



The Joint Placement of Siblings in Out-Of-Home Placements

**Submission Defence for Children Netherlands,
SOS Children's Villages Netherlands and
SOS Children's Villages Belgium to the UN Committee
on the Rights of the Child**

The Netherlands and Belgium, June 2021



The Netherlands



INTRODUCTION

With this submission on the joint placement of siblings in out-of-home-placements, Defence for Children Netherlands, SOS Children's Villages Netherlands and SOS Children's Villages Belgium wish to respond to the call for submission regarding the Day of General Discussion: 'Children's Rights and Alternative Care' on 16 – 17 September 2021. This submission is further endorsed by Defence for Children Belgium and Better Care Network Netherlands.¹

ISSUE OF CONCERN: THE SEPARATION OF SIBLINGS DURING OUT-OF-HOME-PLACEMENTS

When a child is placed elsewhere, away from home and family, it can be a drastic or even traumatising event. In many cases children are separated not only from parents but often also from siblings without any contact arrangement. International research and experts continuously highlight the importance of siblings being placed together. The preservation of family ties between siblings is fundamental for their development², mental health and social/relational skills.³ The family relationship between siblings last the longest⁴, providing emotional security and the foundations for building future relationships.⁵ In the context of out-of-home placements, a joint placement of siblings can nurture a sense of safety⁶, stability and provide continuity in the lives of children in foster care.⁷ It also seems to contribute to a greater likelihood of reunification.⁸ The separation of siblings on the other hand, can create feelings of grief, loss, guilt, alienation or even trauma.⁹

Separation of siblings in the Netherlands

It has been reported that in the Netherlands, an estimated 50% of children who are placed out of home, are not placed together with their siblings.¹⁰ Explanations for this vary from a joint placement not being in their best interests¹¹ to practical reasons, such as a lack of available foster families. Case reports received at the children's rights helpdesk of Defence for Children Netherlands indicate predominantly practical reasons for sibling separation. According to Defence for Children Netherlands, foster families are oftentimes not able to care for *all* the children, because there is not enough room for them in their home. In some cases, children have specific needs and it becomes too difficult for foster parents to address those needs when taking care of all the children at the same time. Additionally, Defence for Children Netherlands observes that siblings are being placed out-of-home at different moments in time, which complicates or obstructs joint placement of siblings. There is also the concern that, in some cases, youth care professionals did not carry out a thorough investigation as to whether it would be in the best interests of the children to keep them together and if so, how this can be achieved.

1 The Better Care Network Netherlands (BCNN) is a network of organisations and individuals that are actively involved with children without parental care. The Steering Group of BCNN consists of Defence for Children – ECPAT Netherlands (chair), Kerk in Actie, Stichting Kinderperspectief, SOS Kinderdorpen, Red een Kind, Wereldkinderen, Wilde Ganzen, Free a Girl and Wereldouders. BCNN is part of the International Better Care Network.

2 Haxhe, S. e.a. (2018), *La fratrie comme nouvelle unité stable. Vers une évolution des pratiques en contexte de placement*, Cahiers de psychologie clinique 2018/1 (n° 50), p. 65. Azmitia, M. & Hesser, J. (1993), 'Why siblings are important agents of cognitive development: A comparison of siblings and peers', *Child Development* (64) 1993, issue. 2, p. 442.

3 Richardson, S. & Yates, T. (2014), 'Siblings in foster care: A relational path to resilience for emancipated foster youth', *Children and Youth Services Review* (47) 2014, p. 378;

4 Idem, p. 386.

5 Branje, S. e.a. (2008), 'Perceived support in sibling relationships and adolescent adjustment', *Journal of Child Psychology and Psychiatry* (45) 2008, issue 8, p. 1395.

6 Shlonsky, A., Bellamy, J., Elkins, J. & Ashare, C. (2005), *The other kin: setting the course for research, policy and practice with siblings in foster care*, *Children and Youth Services Review*, 27 (7), p. 698.

7 Herrick, M. & Piccus, W. (2005), 'Sibling Connections: The importance of nurturing sibling bonds in the foster care system', *Children and Youth Services Review* (27) 2005, vol. 7, p. 851.

8 Webster, D., Shlonsky, A., Shaw, T. & Brookhart, A. (2005), *The ties that bind II: Reunification for siblings in out-of-home care using a statistical technique for examining non-independent observations*, *Children and Youth Services Review*, 27(7), p. 765 – 782; Chambers, R., Brocato, K., Fatemi, M. & Rodriguez, A. (2016), *An innovative child welfare pilot initiative: results and outcomes*, *Children and Youth Services Review*, vol. 70, pp. 143 – 151.

9 Confirmed by the Legal Helpdesk of Defence for Children Netherlands and in literature: Herrick, M. & Piccus, W. (2005), 'Sibling Connections: The importance of nurturing sibling bonds in the foster care system', *Children and Youth Services Review* (27) 2005, vol. 7, p. 849; Wojciak, A. & Hough, N. (2018) 'Youth in foster care relationships with biological, foster, and adoptive families'. In E. Trejos Castillo & N. Trevino-Schafer (Eds.), *Handbook of foster youth*. New York: Routledge 2018, p. 247.

10 Research by the University of Amsterdam on actual numbers is expected November 2021. Estimate from Nederlands Jeugdinstituut, 'Samen tenzij. Broertjes en zusjes bij elkaar houden bij uithuisplaatsing. Overwegingen en aantallen', NJI: 2015 (publication is not public).

11 E.g. if this is against the wish of (a) sibling(s), if the relationship between siblings is unhealthy (due to parentification, rivalry, violence), or if the individual needs of one/or more children exceed the family's capacity because of behavioural or psychological problems.

There are cases in the Netherlands in which a judge has decided that a joint placement of siblings is in their best interests. However, in practice, siblings are still separated due to the lack of available foster families. It worries Defence for Children Netherlands and SOS Children's Villages Netherlands that in those cases (foster) parents, children and siblings still have insufficient means to address this. Access to justice is not guaranteed, which makes it incredibly difficult or rather impossible to change their (living) situation. Though in a fairly recent scientific study several recommendations were made to improve the access to justice for children in family court proceedings,¹² the government is not willing to implement (all of) those recommendations.¹³

Separation of siblings in Belgium

In Belgium, the current Flemish registration systems do not allow to obtain data on (the separation of) siblings in youth care. In February 2021, the Ministry responsible for youth care in Flanders expressed its intention to conduct a one-time scientific research in order to collect data, after renewed attention for the situation of siblings in care.¹⁴ It seems recommendable to register data on siblings in a more structural way. In a recent evaluation of youth care regulations in Flanders, parents report that children are indeed separated from siblings when placed out of home.¹⁵ There is no data on the reasons for separation, which vary from practical or organisational obstacles to separation in the best interests of the children involved. The Flemish Commissioner for Child Rights confirms these obstacles and calls for better protection of the relationship between siblings in Belgium.¹⁶ In the French Community, 85% are placed jointly with at least one brother or sister. It is not specified how many children stay together with all their siblings. The other 15% are crisis placements pending the outcome of the search for a facility where they can be placed together.¹⁷

INTERNATIONAL LEGAL PROVISIONS UNDERPINNING THE RIGHT OF CHILDREN TO JOINT PLACEMENT IN OUT-OF-HOME CARE

The Convention of the Rights of the Child (CRC) is based on the principle that a child grows up with its parents: article 7 of the CRC states that a child has the right to know and be cared for by its parents. Pursuant to articles 5 and 18 CRC, the parents are primarily responsible for the care and development of their child. The government should support them in this if needed. However, it is possible for a child to be separated from its parents if that is in the best interests of the child, according to articles 9 and 19 CRC. When a child is temporarily or permanently removed from his or her home, article 20 CRC prescribes that the child is entitled to special protection from the government. The government must provide alternative care, preferably in a family environment. In that case the child is entitled to a periodic evaluation (article 25 CRC) to determine whether it is in the best interests of the child to be reinstated with his parents.

In terms of family life the CRC provides (legal) protection, although somewhat implicit, for a child who is separated from its family. Article 3 paragraph 1 CRC states that the best interests of the child must be a primary consideration when decisions are made that concern the child. Article 4 states that all contracting parties have the obligation to take all appropriate legal, administrative and other measures to realize the rights under the CRC. Article 8 guarantees the right to retain identity, including family relations.

12 Bruning, M. et al (2020)., 'Children in court: from communication to effective participation The child's right to be heard and the procedural position of children in family and child protection proceedings', Den Haag: WODC 2020. English summary available: https://repository.wodc.nl/bitstream/handle/20.500.12832/2431/2971_summary_tcm28-43102.pdf?sequence=3&isAllowed=y

13 Dutch Parliament, Tweede Kamer, vergaderjaar 2020–2021, 33 836, nr. 59: https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?did=2020D53078&id=2020Z25280

14 Flemish Parliament, Written Question No 361 of 2 February 2021 on 'youth care - placing siblings together' to the Flemish Minister for Welfare, Public Health, Family and Poverty Reduction. <https://docs.vlaamsparlement.be/pfile?id=1663902>. See also <https://www.vrt.be/vrtnws/nl/2020/11/20/7-op-de-10-kinderen-in-de-jeugdhulp-groeien-niet-samen-op-met-br/>.

15 Roevens, E., Op de Beeck, L., Pleysier, S., Put, J., Van Regenmortel, T., Hermans, K., & Voets, J. (2020). Evaluatie van het decreet van 12 juli 2013 betreffende de integrale jeugdhulp. Steunpunt Welzijn, Volksgezondheid en Gezin. <https://steunpuntwvg.be/images/swvg-3-rapporten/rapport-ef36-evaluatie-ijh>.

16 Kinderrechtencommissariaat (2019). Recht doen aan het contactrecht met broers en zussen, p. 7. https://www.kinderrechtencommissariaat.be/sites/default/files/bestanden/standpunt_2019_2020_02_contactrecht_met_broers_en_zussen.pdf

17 Administration Générale de l'Aide à la Jeunesse (2018). Les chiffres de 2017. Les fratries prises en charge dans le cadre d'une mesure d'hébergement par un service agréé de l'Aide à la Jeunesse. <http://www.aidealajeunesse.cfwb.be/index.php?id=8681>.

To be able to make a decision that is in the best interests of the child, it is of importance to know the opinion of the child. According to Article 12, paragraph 2 of the CRC, a child shall be given the opportunity to express his or her views in any judicial or administrative proceedings that concern the child, either directly or through a representative.

Furthermore, article 16, paragraph 1 of the CRC states that every child has the right to protection against arbitrary or unlawful interference with his family life. This section does not only refer to the family life between a child and its parents, but also to the family life the child has with its brothers and sisters. Siblings are entitled to legal protection of their family life to prevent or annul any violation or infringement.

Finally, the CRC instructs the signatory states, including the Netherlands and Belgium, to take legal and other measures to ensure that the rights laid down in the CRC are realised. With regard to children who are placed out of home and are separated from their siblings, this means that the Netherlands should ensure that legislation is in place to protect them against any unlawful or arbitrary violation of their family life. The 'other measures' that the Netherlands and Belgium must take in order to realise the rights from the CRC may also concern the abolishment of the practical obstacles that currently impede the placement of siblings together.

Additionally, under Article 8 of the ECHR, children have a right to the protection of their family life. However, this right is not absolute; an infringement may be justified if it is provided for by law, pursues a legitimate aim (such as protecting the best interests of the child), and is necessary in a democratic society. In *Savinu versus Ukraine*¹⁸, *Kutzner versus Germany*¹⁹ and *Olsson versus Sweden*,²⁰ the European Court of Human Rights ruled that violations of Article 8 had occurred due to the fact that siblings had not been placed together after being removed from their home, and due to insufficient determination and weighing of the best interests of the children.²¹

It follows clearly from the (non-binding) UN Guidelines for Alternative Care of Children²² and the European Q4C standards²³, both drawn up to strengthen the implementation of the CRC, that a child may not be separated from his siblings by placement in alternative care, unless there is a risk of abuse or another reason makes it in the child's best interests. Therefore, based on the UN CRC, European Convention on Human Rights (ECHR, read below) as well as the Guidelines and the Q4C standards, every child also has the right to maintain contact with its brothers and sisters when not placed jointly, because this is part of the right to family life and the right to maintain the child's identity. Likewise, these rights may only be infringed under strict conditions and only if it is in the best interests of the child.

18 ECTHR 18 December 2008, 39948/06 (*Savinu versus Ukraine*). Three children were separated from their parents and all had been placed in separate foster families. The ECTHR stated in this case that the State has a positive obligation to make serious and persistent efforts to return children who have been placed in care to their parents. According to the ECTHR, until this is possible, the State must ensure that children have regular contact with their parents and are placed with siblings where possible. Because this was not the case, the ECTHR ruled that this was a violation of Article 8 of the ECHR.

19 ECTHR 10 July 2002, 46544/99 (*Kutzner versus Germany*). Two children had been placed in different foster homes by the juvenile court. Neither of them was heard by the juvenile court at any time and for the first six months they were hardly allowed to have any contact with their parents. The ECHR ruled that the separated placement and the lack of contact not only led to further parental alienation, but also to further alienation between the children. The ECTHR concluded that there were grounds to remove the children from their homes. However, according to the ECTHR, the way in which the removal was carried out was not proportionate and therefore constituted a violation of Article 8 of the ECHR.

20 ECTHR 24 March 1988, 10465/83 (*Olsson versus Sweden*). Three children were displaced from their parents. According to the Swedish government, it was necessary to separate them because they had child-specific problems and one of the children required specialised care. The ECTHR does not follow this reasoning and states that, since this is an out-of-home placement and not an adoption, the Swedish authorities have the obligation to take measures to realise family reunification and mutual contact. Now that this has not happened and the children have been placed separated from each other and at a great distance from each other, the ECTHR considers the manner in which the out-of-home placement was carried out disproportionate and therefore in violation of the right to family life protected by Article 8 ECHR.

21 All three are taken from 2015 article written by Mr. Feiner for the Dutch Law Journal. Feiner, R. (2015), 'Wie toetst de rechten van broers en zussen op samenplaatsing bij uithuisplaatsing?', NJB 2015/2172.

22 Richtlijn Pleegzorg voor jeugdhulp en jeugdbescherming 2019, p. 42. Available at <http://richtlijnenjeugdhulp.nl/>.

23 European Quality for Children Standards, standard 4: Siblings are cared for together. Available at https://www.sos-childrensvillages.org/getmedia/1b7397b9-ce47-41e0-8329-3c01a5496c6f/Q4C_colour.pdf

Dutch national law contains no provision stating that siblings have the right to be placed together in the event of an out-of-home placement.

In the Netherlands, the Children's Judge can issue a supervision order when the development of the child is seriously threatened. If it is necessary in the interest of the care and upbringing of the child or to examine his/her mental or physical condition, the judge can order to place the child out of the home. When the order of out-of-home placement is prolonged and it can no longer be expected that the child can return home to his or her parent(s) within a for the child reasonable period of time (which is a tailor made decision in every case), the children's judge can, in certain situations, terminate the parents' authority. The Dutch Youth Law prescribes that a child should preferably be placed in a foster family or family home.²⁴ The law does not contain a provision stating that siblings must be placed together after an out-of-home placement unless this is not in the interest of (one of) the children. Thus, the law does contain a preference clause about *where*, but not *with whom* the child should be placed when an order of out-of-home placement is issued.

The guidelines for youth care and youth protection²⁵ do contain the recommendation to place siblings preferably in the same foster family or family home, but these guidelines are not mandatory in nature. The guidelines are neither unanimous on the reasons why siblings may be separated. The explanations mentioned in the foster care guidelines are based on child-oriented considerations. This does not apply to all the reasons mentioned in the Directive on Placement.²⁶ The same guidelines state that it is possible to deviate from the principle of placing siblings together if there is no foster family available that can take care of them together.²⁷ This is not based on a child-oriented consideration, but rather caused by obstacles faced in practice.

Regarding contact between siblings, if not placed in the same foster family or family home, they retain the right to contact.²⁸ In practice, the contact between brothers and sisters will be organised by the professionals and foster families involved. The guideline for out-of-home placement and the guideline for foster care state that a child has a right to contact with its brothers and sisters if they have not been placed in the same foster family or family home, but they do not elaborate on how the youth care professional should interpret this in practice. When a childcare professional does not give substance to the right of the child to contact with his siblings, there is a risk that they will not see each other regularly, become estranged, or that they (or their parents, if their parental authority has not been terminated) will have to ask the court to establish a contact arrangement between siblings.

When children are not placed together within the same foster family, another difficulty arises when arranging contact between siblings: the schedules of the children, foster families and parent(s) can become an obstacle for arranging contact moments. Often there are conflicts due to other obligations. It is challenging to arrange contact moments between siblings, when they also have separate contact meetings with their parents as well as are attending school and other activities. The travel distance hinders the contact moments as well. The law does not provide any guidance in this area. It is unclear who is in charge, who should take initiative, how the different interests are weighed, by whom, in which manner (are the children involved?) and at what moment. There is no protocol or guideline that prescribes this process of continuous determination of possibilities. Therefore there is no guarantee for children that their interest in contact with their siblings is being determined during their stay in alternative care. In practice it is up to the foster families themselves who will arrange these moments between siblings. Defence for Children Netherlands stresses the concern that contact between siblings significantly depends on the willingness and capability of foster families to do so.

²⁴ Article 2.sub 6 of the Dutch Youth Law, in Dutch: Jeugdwet.

²⁵ Richtlijn Uithuisplaatsing voor jeugdhulp en jeugdbescherming 2017; Richtlijn Pleegzorg voor jeugdhulp en jeugdbescherming 2019. Available at <http://richtlijnenjeugdhulp.nl/>

²⁶ Richtlijn Uithuisplaatsing voor jeugdhulp en jeugdbescherming 2017.

²⁷ Idem page 7.

²⁸ Article 1:377a sub 1 of the Dutch Civil Code. The guideline for out-of-home placement and the guideline for foster care also state this right to contact, however they do not elaborate on how the youth care professional should interpret this in practice.

The fact that national law contains no provision for placing siblings together in the event of an out-of-home placement and that this does not always happen in practice in cases where it would have been in the siblings' interests, is not in line with international treaty provisions and case law. Moreover, it impedes the realization of high-quality alternative care for children.

Way forward

In order to do justice to the provisions of international legislation and case law, it is advisable to anchor the principle of 'joint placement, unless' in national law (e.g. in the Youth Act or in the Civil Code). The violation of the family life of a child must always meet the requirements set by the ECHR and the CRC. The only ground for deviating from the principle 'joint placement, unless' is when joint placement is not in the best interests of (one of) the children involved. This should then be substantiated by research of the Child Protection Board.²⁹

However, a statutory provision alone will not suffice; it needs to be ensured in practice. Based on international regulations, it is an important task for the government to make efforts to tackle and reduce the obstacles in practice, including the lack of sufficient foster families and family homes for joint placement of siblings.

When siblings are not placed together, regular contact between them should be encouraged and facilitated for them not to become alienated from each other, unless this contact is not in the best interests of (one of) the children. The right to access is regulated in both international and national legislation. The government and childcare professionals have an important task in guaranteeing this in practice. We recommend, more so than is currently the case, that regular contact between siblings should be established if they have not been placed together.

In June 2019, parliament unanimously adopted a motion requesting the government to research how the joint placement of siblings can be better guaranteed, possibly by codifying this.³⁰ Following this motion, the Ministry of Justice and Security requested Statistics Netherlands to investigate the extent to which siblings are separated when placed out of home. In July 2019, Statistics Netherlands³¹ concluded that this question cannot be answered based on the available data.³² November 2019, the Research and Documentation Center³³ was commissioned by the government to further study the nature and scope of separate placements of siblings and whether a legal codification would be desirable.³⁴ This research, carried out by the University of Amsterdam, has not yet been finalized.³⁵

In December 2020, parliament passed a motion,³⁶ though discouraged by the Minister,³⁷ to codify the fundamental principle of 'joint placement, unless' when it comes to out-of-home placements of siblings, following a legal analysis of Defence for Children Netherlands and SOS Children's Villages Netherlands.³⁸ The motion requested, awaiting the research of the Research and Documentation Center, to prepare an amendment to ensure a legal basis for 'joint placement, unless'. On 22 June 2021, Minister Dekker explained to parliament that the government is planning to develop legislative measures for the implementation of the obligation of joint placement of siblings. He also pointed out that the shortage of foster families could prove to be an obstacle for its implementation in practice.³⁹

March 2021, the Netherlands government resigned following the Child Benefits Affair and elections were held (as planned). In June 2021, the Netherlands still has a resigned government and is awaiting a new government.

29 In Dutch: Raad voor de Kinderbescherming.

30 Dutch Parliament, Motion of MoP's van Nispen and Hijink on aiming for a joint placement of siblings. Available at: <https://www.tweedekamer.nl/kamerstukken/moties/detail?id=2019Z04989&did=2019D10413>.

31 In Dutch: Centraal Bureau voor de Statistiek (CBS).

32 Centraal Bureau voor de Statistiek 2019, Uithuisplaatsingen van broertjes en zusjes (niet openbaar). Het onderzoeksrapport is wel op te vragen via: <https://www.cbs.nl/nl-nl/maatwerk/2019/30/uithuisplaatsingen-van-broertjes-en-zusjes>

33 In Dutch: Wetenschappelijk Onderzoeks- en Documentatiecentrum (WODC).

34 Kamerstukken II 2018/2019, 1607903-1982280-J (Kamerbrief).

35 <https://www.wodc.nl/onderzoek-in-uitvoering/welk-onderzoek-doen-we/3123---gescheiden-plaatsing-bij-uithuisplaatsing>.

36 Kamerstukken II 2020/21, 35570XVI, nr. 29.

37 Kamerstukken II 2020/21, 35570XVI, nr. 175, p. 136.

38 Dutch Parliament, Motion of MoP's Van Gerven and Westerveld on legally anchoring the joint placement of siblings. Available at: <https://www.tweedekamer.nl/kamerstukken/moties/detail?id=2020Z22510&did=2020D47740>.

39 Report is forthcoming.

In May 2021, the Belgian federal parliament adopted a legal proposal to protect the ties between siblings.⁴⁰ The proposal, modifying the Belgian Civil Code, states that minor siblings have the right not to be separated from each other in case of an out-of-home placement in youth care or foster care.⁴¹

Children ‘who are raised together in the same family and who have developed a special affective bond’ are equated with brothers and sisters.⁴² The right not to be separated, shall be assessed in the best interests of each child.⁴³ If the best interests of a child requires that this right shall not be exercised, the parents, the foster carers, the court and the competent authority must pursue to maintain personal contact between that child and each of its siblings, unless this too is contrary to the child’s best interests. The new law also foresees that all brothers and sisters have at all ages the right to maintain personal contact with each other.

Way forward

While the new law confirms that siblings should *in principle* be able to stay together in alternative care, practical barriers remain.⁴⁴ It is feared that the new law in Belgium will remain merely symbolic if it is not accompanied by concrete actions on the part of the competent authorities.⁴⁵ Indeed practical obstacles might stand in the way of an informed decision in the best interests of the children concerned.

When determining the best interests of the child, several criteria must be weighed against each other. Current research at the Centre for Family Studies⁴⁶ of Odisee University of Applied Sciences aims to give an overview of scientific insights on criteria that might justify separation of siblings, such as (a clear risk of) abuse between siblings or the need for specialised care for one or more children.⁴⁷ This research will also map the reasons for separation and how to avoid the loss of contact between siblings in the context of placement in alternative care in Flanders.⁴⁸

Following the renewed focus on the theme of siblings, the Flemish government has expressed its intention to give siblings a prominent place in the reflections with regard to youth care and the organisation of residential care, referring to the Simba Family Homes of SOS CV BE.⁴⁹ As its counterpart, the Government of the French Community has been involved into the parliamentary activities preceding the vote of the legal proposal to protect sibling ties.⁵⁰

The question arises as to what happens if siblings find themselves in an unsafe, acute situation at home, but there is a lack of capacity in youth care facilities to accommodate them together. The lack of capacity seems to be seen as a legitimate exception to the right not to be separated.⁵¹ However, one may question whether the government still acts with respect for the right to family life of the children concerned when they are separated for capacity reasons.

40 Doc. parl., Ch. Repr., sess. 2019-2020, n° 55 0780/012. Available at: <https://www.dekamer.be/kvvcr/showpage.cfm?section=flwb&language=nl&fm=/site/wwwcfm/flwb/flwbn.cfm?dossierID=0780&legislat=55&inst=K>.

41 Article 387 septies decies of the Belgian Civil Code.

42 Article 387 septies decies of the Belgian Civil Code.

43 Such a formulation is in accordance with international law and jurisprudence. As the Belgian Council of State confirms: “Only very exceptional circumstances, relating to the best interests of the child, can in principle lead to a breach of the family tie.”

44 Emmery, K., Loosveldt, G. (2021), Broer of zus de match van je leven. Antwerpen – Apeldoorn, Garant, 2021, p 169 – 171.

45 Loosveldt, G., Wettelijke bescherming van siblingrelaties in de jeugdhulp: een broertje dood aan slagkracht? Available at: <https://www.agorawebzine.be/artikels/wettelijke-bescherming-van-siblingrelaties-in-de-jeugdhulp-een-broertje-dood-aan-slagkracht>

46 In Dutch: Kenniscentrum Gezinswetenschappen.

47 Loosveldt, G., Wettelijke bescherming van siblingrelaties in de jeugdhulp: een broertje dood aan slagkracht? Available at: <https://www.agorawebzine.be/artikels/wettelijke-bescherming-van-siblingrelaties-in-de-jeugdhulp-een-broertje-dood-aan-slagkracht>

48 Emmery, K., Loosveldt, G. (2021), Broer of zus de match van je leven. Antwerpen – Apeldoorn, Garant, 2021, p 161.

49 Beleids- en begrotingstoelichting Welzijn, Volksgezondheid, Gezin en Armoedebestrijding. Begrotingsjaar 2021.

50 Commission de l’Enseignement supérieur, de l’Enseignement de promotion sociale, de la Recherche, des Hôpitaux universitaires, des Sports, de la Jeunesse, de l’Aide à la jeunesse, des Maisons de justice et de la Promotion de Bruxelles du Parlement de la Communauté Française, 18 May 2021: <http://archive.pfwb.be/100000020cd038>

51 Flemish Parliament, Question of 26 January 2021 on ‘the legal proposal regarding the reception of siblings in youth care’ to the Flemish Minister for Welfare, Public Health, Family and Poverty Reduction. <https://www.vlaamsparlament.be/commissies/commissievergaderingen/1467557/verslag/1470381>.

RECOMMENDATIONS

Defence for Children Netherlands, SOS Children's Villages Netherlands, SOS Children's Villages Belgium, Defence for Children Belgium and Better Care Network Netherlands jointly call upon the UN Committee on the Rights of the Child to require governments to secure the right to family life of children during out-of-home-placements, in particular related to joint placement with their sibling(s). The right to family life places obligations on governments as stipulated in Articles 5, 9, 16, 18, 20 and 25 CRC. Following these articles, in the best interests of children, as well as compliant with the UN Guidelines for Alternative Care and in the spirit of the 2019 UN Resolution (A/RES/74/133), we call upon the Committee to request governments to legally codify this right, to guarantee this right in practice, and to fulfill its obligations by:

1. Family preservation:

Ensuring in laws, policies and practice that the prevention of the separation of children and adolescents from the care of their family of origin is prioritized, in order to keep siblings together in their own family when possible and to enjoy their (horizontal) family ties;

2. Joint placement of siblings if placed out-of-home:

Ensuring in laws, policies and practice the right of siblings to be placed together in an alternative form of care if they are not able to live with their family of origin, unless it is not in the best interests of one (or all of) the child(ren) involved.

3. Preservation contact between siblings:

Ensuring in laws, policies and practice that the contact between siblings is preserved when children are not placed in the same foster family (or other form of alternative care).

4. Re-integration:

Ensuring in laws, policies and practice that while in alternative care, (horizontal) family ties and contact with their siblings are nurtured, for children to be able to re-integrate into and finally return to their families.

5. Access to justice:

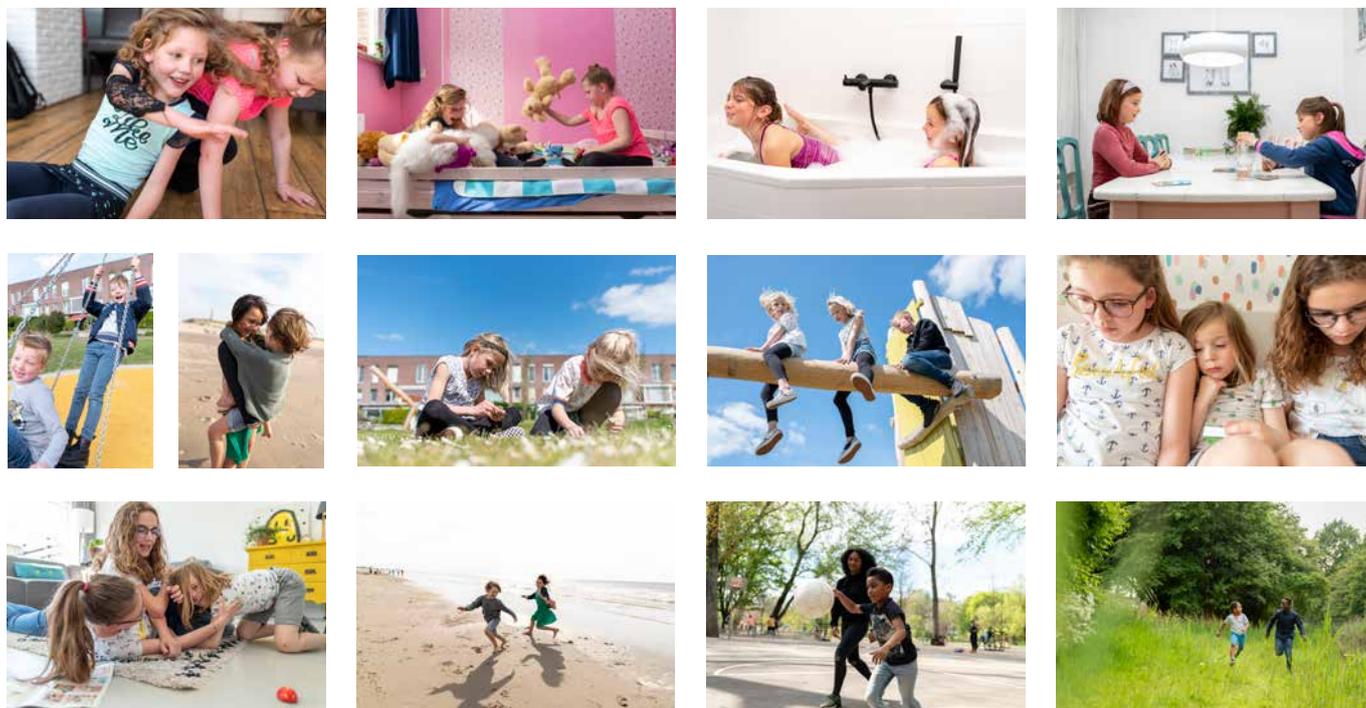
Improving the child's right to be heard, their formal procedural position and the support of children in family- and child protection proceedings.

6. Reporting:

Lastly, we propose the UN CRC to request governments to include information on the joint placement of siblings in out-of-home placements in laws, policies and practice in their periodic reports.

What steps can governments take to implement these rights? We recommend the Netherlands & Belgium (Flemish and French Community) governments to:

- Codify the fundamental principle of 'joint placement of siblings, unless'
- Invest in family-based care services where siblings can be placed together, such as Simba Family Care.
- In case of separation of siblings, guarantee, in practice, the preservation of regular contact between siblings, unless this is not in the best interests of (one of) the children.
- Collect data on (the separation of) siblings in youth care.
- Ensure that the right to family life of siblings is respected by adjusting the organisation and capacity of youth care.
- Continue to focus on preserving and restoring sibling relationships and family strengthening.
- Ensure children are heard and apply proper weight to their opinions in the decision-making process.
- Ensure legal aid for children (free of charge) in family and child protection proceedings.



About the organisations

Defence for Children Netherlands is a Dutch NGO promoting and protecting children's rights as enshrined in the UN Convention on the Rights of the Child in the Netherlands and abroad, through legal support in our legal defence centre, advocacy, lobby, research, training and international programmes with sister organisations. DCI NL is member of the Defence for Children International (DCI) – network as well as ECPAT International.

SOS Children's Villages Netherlands and SOS Children's Villages Belgium are child development organisations, part of the federation SOS Children's Villages International, the world's largest non-state actor in child care and family preservation. Worldwide, SOS Children's Villages is committed to children who are at risk of losing parental care and children who have lost their parents' care. The UN Convention on the Rights of the Child and the UN Guidelines for the Alternative Care for Children are our main points of reference.

Contributors

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Additional resources

Defence for Children Netherlands and sos Children's Villages Netherlands (2019), *Rapport Samenplaatsing van broers en zussen bij uithuisplaatsing: een gunst of een kinderrecht?* https://www.defenceforchildren.nl/media/4865/20200929_dc_rapport-samenplaatsing_a4.pdf

Gloria's message, child submission for the UN DGD 2021, via <https://youtu.be/DW31kORM81E>

Roberto's message on keeping siblings together, February 2021, via <https://www.youtube.com/watch?v=UqrwFQGMBeo>

Testimonies to the Belgian federal parliament on separation of siblings in youth care, February 2021, via <https://www.youtube.com/watch?v=l6ylDGFgjB4>