

Dear Members of the UN Committee on the Rights of the Child,

We are BUNDI, and we would like to introduce ourselves and our concerns on the topic of "alternative care".

BUNDI (*Bundesnetzwerk der Interessenvertretungen in der (stationären) Erziehungshilfe*), the Federal Network of Interest Groups for Residential and Non-Residential Child Welfare

Facilities represents self-organised interest groups from five of Germany's 16 federal states. In these states children and young adults who live in alternative care settings can elect members – children and young adults – to the board of these interest groups. These five interest groups are: Landesheimrat Hesse, Landesheimrat Bavaria, Landesjugendhilferat Rhineland-Palatinate, Jugend vertritt Jugend North Rhine-Westphalia, and Kinder- und Jugendhilfe Landesrat Brandenburg.

While each interest group stands for itself in its respective state, we nevertheless have issues that we address together on the federal state level. We discuss these issues at our annual Federal Network meeting and publish our positions and demands.

For example, we called for a reform of Book VIII of the Social Security Code (SGB), which resulted in a policy change. We advocate for equal rights for all young people at both the state and federal level. This can be seen, for example, in our current topics in the area of LGBTQIA2S+ and digital participation.

In this document we will present you our demands from our last meeting in February 2021. They cover problems that we are confronted with, every day in our normal lives or hear from other children, young people and young adults that they feel uncomfortable with them. This motivates us to position ourselves and demand changes in various areas.



1. We demand a complete abolition on young people having to contribute to the costs of their support

Until recently, children and young people in residential accommodation had to hand over up to 75% of their net pay from training or a part-time job to the youth welfare office. A new law to empower children and young people (the "Kinder- und Jugendstärkungsgesetz") has now reduced this amount to 25%.

For example, the average German trainee earns 908 €. If s/he lives in residential care, in the past 75%, i.e. 681 €, was deducted from the training salary. That left them with a mere €227 from the €908 they originally earned. Thanks to the reform, today 25% (227 €) is taken and 75% (681 €) may be kept.

The purpose of the cost recovery is for the youth welfare office to recover some of the money spent on assistance. But this argument can be debunked very quickly: The administrative cost to obtain the money is very likely not worth it economically. The administrative costs of calculating, collecting, and managing the money to be deducted each month consume the entire 25% earned by the young people.

Another argument is that it reduces young people's motivation to work because their efforts are punished. In the past, this has caused many trainees to drop out of training or never to start in the first place. The result was that these young people lost a crucial element of their learning. Another strand of argumentation is that the recovery of costs breaches the protection against economic exploitation under Article 32 of the UN Convention on the Rights of the Child.

Some earned money illegally, as it seemed more attractive than losing a large part of their earnings again. This is contrary to the rights of children under Article 29 (d), which states that children should be prepared for a responsible life in a free society. This regulation also suggests to young people that they are to blame for their life circumstances and thus diminishes their self-confidence. This also infringes Article 39 (the recovery and reintegration of children who are victims of harm). Many children and young people in the children's and young people's welfare system have been victims of some form of neglect or abuse. Making young people contribute to their costs is a constant reminder that they are to blame for the situation they find themselves in. We consider this an infringement on "recovery and reintegration [...] in an environment which fosters the health, self-respect and dignity of the child."

The most serious aspect is, however, that young people who live in residential care, with foster parents etc. are treated differently than young people who live with their biological parents. According to Article 2 (1), states parties are obliged to guarantee that every child

can grow up “without discrimination [...], irrespective of the child’s [...] social origin”. Recovery of costs is discriminatory, no matter how high it may be. It disadvantages children and young people in care.

2. We demand digital participation

The Covid-19 pandemic has made it particularly apparent that the technical equipment and the concepts of media use within institutions are often outdated.

Many young people living in institutions have to share one single laptop. Especially in case of distance learning, this is unacceptable. In practice, sharing a laptop means that if eight young people live in an institution, only one of them can take part in lessons, while the other seven are excluded. Moreover, the bandwidth is often too limited for multiple users. This restricts both the staff who work at the institution and the young people who live there. Staff usually solves this problem by limiting young people’s access when they have to work. Sometimes they even shut it off entirely.

Apart from the technical equipment in care institutions, staff often lacks the competence to use devices and programmes. In fact, sometimes the young people know better than their caregivers. There is also a lack of specialist IT staff who can install and maintain networks and provide technical support at short notice.

Furthermore, due to their lack of skills regarding the Internet, staff members oftentimes either prohibit its use altogether or impose excessively strict rules for it. We have learned that young people’s mobile phones are regularly examined, and their browsing history is monitored without cause. There have also been repeated reports that Internet access is blocked for entire groups or have their devices confiscated when individuals have violated the rules.

This is a huge and unjustified intrusion into the personal rights of young people. The fear and uncertainty that staff feel about the Internet creates a “anti-attitude” which makes it impossible for young people to engage with “new media” in contemporary ways.

Using digital services matters a lot to us. We do not live with our families and often cultivate friendships outside the groups we live in. This means we rely on digital forms of communication. Using social media to stay in touch with others is part of young people’s daily lives. In times of contact restrictions, the possibility to exchange outside the institution is even more important than usual.

That is why BUNDI is calling for children's and young people’s care institutions to create the technical conditions necessary to give young people access to the Internet. In addition, sufficient end-user devices with the appropriate software must be made available to be able to use educational opportunities as well as maintain personal contacts.

The basic and specialised digital training of staff must be ensured. For this purpose, training programmes should be developed and implemented that impart and expand technical know-how. Rules governing the use of digital media must be negotiated jointly and be reviewed regularly to ensure they work. Moreover, any limitations must be justified. In addition, the same privacy rules apply to communication on the Internet as to the secrecy of correspondence. Staff must not read chats and e-mails without our consent.

3. We demand the provision of sex education

Inconsistent rules

Across Germany, the rules governing residential care vary widely. This is particularly apparent regarding access to information about sexuality and contraception. Some institutions impose restrictions such as banning relationships within the group home or staying overnight with someone of the opposite sex. Other restrictions include areas open only to boys or girls or requiring a door to be left open when someone visits the room of a person of the opposite sex. In this regard there is a lack of uniformity regarding the rules that govern the private sphere and the interventions that staff are allowed to undertake.

The treatment of non-binary and non-heterosexual persons

The treatment of persons who do not identify as cisgender and/or are not heterosexual varies between institutions. Often, they are not taken seriously, and their sexual identities or orientations are denied or questioned.

Non-heterosexual relationships are sometimes treated differently to heterosexual relationships. For example, less emphasis is placed on checks and control, because there is no risk of pregnancy. There are also cases where transsexuals are accommodated in single-sex group homes where the gender of the other inhabitants does not correspond to that with which they identify. This can cause discomfort for the young people concerned.

Moreover, trans people sometimes find that others do not respect their preferred pronouns and/or use the trans person's birth name, although this varies from institution to institution.

The private sphere

Overall, there are no uniform regulations on privacy, and it is unclear, for example, whether professionals may enter the young person's room or apartment without asking or even informing them.

We are young people, and we want our privacy to be respected/protected as well as an appropriate and open approach to the topic of sexuality. Our sexual identities must be recognised. We want the diversity of sexual orientations and gender identities to be valued

and respected. To this end, all stakeholders must be able to access information, counselling and knowledge about the legal framework.

4. We demand individual support for care leavers

The moment a young person turns 18, the youth welfare measures granted to them, often come to a very abrupt end. However, many of the young people concerned are not yet ready for the transition. They lack adequate resources and skills to cope with this critical stage in their life. Thus, a form of support was provided (thankfully) which often costs several thousand Euros over a period of years, but all the developmental progress made by those affected does not show any lasting success due to a lack of transitional support. The transition should be tailored to everyone if they are to make their way from round-the-clock supervision to living independently. This means that the transition from living in a group home to independence must be seamless and flexible. Also, the transition should take the young person's needs and wishes into account and proceed at the young person's pace. They have the same rights as any other person.

In addition, the existing concept for helping young people becoming independent should be communicated in a more transparent and comprehensible way. They should also be constructed in an open space that makes participation possible and promotes self-determination for young people. Pedagogical staff should facilitate access to helpful networks in order to support the transition to independent living. When support from children's and young people's services is ended, it must be possible for young adults to access new forms of support. In addition, pedagogical staff at institutions should be able to assist with applications for support services, know where to get advice and have enough experience of working with authorities to provide appropriate support to young people.

We can report from personal experience that life as a so-called "home child" is associated with many difficulties. Those difficulties do not simply disappear when you become a care leaver. In fact, the opposite is true. While the majority of young people and young adults are supported by their parents, that is something we usually never experience. We do not know how we should behave when we are far away from the care institution. We do not know how we are supposed to behave if we want to cultivate the friendships that will function as our own support networks. We do not know what it means to wake up alone in the night, bathed in sweat, but still aware that we can call our parents or friends and tell them we are afraid because moving into our own flat is a (too) big step into our own lives. We don't know that much, though we don't have "normal biographies". One thing we do know for sure is, though, that despite our challenging circumstances and dynamic backgrounds, we have the same rights, needs and feelings as anyone else.

5. We demand support for participation in youth welfare

Participation in youth welfare refers to the participation of children, adolescents and young adults in decisions affecting them. In the following, we present participation at different levels of youth welfare.

The institutional level

Many institutions provide opportunities to discuss the latest news, express wishes and talk about possible conflicts within the institution. This might take the form of a weekly group evening, a home council or similar, which is composed of various representatives of the group and usually meets once a month. However, whether there are such meetings and opportunities for discussion varies greatly between different institutions and is also dependent on a range of factors, including the size of the institution and/or the attitude of staff or management.

The federal state level

To date, there are state-wide interest groups in five German states Germany: North Rhine-Westphalia, Brandenburg, Rhineland-Palatinate, Bavaria and Hesse. These are elected democratically. The committees meet regularly to discuss upcoming issues. They make young people's voices heard at a political level in the relevant federal state on matters of concern and when working in cooperation with partner organisations. This way, the committee's campaign for young people's interests.

The national level

At the federal level, the Federal Network of Interest Groups (BUNDI for short) has recently been established, which, like the state representatives, now serves as a nationwide political mouthpiece for children, adolescents, and young adults. By doing this, we can create better opportunities for cooperation and better ways of solving problems throughout Germany. As mentioned above, after much toing and froing and campaigns by state advocacy groups and BUNDI, recovery of costs was reduced from 75% to 25%.

In summary, fundamental and essential structures and opportunities for participation already exist, but they are not known everywhere and only to a limited extent by young people and in institutions and thus limited in their sphere of influence. Young people in residential and non-residential care settings must know their rights and be able to use the forms of participation they can. We wish that there are interest groups in all federal states across Germany and that they become more widely known.

The work of national interest groups should not depend on the commitment of groups of dedicated individuals and political efforts in federal states. We believe it is more important

that advocacy groups in all federal states should be given robust funding and support both in terms of the content and structure of their work.

Moreover, young people living in care must be informed about the activities of their advocacy groups and be given access to them. Young people should also be allowed to stand as candidates and vote in elections for interest groups.

Bundesnetzwerk der Interessenvertretungen der (stationären) Hilfen zur Erziehung,
08/06/2021

More about BUNDI on our website:

<https://www.jvj-nrw.de/de/interessenvertretung-bundesweit/>

The translation was provided by the National CRC Monitoring Mechanism of the German Institute for Human Rights.