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October 2020

## Joint recommendations for the European Child Guarantee

### 1. Introduction

In the EU, 1 out of 4 children are at risk of poverty or social exclusion<sup>1</sup>. When children do not have access to adequate resources, services and support, they start their life at a significant disadvantage and are at risk of ending up in a cycle of poverty and of being left behind.

Moreover, the COVID-19 pandemic and its socio-economic consequences are having a dramatic impact on vulnerable children as well as on their families and communities. Responses to the pandemic are compounding structural weaknesses in child protection and welfare systems and testing the capacity of vulnerable families to care for their children.<sup>2</sup> Ultimately the number of children at risk of separation from their families, in need of additional support, or in alternative care is likely to increase.

We are therefore in support of the European Commission's intention to adopt a European Child Guarantee in 2021, which should help ensure that every child at risk of poverty or social exclusion has access to the "most basic of rights like health care and education".<sup>3</sup> In doing so, a European Child Guarantee is indispensable to implement the European Pillar of Social Rights (in particular Principle 11), the upcoming comprehensive EU Strategy on the Rights of the Child, and the UN's Sustainable Development Goals.

Children in vulnerable situations and disadvantaged groups such as children in institutional care, children in migration, children with disabilities or Roma children are at particularly high risk of social exclusion.<sup>4</sup> Poverty is also a significant underlying factor that causes children to end up in residential institutions.<sup>5</sup> Research has repeatedly demonstrated that children who

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<sup>1</sup> European Commission (2020), A Strong Social Europe For Just Transitions, COM(2020) 14 final, p. 12, [https://ec.europa.eu/commission/presscorner/detail/en/fs\\_20\\_49](https://ec.europa.eu/commission/presscorner/detail/en/fs_20_49).

<sup>2</sup> See: Covid-19: Call to action to protect vulnerable families and children in alternative care across Europe, [https://lumos.contentfiles.net/media/documents/document/2020/08/Covid-19\\_European\\_CTA\\_v7.pdf](https://lumos.contentfiles.net/media/documents/document/2020/08/Covid-19_European_CTA_v7.pdf).

<sup>3</sup> Ursula von der Leyen (2019), A Union that strives for more. My Agenda for Europe, p. 10, [https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf).

<sup>4</sup> Lerch, Véronique and Nordenmark Severinsson, Anna (2019). "Target Group Discussion Paper on Children in Alternative Care", Feasibility Study for a Child Guarantee (FSCG), Brussels: European Commission.

<https://ec.europa.eu/social/BlobServlet?docId=22049&langId=en> [accessed 18 September 2020]

<sup>5</sup> Williamson, J., and Greenberg, A. (2010), Families, not orphanages, Better Care Network working paper, p. 8.



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grow up in institutions, deprived of loving parental care, can suffer life-long physical and psychological negative effects.<sup>6</sup>

This paper highlights the link between poverty and social exclusion and the institutionalisation of children. It presents recommendations on how the European Child Guarantee can be most beneficial to the most vulnerable and disadvantaged children.

## 2. The link between poverty, social inclusion and institutionalisation of children

Poverty and social exclusion are some of the most prominent driving factors behind the placement of children in institutional care.<sup>7</sup> Families with less financial means can struggle to provide basic necessities for their children such as food and housing and in some countries may struggle to access to education, health care and other services. In these circumstances, some families feel they have no other choice but to place their child(ren) in an institution.

Children belonging to groups that face social exclusion are often at increased risk of poverty, as well as of being placed in an institutional care. An example of this are children who belong to the Roma community. Research has found that these children are dramatically overrepresented in residential institutions in a number of Member States, which stems from the interplay of structural poverty and discrimination the Roma community faces.<sup>8</sup> In addition, unaccompanied migrant and refugee children face a similar situation, and are overrepresented in institutional care provision in many Member States.<sup>9</sup>

Poverty is not only interlinked with social exclusion, it is also interrelated with other types of vulnerabilities and disadvantages, which might lead to greater risk of family separation. For example, children with disabilities and their families may need support to access services and/or require additional types of support, they are already more likely to live in poverty than their peers<sup>10</sup>, and are overrepresented in residential care.<sup>11</sup>

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

<sup>8</sup> Life Sentence: Romani Children in Institutional Care, a Report by the European Roma Rights Centre, Bulgarian Helsinki Committee, Milan Šimečka Foundation and Osservazione, June 2011, p. 67, [http://www.errc.org/uploads/upload\\_en/file/life-sentence-20-june-2011.pdf](http://www.errc.org/uploads/upload_en/file/life-sentence-20-june-2011.pdf) [accessed 19/02/2020]

<sup>9</sup> Lumos, with contributions from UNHCR, UNICEF and IOM (2020), Rethinking Care: Improving Support for Unaccompanied Migrant, Asylum-seeking and Refugee Children in the European Union, [https://lumos.contentfiles.net/media/documents/document/2020/08/UMRC\\_Report\\_2020\\_v3\\_NEW\\_BRAND\\_WEB.pdf](https://lumos.contentfiles.net/media/documents/document/2020/08/UMRC_Report_2020_v3_NEW_BRAND_WEB.pdf).

<sup>10</sup> UNICEF. (2005). Children and disability in transition in CEE/CIS and Baltic states.

<sup>11</sup> UN Secretary-General. (2019). Status of the Convention on the Rights of the Child. New York, USA: United Nations, p13/17.

<https://reliefweb.int/sites/reliefweb.int/files/resources/Status%20of%20the%20Convention%20on%20the%20Rights%20of>



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Furthermore, as explained by the European Commission itself,<sup>12</sup> children in institutions belong to the group of children identified as being particularly likely to have limited access to services, such as day care/community centres, health care services or schools providing inclusive education. When children end up in institutional care because of a lack of access to services, it can lead to a downward spiral of systemic exclusion.

Many young people leaving institutions continue to face significant challenges. Globally, they have been identified as one of the most vulnerable and socially excluded groups<sup>13</sup>. Often, state support abruptly stops at the age of 18, which results in poor outcomes for youth leaving care, who still require the safety net of ongoing financial, social and emotional support and nurturing traditionally offered by families of origin at this time.<sup>14</sup> It is therefore of utmost importance that the European Child Guarantee takes all vulnerable children and young people into account and contributes to giving the right political and financial priority to building the capacity of vulnerable families to care for and protect their own children.

Finally, the extraordinary situation imposed by the COVID-19 crisis should be taken into account while drafting the European Child Guarantee and enhancing family resilience should be one of its guiding principles.

### 3. Recommendations for the European Child Guarantee

Following the EU's acknowledgement of the harm caused by institutionalisation and its commitment to supporting the shift from institutional to family- and community-based care, as well as the support expressed by the European Commission's President Ursula von der Leyen<sup>15</sup> to break the cycle of child poverty and social exclusion, we propose the following recommendations for a Council Recommendation on the European Child Guarantee:

- **Encourage Member States to identify children in institutional care or at risk of family separation as a priority target group for their Child Guarantee National Action Plans.**

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[%20the%20Child%20-%20Report%20of%20the%20Secretary-General%20%28A-74-231%29%20%5BEN%5D.pdf](#) [accessed 3 Aug 2020].

<sup>12</sup> European Commission (2020), Roadmap on a Council Recommendation for a Child Guarantee, Roadmap - Ares(2020)4318536, <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12565-European-Child-Guarantee->.

<sup>13</sup> Tanur, C. (2012) 'Project Lungisela: Supporting Young People Leaving State Care in South Africa'. *Child Care in Practice* 18(4): 325-340

<sup>14</sup> Mendes, P., & Moslehuddin, B. (2006). From dependence to Interdependence: Towards better outcomes for young people leaving state care. *Child Abuse Review*, 15, 110-126.

<sup>15</sup> [A Union that strives for more My agenda for Europe: POLITICAL GUIDELINES FOR THE NEXT EUROPEAN COMMISSION 2019-2024](#)



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We support the intention to have Member States identify the children in need concerned by the Child Guarantee Recommendation in their National Action Plans. Given the risks children in institutions face, and the link between poverty and social exclusion and institutionalisation, the European Child Guarantee should recommend including children in institutions and children at risk of family separation as specific target groups. Other vulnerable groups of children, such as children with disabilities, children in migration or Roma children should also specifically be identified and prioritised in the National Action Plans.

- **Request Member States to identify measures and actions for children in institutions and, where applicable, their families, based on a thorough needs analysis of the children concerned and an assessment of the available services in the country<sup>16</sup>.** This should include both an infrastructure mapping (e.g. childcare, institutional care, family- and community-based care, social housing, etc) and human capital mapping (e.g. number and structure of workforce in institutional care, numbers and structure of workforce in family-based and community-based services, capacity of deinstitutionalisation coordination structures, relevant networks and organisations, etc). The analysis must look beyond the numbers of people residing in institutions and also address the factors that drove separation, the state of current services in the community, the behaviour change that is needed to tackle resistance, the capacity of Member States and civil society to plan, manage and achieve the transition to community-based living, and crucially, the ability to secure sustainable funding.<sup>17</sup> The measures and actions addressing the needs of children in institutions should focus on transitioning children out of institutions, reintegrating them in their families when this is in their best interest or supporting placement into family- and community-based care, and not on perpetrating institutional care.
- **Support Member States in the development of long-term strategies to support the transition from institutional to family- and community-based care,** ensuring they include measures to prevent institutionalisation and family separation.

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<sup>16</sup> European Expert Group on the Transition from Institutional to Community-Based Care with Hope and Homes for Children (2019) [Checklist to ensure EU-funded measures contribute to independent living by developing and ensuring access to family-based and community-based services](#)

<sup>17</sup> Neil Crowther, Gerard Quinn & Alexandra Hillen-Moore (2017), *Opening up communities, closing down institutions: Harnessing the European Structural and Investment Funds*, Community Living for Europe: Structural Funds Watch, p. 9. [https://eustructuralfundswatchdotcom.files.wordpress.com/2017/11/cle-sfw\\_opening-up-communities-november-2017\\_final.pdf](https://eustructuralfundswatchdotcom.files.wordpress.com/2017/11/cle-sfw_opening-up-communities-november-2017_final.pdf) [accessed 29 September 2020].



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- **Set minimum targets for the EU in universal access to services.** In order to benefit all children, the European Child Guarantee should contribute to the provision of all essential services for children and set minimum universal targets for the access to these services. These services should include access to healthcare, inclusive education, early childhood education and care, continuous learning and vocational training, housing, nutrition and childcare. There should be a particular focus on reducing social and territorial inequalities, such as segregated and deprived areas, and on ensuring equal access to non-segregated, quality and affordable services for vulnerable children.
- **Encourage Member States to collect data on vulnerable children.** In order to help all the vulnerable children in need, it is important to have a good overview of all the children at risk of poverty and social exclusion and their needs. The Feasibility Study of the first phase of the Preparatory Action for a Child Guarantee has identified poor implementation and enforcement of existing child-related provisions at Member State level, which was partly due to a lack of data and monitoring of the children concerned. The European Child Guarantee should therefore contain a recommendation to Member States to collect data on vulnerable children, including on children in institutions, children in migration, and other groups of harder-to-reach children. When collecting data, they should use standardised indicators which would allow an analysis across Member States and ensuring that the data is sufficiently disaggregated with respect to age, gender, migration status, etc.
- **Encourage Member States to develop their Child Guarantee National Action Plans in coordination with other broader national/regional strategies that cover and impact the transition from institutions to community-based care.** This should include the thematic and horizontal enabling conditions requirements for the EU Funds (European Regional Development Fund, European Social Fund Plus) namely: the Strategic Policy Frameworks for Social Inclusion and Poverty Reduction, the Strategy Policy Framework for Health and the National Roma Integration Strategy, as well as measures for the effective application and implementation of the EU Charter of Fundamental Rights and the UN Convention on the Rights of Persons with Disabilities.
- **Encourage Member States to allocate a sufficient budget to match the ambitious goals of the Child Guarantee National Action Plans.** To reach the goal of providing all vulnerable children at risk of poverty or social inclusion with access to adequate services, the European Child Guarantee needs to be adequately financed by allocating both national and EU funds.



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- **Ensure the Council Recommendation on the European Child Guarantee has a clear implementation plan which can be monitored.** Another concerning outcome from the Feasibility Study is that Member States so far have not always been able to properly implement and monitor existing child-related provisions. To ensure that the Child Guarantee is successful, proper implementation and monitoring are key. Therefore, in their National Action Plans, Member States should identify their priorities, set targets, and present actions they will take to implement the Council Recommendation, as well as how different actions will be financed. A robust monitoring mechanism with clear success indicators, measuring the outcomes for children and their families, should be linked to the European Semester process, the European Pillar of Social Rights and the social scoreboard poverty indicator.
- **Ensure that the views and opinions of children and young people, including those living in institutions or who have lived in institutions (care leavers) are included in the design of the European Child Guarantee and the National Action Plans.** Moreover, we recommend developing a sustainable mechanism to ensure the participation of children at all stages of the implementation of the Child Guarantee and at all levels, facilitating the active participation of the most marginalised and vulnerable groups of children. Therefore, a mechanism should be introduced that will secure children's and young people's meaningful involvement with the Strategy's monitoring and evaluation.
- **Ensure that each Member State nominates a contact point** in the relevant line to coordinate the planning, implementation and monitoring of the European Child Guarantee.



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#### 4. Background

##### **Institutionalisation of children**

Millions of children worldwide live in residential institutions and so-called orphanages that deny their human rights and cannot meet their needs.<sup>18</sup> One million of these children are believed to live in the wider European region.<sup>19</sup>

There are numerous definitions of what the term ‘institution’<sup>20</sup> means when referring to children’s residential care. A group of experts working on this issue for the European Commission determined that an institution is any residential setting where an ‘institutional culture’ prevails. Children living in an ‘institutional culture’ are isolated from the broader community and are compelled to live with children to whom they are not related. These children, and their families, do not have control over their lives, or decisions that affect them. Crucially, the requirements of the organisation tend to take precedence over the children’s individual needs.<sup>21</sup>

Over 80 years of research from across the world has demonstrated the different types of harm caused by institutionalisation to children who, deprived of loving parental care, can suffer life-long physical and psychological negative effects.<sup>22</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>23</sup> Long-term effects of living in institutions can include disability, irreversible psychological damage, increased rates of mental health difficulties, involvement in criminal behaviour, and suicide.<sup>24</sup> Research

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<sup>18</sup> International Save the Children Alliance (2003). *A Last Resort: The Growing Concern About Children in Residential Care*. London, Save the Children UK. Cited in: Pinheiro, P. (2006). *World Report on Violence Against Children*. New York: UNICEF, p. 183.

<sup>19</sup> Ceecis, U. (2011). *Ending placing children under three years in institutions*. UNICEF

<sup>20</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>21</sup> European Commission. (2009). *Report of the Ad Hoc Expert Group on the Transition from Institutional to Community-based Care*.

<sup>22</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>23</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>24</sup> Mulheir, G. et al. (2012). *Deinstitutionalisation – A Human Rights Priority for Children with Disabilities*.





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consistently demonstrates that on average more than 80 per cent of children in institutions are not 'orphans',<sup>25</sup> but are placed there due to reasons such as poverty, disability, discrimination, a lack of family support services in the community and as a result of migration and trafficking.<sup>26</sup>

### International and EU 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 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>27</sup> The CRC and the UN Guidelines for the Alternative Care of Children<sup>28</sup> also call on States to ensure that families have access to services which support them in their caregiving role.

In addition, the updated “EU Guidelines for the Promotion and Protection of the Rights of the Child (2017)”<sup>29</sup> highlight the importance of appropriate alternative care for children that allows them to participate in community life, of preventing family and child separation, and of taking into consideration the child’s best interests.<sup>30</sup>

Over the years the EU has **embedded its commitment to promoting deinstitutionalisation within EU law, policy, and its use of funds**. In 2010, the EU ratified the UN Convention on the Rights of Persons with Disability (UNCRPD). In doing so, the EU and Member States have committed to ensuring that everyone, including children with disabilities, are given the right to live independently and be included in the community (article 19 and 23 UNCRPD, UNCRPD General Comment 5). The EU also introduced the **ex-ante conditionality on social inclusion 9.1. in the European Structural and Investment Funds Regulations in the 2014-2020 programming period, with a dedicated investment priority on the transition from institutional to community-based care**.<sup>31</sup> This commitment has been further reaffirmed with

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<sup>25</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>26</sup> Ibidem; Chiwaula, L. et al. (2014). Drumming together for change: A child’s right to quality care in Sub-Saharan Africa. The Centre for Excellence for looked after children in Scotland (CELCIS).

<sup>27</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>28</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>29</sup> European Union (2017), Guidelines on the Promotion and Protection of the Rights of the Child, p. 19 [accessed 06 Mar 2018].

<sup>30</sup> Ibid, p. 21.

<sup>31</sup> [Common Provisions Regulation, Regulation \(EU\) No 1303/2013](#)





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the introduction of enabling conditions in the draft Common Provisions Regulations (CPR) for the 2021-2027 programming period,<sup>32</sup> and by identifying deinstitutionalisation among the priorities for investments in Cohesion Policy Funding 2021–2027 in the 2019 country reports (annex D).<sup>33</sup> Moreover, in 2018, the European Commission showed high political commitment for deinstitutionalisation globally, by proposing a Regulation establishing the Neighbourhood, Development and International Cooperation Instrument (NDICI) that prioritises the promotion of the transition from institutional to community-based care for children, both within its geographic and thematic programmes.<sup>34</sup> This proposal is supported by the European Parliament and the Council.<sup>35</sup>

Finally, the European Parliament “Resolution on children rights in occasion of the 30th anniversary of the Convention on the Rights of the Child”<sup>36</sup> (November 2019) calls on the Commission “**to use EU funds to support the transition from institutional to community-based services, both inside and outside the EU**”.<sup>37</sup>

Despite this strong track record, the **EU has not yet explicitly recognised the harm of institutional care** nor articulated its commitment towards the transition from institutions to family- and community-based care for children into a comprehensive policy framework, applicable to both EU internal and external action as the institutionalisation of children is a breach of human rights across all countries in Europe and in the world, not only limited to some Eastern and Central European countries like it is often wrongly perceived.

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<sup>32</sup> [Proposal for a Common Provisions Regulation, COM/2018/375 final](#), Article 11

<sup>33</sup> European Commission (2019) [2019 European Semester: Country Reports](#)

<sup>34</sup> [Proposal for a regulation on the Neighbourhood, Development and International Cooperation Instrument, COM \(2018\) 460 final](#), Annex II and III

<sup>35</sup> [European Parliament Resolution on the proposal for a regulation on the Neighbourhood, Development and International Cooperation Instrument, T8-0298/2019](#), Amendment 337 and 481; [Council Partial mandate for negotiations 10305/19](#), Annex II and III

<sup>36</sup> (2019/2876(RSP)) [https://www.europarl.europa.eu/doceo/document/TA-9-2019-0066\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/TA-9-2019-0066_EN.pdf).

<sup>37</sup> [P9\\_TA\(2019\)0066](#), para 43.