

# Procedure on the Placement of a child from another EU member state in Ireland

Article 56 of EC Regulation 2201/2003



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## 1. Introduction

The purpose of this document is to give guidance to Child and Family Agency staff

- (1) in the event that an EU Member State seeks consent to place a child in the care of their respective state in a foster care arrangement in the Republic of Ireland (i.e. state care, equivalent to the Irish Child Care Act 1991); and
- (2) where a child in the care of the Republic of Ireland is to be placed in another EU Member State.

The Department of Justice and Equality (Ireland) is the Central Authority for the purposes of Council Regulation (EC) No 2201/2003 of 23rd November 2003.

Under Article 56 of the Council Regulation, where public authority intervention exists in the placing Member State, the consent of the competent authority is required before placing the child in the Republic of Ireland. For the purpose of seeking consent the competent authority in Ireland under paragraph 2 of that article is the Child and Family Agency.

## 2. Consent

- 2.1. An authority in another contracting state can only place a child in foster care or a residential centre in Republic of Ireland if the competent authority has consented to the placement. In Republic of Ireland, the competent authority for the purposes of Article 56 of Council Regulation (EC) no. 2201/2003, is the Child and Family Agency with responsibility for children's services in the area where the contracting state proposes to place the child. The responsibility of the Agency to act as the competent authority for this purpose is compatible with Child and Family Agency responsibilities under Section 3 of the Child Care Act 1991.
- 2.2. The placing Member State must write to the Department of Justice and Equality in the first instance seeking consent to place the child in the Republic of Ireland. The Department of Justice and Equality will refer it to the Child and Family Agency under Article 56, paragraph 2 as the relevant public authority whose consent would be required.
- 2.3 **International Social Services Ireland<sup>1</sup>, Tusla** are the central point of contact for the Department of Justice and Equality in dealing with applications under Article 56.

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<sup>1</sup> ISSI; International Social Services Ireland is part of Tusla and deals with all Article 55 and 56 applications/ notifications.

## **Article 56 Placement of a child in another Member State**

- **1.** Where a court having jurisdiction under Articles 8 to 15 contemplates the placement of a child in institutional care or with a foster family and where such placement is to take place in another Member State, it shall first consult the central authority or other authority having jurisdiction in the latter State where public authority intervention in that Member State is required for domestic cases of child placement.
- **2.** The judgment on placement referred to in paragraph 1 may be made in the requesting State only if the competent authority of the requested State has consented to the placement.
- **3.** The procedures for consultation or consent referred to in paragraphs 1 and 2 shall be governed by the national law of the requested State.
- **4.** Where the authority having jurisdiction under Articles 8 to 15 decides to place the child in a foster family, and where such placement is to take place in another Member State and where no public authority intervention is required in the latter Member State for domestic cases of child placement, it shall so inform the central authority or other authority having jurisdiction in the latter State.

### European Civil Law website commentary<sup>2</sup>

*The seised court of a Member State, having jurisdiction under Section 2 of Chapter II over matters of parental responsibility, may think it's in the best interest of the child to place the child in institutional care or with a foster family. Usually this is done in an institution or with a foster family domiciled in that same State. However, sometimes it's necessary to place the child in an institution or with a foster family in another Member State, for instance because the child is present there or has more connections with that State. In such event the court which has the intention to place the child in another Member State, must consult firstly the Central Authorities of that other Member State and the relevant competent authority in that State must give consent. It is only when the relevant requested authorities of that other Member State, where the child is to be placed, have consented therein, the court may give a judgment for the placement of the child in institutional care or with a foster family in that other Member State (European Civil Law.*

<sup>2</sup> <http://www.europeancivillaw.com/content/brusselstwo077aa.htm#056>



### 3. Documentation required from the placing authority in order to obtain consent under Article 56

- Information pertaining to the legal status of the child/ young person and a copy of any court orders.
- A care plan that has taken the wishes and feelings of the child into account and allows for the child to have access for support services and specialists as required which will be funded by the requesting Member State and also outlines arrangements for family contact (if appropriate). Details to review this plan must be included in the Care Plan.<sup>3</sup>
- Arrangements must be outlined in the care plan on what supports are put in place in the event of a placement disruption.
- Consent from the parents or legal guardian where possible must accompany all documentation.
- The planned duration of placement and aftercare arrangements.
- In the case of a foster care placement the completed assessment of the proposed carers in line with the National Fostering Assessment Framework.<sup>4</sup>
- All relevant supporting documentation should accompany the assessment (please see glossary of terms for supporting documentation).<sup>5</sup>
- The assessment must be undertaken by a social worker registered by the statutory registering authority in Ireland.<sup>6</sup>
- The local area will facilitate the processing of Garda clearance, however the placing EU member state is responsible for international police checks where relevant.
- The local area will facilitate the processing of child protection checks, however the placing member state must provide child protection checks from country of origin.
- In the case of a foster care placement, arrangements for the review of the carers must also be included in the assessment. Review of foster carers must be undertaken by a registered social worker in Ireland.
- In the case of a residential placement, the inspection and registration details of the residential centre, including the address of the proposed residential placement, must be provided. Copies of the most recent inspection and monitoring reports must be included.
- Information pertaining to the organization placing the child/ young person and details of a contact person for the placement in Ireland.
- **All documentation must be translated to English by the placing state, including birth certificates, medicals, assessments, police checks.**
- **Any cost incurred in accessing supporting documents is a cost accrued by the placing member state.**

<sup>3</sup> Child in Care Record: Care Plan, taken from Standard Business Processes -

[http://hse.net.hse.ie/childfamilyagency/DNEHUB/CP\\_Standard\\_Business\\_Processes.pdf](http://hse.net.hse.ie/childfamilyagency/DNEHUB/CP_Standard_Business_Processes.pdf)

<sup>4</sup> National Fostering Assessment Framework is on Hub at

[http://hse.net.hse.ie/childfamilyagency/FC\\_National\\_Assessment\\_Framework\\_no\\_appendices.pdf](http://hse.net.hse.ie/childfamilyagency/FC_National_Assessment_Framework_no_appendices.pdf)

<sup>5</sup> Relevant supporting documentation shall include Garda/ police clearances for all household members 18 years and over, medicals, references, health and safety checks, child protection checks

<sup>6</sup> CORU, [www.coru.ie](http://www.coru.ie)

## 4. Procedure

- International Social Services Ireland (ISSI), will be the central point of contact for the Central Authority dealing with all requests made under Article 56.
- ISSI will acknowledge and provide a timeline for processing all new applications within 72 hours of receipt of all documentation.<sup>7</sup>
- ISSI will screen all documentation received from the placing member state. In the event of all relevant documentation being incomplete, ISSI will notify the central authority in writing of the documentation required in order to process the request. ISSI will identify the deficits in the documentation received.
- In the event of all relevant completed documentation being received, ISSI will establish the area in which the request should be processed.
- On establishing the area, ISSI will forward all documentation to the Area Manager with a cover letter requesting that consent is considered by the area.
- On receipt of the information the Area Manager should review all documentation and, if a need for further clarification is required, the Area Manager must communicate this to ISSI, and ISSI will in turn communicate this to the central authority.
- The Area Manager, on consideration of the documentation, will process the assessment report and recommendation to the Foster Care Committee (FCC), for recommendation.
- The assessment will then be considered by the FCC.
- The FCC will notify the Area Manager of the outcome/ recommendation.
- The Area Manager will notify ISSI of the final outcome in relation to the Section 56 application by way of completion of the standardised letter.<sup>8</sup>

## 5. Post–Placement

- If consent is obtained and the placement is made, then it is the responsibility of the placing member state to monitor the placement to ensure that a high quality care service is provided to the child(ren).
- Foster care reviews must be undertaken in line with the national standards for foster care<sup>9</sup>.
- If any allegations of concern or abuse are made against the foster carers and notified to the placing authority, then the area in which the child is placed must be notified. The Child and Family Agency in Ireland must also ensure that the placing authority is notified of any concerns in relation to the placement and/or child protection allegation. It is the responsibility of the area in which the family live to respond to any child protection concerns in line with the National Guidance for the Protection and Welfare of Children. See [www.dcyh.ie](http://www.dcyh.ie)

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<sup>7</sup> Refer to documentation checklist at Appendix A

<sup>8</sup> See Appendix B for templates for Standardised letters

<sup>9</sup> [www.dcyh.ie](http://www.dcyh.ie) for a copy of the national foster care standards and national guidance for the protection and welfare of children

## 6. Special Guardianship

In the case of a special guardianship relative placement, the placing member state are obliged to notify the central authority of this arrangement. This notification can then be sent to ISSI for information purposes only.

In the case of a special guardianship non-relative placement, a request for consent is required under Article 56. All special guardianship (non-relative) requests will be notified to Tusla legal department and the process will be supported by legal.

**All applications from Ireland to another EU member state will be processed via ISSI. ISSI will liaise with the Central Authority to ensure Ireland's compliance with the requirements of the EU member state. This will be processed with the support of Tusla legal department.**



## 7. Glossary of terms

**Foster Care:** Children in the care of the health boards who are placed with approved carers in accordance with 1995 Placement of Children in Foster Care Regulations. (National Standards for Foster Care)

**Relative Foster Care:** is foster care provided by a relative or friend of a child who have completed a process of assessment and approval as relative foster carers or who have agreed to undergo such a process. (National Standards for Foster Care)

**In-Care:** children who have been received into the care of a health board either by agreement with their parents/ or guardians/ or by court order are referred to as being 'in care'.

**Private Foster Care:** means any arrangement or undertaking whereby a child is for more than 14 days in the full-time care, for reward or otherwise, of a person other than his parent or guardian, a person cohabiting with a parent or guardian or a relative.

**Resident Care:** A children residential centre means any home or institution for the residential care of children in the care of health boards or other children who are not receiving adequate care and protection. (1991 Child Care Act)

**Guardianship:** Guardianship means the rights and duties of parents in respect of the upbringing of their children. A guardian has the right to make all major decisions affecting the child's upbringing, including choice of school, medical treatment, religious matters, health requirements and decisions about leaving the country. Guardians are responsible for the welfare of the child. Welfare includes the moral, intellectual and physical wellbeing of the child and where there is property held on behalf of the child, it includes the proper administration of such property. Where a child has no guardian, other persons can apply to the district court to become the guardian of a child/ young person. A guardian can also be appointed by the parent(s) in a will.

**Care Plan:** This is an agreed written plan drawn up by the child and family social worker in accordance with the Placement of Children in Foster Care Regulations, Placement of Children with Relatives Regulations and Placement of Children in Residential Care Regulations, 1995. The plan is drawn up in consultation with the young person, his or her family and all those involved with his or her care for the current and future care of the child that is designed to meet his or her need. It establishes short, medium and long term goals for the child and identifies the services required to attain these.

**Foster Care Assessment:** This is a process of information gathering and analysis carried out by a suitable and trained professional, (registered social worker in Ireland) who assess the suitability of a foster care applicant to look after children and makes recommendations based on his or her findings. This assessment should include the following: Details on family of origin, significant childhood family relationships, identity matters, education, employment, criminal convictions, health, leisure, current adult relationships, childlessness/ limitations of family size, the household and its membership, social and network support, accommodation, financial circumstances, motivation to foster, experience of caring for children, expectations about fostering, diversity, current lifestyle, impact of fostering, a foster child's experience of the family, placement considerations, contact and working with birth families.

**Tusla have a standardised assessment format and require that this is used for all foster care applicants.**

**Foster Care Review:** A foster care review is a review of the carers' capacity to provide high quality care to assist with the identification of gaps in the fostering service. The first review is held one year after the first placement has been made and subsequent reviews occur every 3 years.

**Supporting Documentation:** This includes child protection checks, police and Garda checks, medicals, references, health and safety checks.

**Please ensure that all information supplied must be translated into English by the placing member state**

## 8. Appendices

### A. Documentation Checklist

Cover letter making request	
Information pertaining to the legal status of the child	
Care Plan	
Consent from parents/ guardians	
Aftercare Arrangements	
Completed fostering assessment	
Supporting Documentation for assessment	
Arrangements for the review of the foster carers	
Name and address of residential centre	
Copies of the most recent registration and inspection reports for the residential centre	
Contact details for persons/ organisation facilitating the placement	
Garda clearance and police checks	
Child Protection Checks	

