



Protecting Children. Providing Solutions.

July 2019

Lumos' recommendations to the European Bank for Reconstruction and Development

1. About Lumos

Lumos is an international NGO¹, founded by 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.

2. Institutionalisation of children

An estimated eight million children worldwide live in residential institutions² that deny their human rights and do not meet their needs.³ One million of these children are believed to live in the wider European region.⁴

Over 80 years of research from across the world has demonstrated the significant harm caused to children who grow up in institutions.⁵ Long-term effects of institutionalisation can include severe developmental delays, disability, irreversible psychological damage, increased rates of mental health difficulties, and involvement in criminal behaviour.⁶

Furthermore, research consistently demonstrates that more than 80 per cent of children in institutions are not 'orphans',⁷ but are placed there due to reasons such as poverty, disability, marginalisation, a lack of family support services in the community and as a result of trafficking. With the right support, most of these children could be cared for in their family, or in alternative family- or community-based care.

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

² There are numerous definitions of what the term 'institution' means when referring to children. See for example Eurochild's definition extracted from the UN Guidelines for the Alternative Care of Children: "a residential setting that is not built around the needs of the child nor close to a family situation and display the characteristics typical of institutional culture (depersonalisation, rigidity of routine, block treatment, social distance, dependence, lack of accountability, etc.). Cited in the *Common European Guidelines on the Transition from Institutional to Community-based Care. European Expert Group on the Transition from Institutional to Community-based Care, November 2012*, <http://www.deinstitutionalisationguide.eu/> [accessed 06 Mar 2018]. In addition, UNICEF when defining an institution considers "whether the children have regular contact and enjoy the protection of their parents or other family or primary caregivers, and whether the majority of children in such facilities are likely to remain there for an indefinite period of time". Cited in the *UNICEF Consultation on Definitions of Formal Care for Children*, pp.12–13.

³ The number of residential institutions and the number of children living in them is unknown. Estimates range from 'more than 2 million' (UNICEF, *Progress for Children: A Report Card on Child Protection Number 8*, 2009) to 8 million (Cited in: Pinheiro, P., *World Report on Violence against Children*, UNICEF, New York, 2006). These figures are often reported as underestimates, due to lack of data from many countries and the large proportion of unregistered institutions.

⁴ Ceecis, U. (2011). End placing children under three years in institutions. UNICEF

⁵ Berens & Nelson (2015). The science of early adversity: is there a role for large institutions in the care of vulnerable children? *The Lancet*. [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(14\)61131-4/abstract](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(14)61131-4/abstract) [Accessed 16 September 2016]

⁶ Mulheir, G. et al. (2012). 'Deinstitutionalisation – A Human Rights Priority for Children with Disabilities', *Equal Rights Review*, Volume Nine, 2012.

⁷ Csáky, C. (2009) Keeping children out of harmful institutions: why we should be investing in family-based care, *Save the Children*, p. vii

While outcomes for children in institutions are extremely poor, paying for a child to live in an institution is significantly more expensive in most cases than supporting a child to live in a family. Several research studies have shown that supporting children in an institution is, on average, six to ten times more expensive than supporting children in their own families or in alternative family-based care.⁸ Country-level experience has also consistently shown that investing in vulnerable families, inclusive health and education services and family-based alternative care is a better use of public money than investing in institutions.⁹

There are several long-term benefits to society of investing in children compared with investments made later in life.¹⁰ Effective support to families and children helps increase the likelihood that children will develop into healthy and productive members of society. Investing in institutionalised children, or those at risk of being institutionalised, also reduces the long-term financial burden on state and civil society resources, since fewer children will be dependent on social or economic support in adulthood or engage in crime and other behaviours that have a negative impact on public spending.¹¹

3. International and EU policy and legal framework

International legal and policy framework support children's right to living in a family

A number of international policy and legal instruments declare that institutional settings are a breach of human rights. The UN Convention on the Rights of the Child (UNCRC) affirms that as far as possible, all children have a right to live with their families and that parents or other legal guardians have the primary responsibility to protect and care for the child.¹² The UNCRC and the UN Guidelines for the Alternative Care of Children¹³ also call on States to ensure that families have access to services which support them in their caregiving role. The Convention on the Rights of Persons with Disabilities (UNCRPD),¹⁴ states that children with disabilities should enjoy their human rights on an equal basis with other children,¹⁵ that their best interests must be taken into account¹⁶ and that all persons with disabilities have the right to community living.¹⁷

⁸ The annual cost for one child in residential care in the Kagera region of Tanzania was more than USD 1,000, about six times the cost of supporting a child in foster care. See World Bank, *Confronting AIDS: Public priorities in a global epidemic*, Oxford University Press, 1997, p. 221 cited in Williamson and Greenberg (2010). A study in South Africa found residential care to be up to six times more expensive than providing care for children living in vulnerable families, and four times more expensive than foster care or statutory adoption. See Desmond, Chris and Jeff Gow, *The Cost Effectiveness of Six Models of Care for Orphans and Vulnerable Children in South Africa*, University of Natal, Durban, South Africa, 2001. Save the Children UK found residential care to be 10 times more expensive than community-based forms of care. See Diane M. Swales, *Applying the Standards: Improving quality childcare provision in East and Central Africa*, Save the Children UK, 2006, pp. 108-110.

⁹ Williamson, J. and Greenberg, A. (2010), *Families, Not Orphanages*. Better Care Network Working Paper Series. See also Lumos (2018) *Investing in Children – The case for diverting Czech government finances away from institutions* <https://www.wearelumos.org/resources/investing-children-czech-2018/> [accessed 23 Jan 19]

¹⁰ Carneiro, P. M. & Heckman, J.J. (2003). Human capital policy. NBER Working Paper Series, Vol. w9495; Knudsen, E., et al. (2006). Economic, neurobiological, and behavioral perspectives on building America's future workforce. *Proceedings of the National Academy of Sciences*, 103(27). pp. 10155-10162

¹¹ Boothby, N, Balster, R L., Goldman, P, Wessells, M G, Zeanah, C.H., Huebner, G., & Garbarino, J. (2012) Coordinated and Evidence-Based Policy and Practice for Protecting Children outside of Family Care. *Child Abuse and Neglect*, Volume 36, Issue 10 (October 2012), p. 743-751.

¹² United Nations (1989) *Convention on the Rights of the Child* (Adopted 20 November 1989, entered into force 2 September 1990), p.3.

¹³ 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 [accessed 27 Jul 2017].

¹⁴ United Nations (2007), *UN Convention on the Rights of Persons with Disabilities* (Adopted by the UN General Assembly, 24 January 2007, A/RES/61/106).

¹⁵ *Ibid*, Art. 7.1

¹⁶ *Ibid*, Art. 7.2

¹⁷ *Ibid*, Art. 19

The 2030 Agenda for Sustainable Development, to which the EBRD, along with other IFIs and the international community, have collectively expressed their commitment,¹⁸ is built around the principle of *leaving no one behind*.¹⁹ It describes the role of States “to provide children and youth with a nurturing environment for the full realisation of their rights and capabilities... including through safe schools and cohesive communities and families.”²⁰

Ceasing EU funding for institutional care

As it is part-owned by two EU bodies and by the EU Member States, it makes sense that the Bank’s policy is aligned to EU policy and legislation. The EU has already recognised the harm caused by institutions, and in 2013, took a major step towards ending the institutionalisation of children with the introduction of an ex-ante conditionality on social inclusion (9: 9.1.) in the Regulation 1303/2013 on the European Structural and Investment Funds.²¹ The ex-ante conditionality includes measures which effectively prohibit the use of ESIF to maintain, renovate or construct residential institutions. It also encourages Member States to prioritise programmes to support the transition from institutional to family and community-based care.

This commitment to ending the institutionalisation of children inside the EU has been reaffirmed in the Commission’s proposal for a Common Provision Regulation (CPR) and the proposal for an ESF+ Regulation for the next programming period. For example, the proposal for a Common Provisions Regulation (CRP) contains an enabling condition 4.3 which requires the creation of a national strategic framework for poverty reduction and social inclusion that includes “measures for the shift from institutional to community-based care.”²²

4. Lumos’ recommendations for the European Bank of Reconstruction and Development

Recommendation 1: Ensure that the EBRD does not fund institutions for children

Lumos welcomes the EBRD’s recently-updated Environmental and Social Policy (ESP),²³ and the statements that it “will not knowingly finance projects that would contravene national laws or country obligations under relevant international treaties, conventions and agreements” (Section III; paragraph 2.3) and that it is committed to the respect for human rights in the projects it finances (Section III; paragraph 2.4).

It is also very encouraging that the definition of “vulnerable people” under the policy, as set out in Section II, has been strengthened and expanded to include all children, and that the policy clearly sets out the requirement for clients to “identify vulnerable people or groups who may be

¹⁸ Williams, A. (2019) ‘EBRD sets ambitious goals for 2019 as it steps up support for 2030 global development agenda.’ EBRD website article, 17 Jan 2019. <https://www.ebrd.com/news/2019/ebrd-sets-ambitious-goals-for-2019-as-it-steps-up-support-for-2030-global-development-agenda.html> [accessed 25 Jan 2019].

¹⁹ United Nations (2015) General Assembly resolution 70/1, Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1 (25 September 2015) http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E [accessed 18 May 2017]

²⁰ 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 [accessed 18 May 2017]

²¹ European Union (2013) *Regulation (EU) 1303/2013*, Article 9: 9.1

²² European Commission (2018) Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument. 29.5.2018, 2018/0196 (COD), ANNEX IV: Thematic enabling conditions applicable to ERDF, ESF+ and the Cohesion Fund – Article 11(1), p. 28

²³ <https://www.ebrd.com/news/publications/policies/environmental-and-social-policy-esp.html> [accessed 01 Aug 2019]

disproportionately impacted by projects and develop and implement mitigation measures so that vulnerable people are not disproportionately impacted (Section III; paragraph 2.6).”

Lumos also welcomes that the ESP includes an “Environmental and Social Exclusion List” to prevent the Bank from financing activities that could have serious negative social and environmental impacts.

However, at present, the EBRD’s ESP and Environmental and Social Exclusion List leave open the possibility of funding institutions for children. Indeed, investments in the physical buildings of institutions for children, such as providing grants for improvements to energy efficiency and heating systems, have been carried out by the EBRD in the past.²⁴

As outlined above, institutions represent a breach of children’s rights and pose a serious risk for their development, wellbeing and protection. Rather than spending on institutions, which produce poor outcomes both for children and wider society, funders should invest in the transition towards community-based services that can enable children to live in families. The EU has set an example by demonstrating its commitment to supporting the process of transition from institutions to family- and community-based care across its Member States through the Regulation 1303/2013 on the ESIF and the draft Cohesion Policy Regulations 2021-2027.

It is also important that donors and funders **avoid investing in ‘improving’ existing institutions**. Past experience has shown that investments in residential institutions have a detrimental effect on the transition from institutional to family- and community-based care, as they disincentivise the closure of institutions and slow the development of alternative services.²⁵ Such investments are therefore not in line with children’s right to family and community living, as set out in the UNCRC and UNCRPD. The EBRD should adopt measures to ensure that it does not make any investments in residential institutions, including by adding the financing of institutions for children to its Environmental and Social Exclusion List, as well as by taking this issue into account in any relevant guidance documents and strategies.

Lumos recommends that the EBRD should **adapt future versions of its Environmental and Social Exclusion List to exclude the possibility of financing institutions for children.**

We would propose the following addition to the list:

- ***investment in the maintenance, renovation or construction of residential institutions for children for any reason.***

Lumos also recommends that the EBRD develops guidance documents around the specific topics:

- ensuring that **respect for human rights is guaranteed** in the projects it finances;
- ensuring that **vulnerable people are not disproportionately impacted** by projects.

We would suggest that **children in, or at risk of being placed in, institutions**, should be taken into account in these and in any other relevant guidance notes.

²⁴ EBRD website (n.d.) “New heating system for Croatian children’s home” <https://www.ebrd.com/news/2010/new-heating-system-for-croatian-childrens-home.html> [accessed 22 Jan 2019]. This article also mentions that similar grants have previously been made in Ukraine and Russia in previous years.

²⁵ European Coalition for Community Living (2010): A wasted opportunity? p. 28 <https://www.opensocietyfoundations.org/sites/default/files/wasted-opportunity-20100325.pdf> [accessed 11 Jul 2018]

Recommendation 2: Include children in institutions as a target group for the EBRD's inclusion policy

The EBRD has recognised inclusion as a key transition quality, asserting that “if people are given a chance to succeed, they are more likely to participate in the workforce, pursue education, or engage in other activities that lead to economic growth.”²⁶ While the EBRD's Economic Inclusion Strategy is currently primarily focused on women, young labour market entrants and populations in disadvantaged regions, the aim is to gradually expand activities to “other groups such as ageing workforce, people with disability, refugees, or others.”

Children placed in institutions represent one of the world's most left behind groups, and can certainly be counted among the “groups that experience disproportionate barriers to economic opportunity due to circumstances outside of their control.”²⁷ As outlined above, in addition to the significant harm caused to children by institutionalisation, there is also a clear economic case for investing in the transition from institutional to family- and community-based systems of care. Institutions are more expensive to run than family- and community-based forms of support, and deliver worse outcomes. In contrast, children that grow up in families or family-based settings are more likely to develop into healthy and productive members of society.

As such, it would make sense for children in institutions or at risk of institutionalisation to be included as a target group for the EBRD's Economic Inclusion Strategy. This is particularly pertinent given that the “transition countries” at the centre of the Bank's work, countries in Central and Eastern Europe (CEE) and the Commonwealth of Independent States (CIS), have historically been reliant on large- scale institutionalisation, and that many of them are now in the process of reforming these systems.²⁸

Lumos recommends that children in, or at risk of being placed in, institutions, should be included as a target group for the EBRD's Economic Inclusion Strategy.

Recommendation 3: Support the transition from institutions to family- and community-based care

In addition to its Inclusion Strategy, the EBRD is in a position to provide support for the transition from institutional to family- and community-based care within sectors it already invests in, in particular the *Municipal and environmental infrastructure* sector.

Investing in the transition from institutional to family- and community-based care makes economic sense, both in the short term and the long term, and contributes to the development of strong and productive societies. The EBRD is well-placed to support this transition in its countries of operation, where it is already working to support them to transform their economies and governance systems. Investments should be in line with national deinstitutionalisation strategies developed and owned by the States. This could include, for example, infrastructure investment in buildings to ensure that schools are accessible for all children, or the construction or refurbishment of day care, community support or respite care centres that can allow families to receive support in the community and help to prevent institutionalisation.

²⁶ EBRD (2017) *Economic Inclusion Strategy 2017-2021*. Available at <https://www.ebrd.com/what-we-do/projects-and-sectors/economic-inclusion.html> [accessed 23 Jan 2019]

²⁷ EBRD (2017) *Economic Inclusion Strategy 2017-2021*. Op. cit.

²⁸ Mulheir, G. et al. (2012). Op. cit.

Lumos therefore recommends that the EBRD invests in the next generation by **supporting countries to develop family- and community-based services.**

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