

Bamberg Declaration

adopted in the framework of the international symposium on
"German youth welfare offices ¹ and European Convention on Human Rights"
Bamberg, 20/21 October, 2007

Chair: Annelise Oeschger, president of the Conference of International Non-Governmental Organisations of the Council of Europe

On the basis of their own experiences and the experiences of affected families as well as contributions by experts the participants of the symposium declare that:

- Within the framework of the child and youth protection in Germany, especially on the part of the youth welfare offices, there are violations of Human Rights, in particular of article 3, 5, 6, 8, 13 and 14 of the European Convention of Human Rights.
- The youth welfare offices in Germany are not under any effective supervision, neither in a professional nor in a legal sense.
- Youth welfare offices often ignore legally binding court rulings concerning custody and contact with the children.
- Under the false pretence of data protection the elementary right of freedom of information and access records for relatives and their lawyers is violated.
- Removal of custody should be the very last resort and should only be carried out if parents are unable to bring up their children and if the well-being of the child cannot be guaranteed by any other measures. In practice, however, custody is often removed without any such reasons and this trend has intensified lately. At the same time the possibility of placing the child in the extended family environment is not used as an opportunity often enough.
- The removal of the children is often carried out in an inhuman way.
- Instead of arranging a rapid return of the child, the child very often gets alienated from parents by direct manipulation of the child and/or by procrastination of the proceedings by the youth welfare office and the courts. In many cases the authorities count on the waning resisting power and the excessive financial demands on parents and their environment.
- For fear of reprisals parents, supporting persons and experts often do not dare to take legal actions against measures or decisions.
- It is often made impossible for parents to assert the rights they are entitled to even after a withdrawal of custody (e.g. contact with schools and a right to say, consent to medical procedures, religious education).
- During the placement in foster care numerous children are exposed to physical and psychological maltreatment.
- In numerous cases parents are not allowed to communicate with the children in their native language or the children are barred from speaking in their mother tongue. Thereby even physical punishment is used.
- Monitoring of foster homes and foster families is often inadequate.
- It is almost impossible to hold employees of the youth welfare offices to account, neither by criminal nor by civil law.
- Both the youth welfare offices and the courts lack sufficiently trained professionals. As a

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consequence both rely too much on expert opinions, which are often lopsided. Authorities frequently abstain from obtaining a counter opinion or an expertise of independent experts, also from abroad.

- Instead of relying on facts, authorities often base their decisions on subjective opinions and prejudices (labels instead of facts). This approach is particularly obvious in cases where the diagnosis and/or the therapy is controversial among medical experts, such as with chronic borreliosis (Lyme disease) and attention deficit hyperactivity disorder (ADHD), for example. A further unacceptable course of action consists in abusing the scientifically highly controversial diagnosis Munchausen by Proxy Syndrome as a smokescreen for removals of custody. In these cases political and economic interests are often put at stake, which strongly increases the risk of decisions that disregard the children's well-being.
- Foster care imposed by the authorities seems to be shaped more and more by economic interests. Numerous institutions rely on the continuous allocation of children for their economic survival.

Therefore the participants of the symposium call for:

- The reorganisation of the child and youth welfare, particularly the introduction of an independent and effective legal and professional supervision, the introduction of an independent expert panel, which immediately and then on a regular basis reviews the decisions concerning withdrawals of custody and the preparation for the children's return to their families. The same goes for mandatory further training for the staff of youth welfare offices and family courts.
- This reorganisation must guarantee that decisions concerning custody are exclusively based on facts and not prejudices, e.g. by obtaining at least two independent expert opinions.
- The consistent prosecution of illegal actions that are committed by employees of youth welfare offices and courts.
- The introduction of a national Ombudsperson responsible for matters concerning child and youth protection and welfare.
- The Human Rights to freedom and security and to respect of private and family life (ECHR art. 5 and 8) must not be subject to the derived fundamental right on data protection. Throughout all the proceedings transparency for parents and their representatives must be guaranteed.
- The examination of legitimacy and purposefulness of all current cases of withdrawal of custody within shortest time by an independent national expert panel, appointed especially for this purpose.
- The moral and material rehabilitation of the affected children and families.
- The implementation of the recommendations of the Council of Europe's Commissioner for Human Rights to the attention of the Federal Republic of Germany (e.g. "the incorporation of human rights as a core component in professional training in law enforcement, for teachers as well as practitioners in the social and health sectors").
- The incorporation of the youth welfare offices problem into the follow up report of the Commissioner for Human Rights of the Council of Europe on the situation in Germany.

The participants of the symposium consider:

- The organization of a follow-up meeting in the next months.

- The promotion of an international network of affected families, their representatives and experts in various fields.
- The submission of a petition to the Committee on Petitions of the European Parliament in which the Federal Republic of Germany is requested to examine all ongoing cases of foster placement of children.