

## Lumos' position on the European Solidarity Corps programme 2021–2027

### 1. About Lumos

Lumos is an international NGO<sup>1</sup>, 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.

This document contains Lumos' position on the Proposal for a Regulation of the European Parliament and of the Council establishing the European Solidarity Corps programme and repealing [European Solidarity Corps Regulation] and Regulation (EU) No 375/2014 (Procedure 2018/0230(COD)).

### 2. 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 impersonal structures, a low care-giver to child ratio and segregation from society and communities.

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-

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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].

long physical and psychological harm.<sup>6</sup> Children who grow up in institutions can experience 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 suicide.<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.

### 3. International policy and legal framework

A number of international and EU policy and legal instruments declare that institutional settings are a breach of human rights. The United Nations Convention on the Rights of the Child (CRC), ratified by all EU Member States, 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.<sup>10</sup> The CRC and the UN Guidelines for the Alternative Care of Children<sup>11</sup> 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),<sup>12</sup> to which 27 Member States and the EU itself are signatories, states that children with disabilities should enjoy their human rights on an equal basis with other children (Art. 7.1), that their best interests must be taken into account (Art. 7.2) and that all persons with disabilities have the right to community living (Art. 19).

In addition, the recently updated "EU Guidelines for the Promotion and Protection of the Rights of the Child (2017)" highlight the importance of appropriate alternative care for children that allows them to participate in community life, of preventing family and child separation,<sup>13</sup> and of taking into consideration the child's best interests.<sup>14</sup> They further recommend the need for greater coherence in the EU's external action on children, including that carried out by Member States.<sup>15</sup>

### 4. Ceasing EU funding for institutional care

In 2013, the European Union 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.<sup>16</sup> The ex-ante conditionality includes measures which effectively prohibit the use of ESIF to maintain, renovate or construct residential institutions. It

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<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]

<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 (21<sup>st</sup> 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> 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>11</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>12</sup> 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).

<sup>13</sup> European Union (2017), *Guidelines on the Promotion and Protection of the Rights of the Child* p.19.

[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) [accessed 06 Mar 2018]

<sup>14</sup> *Ibid*, p. 21

<sup>15</sup> *Ibid*, e.g. p. 13

<sup>16</sup> Regulation (EU) 1303/2013, Article 9: 9.1

also encourages Member States to prioritise programmes to support the transition from institutional to family and community-based care.

The commitment to end 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."<sup>17</sup>

## 5. The harm of orphanage volunteering

Depriving children of a family and placing them in institutions is always a violation of their human rights and a harmful practice that makes children vulnerable to violence, abuse, neglect and exploitation with potentially devastating consequences. The proliferation of institutions for children, often called "orphanages," in a number of countries has been fuelled in part by a growing trend in recent decades of volunteering in, and donating to, institutions. Indeed, this practice has become so popular – and such a lucrative industry – that institutions are sometimes established simply to provide a volunteering 'experience'.<sup>18</sup> This practice is harmful for children on a number of levels.

Children need continuity of sensitive care. The constant turnover of volunteers, offering affection and care for a short period of time, means that children only receive pockets of affection, without consistent and stable support. This harms their ability to form secure attachments, essential to healthy development.<sup>19</sup> Often volunteers will not understand that an institution is harmful for children. Children in residential institutions may often show a great deal of affection to international volunteers, sometimes running and hugging them on arrival. These displays of indiscriminate affection are often interpreted as evidence of the positive impact of volunteering. However, the fact that children relate like this to strangers is a sign that they are not able to develop healthy relationships.<sup>20</sup>

In many countries, institutions may not undertake background checks on volunteers, nor do they have strong child protection systems in place to prevent, recognise and respond to abuse. As a result, some child sex abusers have used residential institutions to gain access to vulnerable children.<sup>21</sup> Even well-intentioned volunteers rarely have the specific skills, experience or qualifications needed to work with vulnerable children: many speak of having witnessed abuse of children without having been taught

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<sup>17</sup> 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

<sup>18</sup> Punaks, M & Feit, K (2014) *The Paradox of Orphanage Volunteering: Combatting Child Trafficking Through Ethical Voluntourism*, Next Generation Nepal. See also 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/Modern\\_Slavery/Submissions](http://www.aph.gov.au/sitecore/content/Home/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/Modern_Slavery/Submissions)

<sup>19</sup> Better Care Network (2016) *Orphanage Volunteering – Why to say no*. <http://bettercarenetwork.org/sites/default/files/Orphanage%20Volunteering%20-%20Why%20to%20say%20no.pdf> [accessed 5 July 2017]. See also 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 17]

<sup>20</sup> Lumos (2016) *Orphanage Entrepreneurs: The Trafficking of Haiti's Invisible Children*. op. cit. pp 17 – 25

<sup>21</sup> Van Doore, K, Martin, F & McKeon, A (2016) *Expert Paper: International Volunteering and Child Sexual Abuse*, Better Care Network; Better Volunteering Better Care (2014) *Collected Viewpoints on International Volunteering in Residential Care Centres*

how to respond, or of having been asked to provide medical care for children, without having received appropriate training.<sup>22</sup>

Finally, the large sums of money associated with volunteering and the demand for volunteer placements in “orphanages” have driven a demand for more institutions, and a subsequent trend of trafficking of children into institutions, unnecessarily removing children from their families and placing them in situations of potential harm, abuse and exploitation.<sup>23</sup> This is increasingly being recognised as a form of child trafficking and modern slavery.<sup>24</sup>

## 6. Lumos’ response to the Proposal for a Regulation establishing the European Solidarity Corps programme 2021-2027

Lumos welcomes the recently-established European Solidarity Corps and its objectives to strengthen the engagement of young people in solidarity activities while helping to reinforce cohesion, solidarity and democracy in Europe and abroad, and address concrete societal and humanitarian challenges.<sup>25</sup>

The activities to which the young people will contribute through the European Solidarity Corps should be carefully selected, appropriate and in line with the programme’s own stated objectives, such as achieving societal benefit and improving social inclusion. They should also be in line with EU values and legislation and with international and EU standards and obligations governing human rights, volunteerism and humanitarian and development actions.

The first consideration of any volunteering activity should be that it must be to the benefit of society, and as a minimum should not endanger the volunteers or the recipients of their services.<sup>26</sup> Furthermore, any action that is undertaken in the sphere of humanitarian aid and development cooperation must, as a minimum, comply with the “do no harm principle,” meaning that “environmental and other longer-term considerations must be taken into account from the outset even in short-term emergency interventions.”<sup>27</sup>

Activities relating to children must also comply with Article 24 of the EU Charter of Fundamental Rights, which states that “Children shall have the right to such protection and care as is necessary for their well-being,” and that “In all actions relating to children... the child's best interests must be a primary consideration.”<sup>28</sup>

The proposed Regulation establishing the European Solidarity Corps programme 2021-2027 provides an ideal opportunity to ensure that the initiative enables volunteers to engage in meaningful solidarity

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<sup>22</sup> Lumos (2016) *Orphanage Entrepreneurs: The Trafficking of Haiti’s Invisible Children*. op. cit. pp 17 – 25

<sup>23</sup> Punaks, M & Feit, K (2014) *The Paradox of Orphanage Volunteering* op. cit. See also Lumos (2016) *Orphanage Entrepreneurs: The Trafficking of Haiti’s Invisible Children*, op. cit.

<sup>24</sup> Australian Government (2018) *Press release: Modern Slavery Bill passes House of Representatives*. 17.09.2018.

<https://minister.homeaffairs.gov.au/lindareynolds/Pages/modern-slavery-bill-passes-house-of-representatives.aspx> [accessed 03 October 2018]. See also U. S. Department of State (2017) *Trafficking in Persons Report 2018*. pp. 22-24 <https://www.state.gov/documents/organization/282798.pdf> [accessed 03 October 2018].

<sup>25</sup> European Commission (2018) *Proposal for a Regulation of the European Parliament and of the Council establishing the European Solidarity Corps programme and repealing [European Solidarity Corps Regulation] and Regulation (EU) No 375/2014 (Procedure 2018/0230(COD))*, p. 2

<sup>26</sup> This is reflected in the Council Recommendation on the mobility of young volunteers across the European Union, which encourages organisers “to cooperate in providing assurances about the protection of young volunteers and service recipients.” European Union (2008) *Council recommendation of 20 November 2008 on the mobility of young volunteers across the European Union*. Rec B(8). [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008H1213\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008H1213(01)&from=EN) [accessed 30 Jan 2018]

<sup>27</sup> European Union (2008) *The European Consensus on Humanitarian Aid*. Paragraph 42

<sup>28</sup> European Union (2012). *Charter of Fundamental Rights of the European Union*, 26 October 2012, 2012/C 326/02

experiences, while also making sure that the activities undertaken are beneficial to society and do not inadvertently cause harm to volunteers or the intended beneficiaries of their services.

### **Recommendation 1: Ensure volunteers are not placed in institutions for children**

As outlined above, institutions represent a clear breach of children's rights, pose a serious risk for their development, wellbeing and protection and result in their social segregation from communities. The EU has recognised the harm caused by institutions and has demonstrated its commitment to facilitating the process of transition from institutions to family- and community-based care across the EU through the Regulation 1303/2013 on the ESIF. The European Commission has also reaffirmed this commitment in its proposals for Regulations for the next programming period. In order for the EU to be coherent in its policy and action, the same principle should be applied to all existing and future programmes, tools and initiatives.

The European Solidarity Corps provides an opportunity for raising awareness among young people about human rights, social inclusion and how to best achieve them in practice. However, encouraging young people to volunteer in institutions would effectively validate the harmful practice of institutionalisation and normalise it in the eyes of the volunteers. They may even go on to provide institutional services for children themselves, or financially support them. Our experience indicates that volunteers often continue fundraising and providing financial support for institutions after they have left – support which, while offered with the best of intentions, is misguided as it contributes to the financial incentive keeping children in institutions.

Furthermore, the negative long-term impacts of volunteering in institutions for children, outlined above, mean that this activity clearly does not comply with the “do no harm” principle.

**As such, placements in orphanages and other residential institutions for children should be explicitly ruled out from the European Solidarity Corps.**

### **Recommendation 2: Ensure that child protection is guaranteed**

Whilst there is no universal, internationally adopted legal definition of child protection, it is generally accepted that it encompasses protecting children who are at risk of harm, abuse, neglect, exploitation and violence. Placing volunteers in any setting where they work directly or indirectly with children (even when not institutions) raises potential child protection issues which need to be considered and prevented well in advance of the placement.

Volunteers must not have direct contact with children unless they have completed adequate child protection training and vetting procedures, and should never have direct contact with children unless they have relevant qualifications and skills. This is particularly important for volunteers working with children with disabilities, who require an even more specialised skill set, so must have received appropriate training and certification before undertaking such placements. Any organisation offering placements with children must have the appropriate safeguarding policies and procedures in place to protect children and volunteers during the placement. Volunteer placements also require on-going supervision, to ensure that child protection policies are being effectively implemented.

The above measures are essential for the initiative to be in line with Article 24 of the European Charter of Fundamental Rights: in all actions concerning children, their best interests must come first and they must be protected from harm.<sup>29</sup> They also reflect the norms and standards that already exist in many EU Member States relating to child protection.

Lumos welcomes the provisions in Staff Working Document 319 that outline child protection and safeguarding measures to be taken for the European Solidarity Corps: that “participation for individuals in any activities where the individual will have direct contact with children... will be subject, where appropriate, to background checks with a view to ensure child safeguarding,”<sup>30</sup> and the plan to provide online child safeguarding and child protection training for volunteers.<sup>31</sup>

**Lumos recommends that background checks, child safeguarding and child protection training should be obligatory for all participants that will have direct contact with children.** The proviso “where appropriate” relating to background checks should also be removed: when working with children, background checks are always appropriate and necessary.

### **Recommendation 3: Ensuring the scheme is accessible to young people leaving institutions**

Many young people leaving institutions and alternative care have not had the same educational and social opportunities as those that have grown up in families or family-like settings. They also lack the continued family support that other young people benefit from after they have reached the age of eighteen. Furthermore, many of them may have disabilities and may therefore require additional support to have the same access to volunteering opportunities. With the right support, these young people can make a valuable contribution to the European Solidarity Corps.

In its opinion on the European Solidarity Corps, the European Economic and Social Committee (EESC) stresses the need to “facilitate access to the programme for those with health and social disadvantages (including young people leaving children's homes).”<sup>32</sup>

Lumos welcomes the commitments made in the proposal for a Regulation to put in place “special measures... to promote social inclusion [and] the participation of disadvantaged young people” (Recital 28).

**It is essential that young people leaving alternative care, especially those leaving institutions, are included in this group and provided with extra support** so that they have equitable access to the scheme.

### **Contact**

Caroline Rose

EU Advocacy Support Officer

e-mail: [caroline.rose@wearelumos.org](mailto:caroline.rose@wearelumos.org)

mob.: +32 497 41 90 98

<http://wearelumos.org/>

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<sup>29</sup> European Union (2012). *Charter of Fundamental Rights*. Op. cit.

<sup>30</sup> European Commission (2018) *COMMISSION STAFF WORKING DOCUMENT CONCEPT NOTE - MAIN ACTIONS IMPLEMENTING THE EUROPEAN SOLIDARITY CORPS* (SWD/2018/0319)

<sup>31</sup> *ibid*

<sup>32</sup> European Economic and Social Committee (2017) *Opinion*. Op. Cit. Paragraph 3.8