



## **Paris Citizens' Motion for the care of abused children**

### **Preamble :**

**Considering that the family is the basic unit of society ;**

**Considering that the child is a human person in his or her own right, in his or her most multiple and complex dimensions, particularly emotional, intellectual and social ;**

Considering that the well-being of the child depends on a family, social, health, educational, cultural, material and spiritual environment conducive to his or her development as an autonomous, free and responsible future adult ;

Considering that the family and society must provide the means to ensure the best possible conditions for the child's development in order to ensure his or her transition to adulthood ;

**Considering that the child has rights to develop dedicated to his or her autonomy, freedom and responsibility, and that the family and society have duties towards the child, the lack or insufficiency of which places the burden on the community or the State ;**

Considering that in recent years, in many European countries, recurrent and scandalous revelations have brought to everyone's attention the fact that the duty to protect the child had been transgressed and that these situations had not received any genuinely satisfactory response ;

Considering that the abuse suffered by children is of a particular nature and has harmful effects throughout their lives, from childhood to adulthood, and that it will have an impact on their future environment and the balance of tomorrow's society ;

Considering that the scale and scope of the abuses lead us to consider their systemic dimension ;

Considering that only full reparation can help abused children to build themselves up again ;

Considering that it is therefore necessary to develop European standards in order to harmonise and consolidate national responses ;

Considering that there is a need to better coordinate the Council of Europe's Lanzarote Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the case law of the European Court of Human Rights and the International Convention on the Rights of the Child ;

Considering the justice initiative brought to Bern in September 2021 ;

Considering that there is a need to highlight what, in the different national practices and legislation, deserves to be enshrined as a standard at the European level ;

Considering that the responsibility to protect children from abuse is based on four main principles of protection, namely a duty to protect, a duty to exercise greater vigilance, a duty to punish and a duty to provide reparation.

## *The duty to protect the child*

### **Article 1 - The right of the child to welfare and development**

**The child has the right, without discrimination of any kind, to a family, social, health, educational, cultural, material and spiritual environment conducive to his or her daily well-being and full development as an autonomous, free and responsible adult.**

The child has the right to know his/her family identity.

**Benevolence, respect for the law, non-discrimination and consideration of the best interests of the child shall guide all proceedings and decisions affecting the child.**

The infringement of the physical, psychological, moral, cultural, legal and sexual integrity of the child can never be justified by any circumstance whatsoever. Any person having authority over the child, whatever the setting, may never abuse his or her position for any reason whatsoever.

### **Article 2 - Responsibilities for ensuring the child's right to well-being and development: the family, society, the State.**

The family and society have the main responsibility for providing the child with emotional security and the basis for social integration as decisive elements of his or her right to well-being and development.

The State shall accompany the family and society in the exercise of this primary responsibility by means of preventive, financial and educational measures.

### **Article 3 - Alternative protection of the child by the State**

Any suspicion of child abuse shall be the subject of a specialised, diligent and thorough investigation by the competent child protection services in order to propose safeguarding measures, under the supervision of a judge competent in the field of child protection. These measures do not lead to the removal of the child from his or her living environment, provided that the child's best interests, duly investigated, subject to an adversarial procedure and accountable, are not at stake.

**Any decision of provisional, temporary or final separation can never be left to the sole discretion of an administrative authority. The judge will have full control over the facts and the law.**

**A committee of expertise and ethics specialising in family matters will be set up within the courts. It will be consulted at the request of the judge and/or the families.**

The utmost diligence is required to ensure that provisional measures do not backfire on the best interests of the child and his or her family, namely the slowness of administrative processing, undue provisional separation, and the failure to take the family's word.

In cases of child abuse duly established by a judge competent in the field of child protection, alternative protection measures are adopted on the basis of respect for the best interests of the child.

Separation of the child from his or her family is the extreme measure that can be taken. Financial reasons may not be used as a reason for family removal ; siblings may not be split up ; the child's placement must be close to the family home ; family ties are preserved in a way that respects the family's interests.

A commission responsible for examining the organisation and operation of child protection services is set up.

Child protection services are provided with sufficient funding and a sufficient number of human resources trained to meet the challenges. These services are accountable to families, society and the public. Duly recognised associations are entitled to be partners of these child protection services.

### *The duty of reinforced vigilance*

#### **Article 4 - Definition of cases of vulnerability of the child**

States shall define situations of child vulnerability, which are sources of child abuse. They shall take into account the civil and criminal dimensions of the abuse. **They consider the different components of abuse: physical, psychological, moral, sexual, cultural and legal, of which abusive placement is one.**

They also consider cases of large-scale, structural or systemic abuse to which specific definitions and responses must be provided.

#### **Article 5 - Cases of presumed vulnerability of the child**

Alternative child protection shall, within a medium-term period, stop sending children to institutions. The State shall establish alternative care facilities by promoting care in family substitute homes.

**As the child in care is in a situation of double vulnerability (i.e. removal from the parental home, placement in a substitute home), a simple presumption of vulnerability must be investigated by the social services in order not to expose the child to possible abuse.**

In some situations, including within the close family environment, the position of authority may expose the child to situations of inferiority that may lead to abuse. The child's family and friends should be vigilant and take up this issue in order to inform the social services.

#### **Article 6 - The child's testimony and voice to overcome the presumption of vulnerability**

In order to protect children from the presumptions of vulnerability they may encounter, the child's word is taken into account from the age of 6. It acquires the value of testimony from the age of 10. **At the age of 13, the child's voice is taken into account to co-construct his or her best interests.**

The child's testimony and word are received before the social services under the supervision of the judge. In all circumstances, benevolence, respect for the law and the rule of law, non-discrimination and consideration of the child's best interests will constitute the framework for the child's testimony.

### *The duty to punish*

#### **Article 7 - The framework for penal sanction**

**No circumstance can ever justify the abuse of the child. In criminal proceedings against the abuser, the presumption of innocence shall apply. The secrecy of the investigation is also required, as is the closed trial unless the families unequivocally and legitimately waive it. Account is taken of the presumption of the child's vulnerability in the context of criminal proceedings.**

### **Article 8 - The framework for disciplinary action**

No circumstance can ever justify the abuse of a child in the context of a position of authority based on a professional situation. Where the abuser acts in such a position of authority, disciplinary proceedings shall be instituted independently of criminal proceedings. Account shall be taken of the presumption of vulnerability of the child in relation to the disciplinary framework.

### **Article 9 - Forgiveness**

Within the framework of these proceedings, time shall be devoted to forgiveness if possible. This may be requested by the abuser and accepted by the victim. The act of forgiveness shall not influence the course of the criminal proceedings.

### *The duty to make reparation*

### **Article 10 - The principle of full reparation**

In accordance with international law, the abuse of a child shall be subject to full reparation : **obligation to stop the act of abuse, obligation to provide psychological care, obligation not to expose the abused child and any other child to such situations again, obligation to provide financial and non-financial care, obligation to place the child in a family home that is safe, sustainable and conducive to his or her development and well-being.**

### **Article 11 - Full reparation for large-scale, structural or systemic abuse**

**In cases of large-scale, structural or systemic abuse, States shall establish a participatory body, including associations of child victims, to investigate the particular occurrence of such abuse and competent to advise on the components of reparation.**

### **Article 12 - Integral reparation in the service of memory, societal support and the human rights of the child**

States, society and families shall engage in processes of remembrance and societal support dedicated to the human rights of children.







