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**The implementation of the CoE Rec
(2005)5 on children living in
residential institutions**

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CoE Rec(2005)5 on the
Rights of Children
living in residential institutions

- An attempt to “translate” the CRC into institutional setting
- A Recommendation – not a “Convention”
- The Structure of the Rec.:
 - *Basic Principles*
 - *Specific rights*
 - *Guidelines and Quality Standards*

Basic Principles – examples

- the family is the natural environment for the well-being of the child
- preventive measures of support for children and families should be provided as far as possible;
- the placement of a child should remain the exception and have as the primary objective the best interests of the child
- the placement should be no longer than necessary and subject to periodic review
- a child leaving care should be entitled to an assessment of his or her needs and appropriate after-care support in accordance with the aim to ensure the re-integration of the child in the family and society
- taking into account the child's wishes and the continuity in his or her life path and his or her fulfillment and own needs

Specific Rights - examples

- the right of the child's human dignity and to non-degrading treatment be respected including the protection against corporal punishment and all forms of abuse;
- the right to participate in decision-making processes concerning the child and the living conditions in the institution;
- to be informed about his/her rights and to make complaints to an independent body in order to assert children's fundamental rights;
- the rights to privacy, including access to a person they trust and a competent body for confidential advice

Guidelines/Quality Standards - examples

- all residential institutions should be accredited and registered with the competent public authorities on the basis of regulations and national minimum standards of care;
- on the basis of these standards, an efficient system of monitoring and external control of residential institutions should be ensured;
- relevant statistical data should be collected and analysed, and research for the purposes of efficient monitoring should be supported;



Rights of children at risk and in care

Nature of institutional care

- Criteria includes:
 - Number of children, size of institutions
 - Infant care, duration of stay
 - Causes for placement, quality of care
- Three categories:
 - Central- and Eastern Europe
 - South Eastern Europe (including the Caucasus)
 - More affluent European states

Three Stages of the
Evolution of Institutional Care:

- the specialization paradigm*
- the normalization paradigm*
- the paradigm of children's rights*
(towards the end of residential care?)



- CDCS (2009) 9

• **Rights of Children in Institutions**

- **Report on the implementation of the Council of Europe Recommendation Rec(2005)5 on the rights of children living in residential institutions**

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The Implementation of Rec (2005)5

The Questionnaire

- *How does your country ensure by legal provision or otherwise, that residential institutions for children are accredited and registered by the competent public authority?*
- *Are there in place national minimum standards of care for children in residential care? Do they include:*
 - *a) Standards with the aim of defining the rights of the child in residential care and his/her rights to be informed about these rights?*
 - *b) Regulations or approved standards concerning measures with the aim of preventing selfinflicting harm or injury to others?*
- *Is there a competent authority in place that has the responsibility of collecting relevant statistical data and/or research on a national basis for the purpose of monitoring the placement of children in residential care? Please name the competent authority in place*

The Questionnaire

- *Does an independent monitoring system exist? Is there a defined system in place for children in residential care to make complaints to an identifiable, impartial and independent body in order to assert children's fundamental rights? What is the procedure?*
- *Has your country ensured by legal provisions or otherwise that after-care support is provided with the aim to ensure the re-integration of the child in the family and society?*
- *Has your country taken steps in order to introduce Rec. (2005)5 on the rights of children living in residential institutions to children living in residential care and/or relevant bodies providing residential services? Could you provide us with one (or some) relevant examples of best practice in this field? Has Rec. (2005)5 been translated into your national language?*

Standards of Care

- National Minimum Standards of Care are established only in a few member States.
- Although there are often important principles incorporated in national laws on the rights of children living in residential care, more elaborated standards of care are generally lacking.
- These standards need to reflect the basic rights of children in care, including their right to be informed of those rights and to make complaints to identified and impartial bodies.
- Q4C – standards are an excellent basis for developing national standards of care

Monitoring

- Monitoring systems are in place in most of the member States, albeit ambiguous in some cases.
- Monitoring responsibilities should be separated from administrative ones in managing residential institutions. In many member States this is not the case.
- Special attention should be paid to the role of children in the monitoring process by means of their participation with an opportunity to convey their live experiences.

Aftercare

- Although children in care may be seen as a category of children with many common characteristics, they are individuals with specific needs, aspirations and hopes for the future.
- Although the replies generally reflect many important provisions that aim at after-care support, it can be argued that in many member States adequate supportive measures based on individual plans for after-care are not in place.
- Evidence of the child's right to participate in developing such after-care plans is generally not to be found.

Problems in Implementation

- Responsibilities often ambiguous
- Monitoring lacking
- Limited Resources
- Lack of Comprehensive services:
 - Basic needs
 - Case management and meaningful participation
 - Special needs