



Protecting Children. Providing Solutions.

August 2019

## Lumos' contribution to the Mid-Term Review of the Council of Europe's Strategy for the Rights of the Child: Recommendations for the 2022-2027 Strategy

### 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

An estimated eight million children worldwide live in residential institutions and so-called orphanages that deny their human rights and do not meet their needs.<sup>2</sup> One million of these children are believed to live in the wider European region.<sup>3</sup>

There are numerous definitions of what the term 'institution'<sup>4</sup> means when referring to children. The Common European Guidelines on the Transition from Institutional to Community-based Care define institutions for children "as residential setting that are 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.)".<sup>5</sup> Additional characteristics include an organised routine, impersonal structures and a low care-giver to child ratio.

Over 80 years of research from across the world has demonstrated the significant harm caused to children in institutions who are deprived of loving parental care and who may consequently suffer life-long physical and psychological harm.<sup>6</sup> Children who grow up in institutions can experience

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<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> 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.

<sup>3</sup> Ceecis, U. (2011). End placing children under three years in institutions. UNICEF

<sup>4</sup> 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/>. 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.

<sup>5</sup> European Expert Group on the Transition from Institutional to Community-based Care. (2012). Common European Guidelines on the Transition from Institutional to Community-based Care. <http://www.deinstitutionalisationguide.eu/> [accessed 11 July 2016].

<sup>6</sup> 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]

attachment disorders, cognitive and developmental delays, and a lack of social and life skills leading to multiple disadvantages during adulthood.<sup>7</sup> Long-term effects of living in institutions can include severe developmental delays, disability, irreversible psychological damage, and increased rates of mental health difficulties, involvement in criminal behaviour, and decreased life expectancy.<sup>8</sup>

Research consistently demonstrates that more than 80 per cent of children in institutions are not 'orphans',<sup>9</sup> 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.

### The role of the Council of Europe in promoting deinstitutionalisation of children

The Council of Europe is an important driver of deinstitutionalisation of children across Europe. Lumos welcomes the Council of Europe's efforts to promote the transition from institutional to community-based living through its Council of Ministers Recommendations: CM/Rec(2010)2 on deinstitutionalisation and community living of children with disabilities; Rec(2005)5 on the rights of children living in residential institutions and CM/Rec(2011)12 on children's rights and social services friendly to children and families.

Lumos also welcomes the Council of Europe's focus on the promotion of community living for children with disabilities in The European Social Charter, Council of Europe Disability Strategy (2017-2023) as well as the Council of Europe's Parliamentary Assembly's Resolution 1642 (2009) on Access to rights for people with disabilities and their full and active participation in society.

### Recommendations for the 2022-2027 Strategy for the Rights of the Child

#### 1) Focus on the quality of care provided, not the size of a residential care facility (institution)

It is encouraging that the current Strategy acknowledges the need to "promote the deinstitutionalisation of care of children, in particular of children under the age of three," where "large residential care facilities (institutions) remain." Size is certainly an important factor when developing new services in the community, as smaller and more personalised living arrangements are more likely to ensure opportunities for choice and self-determination of service users.<sup>10</sup> However, the small size of accommodation does not in itself guarantee elimination of institutional culture in the setting. There are a number of other factors, such as the level of choice exercised by the service users, the level and quality of support provided, participation in the community and meaningful involvement in service quality assurance systems, which impact on the quality of the service. Furthermore, any institutional care puts children at an increased risk of violence, abuse and neglect.

Therefore, Lumos recommends that deinstitutionalisation should be promoted for all children in all sizes of institutional settings, without exception.

In addition, in some countries Roma children are disproportionately represented in institutional care.<sup>11</sup> Hence it is important that the article that covers their rights specifically references institutionalisation and the transition from institutional to family- and community-based care.

Our proposals are **bold and highlighted**.

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<sup>7</sup> Nelson, C., Zeanah, C., et al. (2007) "Cognitive recovery in socially deprived young children: The Bucharest early intervention project". *Science* 318 (no.5858); 1937–1940 (21st December 2007)

<sup>8</sup> Mulheir, G. et al. (2012). *Deinstitutionalisation – A Human Rights Priority for Children with Disabilities*.

<sup>9</sup> Csáky, C. (2009) *Keeping children out of harmful institutions: why we should be investing in family-based care*, Save the Children, p. vii

<sup>10</sup> Health Service Executive (2011) *Time to Move on from Congregated Settings: A Strategy for Community Inclusion*, Report of the Working Group on Congregated Settings, p.68.

<sup>11</sup> European Roma Rights Centre (2011) *Life Sentence: Romani Children in Institutional Care*, available at: <http://www.errc.org/cikk.php?cikk=3902> [accessed 10 May 2018]

## 1. POVERTY, INEQUALITY AND EXCLUSION

(13) [...] These include several groups of children, such as children with disabilities, children without parental care, children from minorities including Roma children, children on the move or otherwise affected by migration, children deprived of liberty, children living **in institutions** and/or working on the streets and children of imprisoned parents.

### 1.2 Countering discrimination

(31) [...] Where **large** residential care facilities (institutions) remain **and where institutional culture prevails**, the Council of Europe will promote the deinstitutionalisation of care of **all** children **without exception**. [...]

(34) Action will be undertaken in particular to evaluate the effective implementation of Roma children's rights, to address the issue of early/child marriage, to strengthen access of Roma children, and in particular girls, children with disabilities and children in institutions to inclusive education **and family- and community-based care**, to make full use of trained Roma mediators and assistants under ROMED,<sup>51</sup> as well as to fight stereotypes against Roma children through developing a child-friendly version of the Dosta! Campaign.

## 2) Protect children from violence

Reports from countries across the world demonstrate that children living in institutions are at increased risk of violence, abuse and neglect by staff, officials, volunteers, and visitors responsible for their care. Documented abuse includes torture, beatings, isolation, restraints, sexual assault, harassment and humiliation.<sup>12</sup> Children with disabilities in institutions are at even greater risk of abuse.<sup>13</sup>

Lumos welcomes the Strategy's acknowledgement of the risk of violence against children "in all forms of care" under section 2 (Violence) of the 'Challenges' part. It is important that the concern of increased violence against children in institutions is reflected in the Strategy's Priorities as well.

### 1.2 Countering discrimination

(32) [...] Special attention will be paid to the situation of unaccompanied migrant children and to the link between migration, **institutionalisation** and trafficking of children. The Parliamentary Assembly of the Council of Europe will continue to support the Campaign to End Immigration Detention of Children. [...]

## 3) Protect migrant and refugee children from institutionalisation

<sup>12</sup> United Nations (2006). Violence against Children in Care and Justice Institutions. Chapter 5, p 175. <https://www.unicef.org/violencestudy/5.%20World%20...> [Accessed 2 May 2018].

<sup>13</sup> Milovanovic, et al. (2013). The hidden and forgotten: Segregation and neglect of children and adults with disabilities in Serbia. Mental Disability Rights International, Belgrade. <http://www.mdri-s.org/wp-content/uploads/2013/10/t...> [Accessed 2 May 2018]. See also: Ahern, L. & Rosenthal, E. (2006). Hidden suffering: Romania's segregation and abuse of infants and children with disabilities. Mental Disability Rights International, Washington D.C. <http://www.driadvocacy.org/wp-content/uploads/roma...> [Accessed 2 May 2018].

It is likely that migration and the current refugee crisis will remain high on the Council of Europe's agenda as has been the case in recent years. Children are particularly vulnerable in this crisis, and are at high risk of abuse, trafficking and institutionalisation.

Unaccompanied migrant and refugee children should be treated as children first, with their rights protected by the UNCRC. 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. Children should not be detained for immigration related-purposes, yet, unfortunately, many children are placed in detention facilities on arrival.<sup>14</sup> In addition, research points towards unaccompanied children going missing after having been placed in institutions before they have been registered by authorities, making them easy prey for traffickers.<sup>15</sup>

There is a strong connection between trafficking and institutionalisation of children. Children in institutions are at high risk of becoming victims of violence and 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.

Family- and community-based care has the potential to better meet unaccompanied migrant and refugee children's needs, to help them integrate into the community and help young people settle, thrive and explore life within and beyond the placement.<sup>16</sup> The rights and care standards applied to children in migration should be the same as the response to all European children who live outside families.

Lumos welcomes the fact that the Strategy mentions the Council of Europe's efforts to "strengthen the integration of children of migrants and of immigrant background" as well as the special attention "paid to unaccompanied migrant children and to the link between migration and trafficking of children." Therefore, **Lumos calls on the Council of Europe to ensure that its values of human rights and respect for human dignity are extended to all migrant and refugee children within and at Europe's borders.**

### 3.4. Protecting children from violence in various settings and forms

**(52) The Council of Europe will continue to address the issue of violence in residential institutions, while acknowledging the strong connection between trafficking and institutionalisation of children.**

#### **4) (Outputs) Ensure that all children are included in the data underpinning the Sustainable Development Goals (SDGs)**

A cornerstone principle of the 2030 Agenda is to leave no one behind. To ensure that this principle is implemented, it is important that the European and global monitoring frameworks include mechanisms to assess the most vulnerable and hard to reach populations. There is very limited data about the world's most vulnerable children including those living in institutions, on the street, trafficked or separated from their families as a result of conflict, disaster, forced labour, or disability.

<sup>14</sup> European Union Fundamental Rights Agency (2018) *Migration to the EU: five persistent challenges*. February 2018. <https://fra.europa.eu/en/publication/2018/five-persistent-migration-challenges> [accessed 07 Jan 2019]

<sup>15</sup> Missing Children Europe (n.d.) "Missing unaccompanied migrant children" <http://missingchildreneurope.eu/Missingunaccompaniedchildren> [accessed 27 Jun 2017]

<sup>16</sup> Nidos, SALAR, CHTB, (2015) Reception and Living in Families-Overview of family-based reception for unaccompanied minors in EU Member States. Available at: <http://www.scepnetwork.org/images/21/276.pdf> [accessed 04 Mar 2019]

This kind of invisibility has real life repercussions for millions of children and can effectively hinder the achievement of the Sustainable Development Goals (SDGs). If these children are not included in the data, they are statistically invisible and at serious risk of being left behind. When children are counted, they are more likely to be included in government programs which help to ensure they grow up healthy, safe, and better-prepared to contribute positively to their societies.

Therefore, Lumos calls on the Council of Europe to contribute to securing that children living outside households and/or without family care are represented in disaggregated data. This is critical for 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.

### **Priority area 1: equal opportunities for all children**

#### **OUTPUTS (selection)**

- **Targeted actions towards securing that children living outside households are included in disaggregated data**

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