federation of British Columbia Youth in Care networks have published Building Relationships Guide and Activity Book which is designed to help young people build healthy relationships with their caregivers and/ or adoptive parents and other significant adults in their lives, with Chapter 8 specifically focusing on child participation in alternative care. In Spain, the Red Cross's program for children separated from their parents encourages children within Institutions to develop their own projects, participate in daily decisions and plan future Institutional policies.

**Article 132/134 of the Guidelines: Participation in inspections (England)**

In England, 10 young people were recruited to become team members of LILAC (Leading Improvements for Looked After Children) and later developed some pilot standards to measure levels of 'participation' within service providers. Two pilot LILAC inspections have been carried out by these young people previously in care in local authorities across England. The aim of the inspections was to determine how well young people are involved in decision-making over their choice of school and home.

**Article 136 of the Guidelines: Planning of after-care life (Kazakhstan, Bulgaria and Canada)**

"Zhuldyz", in Kazakhstan helps children in the planning of after care life by helping them

with finding jobs. The International Social Services, Swiss branch launched CLIP (Care Leavers Integration Program) a program in Bulgaria to help children in care about to embark upon independence when leaving care institutions. Children are equipped to make informed decisions about the future. In Canada, Voices is a youth-driven program, which provides support, encouragement and advocacy for youth as they move from wards of the government, to youth transitioning to independence, and continue growing into young adults building their lives and futures.

**Encouraging signs but more progress needed**

It is encouraging to see many groups or organisations run by or involving children in care, through which they are able to meet, exchange experiences, ensure that their voices are heard and contribute to the development of relevant policies and programmes in compliance with the right of the child to participate. Despite the existence of these examples, from ISS/IRC's desktop review, there was sparse information about the active participation of children in determining the form of their alternative care, projects encouraging the full involvement of children in regular and thorough reviews of the appropriateness of his temporary care arrangement and more importantly how the participation principle is implemented in countries of origin.

Sources: CREATE (<http://www.create.org.au/>), A National Voice <http://www.anationalvoice.org/>, British Columbia Youth in Care Network [http://www.fbcyicn.ca/youth\\_participation](http://www.fbcyicn.ca/youth_participation), Voices Canada <http://www.voices.mb.ca/>, LILAC <http://www.anationalvoice.org/news/newslet2.htm#lilac> Red Cross Spain [http://www.cruzroja.es/portal/page?\\_pageid=659,12331083&\\_dad=portal30&\\_schema=PORTAL30](http://www.cruzroja.es/portal/page?_pageid=659,12331083&_dad=portal30&_schema=PORTAL30), ISS Switzerland [http://www.ssiss.ch/pages\\_f/Projets/C2.html](http://www.ssiss.ch/pages_f/Projets/C2.html)