



**Opening statement by Mrs MAUD DE BOER BUQUICCHIO  
Deputy Secretary General of the Council of Europe**

**Conference on Child Rights,  
the role of families and alternative care policies**

**Bucharest, 2 February 2006**

**“In the best interests of the child”**

Ladies and Gentlemen,

A judge with many years experience in family affairs once told me how difficult it was to take decisions that were in the best interests of children. She was, of course, convinced that children’s interests should prevail over any other interests. The reason for her concern was about her ability to identify the “best interests” of each individual child she had in front of her. When the law provides no clear answer, one needs indeed much courage to assume the responsibility of deciding upon the future of a child.

Fortunately, research results on child development and the legal standards that have consequently been established provide us with a solid basis for the decisions that we as parents, doctors, judges, policy makers, parliamentarians or citizens have to take concerning children. Wide-spread dissemination of research studies and the promotion of standards is a must if we want to ensure that the best interests of children prevail in each and every decision. To put all chances on the side of children, the root causes of their distress should also be challenged. All resources should be mobilised to ensure that the impact of poverty, social exclusion, violence, sickness and disability on children is properly assessed and effectively addressed.

The main set of standards that guides our work with and for children is contained in the most ratified of all treaties: the UN Convention on the Rights of the Child. Many other international instruments complement the Convention and the Council of Europe is proud of its profile as the most important standard setting organisation in Europe in the field of children's rights.

At their Third Summit in Warsaw last year, the Heads of State and Government of the Council of Europe confirmed their commitment to children's rights through the following statement (and I quote):

*“We are determined to effectively promote the rights of the child and to fully comply with the obligations of the United Nations’ Convention on the Rights of the Child. A child rights’ perspective will be implemented throughout the activities of the Council of Europe and effective co-ordination of child related activities must be ensured within the Organisation.*

*We will take specific action to eradicate all forms of violence against children. We therefore decide to launch a three-year programme of action to address social, legal, health and educational dimensions of the various forms of violence against children (...)*”

Following the decisions taken at the Third Summit, the Council of Europe launched the Programme “Building Europe for and with children” this year. Particular emphasis will be given to the issue of children and violence. As I mentioned earlier, the Council of Europe has been very active in setting standards, has prompted research and has developed programmes and materials which are helping all relevant actors to re-examine and renew their approaches, to make the most appropriate choices possible and develop policies that serve the best interests of children.

I shall briefly refer to three activities closely linked to the theme of today’s conference: our project on good parenting, Committee of Ministers recommendation on the rights of children in residential institutions and the revision of the Council of Europe convention on adoption.

Article 18 of the UN convention on the rights of the child states that both parents or legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child should be their basic concern.

The convention also requests States to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and to ensure the development of institutions, facilities and services for the care of children.

Finally States are also expected to take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

The Council of Europe is presently deploying important efforts to address these complex issues. I am very pleased to announce that the main theme of our next Conference of European ministers responsible for family affairs will be : "Changes in Parenting: Children Today, Parents Tomorrow". The conference, to be held in May in Lisbon, will concentrate on three main topics:

1. Family policies in the light of demographic changes in Europe and different patterns of family life,
2. Supporting parenting in the best interests of the child and
3. Reconciliation of working and family life (and how to encourage men to take a more equal share in family responsibilities).

The Council of Europe is indeed developing a programme on “Supporting parents in the best interests of the child”, which will focus in particular on parenting in conditions of poverty and social exclusion and on the role of parents in combating violence involving children. The ministers in Lisbon will *inter alia* discuss a set of guidelines on positive parenting, currently being drafted on the basis of input from the children and parents consultation that we organised in 2005. Our work on positive parenting is crucial in our eyes and goes hand in hand with our commitment to ending corporal punishment in Europe. Positive parenting proves that corporal punishment – which affronts the dignity and the rights of a human being – cannot be seen as a tool for “educating” children. As you know, we want Europe to become a zone free of corporal punishment. We should never forget that children are not “mini human beings” with mini rights and we want people, (including parents) stop looking at them as deserving less respect than adults do.

We all know how many years one has to study to become a doctor, a lawyer or an engineer. There is, however, one extremely difficult, challenging and almost inevitable job we have to assume without any preparation: that of being “parents”. The Council of Europe takes this issue very seriously and will work intensively in the years to come to help parents in their difficult –but richly rewarding job of giving children the best possible start in life.

Unfortunately, not all children can benefit from of a family environment.

For those unfortunate cases, Article 20 of the UN convention states that:

“A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State which should ensure alternative care for such a child.

Such care could include, *inter alia*, foster placement, adoption or if necessary placement in suitable institutions for the care of children.”

In March 2005, the Committee of Ministers of the Council of Europe adopted a Recommendation on the rights of children living in residential institutions. One of our aims in this text was to address the need for guidelines expressed by governments, civil society and international organisations. A few months later, in September 2005, the Committee on the Rights of the Child welcomed the Council of Europe's work and recommended that the international community organise an expert meeting to prepare a set of international standards for the protection and alternative care of children deprived of parental care for the UN General Assembly to consider and adopt in 2006. The Committee also underlined the need to hold consultations with children and their parents throughout the drafting process. The groundbreaking work we have been doing will serve, once again, as a starting point for discussions at the global level and we remain available to contribute further to this process. My colleague Elda Moreno will provide you with more detailed information on our expertise in this subject.

Last, but not least, Article 21 of the UN Convention on the Rights of the Child recalls that the best interests of children should prevail in adoption cases and requires compliance with a series of principles in adoption procedures. As you know, the Council of Europe proposed already in 1967 a legal instrument (the European Convention on the adoption of children) containing:

1) a minimum of essential principles of adoption practice which each Contracting Party should undertake to incorporate in its international law, and

2) a supplementary set of principles to which the Contracting Parties are free to give effect or not as they see fit.

Due to the social and legal changes that have occurred since the 1960s, European states have revised or are in the process of revising their laws on adoption in order to accommodate these changes. The Council of Europe Convention on the adoption of children is now almost 40 years old and is no longer adequate to meet current needs. With this in mind, we have started to identify the issues that should be covered in a new treaty on the adoption of children. Some of these are:

- the need to eliminate any difference of treatment between children born in and out of wedlock;
- the necessity of the father's consent to adoption;
- consultation with the adoptive child, when possible;
- a minimum age for the adopter;
- respect for a person's right to know about his or her identity and origin and
- the suspension of adoption proceedings when proceedings are pending for the establishment of paternity.

Ladies and Gentlemen,

Some years ago, the situation of Romanian children living in the streets or in residential institutions was made public, and the shocking images and stories reported in the media still haunt us today. The Romanian authorities undertook sweeping and costly measures to address the many complex problems surrounding abandoned and orphaned children. At the Council of Europe, we welcomed Romania's determination to make use of all available standards and expertise to:

- review its legislation fully,
- establish a much needed institutional framework (and I particularly welcome the creation of an Observatory for Children's rights),
- alert the public and promote children's rights and public debate on the issues at stake and
- address the root causes of child abandonment, fight corruption and child trafficking, and take measures to prevent all forms of violence against children.

In view of the immensity of this daunting challenge, I praise the Romanian people and their authorities for having taken these very important steps, while not losing sight of the best interests of Romanian children.

At the beginning of my talk, I spoke about the difficulty of identifying what the best interests of a child may be. Let me once again refer to a personal experience. A year ago, I was invited to take part in a televised debate for a major TV channel in France. When asked what I thought about French nationals adopting child victims of the Tsunami, I favoured the approach of exhausting all suitable solutions within the country, indeed the community, of origin before considering inter-country adoption. The day after the debate, I started receiving messages from colleagues and French citizens expressing their agreement or disagreement with my views. Amongst those messages was an extremely aggressive and anonymous letter from a person who had adopted a child from abroad and who accused me of depriving children of suitable homes abroad.

I believe that, in many cases, neither generic nor specific legislation is capable of always foreseeing the best interests of each particular child in each particular situation. In my opinion, decisions on children's future must be based upon on the widest possible choice of options, if their best interests are to be fully respected. Children deprived of family homes deserve no less than this. As does Unicef, the Council of Europe sees inter-country adoption as a valid option, particularly when it offers a permanent family environment to children that otherwise would face long-term placement in residential institutions.

Before concluding, let me congratulate once again the Romanian authorities for the important progress achieved and thank them for organising this conference on the occasion of the Romanian Presidency of our Committee of Ministers. Romania and the Council of Europe

have a long history of successful co-operation. We are very grateful to Romania for volunteering to submit its national policies on the prevention of violence against children to an analysis by independent experts. We are sure that many of the measures recently taken by Romania will serve as an example for many other countries in Europe.

I also wish to take this opportunity to invite you all to the launching conference of our programme "Building a Europe for and with children" which will take place in Monaco on 4-5 April. The conference will focus on the promotion of children's rights, children's participation and two particular forms of violence against children: sexual abuse and corporal punishment.

Ladies and Gentlemen,

The experience and expertise gained by the Council of Europe over its almost sixty years of intensive work promoting children's rights, proves that complacency has no place in this field. We can never sit back and congratulate ourselves fully on our achievements. We must monitor the progress we have made, be critical when evaluating the impact of the measures we have taken and be ambitious when we look to the future. We should be ready to accept mistakes and to build upon experience. And most importantly, we must always safeguard the best interests of children, by keeping them at the very heart of all our actions.

Thank you very much