



It's Time to Act

Council of Europe
Recommendation
CM/Rec(2018)5
on children with
imprisoned
parents



Having a parent in prison is hard because people might not understand and might not know what to say.

Jo, 11

Welcome

Children of Prisoners Europe (COPE) is a pan-European network working with and on behalf of children with imprisoned parents. This child-friendly version of the Council of Europe Recommendation from April 2018 has been prepared by COPE members with help from children and young people across Europe. It includes children's voices throughout and is an example of how children can be involved and advocate for what they want and need.

COPE acts with children to make the 'people in charge', including judges and prison directors, think about children with parents in prison, look after their rights and protect them in every way.

Bufff (Sweden), Children Heard and Seen (England & Wales), Families Outside (Scotland), For Fangers Pårørende (FFP) (Norway), My Time (England & Wales), NIACRO (Northern Ireland), Pact (England & Wales), POPS (England & Wales), Probacja (Poland), REPR (Switzerland), Rijeka Regional Office of the Ombudsman for Children (Croatia), SOS Il Telefono Azzuro Onlus (Italy), the Children and Young People's Commissioner Scotland and the Playstation at HMP Barlinnie (Scotland) all worked with children translating, checking and illustrating the Recommendation using COPE guidelines for positive child participation.

A huge thank you goes out to all of the children and others who worked on this version of the Recommendation, notably the Council of Europe Directorate General of Human Rights and Rule of Law for spearheading the original Recommendation, and the Council of Europe Children's Rights Division (DG Democracy).



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Why do we need these rules?

In April 2018 the Council of Europe (a European organisation to which 47 European countries belong) issued new advice in the form of a set of rules about how people can better protect children with parents in prison and offer them the same rights and life chances as other children in these countries. The name of these rules is Recommendation CM/Rec(2018)5 of the Committee of Ministers to member States concerning children with imprisoned parents. The Recommendation makes it clear that everyone needs to follow the United Nations Convention on the Rights of the Child <https://bit.ly/2fOGxy4> which is a key guide for how all children should be treated.

Around 2.1 million children in Europe on any day have a parent in prison, although we still do not know exactly how many. We know that some children with parents in prison suffer harm; some people may think badly of them and treat them poorly just because they have a parent in prison. It is important that children who have done nothing wrong are not treated as criminals. Children can sometimes worry so much they become ill; there may be less money for their care and they may lose their home. When a parent is in prison and cannot look after their child this can hurt the child: how they are and feel, how they can grow and develop. **Having a parent in prison affects children's lives in many ways.**

These Council of Europe rules are for anyone in charge, including police, courts and judges as well as prisons and people looking after prisoners and their children in the community and those looking after children living with their parents in prison. The rules especially advise that children need regular contact with their parents, except when it would not be good for the child. Children have a right to regular contact with their parents, and this has to be made possible even when trying to keep the prison secure. The rules say that there should be special arrangements and support for children and that prisoners should have help and support in being a parent to their children while they are in prison. **All help and support must make children feel better, not worse; they need to have the same life chances as all children.**

The Council of Europe says it is important to realise that if children and their parent in prison keep contact this can be good for the child, for the parent in prison, for prison staff and for the general feeling in the prison: the prisoner can be better prepared for leaving prison, and returning to life in the family and community – protecting everyone.

Towards the end of the rules they ask the people in charge to look at how they are making sure the rules are followed and things are made better for children with parents in prison. At the very end the rules say that everyone, including newspapers, TV and social media, need to learn about the situation of children with parents in prison so we can make sure they are treated better. Unless what the rules say should happen, does happen, children with parents in prison may not have the same life chances as other children. **All children have the same rights.**

Wordlist

Arrest: stopping someone and taking them into some kind of prison.

Baby: any child from when they are born to three years of age.

Caregiver: a person who looks after and is responsible for a child day-by-day. This may be the other parent, a grandparent, a brother or sister, another family member or any other person who the child lives with.

Child: everyone less than 18 years old.

Child's best interest: as used in the UNCRC becomes "what is best or good for the child", "safe and good for them" in this document. It has to be what is good for each child individually and everything happening

in their lives needs to be looked at to decide this.

Community: a particular area or place considered together with the people living there.

People in charge: politicians who make rules and those who work to maintain those rules, like police, judges and prison administrations.

Prison: all places where the rules say people can be held as prisoners (except when they are kept as prisoners in their own houses); this may be after arrest, before going to court and before and after being given a sentence.

Privacy: free from being watched or disturbed by other people, having personal space.

Rights: things every child should have or be able to do. All children have the same rights. Many rights are listed in the UN Convention on the Rights of the Child. All the rights are connected to each other, and all are equally important.

Rules: guidelines and what tells you what to do or not do in different places — in community, in school, while playing a game, in the library or when visiting a parent in prison. In this document, they include national and international laws and agreements.

Sentence: the punishment given to people who are found by the court to have done something wrong.

Staff: all the people working in a particular organisation.

Tag: an electronic monitoring device used during home detention so the people in charge know where the person is.

UNCRC: the 1989 United Nations Convention on the Rights of the Child. Almost every country has agreed to these rights including all Council of Europe countries. It states

a) all rights guaranteed by the convention are the same for all children everywhere without discrimination;



b) the best interest of the child is a primary consideration in things that concern them;

c) every child has the right to life, survival and development;

d) children have the right to participate — to speak and be heard — in all matters affecting them;

e) children have the right to keep in contact with their parents unless that would be harmful to them.





European
guidelines
on
supporting
children
who have
a parent in
prison


What is important
for children?



- 1.** Children with imprisoned parents must be treated with respect for their rights under the UNCRC. Children who have a parent in prison are all different; their feelings should be heard and they should be asked about what they want and need in decisions that might make a difference to them. Children must be protected, people should make sure that decisions made are good for the child and their family and respect their privacy. People should make sure the parent is supported from when they are arrested until after they leave prison.
- 2.** When a judge is thinking about sending a parent to prison, they should think about how this can change things for each child, their rights and what is best for them. If possible, the parent should be given a sentence in the community instead of going to prison, especially if they are the child's main carer.
- 3.** When a parent goes to prison, they should be put in a prison close to their children.
- 4.** When moving a parent from a prison in one country to a prison in another country, what is best for their children should always be considered.
- 5.** When a person goes to prison, the people in charge should collect information about their children.
- 6.** The people in charge of countries should give money and other support to services that help children with parents in prison, and their families. They should also give money to help children and parents to keep in contact with each other.
- 7.** The people in charge and all staff in contact with children need to learn about how best to work with children and with their parents who are living in prison.

What police and
judges should
consider



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- 8.** When arresting a parent, the police should, if possible, make sure children are not there. If a child is present during an arrest, police should be sensitive and try to make sure not to upset them.
 - 9.** Children's rights to have contact with their parent in prison should be respected, even if other limits are put on a parent's contact with people outside the prison.
 - 10.** When a judge is thinking about sending a parent to prison, they should think about how it affects their children — their rights and what is best for them. The court should decide if the parent can stay at home before trial and sentencing instead of going to prison. If possible, the parent should be given a sentence in the community instead of going to prison.
 - 11.** Parents in prison should be able to leave prison to be with their children on special days like birthdays, first day of school and when children are in hospital.

How a stay in prison is managed



Arriving at prison

- 12.** Before going to prison, or once they arrive at prison, the children's caregiver should be allowed to arrange how the children will be looked after, making sure that it is what is best for the children.
- 13.** When arriving at the prison, the staff should make notes of how many children a prisoner has, how old they are and who is looking after them. The prison needs to make sure it keeps this information up to date.
- 14.** When a person goes to prison and when they move prisons, the people in charge should help them to tell their children and their carers which prison they are going to, or make sure this information is sent.
- 15.** The people in charge at the prison should give information and support to children about how to contact and visit their parents, as well as about important prison rules. Children need information they can easily understand – in different languages if needed.

Keeping children connected

- 16.** The people in charge should always consider what is best for the child when deciding which prison their parent should go to, so that the child can keep in contact without having to travel too far or it costing too much.
- 17.** Children should be allowed to visit their parent in prison within a week of them going to prison. Child-friendly visits should be allowed at least once a week. For very young children shorter, more regular visits during the week should be available.
- 18.** Visits should be organised so they do not interrupt children's day-to-day life or going to school. There should be visits at different times, outside school hours. If it is not possible to have visits every week, there should be longer visits where children and parents can play and spend quality time together.
- 19.** When the parent or carer is not able to come with a child to a prison visit, another person such as a trusted worker or a family member should be asked to take the child to the visit.
- 20.** Every prison should have child-friendly waiting and visiting rooms; where children feel safe, welcome and respected (for example with toys, books and equipment for all ages). The visits space should be good for play and quality time including physical contact with the parent. There should also be the choice of having visits outside but near the prison, so children and parents can spend time together as if they lived in the community.

- 21.** Actions should be taken to make sure that each child visiting their parent in prison feels respected, safe and comfortable and has privacy; this is especially important for children who have special needs.
- 22.** If the prison is far away from the child's home, visiting times should be flexible.
- 23.** Any security checks on children should be respectful and child-friendly, considering their safety and privacy. Searches where children have to take their clothes off shall be forbidden.
- 24.** Searches of prisoners before visits should be respectful so that they can have a more positive visit with their children. Children must be able to leave the visiting area before the parent in prison leaves, as it can upset children to see their parent go back to their cell. Where prisoners have to wear prison clothes for visits with their children, these clothes should be respectful of prisoners as parents.
- 25.** The people in charge should make sure that everyone follows the rules about helping children stay in touch with their parent in prison using technology such as video calls, phone calls, internet, etc. These forms of contact should not cost too much and parents in prison should be helped to pay for them if needed. This type of contact should never replace face-to-face visits between children and their parent in prison.

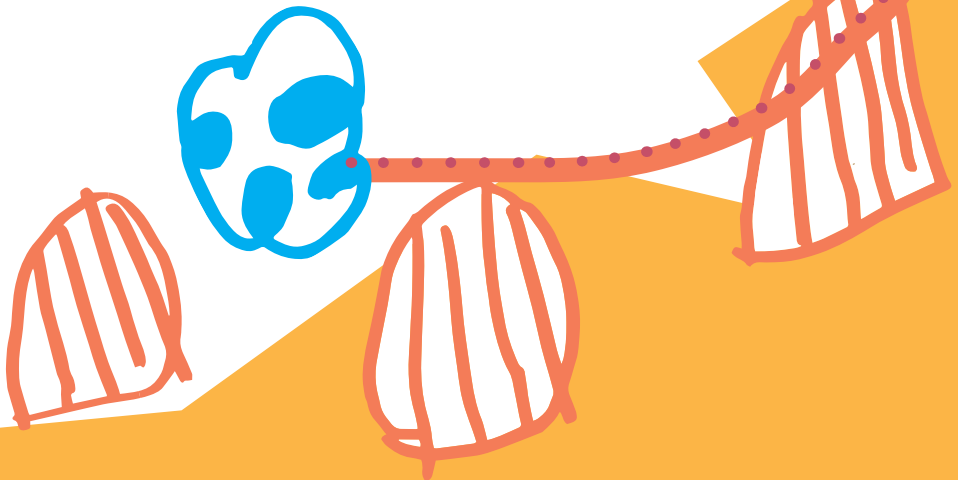
- 26.** Rules about making and receiving phone calls and other types of communication with children should be flexible so that children and their imprisoned parents can keep in touch easily. Where possible, children should be able to call their parent in prison.
- 27.** Parents in prison should be helped to stay involved in their children's lives, and can communicate with school, health and welfare services, and make decisions where it is safe and good for their children.
- 28.** Activities for children and their parents should include longer visits for special occasions, for example Mother's Day, Father's Day, end of year holidays, etc. and other extra child-parent visits. To make these visits as relaxed as possible, prison and other staff should wear less formal clothes.
- 29.** If it is possible, safe and good for them, all children should have support to see or have information (including pictures) about the places in the prison their parent spends time in, including their prison cell.
- 30.** Parents should be encouraged to meet regularly and be in contact with their children to support a good relationship between them. Only rarely and for very short periods can the people in charge reduce or stop contact between prisoners and their children.
- 31.** Children have the right to see their parents in prison, even when the parent is being punished for breaking rules in prison. The people in charge should always make sure the children can have some kind of contact with their parent.

Visiting at home

32. To help protect children from the difficulties of visiting a prison, to prepare them for their parent's return and to have their parent present at special events, prisoners should be given home leave. This is especially important just before a parent leaves prison, as this will help the prisoner become an active parent again and make things more normal when they get out of prison.

Making prisons safer

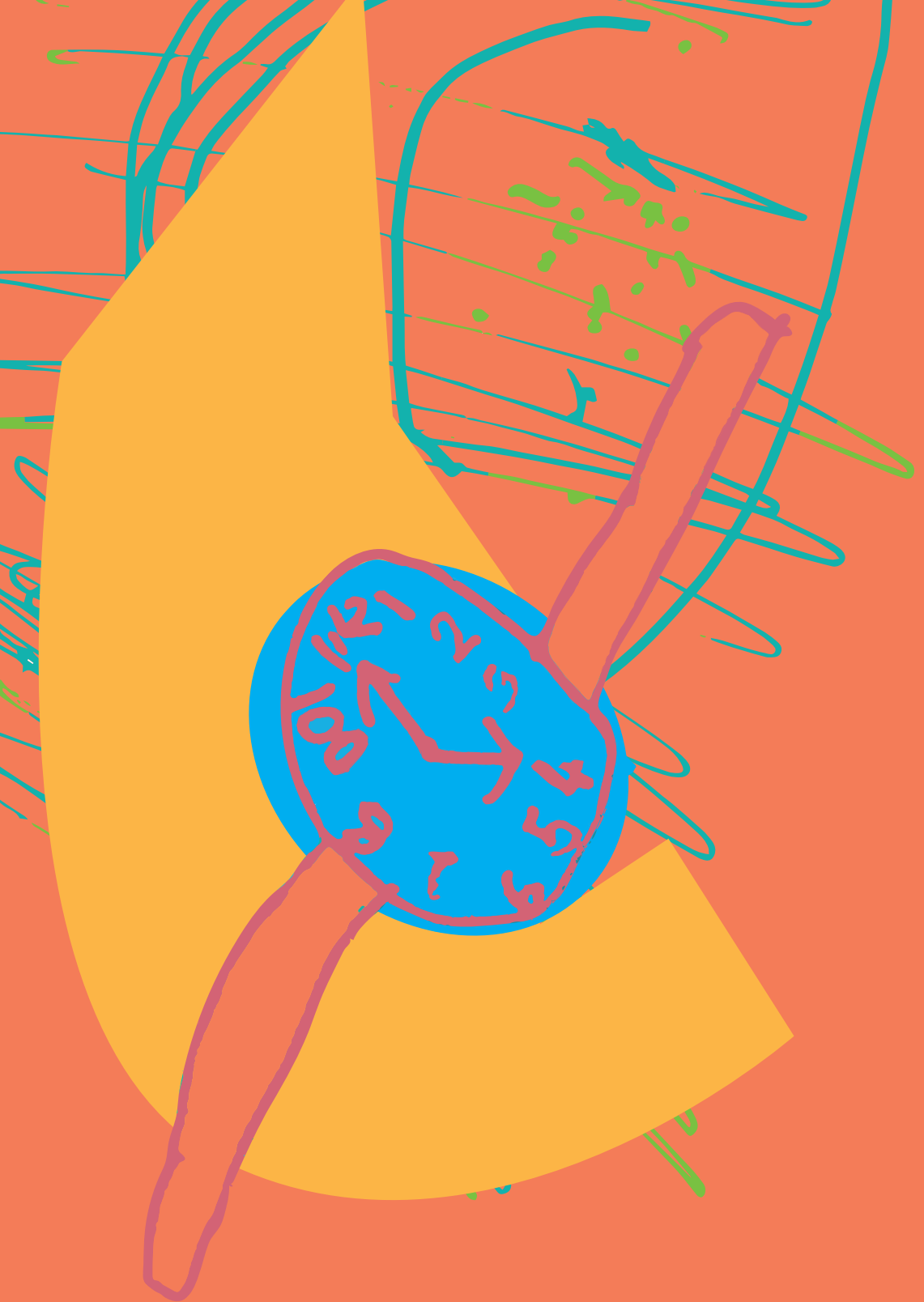
33. The prison must do everything possible to make sure the prison is a safe and respectful place. The prison should work towards creating a friendly and positive atmosphere, where prisoners, staff and families talk together, making it safer for everyone.



Babies living with their parent in prison

- 34.** To make sure that a child's right to health is respected, good care, support and information must be given to mothers in prison who are pregnant and to their baby once he/she is born.
- Pregnant women should be able to give birth in a hospital, babies should not be born in prison. Mothers should not be held down by handcuffs or any other way while they are giving birth or right after they have the baby.
 - Care and support for the baby and mother before and after the baby is born is important and should respect the differences of people from many backgrounds and countries.
- 35.** When a baby is born to a mother in prison, they should be given a free birth certificate as soon as possible that does not say they were born in prison. The child must have the same papers as all other children in the country.
- 36.** A baby can stay with their parent in prison if it is good for them and if the rules say they can. This should be decided for each baby. Babies in prison must not be treated as prisoners, they have the same rights as all children and where possible they should have the same freedoms and opportunities.

- 37.** For babies in prison with their parent, all living spaces should be child-friendly and prisons must:
- Make sure the safety of babies and their rights are a priority: they should have a chance to grow, learn, play, be listened to and understood, just like all babies;
 - Make sure that the baby in prison has the same doctors and nurses and health care as they would get in the community;
 - Make sure that babies are able to go out in the fresh air and have support to connect with people outside the prison, and go to nursery;
 - Support parents to develop a good connection with their baby and to become good parents; allow them to spend time with and care for their baby – cooking for them and getting them ready for nursery school, for example;
 - As much as possible make sure that life in prison will be the same for a baby as it would be outside prison;
 - Make sure that the baby can spend time with other family members, if it is good for the baby.
- 38.** The decision that a baby should live away from their parent in prison should be made following the rules and considering what is best for that baby.
- 39.** When a baby is moved to live away from their parent in prison, this should be done with care and only when there is a safe home for them. If the parent in prison is from a different country, the people in charge must decide what is best for the baby.
- 40.** When babies are living away from their parent in prison, if it is good for them, they should be able to have frequent, child-friendly visits with their parents.



Planning sentences and getting ready to leave prison

- 41.** When planning a sentence, the people in charge must think about the best way of making sure that children and their parent can stay connected in an active and positive way while they are in prison and when they leave prison (through programmes, learning and support). Even if they are in prison, prisoners are still their children's parents. Parents in prison should be able to continue to love and care for their children as much as possible as if they were still at home.
- 42.** The people in charge should do everything to make family life easier for children and their parent when he or she leaves prison, by letting them live outside the prison with a tag, have home leave or other ways of living and working in the community.
- 43.** When the people in charge are thinking about letting parents leave prison early they should look at how much their children need them and how to help them settle back into the family.

Leaving prison

- 44.** When parents come out of prison, everybody, including the people in charge in the prison, and in the community, should help them to be positive and active parents for their children.



Making changes

- 45.** When the people in charge make new rules about contact with a parent in prison, they should think about children's rights and how the new rules will make children feel.

Involving staff

- 46.** All staff should be respectful and friendly with children visiting. There should be at least one staff member in every prison who is specially responsible for children and their parents in prison.
- 47.** All prison staff should be trained to know about children's rights and what they need to do to make sure children feel safe and comfortable at all times when visiting a parent in prison. Prison staff should know how to support parents in prison and their children and how to make visits and searches child-friendly.
- 48.** Staff who look after children with parents in prison and their parents who are in prison should be taught how to do a good job. Their learning programmes should follow the rules and be checked regularly.



Working together

49. Across each country people should be connected to make sure that children are supported and looked after. Children and their rights are important. Their views and feelings matter. All the right people need to be involved in this support, such as probation services (people to arrange release), people in the community, school, health and social services, police and people with power to keep children safe.



Keeping track of everything

50. The people in charge must make sure that the rights of children with a parent in prison are protected and that children are well looked after, including babies living in prison with their parents. They should also report back regularly and change the situation if needed.



Getting information, making changes



- 51.** Groups of people including staff, people in charge and children with imprisoned parents should be set up to consider how children's lives change when a parent is in prison and how they can keep in contact with their parent, and to suggest changes.
- 52.** The number of children who have a parent in prison should be regularly counted and made public and so should information about how people can do a good job helping children who have parents in prison.
- 53.** Money should be given to find out more about children with parents in prison. This will help people treat children better.
- 54.** The way people work with children whose parents are in prison should be checked regularly. All of the people whose job it is to protect children's rights should make sure everyone is doing everything they should do for children with imprisoned parents.

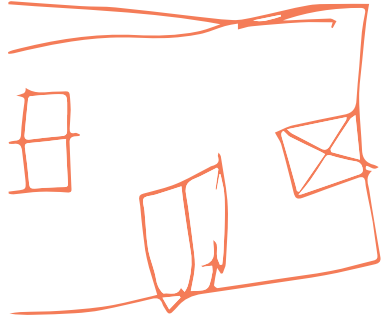


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Changing people's minds



55. All media reporting about someone who has done something wrong must make sure they protect the privacy of children and their families and consider how what they do and say will make the children feel.



56. Everyone should be able to find out the number of children with a parent in prison, how these children might feel and how they can be treated well. This will help people stop thinking bad things about children whose parents are in prison and treat them better.



I think we can all work
together to change
prison to make it a
better place.

Charlie, 14



Children of Prisoners Europe (COPE) is a pan-European network working with and on behalf of children with imprisoned parents. The network encourages innovative perspectives and practice that help ensure that the rights of children with imprisoned parents are fully respected and that action is taken to secure their well-being and healthy development. COPE is a membership-based organisation made up of non-governmental organisations, individuals and other stakeholders across Europe and beyond, linked by a staff team based at its Paris headquarters.

With our network of European partners active within prison-related, child rights and child-welfare fields, we seek to boost awareness and achieve new ways of thinking, acting and interacting with respect to issues concerning children affected by parental imprisonment.

This document is based on the Council of Europe's Recommendation CM/Rec(2018)5 of the Committee of Ministers to member States concerning children with imprisoned parents & its Explanatory Memorandum (2019), available here: http://bit.ly/coe_rec2018_5



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EUROPEAN UNION

COUNCIL OF EUROPE



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