



Protecting Children. Providing Solutions.

August 2017

## Lumos' recommendations to the Bulgarian Presidency of the Council of the EU: Protecting the most vulnerable children, inside and outside of Europe

### About Lumos

Lumos is an international NGO<sup>1</sup>, founded by the author J.K. Rowling, working to end the institutionalisation of children around the world by transforming education, health and social care systems for children and their families; helping children move from institutions to family-based care. Lumos sits on the EU Civil Society Platform against trafficking in human beings and is a founding member of the European Expert Group on the Transition from Institutional to Community-based Care.

### Institutionalisation of children

Across the world an estimated eight million children live in large residential institutions that cannot meet their needs.<sup>2</sup> One million of these children are in the European region.<sup>3 4</sup> Eighty years of research has demonstrated the harm caused to children by institutionalisation.<sup>5</sup> These studies highlight how, due to the lack of emotional and physical contact, stimulation and interaction, institutions damage children's ability to form the secure attachments they need to develop to their potential. The institutional environment's inability to meet individual needs can lead to developmental delays and challenging behaviours.<sup>6</sup> Research into early brain development demonstrates that institutionalisation has a severe impact on brain development and that this impact is even greater than the impact of child abuse.<sup>7</sup> For more information, please see [Lumos Factsheet \*Children in Institutions: The Risks\*](http://wearelumos.org/sites/default/files/Risks_Factsheets_Lumos_0.pdf).<sup>8</sup>

Evidence and experience demonstrate that a caring and protective family, immediate and extended, is central to a child's health, development, and protection. The Convention on the Rights of the Child (CRC) affirms that, as far as possible, all children have a right to live with their families and that parents

---

<sup>1</sup> Lumos Foundation (Lumos) is a company limited by guarantee registered in England and Wales number: 5611912 | Registered charity number: 1112575

<sup>2</sup> Pinheiro, P.S. (2006). World Report on Violence against Children. UNICEF: New York.

<sup>3</sup> EveryChild (2005) Family matters: A study of institutional childcare in Central and Eastern Europe and the former Soviet Union.

<sup>4</sup> This is the European Region as defined by the UN, including all CEE/CIS countries.

<sup>5</sup> Berens, A. & Nelson, C. (2015) The science of early adversity: is there a role for large institutions in the care of vulnerable children? *The Lancet*. 2015.

<sup>6</sup> Mulheir, G. (2012). Deinstitutionalisation – A Human Rights Priority for Children with Disabilities. *The Equal Rights Review*, p119–121.

<sup>7</sup> Nelson, C. and Koga, S. (2004). Effects of institutionalisation on brain and behavioural development in young children. Findings from the Bucharest early intervention project, paper presented at the International Conference on 'Mapping the number and characteristics of children under three in institutions across Europe at risk of harm', 19 March 2004, EU Daphne Programme 2002/3 and WHO Regional Office for Europe, Copenhagen, Denmark.

<sup>8</sup> Lumos (2014), *Children in Institutions: The Risks*. [http://wearelumos.org/sites/default/files/Risks\\_Factsheets\\_Lumos\\_0.pdf](http://wearelumos.org/sites/default/files/Risks_Factsheets_Lumos_0.pdf) [accessed 27 Jul 2017].



Protecting Children. Providing Solutions.

or other legal guardians have the primary responsibility to protect and care for the child.<sup>9</sup> The CRC and the UN Guidelines for the Alternative Care of Children<sup>10</sup> also call on States to ensure that families have access to services which support them in their caregiving role. The Guidelines state that, “[e]very child and young person should live in a supportive, protective and caring environment that promotes his/her full potential. Children with inadequate or no parental care are at special risk of being denied such a nurturing environment.”

Children in alternative care have also been recognised as a particularly vulnerable group by the European Commission in its Recommendation on Investing in Children.<sup>11</sup> The recommendation declares that “a focus on children who face an increased risk due to multiple disadvantage such as (...) children in alternative care” needs to be ensured. The UN Convention on the Rights of Persons with Disabilities (UNCRPD)<sup>12</sup> to which the EU is a signatory, clearly states that “States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others” (Art 19). For children, this means being in a family environment and receiving quality care and protection.

The EU has recognised the harm that institutionalisation causes to children and has played an instrumental role in the efforts to end this form of care. By introducing an ex-ante conditionality on social inclusion (9: 9.1.) with an investment priority on the “transition from institutional to community based services”<sup>13</sup> in the **Regulation 1303/2013 on the European Structural and Investment Funds (ESIF)**, the EU has prohibited ESIF to be used for the maintenance or renovation of existing, and the construction of new, large residential institutional settings.<sup>14</sup>

The recently published “EU Guidelines for the Promotion and Protection of the Rights of the Child (2017)” includes institutionalisation as one of the key risk factors for children in vulnerable situations.<sup>15</sup> The document highlights the importance of appropriate alternative care for children that allows them to participate in community life, and preventing family and child separation (see section 5.A)<sup>16</sup> and states that the primary consideration for expenditure should be the best interests of the child (see

---

<sup>9</sup> United Nations (1989) Convention on the Rights of the Child (Adopted 20 November 1989, entered into force 2 September 1990) Vol.1577, p.3.

<sup>10</sup> United Nations (2009) Guidelines for the Alternative Care of Children (2009) A/RES/64/142 [http://www.unicef.org/protection/alternative\\_care\\_Guidelines-English.pdf](http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf) [accessed 27 Jul 2017].

<sup>11</sup> European Union (2013) Commission Recommendation of 20 February 2013 investing in children: breaking the cycle of disadvantage, OJ L 59, 2.3.2013. [http://ec.europa.eu/justice/fundamental-rights/files/c\\_2013\\_778\\_en.pdf](http://ec.europa.eu/justice/fundamental-rights/files/c_2013_778_en.pdf) [accessed 26 Oct 2016].

<sup>12</sup> United Nations (2006) Convention on the Rights of Persons with Disabilities (Adopted 13 December 2006, entered into force 3 May 2008), Art. 19. <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf> [accessed 27 Jul 2017].

<sup>13</sup> European Union (2013) Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013, OJ L 347, 20.12.2013, p. 320–469, Article 9: 9.1

<sup>14</sup> Ibid

<sup>15</sup> European Union (2017), Guidelines on the Promotion and Protection of the Rights of the Child [https://eeas.europa.eu/sites/eeas/files/eu\\_guidelines\\_rights\\_of\\_child\\_0.pdf](https://eeas.europa.eu/sites/eeas/files/eu_guidelines_rights_of_child_0.pdf), p. 4

<sup>16</sup> Ibid, p.19



Protecting Children. Providing Solutions.

section 5.D).<sup>17</sup> It further recommends the need for greater coherence in the EU's external action on children, including that carried out by Member States.<sup>18</sup> The Guidelines also underline the importance of data to design effective policy, and especially the **importance of disaggregated data ("crucial") to ensure no child is left behind.**<sup>19</sup>

### The role of the Bulgarian Presidency in promoting deinstitutionalisation of children

The ambitious and extensive deinstitutionalisation reform that Bulgaria embarked on in 2009 has **improved the lives of thousands of children and is likely to improve the lives of thousands more.**<sup>20</sup>

Bulgaria's experience provides a positive example of how to prioritise and deliver deinstitutionalisation on a national scale, to which other EU Member States, as well as countries in the wider European region and indeed the world, can look for inspiration. It also demonstrates how EU funding can be used to facilitate the transition from an institutional system to one centred on family- and community-based care. For the first time ever, the European Commission's DG Employment, Social Affairs & Inclusion and DG Regional Policy pooled their funds when they decided to support the reform in Bulgaria. Lumos has worked closely with both the EC and the Bulgarian Government to contribute towards this transformation.

Building on the country's recent strong track record for reforming child care systems, the incoming Bulgarian Presidency of the Council of the EU is an **excellent opportunity to showcase successful deinstitutionalisation reform, to share experience and provide inspiration for other countries inside and outside the EU undergoing similar processes.** It is also a perfect opportunity to build on the momentum generated by the Estonian (2017) and Latvian (2015) Presidencies, which have both had deinstitutionalisation among their priorities, and ensure that deinstitutionalisation stays high on the EU's political agenda.

The January to July 2018 period is a key moment for the EU's external action, with various legislative and policy initiatives being concluded or beginning to be implemented, such as the new European Consensus on Development, Agenda 2030, the post-Cotonou negotiations and the planning of the next Multiannual Financial Framework. Therefore, **there is a real opportunity for the Bulgarian Presidency to help ensure that the EU prioritises and takes a global leadership role in deinstitutionalisation around the world,** improving the lives of millions of children.

Below, Lumos proposes a series of recommendations for the January – June 2018 Presidency.

---

<sup>17</sup> Ibid, p. 21

<sup>18</sup> Ibid, e.g. p. 13

<sup>19</sup> Ibid, p. 24

<sup>20</sup> Lumos (2015) *Ending institutionalisation. An analysis of the financing of the deinstitutionalisation process in Bulgaria* <https://wearelumos.org/content/ending-institutionalisation-analysis-financing-deinstitutionalisation-process-bulgaria-0> Available in English and Bulgarian [accessed 12th July 2017]; Lumos (2014). *Ending the institutionalisation of children: A summary of progress in changing systems of care and protection for children in Moldova, the Czech Republic and Bulgaria.* <https://wearelumos.org/sites/default/files/Ending%20Institutionalisation%20of%20Children.pdf> [accessed 12th July 2017]



Protecting Children. Providing Solutions.

### Recommendation 1: Ensure policy coherence

The ex-ante conditionality on social inclusion in the Regulation 1303/2013 on the ESIF (9: 9.1.), with its investment priority on the “transition from institutional to community based services,” prohibits the use of ESIF for the maintenance, renovation or construction of residential institutions. **It is crucial to ensure that this ex-ante conditionality is effectively implemented and retained in the next funding cycle** of the Multiannual Financial Framework (MFF), post-2020.

**Lumos calls** on the Bulgarian Presidency to promote, in all its actions and statements related to the ESIF, the principles of the aforementioned ex-ante conditionality and make sure that it is fully implemented.

**Lumos calls** on the Bulgarian Presidency to promote the importance of retaining the ex-ante conditionality on social inclusion in all discussions relating to the post-2020 Multiannual Financial Framework.

It is also vital to ensure that children’s rights are protected and promoted outside the EU. The EU Guidelines on the Promotion and Protection of the Rights of the Child<sup>21</sup> demonstrate the EU’s commitment to protecting and promoting children’s rights and supporting family and community-based care not only in Europe but globally. In line with these Guidelines, and in the interest of achieving Policy Coherence for Development<sup>22</sup> and assuring that the EU meets its international human rights commitments, the **criteria applied to internal funds regarding deinstitutionalisation should be applied to all European Union funding sources**, including the EU Neighbourhood Instrument (ENI), the European Development Fund (EDF), the Instrument for Pre-accession Assistance (IPA), humanitarian aid and the loans provided by the European Investment Bank. If the European Commission has accepted that institutions are harmful to children and as a consequence has significantly altered its funding and policy priorities for children inside the European Union, it follows that wherever the Commission has policy and funding influence, the same logic should apply.

**Lumos calls** on the Bulgarian Presidency to send a clear message to ensure that no EU funding, expended either within the European Union or internationally, is used for supporting the maintenance of existing institutions for children or the creation of new ones.

**Lumos calls** on the Bulgarian Presidency to call for a similar mechanism to the ex-ante conditionality on social inclusion with an investment priority on the transition from institutions to family and community based care to be introduced into all EU external funding, including the EU Neighbourhood Instrument (ENI), the European Development Fund (EDF), the Instrument for Pre-

---

<sup>21</sup> European Union (2017) *Guidelines on the Promotion and Protection of the Rights of the Child* [https://eeas.europa.eu/sites/eeas/files/eu\\_guidelines\\_rights\\_of\\_child\\_0.pdf](https://eeas.europa.eu/sites/eeas/files/eu_guidelines_rights_of_child_0.pdf)

<sup>22</sup> European Commission. (n.d.) “Policy Coherence for Development” [http://ec.europa.eu/europeaid/policies/policy-coherence-development\\_en](http://ec.europa.eu/europeaid/policies/policy-coherence-development_en) [accessed 20 Mar 2017].



Protecting Children. Providing Solutions.

accession Assistance (IPA), the humanitarian aid and the loans provided by the European Investment Bank.

## **Recommendation 2: Strengthen the EU's role in protecting children in Europe and around the world**

The ongoing refugee crisis in the EU is likely to remain high on the agenda of the EU Council during the Bulgarian Presidency. Children are particularly vulnerable in this crisis, and are at high risk of abuse, trafficking and institutionalisation. While both migrant and refugee children arriving on European soil should have their rights protected in the same way as European children, the reality has been very different. It is reported that in Greece, for example, the system in place to care for unaccompanied children is heavily under-resourced and not able to respond to the high demand. Many children are placed in detention facilities on arrival. Often children are kept in custody at the Greek border for a considerable amount of time before being referred to hostels or residential care facilities. Recent research points towards unaccompanied children who go missing after having been placed in institutions before they have been registered by authorities, making them easy prey for traffickers.<sup>23</sup> Given that many of these children are particularly vulnerable, having experienced the trauma of war, Lumos notes an **urgent need for child protection reform in this area** to protect children from further harm and ensure that each child's placement is in their best interest, prioritising family-based care. Lumos appreciates the Bulgarian government's on-going commitment to finding sustainable solutions in line with the best interest of the child and is currently collaborating with key agencies in Bulgaria to identify, strengthen and develop new types of responses to support the needs of unaccompanied migrant and refugee children entering the country.

**Lumos calls** on the Bulgarian Presidency to support measures addressing the situation of unaccompanied migrant and refugee children in the EU, making sure that they receive appropriate level of protection, that family-like care is prioritised and that their rights are safeguarded.

There is a strong connection between trafficking and institutionalisation of children. Children in institutions are at high risk of becoming victims of trafficking and often when child victims are recovered from traffickers they are placed (back) in institutions by the responsible authorities. This creates a vicious circle for trafficked children and additional risks to their peers in institutions.

Lumos' research in Haiti has identified evidence of orphanages which are trafficking children. Orphanage 'entrepreneurs' recruit children by misleading parents about the care that will be provided or even paying them to give their children away, and use the children to solicit donations from well-meaning donors. Little of the funding received is spent on care for the children, who are in turn placed

---

<sup>23</sup> Missing Children Europe (n.d.) "Missing unaccompanied migrant children"  
<http://missingchildreneurope.eu/Missingunaccompaniedchildren> [accessed 27 Jun 2017]



Protecting Children. Providing Solutions.

at risk of serious abuse and neglect.<sup>24</sup> The same pattern of orphanage trafficking has been identified in a number of other countries.<sup>25</sup>

**Lumos calls** on the Bulgarian Presidency to ensure that the relationship between institutionalisation and trafficking remains high on the agenda in discussions on measures to prevent trafficking of human beings, particularly children.

### **Recommendation 3: Shape the post-Cotonou framework**

The current Presidency Trio of Estonia, Bulgaria and Austria will play a very important role in the negotiation of a future agreement governing relations between the EU and the countries of Africa, the Caribbean and the Pacific (ACP) after the Cotonou Agreement expires in 2020. The Bulgarian Presidency will have a particularly crucial role as, once the European Commission is granted its negotiating mandate (expected in November 2017), the Bulgarian Presidency will oversee the opening of negotiations in early 2018. The framework replacing the Cotonou agreement should **recognise the crucial importance of children growing up in family environments and the harm institutions cause to their wellbeing and development.**

**Lumos calls** on the Bulgarian Presidency to lay the foundations for the new Agreement to include a clause which states that funds should never be used to construct, maintain or renovate institutions, but instead should be directed towards supporting the transition from institutions to family and community-based care and other related child protection objectives.

**Lumos calls** on the Bulgarian Presidency to ensure that the framework contains an explicit reference to the transition from institutional to family and community based care as a priority, in line with existing EU legislation, namely the Regulation 1303/2013 on the European Structural and Investment Funds (ESIF).

**Lumos calls** on the Bulgarian Presidency to ensure that the future partnership provides for more effective joint action on tackling transnational security challenges. Children living in poverty in developing countries are the most vulnerable to human trafficking and the future partnership must address this, as well as the particular vulnerabilities of certain groups, including children in institutions and children with disabilities.

---

<sup>24</sup> Lumos (2016) Orphanage Entrepreneurs: The Trafficking of Haiti's Invisible Children

[https://wearelumos.org/sites/default/files/Haiti%20Trafficking%20Report\\_ENG\\_WEB\\_NOV16.pdf](https://wearelumos.org/sites/default/files/Haiti%20Trafficking%20Report_ENG_WEB_NOV16.pdf) [accessed 31 Mar 2017]

<sup>25</sup> Lumos (2017) *The Case for an Australian Modern Slavery Act: Recognising the relationship between trafficking and exploitation of children in orphanages as a form of modern slavery*. Submission to the Inquiry into establishing a Modern Slavery Act in Australia (Submission 200)

[http://www.aph.gov.au/sitecore/content/Home/Parliamentary\\_Business/Committees/Joint/Foreign\\_Affairs\\_Defence\\_and\\_Trade/ModernSlavery/Submissions](http://www.aph.gov.au/sitecore/content/Home/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery/Submissions)



Protecting Children. Providing Solutions.

For more information, please read [Lumos' Response to the EC Communication on future ACP – EU relations](#)<sup>26</sup>

#### **Recommendation 4: Take action on the new European Consensus on Development**

The *New European Consensus on Development: 'Our World, Our Dignity, Our Future'*<sup>27</sup> proclaims the EU and its Member States' commitment to implementing “a rights-based approach to development cooperation”, encompassing “all human rights” (Art. 16). The Consensus pays particular attention to children’s rights, and states that the EU and its Member States “will intensify their efforts to provide a safe and nurturing environment for children” (Art. 29). It further promises that, “in line with the principle of leaving no-one behind, the EU and its Member States will give special attention to those who are in disadvantaged, vulnerable and marginalised situations, including children, ...[and] persons with disabilities” (Art. 30). In order for the commitments of this new Consensus to be fulfilled, its implementation must ensure that the eight million children in institutions around the world are not left behind.

**Lumos calls** on the Bulgarian Presidency, in the context of helping to ensure that the new European Consensus on Development delivers on its promise to protect children’s rights and provide them with a safe and nurturing environment, to:

- recommend the introduction of a similar mechanism to the ex-ante conditionality on social inclusion and the investment priority on the “transition from institutional to community based services” for all EU external funding;
- ensure that any document linked to the implementation of the new European Consensus on Development:
  - o addresses children in institutions and those at risk of being separated from their families when referring to “those who are in disadvantaged, vulnerable and marginalised situations”
  - o recommends the transition from institutions to family and community-based care for children and the right to family, when addressing “children’s needs, rights and aspirations”
  - o recommends the development of methods that allow for governments globally to collect data on the development of children living outside households and/or family care. In addition, acknowledges that disaggregating data, not only by age, disability,

---

<sup>26</sup>Lumos (2017) “Response to the EC Communication on future ACP – EU relations” <https://wearelumos.org/sites/default/files/2016%2012%2029%20Lumos%20response%20to%20EC%20Com%20on%20postCotonou%20pdf.pdf> [accessed 26 Apr 2017].

<sup>27</sup> European Union (2017) The New European Consensus on Development: ‘Our World, Our Dignity, Our Future’ [https://ec.europa.eu/europeaid/sites/devco/files/european-consensus-on-development-final-20170626\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/european-consensus-on-development-final-20170626_en.pdf) [accessed 3rd July 2017]



Protecting Children. Providing Solutions.

gender, but also care status, is needed for governments to gain a comprehensive understanding of the situation of children living outside family care and their development.

### **Recommendation 5: Ensure that all children are included in the data underpinning the Sustainable Development Goals (SDGs)**

The 2030 Agenda for Sustainable Development (hereafter 2030 Agenda) has committed all UN States to achieving a set of 17 ambitious goals that address many needs, including health care, education, and protection from violence, exploitation and abuse. The 2030 Agenda describes the role of States “to provide children and youth with a nurturing environment for the full realisation of their rights and capabilities, helping our countries to reap the demographic dividend including through safe schools and cohesive communities and families.” (Preamble, para 25)<sup>28</sup>

A cornerstone principle of the 2030 Agenda is to *leave no one behind*. However, as it stands, some of the most vulnerable children, including those living in institutions, on the street, trafficked or otherwise separated from their families, will be left behind, as these children are largely invisible to politicians and policy makers. This is due to the limited data available about children living in such precarious circumstances. Except for scattered estimates from some countries, most countries do not collect data on children living in institutions or otherwise outside private household settings. Given the inextricable links between data and policy decisions, this invisibility in the data has real-life repercussions for millions of children and will hinder the achievement of the 2030 Agenda.<sup>29</sup> Over 250 organisations have highlighted their concerns that these children are not being counted, in a letter addressing the UN and its’ Member States, which you can find [here](#).<sup>30</sup>

---

<sup>28</sup> United Nations (2015) General Assembly resolution 70/1, Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1 (25 September 2015), p. 7,

[http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/70/1&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E) [accessed 18/05/2017]

<sup>29</sup> According to UNICEF’s 2015 Progress for Children report, “as the world prepares for a new development agenda, data and evidence will only increase in importance and national systems must be strengthened to meet new demands. The new data agenda will need to harness the potential of new technologies to collect, synthesize and speed up the use of data, and also reinvigorate efforts to ensure complete and well-functioning registration systems. The new data agenda will need to provide insight into the most vulnerable children, relying on household surveys that provide data regardless of whether or not a child attends school or is taken to a health facility, as well as developing new approaches for collecting information about children who are homeless, institutionalized or internally displaced.” UNICEF (2015) *Progress for Children Report 2015*

[https://www.unicef.org/publications/files/Progress\\_for\\_Children\\_No.\\_11\\_22June15.pdf](https://www.unicef.org/publications/files/Progress_for_Children_No._11_22June15.pdf) [accessed 13/04/2017]

<sup>30</sup> ALL CHILDREN COUNT BUT NOT ALL CHILDREN ARE COUNTED: An open letter to the UN and its Member States – Over 250 signatories.

<https://wearelumos.org/sites/default/files/All%20children%20count%20but%20not%20all%20are%20counted%20EN%2015.11.16%20%281%29.pdf> [accessed 11 July 2017].





Protecting Children. Providing Solutions.

In order to fulfil the Agenda's commitments, consistent with the principle of *leaving no one behind*,<sup>31</sup> it is therefore crucial that a SDG monitoring framework is developed that includes mechanisms to assess the most vulnerable and hard to reach populations.

The European Union has reiterated its commitment "to be a frontrunner in implementing the 2030 Agenda and the SDGs."<sup>32</sup> Effective, comprehensive collection of disaggregated data at EU level, including data on the most vulnerable and hard to reach populations such as children living outside families, will be essential in achieving this goal. Indeed, in its conclusions of the 20<sup>th</sup> June 2017 the EU Council "recalls that the 2030 Agenda requires quality, accessible, timely and reliable disaggregated data to measure equitable progress covering the three dimensions of sustainable development so as to ensure that no-one is left behind" while calling "on the Commission and the Member States to support partner countries in data collection and reporting" (Recital 38).<sup>33</sup>

**Lumos calls** on the Bulgarian Presidency to lead the European Union in making sure that children living outside households and/or without family care are represented in disaggregated data. Data disaggregation by care-giving setting/living arrangement is key to tracking progress for all children, particularly regarding Goals 1, 3, 4, 8, 10 and 16. This is critical to a) analysing how trends differ between children living outside households and/or without family care and the general child population; and b) ensuring that programs and policies prioritize the most vulnerable children. Data collection should reflect the goals and definitions included in the UN Convention on the Rights of the Child, the UN Guidelines for the Alternative Care of Children, and the UN Convention on the Rights of Persons with Disabilities.

**Lumos calls** on the Bulgarian Presidency to support the improvement of data collection methodologies internationally to ensure all children are represented. At EU level, Eurostat must include an indicator on children temporarily or permanently living outside households and families.

### **Recommendation 6: Inclusive and sustainable Europe**

In order to build a fully inclusive Europe, it is important to ensure that all children have access to quality, inclusive education while being fully able to participate in all aspects of family and community life. The UN Convention on the Rights of Persons with Disabilities (CRPD), to which the EU and Bulgaria are signatories, states that governments "shall ensure an inclusive education system at all levels and lifelong learning" (Art 24).<sup>34</sup> Nevertheless, across Europe and around the world, a significant number

---

<sup>31</sup> Ibid, Preamble, p. 26

<sup>32</sup> European Commission (2016) Next steps for a sustainable European future European action for sustainability, COM(2016) 739 [http://ec.europa.eu/europeaid/sites/devco/files/communication-next-steps-sustainable-europe-20161122\\_en.pdf](http://ec.europa.eu/europeaid/sites/devco/files/communication-next-steps-sustainable-europe-20161122_en.pdf) [accessed 26 May 2017]

<sup>33</sup> European Union (2017) *A sustainable European future: The EU response to the 2030 Agenda for Sustainable Development* - Council conclusions (20 June 2017)

<sup>34</sup> United Nations (2006) *Convention on the Rights of Persons with Disabilities* (Adopted 13 December 2006, entered into force 3 May 2008), Art. 24. <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf> [accessed 27 Jul 2017].



Protecting Children. Providing Solutions.

of children with disabilities still live in residential ‘special education schools,’ often far from their home, due to a lack of inclusive education. For children to thrive and flourish, they need to be raised in families and fully included in their communities. The development of an inclusive education system is also a key element of a successful deinstitutionalisation process.

**Lumos calls** on the Bulgarian Presidency to initiate an action towards the promotion of an inclusive Europe through ensuring equal access to quality education for all children, including children with disabilities and refugee children.

### **Recommendation 7: Support UN Global Study on Children Deprived of Liberty**

Children deprived of liberty often remain invisible and forgotten, are more likely to become victims of violence and exploitation and usually do not enjoy their rights to education, health care and access to justice. However, most of these children are uncounated. Without knowing the full scale of deprivation of liberty it is impossible to respond to their needs and to protect them from harm. Children living on the street, victims of trafficking, organised crime and conflict situations are at increased risk of being deprived of liberty. Disability, mental health issues, drug abuse, lack of family care, migration or asylum status, and armed conflict are all factors that may lead to a child’s deprivation of liberty.<sup>35</sup>

The United Nations General Assembly by Resolution 69/157 of 18 December 2014 requested the Secretary-General to commission an in-depth Global Study on Children Deprived of Liberty.<sup>36</sup> The resolution was adopted by UN member states, including EU member states, and calls for the study to be funded by voluntary contributions. To date, Austria and Switzerland are the only states that have come forward with funds.

The Global Study has the potential to bring global attention to this critical issue and spark far-reaching national and global reforms, for children living in institutions and other settings deprived of liberty.

We welcome the commitment that Bulgaria has shown by supporting the statement at the Human Rights Council in March 2017 regarding the Global Study, where it pledged its “support towards the Independent expert in the exercise of his mandate until the completion of the Study” and called “upon Member States [...] to pledge and provide adequate support including through financial contributions in order to allow for an effective carrying out of the Global Study on Children Deprived of Liberty.”<sup>37</sup>

---

<sup>35</sup> United Nations Office for the High Commissioner on Human Rights (n.d.) “Children Deprived of Liberty - The United Nations Global Study” <http://www.ohchr.org/EN/HRBodies/CRC/StudyChildrenDeprivedLiberty/Pages/Index.aspx> [accessed 9th August 2017]

<sup>36</sup> United Nations General Assembly (2014) Resolution 69/157 of 18 December 2014 [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/69/157](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/69/157) [accessed 9th August 2017]

<sup>37</sup> Statement delivered by Mr. Reinout Voc, Deputy Permanent Representative of the Permanent Mission of the Kingdom of the Netherlands, with support of 34 Member States, at the UN Human Rights Council on 10 March 2017. Available online: <https://childrendeprivedofliberty.info/at-human-rights-council-35-states-call-for-increased-support-to-the-global-study/> [Retrieved 8 August 2017].



Protecting Children. Providing Solutions.

Finally, the success of the study will be largely dependent on the information that states provide on the situation of children deprived of liberty in their country. It will therefore be essential that member states provide their full cooperation and support towards the Independent Expert when the implementation commences.

**Lumos calls** on the Bulgarian Presidency to show leadership by committing funding towards the implementation of the study and to encourage other EU member states to do the same.

**Lumos calls** on the Bulgarian Presidency to send a message to Member States to push for the study to take a broad definition to define institutional settings, including those institutions that are not run or registered with the state.

**Lumos calls** on the Bulgarian Presidency encourage Member States to be fully cooperative with the Independent Expert and to provide as detailed information as possible.

#### Contact

Irina Papancheva  
EU Advocacy Manager  
Lumos – European Union Liaison Office  
Rue de l’Arbre Bénit / Gewijde-Boomstraat 44 b.7  
B-1050 Brussels  
e-mail: [Irina.Papancheva@wearelumos.org](mailto:Irina.Papancheva@wearelumos.org)  
mob.: +32 499 24 74 61  
<http://wearelumos.org/>