

Best interests of the child

Third Meeting of Informal Expert Group on the Rights of the Child

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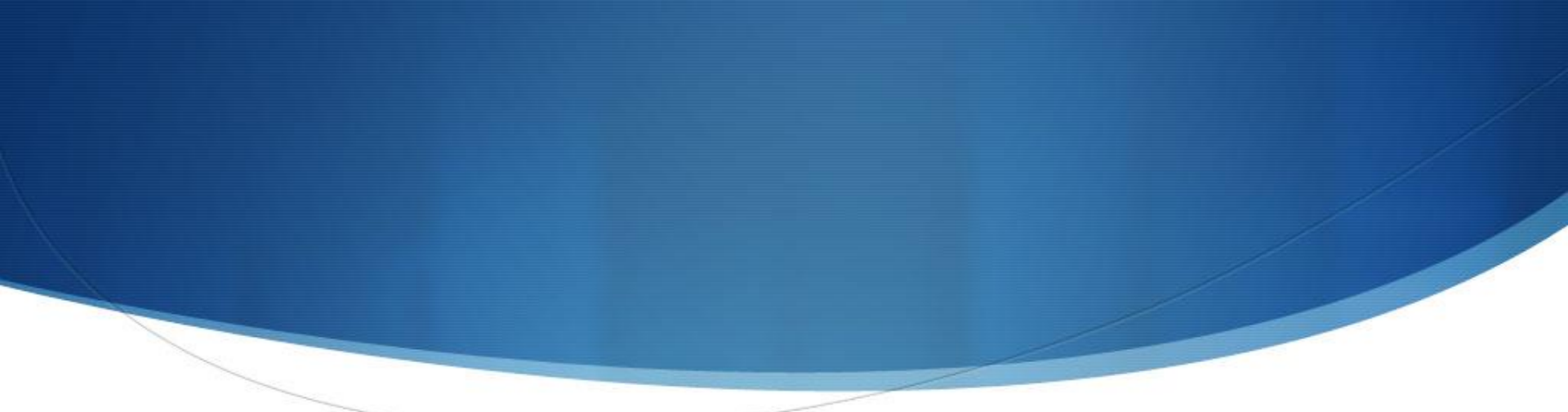


Article 3(1) Convention on the Rights of the Child

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration

General Comment No. 14

- ◆ Adopted in January 2013
- ◆ Drafted in consultation with key partners
- ◆ Cross-references to other General Comments (the right of the child to be heard; right to health; right to education)
- ◆ General Comment no. 6 on Treatment of Unaccompanied and Separated Children outside their country of origin

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- ◆ Aim of the « best interests of the child »
 - ◆ Ensure the full and effective enjoyment of all the rights in the Convention
 - ◆ Holistic development of the child

- ◆ A right
 - ◆ Individual
 - ◆ Collective
- ◆ A legal principle
- ◆ A rule of procedure

Nature and Scope

- ◆ To have his/her best interests **assessed** and taken as a **primary consideration** when different interests are at stake
 - ◆ Action by a public institution, administrative and judicial proceedings, which directly or indirectly affect children
 - ◆ Decisions, policies and legislation concerning children
 - ◆ Decisions, actions taken by service providers (private sector)

Content of the obligation

*In all actions **concerning children**,
whether undertaken by public or private social welfare
institutions, courts of law, administrative authorities or
legislative bodies,

the **best interests of the child**

shall be a **primary consideration***

(A) Assessment and Determination

- ◆ By decision-maker (multidisciplinary team) with participation of the child
- ◆ Involves the balancing of a number of **elements** that will help to determine the best interests of the child

(B) PROCEDURAL SAFEGUARDS

- ◆ Right of the child to express his/her views
- ◆ Establishment of the facts
- ◆ Qualified professionals
- ◆ Legal representation
- ◆ Legal justification
- ◆ Review mechanisms
- ◆ Child rights impact assessment

Best interests of the child – in practice

- ◆ Unaccompanied minors
 - ◆ Family reunification?
- ◆ Alternative Care for Children

How to use the General Comment?

- ◆ Should disseminate this General Comment - translate it, make child-friendly versions available
- ◆ Share best practices on how best to implement it
- ◆ Incorporate it into national trainings of professional and technical staff
- ◆ Include information on challenges/good practices in periodic reporting on implementing the BIC

<http://www2.ohchr.org/english/bodies/crc/index.htm>

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