



FRATERNAL ASSOCIATION OF CHILDREN
LEAVING MALATYA ORPHANAGES

HOLD ON TO LIFE

*RIGHTS VIOLATIONS OF
CHILDREN DURING AND
AFTER INSTITUTIONAL CARE*

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Hold on to Life

Rights Violations of Children During and After Institutional Care

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Fraternal Association of Children Leaving Malatya Orphanages - Malatya YADER

Fraternal Association of Children Leaving Malatya Orphanages, was established in 2012 to improve the quality of life of children and young people who remain under state protection, as well as to create policies and contribute to policy formation in the field of social services.

During the eight-year process since its establishment, the association has carried out many rights-based activities dedicated to sustainable development goals. In order to facilitate their integration into life, the association has enabled children and young people who are/were under state protection to come together with their elders who once were growing up under state protection and whom they could see as role models and who are successful in business and social life. These meetings have increased the self-confidence of children and young people and encouraged higher education. In addition, university trips have served the same purpose.

The association has also performed various projects in order for children and young people to learn about their rights and has visited pilot schools in its region and explained their rights based on the UN Convention on the Rights of the Child and given various trainings to young people about their rights with regard to business life. The association is also engaged in lobbying and advocacy activities on the rights of children and young people who are / were under state protection.

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**DEDICATED TO THOSE SELF-GIVING THAT SOW THE SEEDS OF HOPE FOR THE FUTURE AND
TO THE BLOOMING SEEDLINGS**

LET LIFE BE EASY FOR THEM...



ABSTRACT

Each child's self-realization and living an equal, free and dignified life are under the responsibility of the states which are parties to the United Nations Convention on the Rights of the Child (UNCRC). This commitment calls for the implementation of the child protection systems and adoption of special measures in the event of a threat to a child's living and growing without discrimination, participating in decisions about him/ her and ensuring of his / her best interest. One of the areas where special measures are needed is the children who are deprived of or at risk of being deprived of parental care and therefore who are in need of alternative care.

Under the scope of the monitoring study "**Hold on to Life**", 74 court decisions were examined regarding the cases filed by 51 children whose protection decisions were lifted by a court order without being of full age while under state protection specifically for the right to employment after becoming of full age. Decisions were made in 25 separate provinces, 42 of which were from Administrative Courts, 4 of which were from District Administrative Courts, 2 of which were from Courts of First Instance, 3 of which were from Family Courts, 3 of which were from Juvenile Courts, 5 of which were from Council of State and 15 of which were from Court of Cassation. The main assessment in decisions was that incomplete and defective social review reports were forwarded to the court for the children who were not adequately monitored and evaluated during and after the care and the courts lifted the protection with unilateral decisions like notaries. In addition, failures in monitoring and evaluation practices during and after care, as well as in the personnel system and justice mechanism, have been highlighted.

As a result of the evaluation of the decisions, the following remarks were made about persons for whom the protection was lifted by a court decision without becoming of full age while they were still under state protection;

- * Reasons for protection have been ignored,
- * Individual plans have not been made for after-care and children were not ready for the process and post-care monitoring activities have not been performed,
- * Unilateral, incomplete and defective social review reports have been prepared while lifting protection decisions in the process of returning children to families,
- * Personnel mistakes have been effective in the preparation of incomplete, defective and baseless social review reports,
- * There is not enough effort for establishing a prevention mechanism for being "runaway", which is cited as a justification for lifting protection decisions, and creating organizations suitable for children,
- * A child-friendly justice system does not work,
- * Decisions about children were made solely by examining the file,
- * The children are not given the right to express their views freely on all matters of interest to them,
- * In judicial or administrative prosecution, the children are not listened to directly or through a representative
- * The staff and professionals working with children do not have the necessary competence
- * The children are deprived of their right to special protection and assistance provided by the state.

The identified problems indicate the need to review and strengthen legislation, organization and practices in accordance with Article 20 of the UNCRC on alternative care of children deprived of parental care, Article 25 on regular assessment of decisions and institutions providing alternative care and the Main Principles of Alternative Child Care adopted at the UN General Assembly. In this context, the recommendations developed to address the main problems in the context of the right to employment, to eliminate rights violations and to strengthen the practice, practitioners and legislation in order to contribute to the creation of a **holistic and rights-based child protection system** are as follows.

Recommendations on Strengthening the Legislation

- * For children who are deprived of or in danger of being deprived of parental care, the Main Principles of Alternative Child Care, created as a requirement of the UNCRC and adopted by the UN General Assembly, should be integrated into the law and relevant regulations should be made.
- * The Circular No. 2012/15 of the General Directorate of Children's Services on lifting the protection decisions of children who become runaway by leaving the orphanage without permission or not returning to the orphanage at the end of the leave should be urgently abolished until the mentioned changes are made.

Recommendations for the Social Review Reports

- * Social Review reports, which provide the basis for an assessment of the need for child protection, should be prepared adequately and competently, taking into account the benefit of the child. Review reports should be

examined by an independent expert committee in important decisions that will affect the life of the child (such as lifting the protection decision). Social review reports should be prepared by taking into account the economic, social and psychological status of the family members of the child who will be handed over by lifting the protection decision as well as the reasons for the child's protection and the educational status of the child, the balance of benefit and harm that will arise from his return to the family, and opinion of the child.

Recommendations for Monitoring and Evaluation During and After Care

- * It is necessary to increase the function of monitoring and evaluation of children who are under protection and for whom the protection has been lifted. It is important that the Directive on Minimum Standards Monitoring and Evaluation Program of the General Directorate of Children's Services is revised and implemented in accordance with the best interest of the child through various inspection mechanisms.
- * The decisions set out in the Guidelines on Alternative Child Care adopted at the UN General Assembly should be harmonised with the relevant legal regulations and an effective implementation process should be introduced together with non-governmental organizations.
- * It is important that the Directive on Minimum Standards Monitoring and Evaluation Program is reviewed in accordance with the best interest of the child and the UN Guidelines on Alternative Child Care and that implementation is followed through various inspection mechanisms.
- * The monitoring and evaluation after care should be reported by the organization in 3 month periods by contacting 3 children at least a year. In addition, continuous support should be provided for work, social life and family life, and after-care monitoring units should be established in each province.
- * As stated in Article 55 of the Main Principles of Alternative Child Care adopted at the UN General Assembly; all organizations and individuals responsible for providing alternative care to children should be regularly monitored and examined by the competent authority. To this end, certain criteria should be developed to assess the professionalism and suitability of care providers and to ensure their accreditation, monitoring and observation.
- * Full participation of non-governmental organizations, especially organizations, institutions and associations engaged in promoting and protecting children's rights, should be ensured in the monitoring process. In particular, cooperation with NGOs established by young people who remained under state protection should be developed.
- * Parents of children who remained under state protection should also be contacted and given financial, social and psychological support.
- * In order to remove negative public perceptions and instill self-confidence and support in children, the organization should maintain contact with people and role models who remained under state protection.

Recommendations on Personnel Practices

- * The personnel regime should be planned and operated separately from the traditional government personnel policy.
- * All stakeholders working with children should be informed about laws, regulations and practices.
- * All personnel working for and with children should have adequate professional training and receive constant education on children's rights. The content of these trainings, the expertise of the trainers and the evaluation of the training should also be monitored by independent experts and commissions.
- * For personnel who will work in children's services, it is necessary to review the personnel law and the personal system based on the best interest of the child. The recruitment policy and personnel legislation should be applied according to these reviews.

Recommendations on Juvenile Justice System

- * A separate space should be opened for children under state protection with the juvenile justice system. The practice and practitioners should be strengthened in fulfilling the requirements of the child's right to participate.
- * An individual who remains under the care and protection of the state must be supported by legal aid in court processes. Every child has their own life story. Awareness-raising projects and activities should be carried out with the cooperation of the Ministry of Justice, The Bar Association and related NGOs.
- * In addition to social review reports prepared by organizations, the courts should conduct independent research and listen to the counterparty, and the Guideline of the Committee of Ministers of the Council of Europe on Child-Friendly Justice should be observed at every stage of the courts.

The study "Hold on to Life" has been prepared in order to put forward solutions for preventing the repeat of identified rights violations.