

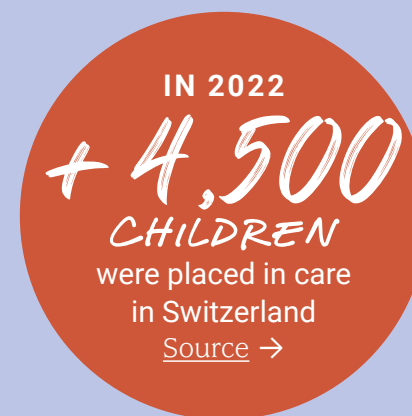
ME AND MY FAMILY

A GUIDE EXPLAINING WHAT I CAN DO
AND WHAT MY RIGHTS ARE
IF I CAN'T LIVE WITH MY FAMILY



This guide is here to inform me of my rights and answer my questions.

- ☐ I'm between 10 and 15 years old
- ☐ There are very serious problems at home
- ☐ Me and my family need outside help to protect me
- ☐ Exceptionally, it may be necessary for my protection to be separated from my family and to live in a new location (i.e. alternative care).



When I find myself in such a situation – needing alternative care - it's normal to have questions and concerns. I need to be able to talk to someone and get answers to anything that worries me or that I don't understand. I'm not the only child or young person going through what I'm going through. Today, several thousand children live in foster families or residential facilities in Switzerland.

Everyone involved should respect my rights, which are laid down in International and Swiss laws (see bibliography, page 9).



WARNING

As my story is unique, this guide is not a substitute for specialist advice.

Some questions I might ask myself:

1. When should I seek help? ([Section 1](#))
2. What kind of help can I ask for and receive?
What are the consequences for me and my family? ([Section 1](#))
3. How does alternative care work? Who will make decisions about me and how will they be made? ([Section 2](#))
4. How can I take part in the alternative care decision-making process? How is my opinion taken into account? ([Section 3](#))
5. How can I complain if I don't agree? ([Section 4](#))
6. What happens if I am still in alternative care when I become an adult (18)? ([Section 5](#))

SECTION 1

HOW CAN I HELP MYSELF AND MY FAMILY SO THAT WE CAN CONTINUE TO LIVE TOGETHER?

1. When should I seek help?

My parents are unable to ensure my well-being* and protection, for whatever reason (illness, addiction, violence, etc.). They can be helped by various government services, such as social assistance.

I should ask for help early on so that things don't get any worse.



Arts. 9, 18 CRC

Arts. 25, 296 ff CC and 307 ff CC

Art. 41 Cst (see language versions available)

*For example, well-being doesn't mean that my parents have to buy me the latest phone, but it is about serious risks to my development.

In general, asking for help will logically lead to changes for me and my family, such as :

- ☐ my parents becoming aware of my situation and my needs,
- ☐ improved well-being and safety,
- ☐ sometimes, me and my parents might meet a professional and explain what we're going through,
- ☐ this specialist will undertake an investigation to fully understand our situation, so as to offer us the help we need,
- ☐ sometimes they will decide that the best solution is to place me somewhere other than my home, at least temporarily.

2. What kind of help can I apply for and receive? What are the consequences for me and my family?

As I cannot help my parents by myself, I can contact an adult I trust and/or various child protection professionals. The professionals can offer help tailored to my situation. For example, they can advise me and my family. Or they can work with us to find someone to support us at home. Or they can work with all of us to find other solutions.



Professionals are bound by a duty of confidentiality (they do not have the right to tell anyone else what I have told them), unless I am in danger. I have the right to ask them beforehand if they will need to share the information I have given them.

I can turn to my immediate community and/or a professional.

These people may not know what to do straight away but we could look at this guide together and get some tips from it.

Pro juventute

This number will answer all my questions confidentially, 24 hours a day. They can direct me to the right service.

**BY TELEPHONE
ON 147**



People I trust may be able to help me

like my grandparents, aunts/uncles, godparents, friends, brothers/sisters, teachers, paediatrician, sports coach, etc.

In the event of serious concerns (e.g. physical or sexual abuse), these adults can listen to me, advise me, direct me, contact professionals, accompany me to appointments, etc. They are not bound by confidentiality and can therefore share what I tell them.

**BY TELEPHONE
AN APPOINTMENT
IN PERSON**

ciao.ch

I can ask questions on the site and a professional will answer all my questions (aged 13 to 20)

**THROUGH THEIR WEBSITE
WWW.CIAO.CH**

See also a list
of other services here

**LIST OF
OTHER SERVICES**

SECTION 2

HOW DOES ALTERNATIVE CARE WORK?

1. Who will decide on my alternative care if it cannot be avoided?

If my well-being and development are still seriously threatened despite outside help (see Section 1), there are three possible options:

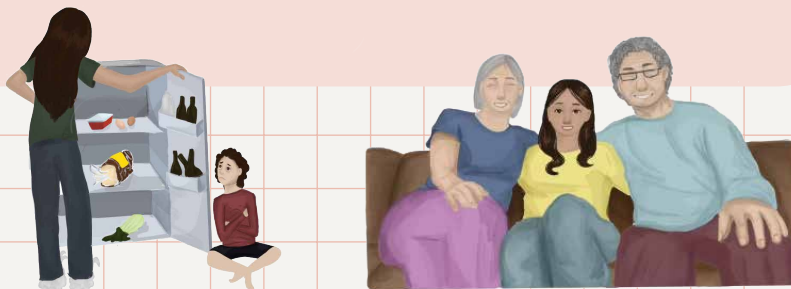
- We might decide that someone in my wider family is able to look after me informally (without the involvement of the authorities)
- If my parents and I agree that it's better for me to live elsewhere temporarily, we can make that decision with the child protection worker who accompanies us.
- - Finally, if I and/or my parents refuse to be separated, despite our difficulties, the decision will be up to the child protection authority (APEA).



Art. 9 CRC

Art. 307 ff CC

Cantonal laws on assistance for children and young people



How is child protection organised?

When I tell someone close to me or a professional that my situation is serious, various professionals are called in. A child protection professional will investigate and listen to me and my parents.

If necessary, the APEA will organise a hearing, where a child protection worker will be heard, along with me and my parents. The APEA can also get information that is not yet included in the file from my school, my doctor, my family and friends, and so on.

The choice of the best solution for me should respect my cultural background and enable me, as far as possible, to stay in my school if I want to, continue seeing my friends, and speak my own language.

If it is decided that I need to live elsewhere, someone will be appointed to help organise the arrangement, how long it should last and how to prepare for when it ends. This person will follow me throughout the process, listen to me and advise me.



Art. 20 CRC

Arts. 307 ff CC and 440 ff CC

cantonal laws on assistance for children and young people

IN MOST CANTONS,
THE CHILD
PROTECTION
OFFICE (OPE)

is responsible
for conducting an
investigation to find out
what is going on.

How and when does my alternative care end?

- My alternative care placement can be for a short period, longer period or last until I turn 18 ([see Section 5](#)).
- In all cases, both the APEA and my child protection worker must regularly check whether the placement is still necessary. Both me and my parents should be able to participate in this assessment and be heard by the authority ([see Section 3](#)). Like me, my parents should also receive help so that we can all live together, even after my placement ([see Section 1](#)).
- As soon as the problems leading to separation are resolved, I should be able to return to live with my family ([see Section 1](#)).
- I may not agree with the decision to continue or end the placement. In this situation, I can complain ([see Section 4](#)).



Arts. 5, 9, 10, 20 CRC

Art. 14 Cst

Arts. 313 CC, 314 para. 1 and 399 CC



SECTION 3

HOW CAN I GET INVOLVED IN THE ALTERNATIVE CARE DECISION-MAKING PROCESS, BEFORE, DURING AND AFTER?

- I can be present and take part directly in the proceedings by expressing my opinions and wishes. I can also be represented by my legal representative (e.g. my parents) or by a lawyer, whom I can choose if I wish. I have the right to be accompanied by a support person, who can reassure me.
- I can refuse to take part if I don't want to.
- To be able to take part, I must receive clear information about the procedure and the various options available. I should be kept informed of all the procedural steps and be able to participate.
- I should have the possibility to give my opinion on whether I agree to the alternative care placement or not, on the place of placement and on the child protection worker who will be accompanying me.
- Once the APEA has reached its decision, they must then explain to me why and how it reached its decision and how it took my opinion into consideration.

I have the right to participate and this should be respected: the right to be heard and to express my opinion. Decision makers should take my views into account in all procedures that affect me.

- During the placement, I have the right to see my child protection worker regularly and I can tell him/her how I'm feeling. If he/she doesn't come, I can ask to see him/her.
- The APEA should regularly check whether I can return home ([see Section 2](#)).
- I have the right to ask to meet my child protection worker and the APEA at any time.
- I also have the right to maintain contact with my family, brothers and sisters, unless the APEA has decided otherwise.
- If I do not agree with the decision or its implementation, I can lodge an appeal, possibly with the help of a lawyer ([see section 4](#)).



Art. 3, 11, 12, 13 and 25 CRC

Art. 1a, 10 OPE

Art. 273 ff, 314a, 314abis and 440 ff CC

CDAS/COPMA recommendations

WARNING:

My right to participate does not mean the right to decide. That right belongs to my parents or the competent authority, who must take my opinion and individual needs into account.

SECTION 4

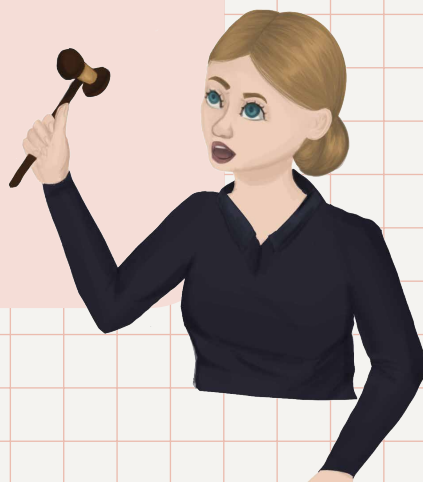
HOW CAN I COMPLAIN?

- Access to justice is a fundamental right that must be guaranteed. Complaining about a decision or measure taken against me is part of access to justice.
- I need to be informed and advised about my rights: where can I complain? how can I complain? how long do I have to complain?
- As a general rule, I have 10 or 30 days (depending on the type of decision) to lodge a complaint with the cantonal court where I live. I can ask to be assisted by a lawyer.
- I can also contact organisations that support children and young people (see Section 1).
- If I feel that my rights have not been respected during the procedure or during the placement, I can also contact the supervisory authority of the APEA, the management of the institution, etc.



Art. 39 CRC

Arts. 19c CC, 314 para. 1 and 450 ff CC



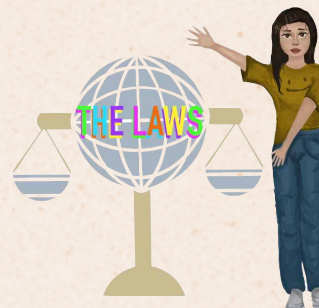
SECTION 5

WHAT HAPPENS WHEN I BECOME AN ADULT (LEAVING CARE)?

- If it hasn't ended before, my alternative care placement - which is a child protection measure - will normally terminate when I reach the age of majority (18).
- As soon as I turn 16, the child protection authorities should prepare me for my future life as an adult.
- Professionals have to teach me how to manage my money (e.g. for food, rent and fun activities), live on my own, pay my bills and so on.
- I can ask my child protection worker or an organisation specialising in issues relating to the end of care for this kind of help.
(see <https://leaving-care.ch/care-leavers>)

SOURCES / BIBLIOGRAPHY

- The Convention on the Rights of the Child (CRC) is an international agreement signed by many countries, including Switzerland. It's a kind of catalogue of rights that protect me. I can find out more about the Convention on the Rights of the Child here:
 - <https://www.unicef.org/child-rights-convention/convention-text-childrens-version>,
 - https://www.integras.ch/images/_pdf/themenmenu/kinderrechte/kinderrechte_staerken/krk_fur_kinder_erklart_fr_2007.pdf
 - I can find out more about my rights on the [kidimo.ch](https://www.kidimo.ch) application and game (in French, German and Italian).
- The United Nations Assembly Guidelines for the Alternative Care of Children I can read a child-friendly version. The aim of these standards is to ensure that I can stay with my family, or return to them as soon as conditions allow. They also ensure that, if necessary, the solution chosen for me is best suited to my individual needs.
- Concluding observations of the UN Committee on the Rights of the Child on Switzerland in 2021
- The Swiss Constitution (Cst) states that children and young people are entitled to special protection (Art. 11).
- The Swiss Civil Code (CC)
- Ordinance on the placement of children (OPE)
- Cantonal laws
- Recommendations concerning the placement of children outside their families



THE GENERAL RULE IS
THAT I HAVE THE RIGHT
TO LIVE WITH MY FAMILY.

SWITZERLAND HAS AN OBLIGATION TO SUPPORT
AND PROTECT US AS INDIVIDUALS AND AS A
FAMILY, SO THAT WHEN POSSIBLE WE CAN LIVE
TOGETHER.

This guide was co-authored by **Cora Bachmann** (Secretary General PACH), **Laurence Bordier** (Child Identity Protection, Geneva), **Mia Dambach** (UNIGE and Child Identity Protection, Geneva), **Dr. Gaëlle Droz-Sauthier** (former President of the APEA Martigny, Senior Lecturer at the Institute for Research and Advice in the Family, University of Fribourg, MLB Lausanne), **Dr. Ersilia Gianella** (Deputy President of the APEA Acquarossa, Biasca and Faido and lecturer at the SUPSI, Ticino), **Christian Nanchen** (Head of Service, Département de l'économie et de la formation et Service cantonal de la jeunesse, Valais) and **Marc Rossier** (Head of the Office pour la protection de l'enfant). It benefited from the valuable input of professionals from all over Switzerland, as well as the children who enthusiastically gave their comments including Alice, Ilona, Iva, Léonia, Maxence, Natalie, Noah and Ophélie. The illustrations were created by Evelyn Bocos - aged 14.

This guide is based on research carried out with UNIGE and Child Identity Protection entitled "Coercive decisions in Switzerland through the lens of international standards: foster care placements." UNIGE led the research in collaboration with experts from the University of Zurich and the Institute for Studies in Children and Youth Service, as well as with the School of Social Work and Child Identity Protection. This research is funded by the SNSF (Swiss National Science Foundation), as part of the National Research Programme NRP 76 'Assistance and Coercion' and under the direction of Prof. Philip Jaffé.