

# COUNCIL OF EUROPE

## COMMITTEE OF MINISTERS

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RECOMMENDATION No. R (87) 6

### OF THE COMMITTEE OF MINISTERS TO MEMBER STATES

#### ON FOSTER FAMILIES<sup>1</sup>

*(Adopted by the Committee of Ministers on 20 March 1987  
at the 405th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members, *inter alia* by promoting the adoption of common rules in legal matters;

Recognising that the law should protect the welfare of children;

Recognising that it is normally in a child's interests to remain with his family of origin and that an improvement in support for these families would ensure that the need for fostering is reduced;

Considering that it is possible to improve the legal systems relating to the fostering of children in order to promote the development of the personality of the child and to protect his person and his moral and material interests;

Considering that an improvement of the situation of foster parents might contribute to the welfare of children;

Realising that consideration might be given to the effects of fostering in other contexts such as social and other benefits;

Having regard to Resolution (77) 33 on the placement of children and Recommendation No. R (84) 4 on parental responsibilities,

Recommends the governments of member states to include in their legislation rules on foster families based on the principles set out in the appendix to this recommendation.

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1. When this recommendation was adopted, and in application of Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies, the Representatives of Denmark and Norway reserved the right of their Governments to comply or not with Principle 5 of the appendix to the recommendation.

## Appendix to Recommendation No. R (87) 6

For the purposes of this recommendation, a fostering occurs when a child is entrusted, otherwise than with a view to adoption, to a couple or an individual ("foster parents") who takes care of the child for more than a short time or for an undetermined time and who does not have legal custody of the child and who is not a parent.

### *Principle 1*

1. National legislation should provide a system of supervision of foster parents in order to ensure that they provide the necessary moral and material conditions for the proper development of the child, in particular by means of their personal qualities, especially their ability to bring up the child, and their housing conditions.

National legislation may provide that such supervision does not apply where the fostering is with a close relative.

2. The supervision should be based :

- on information given by the foster parents to the competent authority, or
- on an authorisation system, or
- on any other means which would enable this objective to be attained, for example a system of official approval of persons who regularly receive children.

3. In any event the competent authority should intervene and provide support where the interests of the child so require.

### *Principle 2*

The personal relationships of the child with his family of origin should be maintained and information concerning the well-being of the child should be given to that family, provided that this is not detrimental to the essential interests of the child.

### *Principle 3*

The foster parents should be presumed to have the power to exercise, on behalf of the legal representatives of the child, those parental responsibilities which are necessary to care for the child in day-to-day or urgent matters.

### *Principle 4*

As far as possible before any important decision is taken concerning the person of the child, the foster parents should be given the opportunity to express their views.

### *Principle 5*

After a foster child has become integrated into the foster family, in particular after a substantial period of fostering, the foster parents should be able to apply, subject to any conditions specified by national legislation, to a judicial or other competent authority, for power to exercise certain parental responsibilities including, where appropriate, legal custody.

### *Principle 6*

Where the child has been integrated into the foster family, in particular after a substantial period of fostering, then, if the person or the authority which made the fostering wishes to terminate it and the foster parents oppose the termination, it is for the judicial or other competent authority to take a decision.

### *Principle 7*

1. Before any decision is taken by the competent authority under Principles 5 and 6, the parents and the foster parents should be given the opportunity to express their views. The child should be consulted if his degree of maturity with regard to the decision so permits.

2. The authority should base its decision primarily on the interests of the child, taking account in particular of the links between the child, his parents and his foster parents. This decision should be taken without undue delay.

### *Principle 8*

Agreements relating to the fostering of a child may not derogate from the principles set out in this recommendation.