

CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE

Recommendation 53 (1999) on policies for deprived children/adolescents and families'

The Congress.

Noting:

1. the results, and in particular the unanimously adopted Final Declaration, of the International Conference on Policies for Deprived Children/Adolescents and Families (2-4 April 1998), a CLRAE initiative supported by the St Petersburg authorities and attended, in a rapporteur capacity, by European towns and regions and NGOs engaged in protection of children and combating extreme poverty;
2. the report presented by Mr K.C. Zahn (Germany) which followed up the conference.

Drawing attention to:

3. the Council of Europe's basic objectives, which are to safeguard and promote human rights, the rule of law and democracy, and the Action Plan adopted at the 2nd Summit of Heads of State and Government, which particularly emphasised protecting human dignity against social exclusion and protection of children;
4. the United Nations Convention on the Rights of the Child;
5. the European Charter on the Participation of Young People in Municipal and Regional Life, adopted under CLRAE Resolution 237, and other instruments dealing with the basic and civic rights of the poorest in Europe;²
6. the stances adopted by the Council of Europe Parliamentary Assembly, in particular Recommendation 1121 (1990) on children's rights and Recommendation 1286 (1996) on a European strategy for children;
7. Committee of Ministers Recommendation R (87) 3 on the European Prison Rules, which lays down minimum rules for humanity and decency in prisons;

1. Discussed and adopted by the Standing Committee of the Congress on 5 March 1999 (sec doc. CG (S) 24, draft recommendation, presented by Mr K. C. Zahn, Rapporteur).

2. - Resolution 243 (1993) on citizenship and extreme poverty: the Charter of Declaration:

- Resolution 244 (1993) on the right to housing and its implementation by local and regional authorities;

- Resolution 41 and Recommendation 26 (1996), "Health and citizenship: care for the poor in Europe";

- Resolution 43 (1997), "Opening up Europe to the young: towns and regions in action".

3. See the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (1985).

8. the Council of Europe Steering Committee on Social Policy's 1994 Conclusions and Recommendations on Street Children;

9. the CLRAE's crucial support to projects on behalf of deprived youngsters which NGOs conducted in St Petersburg between 1995 and 1997 with financial support from the European Community Humanitarian Office (ECHO).

Notes:

10. that in present-day Europe, there are children (some of them very young), young people and families living in extreme poverty, notably single mothers, who are condemned to live, temporarily or for long periods, on the streets or outdoors in our cities, regions and rural areas;

11. that the living conditions of these children and young people - who lack shelter, financial resources, care and education - are quite inhuman and in addition may force them into crime;

12. that street children/youngsters awaiting trial experience detention conditions that seriously harm their health, education and prospects of social reintegration, placing their whole future in jeopardy.

Declares:

13. that such cases not only contravene human rights and children's rights but are an affront to the whole of society;

14. that it is for civil society, and first and foremost its elected representatives, to ensure that children's right to legal protection is observed;

15. that all minors have an inalienable right to a decent life with their own families or, where that is impossible, in suitable replacement provision.

Points out:

16. the crucial part which local authorities and judicial authorities can and must play in framing and implementing overall policy to assist children and young people at risk;

17. the urgent need to tackle the deprivation of street children/youngsters by adopting new approaches incorporating careful supervision, tracing the families, social reintegration and full upkeep, including guidance, of homeless minors;

18. the need to set up specialised institutions for single mothers;

19. the no less urgent need to do away with outdated, overcrowded and insalubrious long-remand institutions and to replace them by "communities" or "homes";

20. the need to review the machinery and operation of the juvenile courts', in particular the age of criminal responsibility, procedure, the use of lengthy remand, the scope for non-custodial measures, the length of prison sentences, replacement of punishment by educational measures and replacement of prisons by institutions entrusted to licensed voluntary associations;

21. the need for prevention-oriented policy to take precedence over punishment-oriented policy¹ so as to prevent young people from entering and moving on through the criminal system by providing them with steady support and a stable living environment and introducing a carefully planned, co-ordinated and periodically evaluated advancement policy for deprived minors based on partnership with families and public or private institutions dealing with the family, children and young people;

22. the efforts which local authorities, judicial authorities and civil society (NGOs, voluntary organisations and so on) have made, in some places, to reform childhood and family policy and the juvenile courts.

Recommends that:

I. Council of Europe member states

23. implement the United Nations Convention on the Rights of the Child in its entirety;

24. have regard, in doing so, to the guidelines in the Final Declaration adopted by the St Petersburg conference, which is appended hereto, with a view to changing their policies on behalf of deprived children and families and reforming the courts and the prison system;

25. combat economic, sexual and other practices of abuse, together with all other forms of exploitation of deprived children;

26. introduce ombudsmen at the various levels of government to promote and protect human rights and children's rights;

27. look closely at how responsibilities and resources are shared with local authorities under policy on behalf of children, young people at risk and their families.

II. The Council of Europe Committee of Ministers

28. note the results of the St Petersburg conference (2-4 April 1998), and more particularly the Final Declaration which the conference adopted;

29. forward those results and the present recommendation to the Steering Committee for Human Rights, the European Committee for Social Cohesion, the European Committee on Legal Co-operation, the European Committee on Crime Problems and the youth institutions so that they can take them into account in their intergovernmental activities;

30. in the light of the work of the Parliamentary Assembly and the CLRAE, adopt a position on the introduction of ombudsmen at the various government levels in member states to promote and protect human rights and children's rights, and make a recommendation to the member states;

31. help NGOs with consultative status with the Council of Europe to organise projects under the Activities

for the Development and Consolidation of Democratic Stability (ADACS) so as to develop civil society through training, in particular in countries whose experience of democracy is recent, for staff concerned with children's protection, social advancement of deprived families and street children/youngsters, rehabilitation of minors who have been given prison sentences or non-custodial measures, or management of "homes" or "communities" for minors;

32. consider, as part of assistance to eastern European countries, special training programmes for court, administrative and police personnel dealing with minors in at-risk groups;

33. in co-operation with the European Union and other international organisations, in particular Unicef, promote reform of court and prison systems dealing with minors, including, in particular, replacement of outdated long-remand institutions by communities or homes run by licensed associations.

III. The European Union

34. give immediate consideration to granting European countries which are not members of the Union special aid for carrying out thorough reform of court and prison systems, in particular those parts of them which deal with minors;

35. co-operate here with the Council of Europe and international institutions such as Unicef, as is already happening on the ground;

36. help the European voluntary sector to set up in St Petersburg an observatory of young people's world and a school providing continuing training in volunteer work.

IV. NGOs with consultative status with the Council of Europe

37. which are particularly active in the family-policy and childhood sphere help to implement the St Petersburg Final Declaration by establishing infrastructure for voluntary action and giving consideration to training programmes for volunteers and social workers;

38. consider twinning/partnership agreements with associations in other countries and in particular in St Petersburg with a view to information exchange and two-way training and assistance.

V. The Council of Europe Parliamentary Assembly

39. continue its action on behalf of street children/youngsters and deprived families throughout Europe, but more particularly in countries which have not yet completed their legal and administrative transition;

40. speedily adopt a stance in favour of introducing ombudsmen to promote and protect children's rights;

41. support Unicef's efforts in Russia to get the juvenile courts and prisons reformed.

¹ See the United Nations Guidelines for the Prevention of Juvenile Delinquency (1985).

Appendix

Final Declaration of the International Conference

Policies for Deprived Children/Adolescents and Families

Sr Petersburg 2-4 April 1998

The participants at the International Conference on Policies for Deprived Children/Adolescents and Families, held in St Petersburg from 2 to 4 April 1998, on the initiative of the Congress of Local and Regional Authorities of Europe,

Having listened to:

- the statements made by holders of political responsibility from the cities and regions of St Petersburg (Russia), Hamburg (Germany), Pad (Italy), Bucharest (Romania), Strasbourg (France), the London Borough of Newham (United Kingdom), Pushkin (Russia), Dublin (Ireland), Budapest (Hungary) and other cities and regions of Greater Europe, about the policies they pursue to help deprived children/adolescents and families;

- the viewpoint of parliamentarians, elected local and regional representatives, experts, research workers, prison governors and persons in charge of other institutions;

- the statements made by youth coun judges from St Petersburg (Russia), Bobigny (France) and the London Boroughs of Tower Hamlets and Newham (United Kingdom) about the role of judicial authorities in the local context;

- the views of representatives of non-governmental organisations, associations and the voluntary sector from various European countries;

- the conclusions of a round table session attended by representatives of the various groups of participants in the conference :

1. note that throughout Europe, minors' sometimes have to endure living conditions which constitute a violation of the human rights and children's rights recognised in several international conventions accepted or ratified by the vast majority of Council of Europe member states;

2. note also that, in particular, it is children and young people from very poor backgrounds, street children and youths in detention, including those awaiting trial, who are hardest hit by these particularly inhumane living conditions;

3. stress that the United Nations Convention on the Rights of the Child asserts the right of children to be protected, to enjoy their rights and to be regarded as active citizens;

4. believe that this right is also a paramount obligation of civil societies and of all freely elected or appointed public authorities at all levels of territorial responsibility; in particular, civil societies and political and administrative representatives have both a moral and a legal duty to provide every minor in difficulty or at risk

with assistance and support appropriate to the gravity of the situation;

5. declare that every minor has the inalienable right to live in acceptable circumstances within his or her family of origin and, where such is not possible, the right to be taken into foster families or into appropriate public or private structures;

6. are convinced that the effective implementation of international conventions and texts in the field of children's rights requires trusting, extensive and lasting international co-operation and solidarity, which the Council of Europe and its member states are equipped to plan and to put into action;

7. stress the important role which municipal and judicial authorities can and must play in the local context to encourage the various services dealing with youth affairs to put forward innovative and imaginative alternatives to current practices and to draw up, in a co-ordinated manner, a policy for youth affairs;

8. stress the topicality and relevance of the "Conclusions and recommendations" on street children formulated in 1994 by the Council of Europe Steering Committee on Social Policy and endorse the views expressed by the Council of Europe's Parliamentary Assembly in its Recommendations 1121 (1990) on the Rights of the Child and 1286 (1996) on a European Strategy for Children.

A. Stress the extremely urgent need to combat without further delay the state of neglect of children and adolescents living on the streets and outdoors in our cities, regions and rural areas, through :

1. a patient approach to, and sensitive contacts with, these young people by all street workers, voluntary workers and public authorities, with the assistance of well-informed citizens;

2. initial contacts aimed at setting up a relationship of mutual trust between young people and adults, through the provision of aid to satisfy the essential material and psychological needs of young people;

3. untiring efforts to keep an eye on young people and to locate their families, where they exist, with the aim of exploring every possible avenue for re-establishing contact between them, if necessary in the young people's interest;

4. efforts to reintegrate young people into society, requiring the involvement of various players under the supervision of the judicial or other competent authority responsible for the protection of minors, particularly in cases where a permanent placement is to be decided for the young person in question;

5. the assumption of full responsibility for the child's emotional life and upbringing, in cases where family ties have been irreversibly severed or where the child has no family;

6. the provision of educational and vocational guidance for adolescents.

1. Minors: persons under the age of 18, as defined in the United Nations' Convention on the Rights of the Child.

B. Assen the crucial need to review the structures and operation of justice with regard to minors, according to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (1985), by:

1. regularly reviewing the age of criminal responsibility, which is far too low in certain countries, in the light of the various prevention policies and their results;
2. providing for special court protection and special proceedings for minors (setting up of youth courts, special criminal laws for young people, etc);
3. guaranteeing each minor who is subject to court proceedings that his or her case will be dealt with immediately, with due regard for essential time limits, thereby obviating the need for long-term remand structures: "justice delayed is justice denied";
4. offering legal, psychological and social assistance for young people without resources, which could be provided by volunteer professionals (associations, NGOs) approved by the judicial authorities;
5. providing, as a last resort, for alternatives to prison sentences and/or for sentences of minimal duration within a range strictly prescribed by law;
6. gradually replacing punishments by educational measures and prisons by "communities" or "homes" able to offer close supervision of young people, provide them with a genuine education and offer them vocational training. Such institutions could, under a public contract, be run by groups or associations of voluntary workers recognised both by the judicial and by the local authorities.

C. Declare that priority should be given to prevention over punishment, on the basis of policies which are in accordance with the UN Guidelines for the Prevention of Juvenile Delinquency (1985) and which:

1. may ultimately prove themselves to conform to the requirements of civil society, humanity and efficiency, as such measures are usually less costly than any other policy based on rigid and long-term punishment structures. It is now a proven fact that homeless children and young people run the risk, sooner or later, of getting into trouble with the law; it is therefore appropriate to prevent young people from entering or moving up in the criminal system, by providing them with steady support and a stable living environment;
2. are aimed at opening up and co-ordinating the various services, departments, and public and private players, in order to avoid the unnecessary breaking of ties between families and young children or adolescents;
3. identify groups of young people and families in distress and provide them over a period of time with genuine family support and access to fundamental rights (health, housing, etc), by involving a combination of teachers and other social players (social and health services and, where necessary, the police and youth courts) and the persons concerned as genuine partners;
4. implement, within or outside the school, programmes enabling parents and pupils to develop parenting skills;

5. should be implemented by each public authority in a co-ordinated way, in accordance with a community-based plan, in line with the principles of subsidiarity and of the sharing of responsibilities;

6. are based on the active support of the voluntary sector, able to supplement the action of the public authorities and tackle the problems the latter do not even address, and thereby to create an unparalleled network of grass-roots solidarity;

7. are periodically assessed to make sure that the most disadvantaged are really being reached, eg. by means of impact assessments.

Recommend:

That states:

1. comply fully with, and implement in its entirety, the United Nations Convention on the Rights of the Child;
2. provide for exemplary sentences for all who take advantage of deprived children for the purposes of economic, sexual or other exploitation;
3. set up throughout Europe a new legal institution, the "ombudsman", or "mediator", responsible for promoting and defending the rights of children as enshrined in the UN Convention on the Rights of the Child;
4. ensure that, in addition to the sharing with local authorities of responsibilities and powers in a field as important as human rights and children's rights, there is also an appropriate sharing of financial resources.

That the local authorities of greater Europe:

1. "regulate and manage", in accordance with the European Charter of Local Self-Government, public affairs "in the interests of the local population", including, consequently and as a matter of priority, children/adolescents and families who are in extremely insecure situations and in great need;
2. co-ordinate their action with that of the police and of judicial and other relevant authorities in the fields of prevention and of the rehabilitation of children/adolescents and families belonging to at-risk groups;
3. offer support using all possible means, and in particular legislative and financial measures, to associations and voluntary groups and volunteers working to improve the well-being of deprived young people and their families;
4. support the partnership with the local and judicial authorities of other European towns and regions, with a view to organising intra-European exchange and training programmes for judges, lawyers and police representatives and representatives of the other authorities concerned who are active in the field of criminal law relating to minors.

And, with regard to St Petersburg:

5. the stepping up of co-operation between the St Petersburg region and regions of other countries of Europe in the social and health fields, leading to agreements in the administrative and staff training sectors:

6. the initiation of administrative, judicial and police staff, as a matter of urgency, into the Convention on the Rights of the Child and into the professional handling of the problem of children belonging to at-risk groups;

7. the encouragement of autonomous and voluntary partnership and twinning agreements between associations belonging to different countries, in particular with voluntary associations in St Petersburg, with a view to exchanges of information and to reciprocal training provision;

8. the setting up in St Petersburg, with the assistance of the European voluntary sector, of an "observatory" of young people's world and a permanent training school for voluntary workers, which could promote, facilitate and implement European projects and networking;

9. support for any initiative of the St Petersburg authorities with a view to the appointment of a children's rights "mediator", enjoying the resources needed efficiently to carry out his or her duties;

10. a favourable reception for Unicef's proposals to provide assistance with a view to:

- greater co-ordination of the efforts made and the activities conducted by the public authorities and the non-governmental sector in respect of children and adolescents;

- the setting up of an office of children's rights "mediator";

- support for initiatives relating to youth justice, particularly the training of youth court judges, reproducing a pilot project already under way in one district of the City of Moscow.