



November 2021

## Lumos' recommendations to the French Presidency of the Council of the EU: Support children to live in families globally

### Introduction: The need to transform models of care in the EU and globally

Millions of children in Europe and worldwide live in institutions – including so-called “orphanages,” residential special schools and reception centres – that undermine their human rights and cannot meet their needs.<sup>1</sup>

There are numerous definitions of what the term ‘institution’ means when referring to children. The Common European Guidelines on the Transition from Institutional to Community-based Care define institutions as 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. Crucially, the requirements of the organisation tend to take precedence over the children’s individual needs.<sup>2</sup>

Over 80 years of research from across the world has demonstrated that institutional care can harm children’s wellbeing and development.<sup>3</sup> Some of the greatest effects of institutionalisation on children are delayed physical growth (height and weight for age) and delayed brain and cognitive development.<sup>4</sup> Children growing up in institutions can also experience socioemotional development delays and mental health problems.<sup>5</sup>

On average more than 80 per cent of children living in institutions are not 'orphans',<sup>6</sup> but have living parents, who may be able to care for them with the right support. Children are placed in institutions due to reasons such as **poverty, disability, discrimination, a lack of family support services in the community** and as a result of **trafficking**<sup>7</sup> or **migration**.<sup>8</sup> Although institutionalisation of children is sometimes perceived as a problem that is mainly prevalent in Eastern Europe, research found that all EU Member States, with the exception of Sweden, still use larger institutional settings for children.<sup>9</sup>

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<sup>1</sup> Desmond, C., Watt, K., Saha, A., et al. (2020). Prevalence and number of children living in institutional care: global, regional, and country estimates. *The Lancet Child & Adolescent Health*. 4(5): 370-377. [https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642\(20\)30022-5/fulltext](https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642(20)30022-5/fulltext) [accessed 23 Jul 2021].

<sup>2</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*, <https://deinstitutionalisationdotcom.files.wordpress.com/2017/07/guidelines-final-english.pdf> [accessed 14 October 2020].

<sup>3</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>4</sup> Marinus H van Ijzendoorn, Bakermans-Kranenburg, J., et al. *op. cit.*

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*; 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>8</sup> Interagency Working Group on Unaccompanied and Separated Children (2017) Field Handbook on Unaccompanied and Separated Children. <https://reliefweb.int/report/world/field-handbook-unaccompanied-and-separated-children> [accessed 11 April 2019]

<sup>9</sup> Jan Šiška and Julie Beadle-Brown (2020). Report on the transition from institutional care to community-based services in 27 EU Member States. <https://deinstitutionalisationdotcom.files.wordpress.com/2020/05/eeg-di-report-2020-1.pdf> [accessed 26 October 2021].

By transitioning from institutional to family- and community-based models of care, children can live with their families, or in family-based care in the community and have better outcomes.

The COVID-19 pandemic amplified the challenges that vulnerable children and families already faced prior to the crisis – from poverty and unemployment to lack of access to health, education and social services. Millions of families were pushed to the brink of poverty.<sup>10</sup> The crisis has exposed the weaknesses in social protection and welfare systems around the world, and showed the need to reform care systems in the long run. It is now thus more important than ever to support families and prevent family separation, and create family-based alternatives for children who cannot live with their parents.

### The role of the French Presidency in promoting child care reform

As the first of a new trio of presidencies, France can play an important role in setting the tone of the common agenda by prioritising children’s rights. France is well placed to do so, given its strong social welfare system, and its efforts to maintain families together.<sup>11</sup> Therefore Lumos calls on the French Presidency to make a full use of the momentum created by the new Multiannual Financial Framework, and the recently launched Child Rights Strategy and Child Guarantee for further advancing children’s rights and welfare internationally.

The new EU funding instruments (2021-2027) have the potential for the EU to become a global leader in driving care reform. Strong references to the transition from institutional to family- and community-based care and child protection have been included in the funding regulations (e.g. in the Cohesion Policy Funds 2021-2027 and in the Neighbourhood, Development and International Cooperation Instrument) as well as in the EU Human Rights and Democracy Action Plan 2020-2024, the Disability Rights Strategy 2021-2030 and the Child Rights Strategy. It is now crucial that the policy is translated into actions.

Below Lumos proposes a set of recommendations for how this can be done in a number of areas for securing better lives for children internationally.

#### **Recommendation 1: Ensure the full implementation of the enabling condition 4.3 of the Common Provisions Regulation 2021-2027**

The Common Provisions Regulation 2021-2027 contains an enabling condition 4.3 that requires a national strategic framework for poverty reduction and social inclusion, including “measures for the shift from institutional to community-based care”. **This means that the Cohesion policy funds should not be used for activities that may lead to social exclusion or segregation, including investments for the refurbishing, building, renovation, or extension of residential institutions for children.** Instead, the funding should be repurposed to build a new childcare and child protection system and the retraining of staff.

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<sup>10</sup> UNICEF (2020). Impact of COVID-19 on multidimensional child poverty. <https://data.unicef.org/resources/impact-of-covid-19-on-multidimensional-child-poverty/> [accessed 11 August 2021].

<sup>11</sup> Lisa Merkel-Holguin, John D. Fluke and Richard D. Krugman (2019). National Systems of Child Protection. <https://doi.org/10.1007/978-3-319-93348-1>, pp. 75-92.

In the last Multi-Annual Financial Framework 2014-2021, a similar requirement was in place (ex-ante conditionality 9.1 in the Common Provisions Regulation), but nonetheless some misuse of funds has been detected.<sup>12</sup> **A monitoring mechanism to ensure that funds are being effectively used for the implementation of the measures necessary for the transition, and not directed to institutions, should therefore be established.** Furthermore, as key partners, **civil society organisations must be involved and consulted throughout the whole process.** Exchange of best practices should be facilitated, and CSO capacity increased in order to perform their watchdog role and contribute with knowledge and expertise to the process of child protection and care reform. National progress in care reform and in the shift to community-based care should be monitored following specific criteria that take into consideration factors such as adequate funding and the creation of sufficient community-based services.

**Lumos calls on the French EU Presidency to:**

- Support effective monitoring and ensure the full implementation of the enabling condition 4.3 of the Common Provisions Regulation 2021-2027 which also requires the inclusion of “measures for the shift from institutional to community-based care”;
- Encourage Member States to develop comprehensive national deinstitutionalisation strategies, in line with the enabling condition 4.3. The strategies should focus on preventing unnecessary family separation, facilitating family reunification, ensuring the closure of institutions, and developing family- and community-based care and services, including specialised services for children with disabilities and their families;
- Remind the obligation to involve civil society organisations throughout the programming cycle, and call on Member States to support strengthening of the CSO capacity to contribute with knowledge and expertise to the process of child protection and care reform.

**Recommendation 2: Ensure the delivery of commitments towards care reform in the EU’s external action**

In order to ensure a consistent promotion of its values and a coherent approach towards the rights of the child, the EU must become a world leader in ensuring that children’s rights are protected and promoted also in partner countries. In this regard, an important step has been taken by including the transition from institutions to community-based care for children in the Regulation establishing the Neighbourhood, Development and International Cooperation Instrument (NDICI), as an area of cooperation both for the geographic instruments<sup>13</sup> and the thematic programmes.<sup>14</sup> It is the first time ever that care reform is promoted in the EU’s external funding instruments.

**The inclusion of the shift towards family- and community-based care in the priorities of the EU Action Plan on Human rights and Democracy 2020-24 represents another concrete base for**

<sup>12</sup> Neil Crowther, Gerard Quinn and Alexandra Hillen-Moore (2017). Opening up communities, closing down institutions: Harnessing the European Structural and Investment Funds. [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 26 October 2021].

<sup>13</sup> European Commission (2018) Proposal for a Regulation COM (2018) 375 final of the European Parliament and the Council of 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>14</sup> European Commission (2018) Annexes to the Proposal for a Regulation COM (2018) 460 final of the European Parliament and of the Council of 14.6.2018, p. 12.

**enhanced action towards child care systems reform globally.** The EU's intention to invest in the development of quality care and the transition to family- and community-based care globally is also reiterated in the Child Rights Strategy. Now, it is time that these commitments are translated into action.

**Lumos calls on the French EU Presidency to:**

- Ensure that the commitments made towards child care reform globally, through instruments such as the NDICI, will be implemented through the promotion of national care reform plans, and enhanced child and social protection systems. Member States should be encouraged to assist partner countries in building and strengthening child protection systems;
- Increase awareness on how the EU's external funds can be used to advance the transition from institutional to community-based care for children in third countries, including by actions in interconnected areas such as inclusive education and fight against trafficking of children. This could be done, for example, by organising exchanges of best practices involving Member States and EU Delegations.
- Promote the elaboration of a set of Guidelines on the transition from institutional to family- and community-based care to be used in the EU's external action, and which can be used by EU officials in the EU delegations.

**Recommendation 3: Ensure the effective implementation of the Child Rights Strategy and Support a Council Recommendation on a European Child Guarantee**

2021 has been an important year for children's rights. The European Commission launched the first EU Strategy on the Rights of the Child, and the European Council adopted a Council Recommendation establishing a European Child Guarantee. In doing so, the European Union and its Member States place children's rights high on the political agenda, and in particular the rights of vulnerable children such as children in institutional care, alternative care and at risk of family separation. It is now of utmost importance to ensure the effective and correct implementation of both the internal and external dimension of the Child Rights Strategy and its deliverables.

Almost 25 million children live in poverty or social exclusion across the European Union.<sup>15</sup> Poverty is also a significant underlying factor that causes children to end up in institutions across the world.<sup>16</sup> Many parents struggle to provide food, housing, medicine, and access to education for their children, and are led to believe that placing children in institutions is an appropriate decision that will provide them with a better future. A Child Guarantee that grants all vulnerable children access to services, and that has a strong monitoring and implementation framework, can make a great difference for children that are currently being left behind, and is fundamental for delivering on the Child Rights Strategy. **The Child Guarantee National Action Plans will be indispensable in making sure the Child Guarantee is implementable.** While drafting the plans, Member States should pay special attention to the

<sup>15</sup> European Agency for Fundamental Rights (2018) *Combating child poverty: an issue of fundamental rights*. p.3 [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-combating-child-poverty\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-combating-child-poverty_en.pdf) [accessed 13 April 2021]

<sup>16</sup> Williamson, J., and Greenberg, A. (2010). *Families, not orphanages, Better Care Network working paper*. p. 8.

vulnerable groups of children as mentioned in the Council Recommendation.<sup>17</sup> Children belonging to these groups should also be involved in the design, implementation, monitoring and evaluation of the plans. In this regard, Lumos is pleased about the intention of the French Presidency to organise a ministerial event on the Child Guarantee in March 2022.

#### **Lumos calls on the French EU Presidency to:**

- Raise awareness about the importance of delivering on the Child Rights Strategy and encourage Member States to follow the Commission’s advice to “promote national strategies and programmes to speed up the de-institutionalisation and the transition towards quality family- and community-based care services” (p. 12);
- Ensure that the Council of the EU formally expresses strong and clear commitment to the EU Strategy on the Rights of the Child, through council conclusions or presidency conclusions;
- Encourage Member States to draft ambitious Child Guarantee National Action Plans based on a thorough needs analysis of the children concerned and an assessment of the available services in the country;
- Ensure that the ministerial event on the Child Guarantee involves both children (including those belonging to the vulnerable groups as described in the Council Recommendation, such as children living in institutions and care leavers) and civil society organisations working with vulnerable children. They should be granted the civic space to influence the discussions on how the Child Guarantee can best deliver on all vulnerable children.

#### **Recommendation 4: Invest in and enhance quality, inclusive education and early childhood intervention strategies**

Based on Lumos’ research and experience in more than 50 countries, **lack of access to education in the community is one of the main drivers of the institutionalisation of children around the world.**

Children with disabilities or special educational needs are at high risk of being denied access to mainstream schools in their community. As a consequence, children can be separated from their families and placed in residential special schools in order to receive education, which tend to be far from home and have poor conditions.<sup>18</sup>

The development of inclusive education therefore represents a key pillar of the care reform process, both in terms of policies and practices. **An inclusive education system focuses on quality education for all, adapting to the needs of individuals and ensuring that education providers support students of all abilities to achieve the best outcomes and participate fully.** In doing so, inclusive education is one of the main vehicles towards social inclusion.<sup>19</sup> Early childhood education and early intervention

<sup>17</sup> Children in alternative (especially institutional) care, homeless children or children experiencing severe housing deprivation, children with a disability, children with a migrant background; children with a minority racial or ethnic background (particularly Roma), and children in precarious family situations.

<sup>18</sup> Georgette Mulheir. (2012). Deinstitutionalisation – A Human Rights Priority for Children with Disabilities, The Equal Rights Review, vol IX, pp. 117-137. [https://www.equalrightstrust.org/ertdocumentbank/err9\\_mulheir.pdf](https://www.equalrightstrust.org/ertdocumentbank/err9_mulheir.pdf) [accessed 19 August 2020]. p. 130; Council of Europe. (2017). Fighting school segregation in Europe through inclusive education. [rm.coe.int/fighting-school-segregation-in-europe-through-inclusive-education-a-positi/168073fb65](https://rm.coe.int/fighting-school-segregation-in-europe-through-inclusive-education-a-positi/168073fb65) [accessed 25 June 2020].

<sup>19</sup> Committee on the Rights of Persons with Disabilities, General comment No. 4 (2016)

Article 24: Right to inclusive education [https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CRPD\\_General\\_Comment\\_4\\_Inclusive\\_Education\\_2016\\_En.pdf](https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CRPD_General_Comment_4_Inclusive_Education_2016_En.pdf) [accessed 9 August 2020].

is equally important to achieve inclusion, especially for the most disadvantaged children.<sup>20</sup> Where care reform and inclusive education are being planned together, as numbers of children in institutions reduce, savings from residential institutions can be transferred to fund community-based services, such as inclusive schools.<sup>21</sup>

The COVID-19 pandemic has imposed extra barriers on accessing education for some vulnerable children. **Some groups of children have been affected particularly hard**, such as children with disabilities or special educational needs, children at risk of poverty, and children in residential institutions.<sup>22</sup> Many residential facilities were not prepared for home schooling, as they did not have access to computers and/or internet, and social workers who are staying with children were not trained to assist them with their schooling demands. Children in families of origin or in family-based care also faced learning difficulties during school closures. Not all households have the needed technological equipment in place to follow online courses. Moreover, not all parents and carers have the right tools and skills at their disposal to facilitate home schooling. This proved especially difficult for children with disabilities and children with special educational needs, who in some cases need adapted learning methods and materials.

**Lumos calls on the French EU Presidency to:**

- Support initiatives aimed at promoting and investing in inclusive education, taking into consideration the new challenges brought by COVID-19 and distance learning, which particularly affect the most vulnerable children. Member States should be encouraged to develop and promote new strategies and actions for the inclusion of students with special educational needs;
- Recognise and promote the need for early childhood intervention strategies and early childhood inclusive education as these can be effective measures to prevent institutionalisation and combat inequalities that may begin at birth.
- Include inclusive education as a topic during the ministerial meeting on the Child Guarantee, and emphasise the importance of inclusive education to avoid social exclusion.

**Recommendation 5: Protect migrant and refugee children from institutionalisation and ensure that they receive the same level of care as national children**

Children on the move are particularly vulnerable to abuse, trafficking, and institutionalisation.<sup>23</sup> The EU recognises the harms of institutionalisation, and the European Commission encourages Member States to place “unaccompanied children in family-based care, such as foster care, and according to

<sup>20</sup> UNESCO (2009). Policy Guidelines on Inclusion in Education, p. 12, <https://unesdoc.unesco.org/ark:/48223/pf0000177849> [accessed 6 August 2020].

<sup>21</sup> For an example of a successful programme of planning and implementing deinstitutionalisation and inclusive education together, please see: [https://lumos.contentfiles.net/media/documents/document/2017/03/Ending\\_Institutionalisation\\_of\\_Children.pdf](https://lumos.contentfiles.net/media/documents/document/2017/03/Ending_Institutionalisation_of_Children.pdf), pp. 4-8.

<sup>22</sup> Eurochild (2020). Growing up in Lockdown: Europe’s children in the age of COVID-19. <https://eurochild.org/uploads/2020/12/2020-Eurochild-Semester-Report.pdf>[accessed 6 September 2021]

<sup>23</sup> Missing Children Europe (n.d.) *Missing Children in Migration*. [missingchildreneurope.eu/missingchildrenmigration](https://missingchildreneurope.eu/missingchildrenmigration) [accessed 14 October 2020].

the child's individual needs".<sup>24</sup> Nonetheless, Lumos' research conducted in partnership with UNICEF, UNHCR and IOM, which assessed the forms of care provided to unaccompanied migrant, asylum-seeking and refugee children in six EU Member States found that there is an over-reliance on institutional care provision for unaccompanied minors.<sup>25</sup>

**Family- and community-based care has the potential to better protect unaccompanied migrant and refugee children and to meet their needs**, to help them integrate in the community and to help young people settle, thrive and explore life within and beyond the placement.<sup>26</sup> Responses to children in migration should be integrated into national child protection systems, and provided in line with the UN Guidelines on Alternative Care. **The rights and care standards applied to unaccompanied and separated children in migration should be the same as those applied to all European children deprived of parental care.**

**Lumos calls on the French EU Presidency to:**

- Raise awareness that unaccompanied migrant and refugee children should be protected first and foremost as children, and that the same care standards should apply to them as to national children;
- Ensure that future EU internal and external funds directed towards unaccompanied migrant, asylum-seeking, refugee children are spent on the provision of family- and community-based care and not on institutional settings;
- Support measures addressing the situation of unaccompanied migrant and refugee children in the EU, making sure that their rights, including the right to family unity (i.e. family reunification), the right to education and the right to representation and participation, are safeguarded. They should be provided with the same access to alternative family and community-based care arrangements as national children, by integrating their care into national child protection systems.

**Recommendation 6: Ensure that the EU discourages volunteering placements in institutions for children**

Evidence gathered over recent years shows that the practice of volunteering in institutions for short-term placements 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 can harm their ability to form secure attachments, essential to healthy development.<sup>27</sup> Institutions may not undertake background checks on volunteers, nor have strong child protection systems in place to

<sup>24</sup> European Commission (2018). Toolkit on the Use of EU Funds for the Integration of People with a Migrant Background. [https://ec.europa.eu/regional\\_policy/en/information/publications/guides/2018/toolkit-on-the-use-of-eu-funds-for-the-integration-of-people-with-a-migrant-background](https://ec.europa.eu/regional_policy/en/information/publications/guides/2018/toolkit-on-the-use-of-eu-funds-for-the-integration-of-people-with-a-migrant-background) [accessed 28 October 2021].

<sup>25</sup> Lumos (2020) *Rethinking Care: Improving Support for Unaccompanied Migrant, Asylum Seeking and Refugee in the European Union*. [www.wearelumos.org/resources/rethinking-care/](http://www.wearelumos.org/resources/rethinking-care/) [accessed 09 April 2020]

<sup>26</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 4 March 2019]

<sup>27</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*. [https://lumos.contentfiles.net/media/documents/document/2017/12/Haiti\\_Trafficking\\_Report\\_ENG\\_WEB\\_NOV16.pdf](https://lumos.contentfiles.net/media/documents/document/2017/12/Haiti_Trafficking_Report_ENG_WEB_NOV16.pdf) [accessed 13 April 2021].

prevent, recognise and respond to abuse. As a result, some child sex abusers have used residential institutions to gain access to vulnerable children.<sup>28</sup> Even well-intentioned volunteers rarely have the specific skills, experience or qualifications needed to work with vulnerable children.<sup>29</sup> In addition, the large sums of money associated with volunteering and the demand for volunteer placements in “orphanages” also sustain a system of trafficking children into institutions for financial gain (see Recommendation 7), unnecessarily removing them from their families and placing them in situations of potential harm, abuse and exploitation.<sup>30</sup>

The European Solidarity Corps 2021-2027 does not explicitly rule out volunteering placements in institutions. However, facilitating volunteering in institutions would be in strong contradiction with the EU’s commitment to care reform in its internal and external funding regulations, as well as with the EU’s Child Rights Strategy. Moreover, for an organisation to obtain the necessary quality label to take part in the European Solidarity Corps programme, the organisation’s aims must be in line with the European Solidarity Corps principles. One of its principles is that “the solidarity activities offered to young participants help to address concrete societal challenges and needs-based humanitarian aid operations, and help to strengthen communities”, which is not the case for volunteering in an institution. The French Presidency can play a role in raising awareness that volunteering in institutions does not strengthen communities and can even be harmful to children and should therefore not be facilitated by the EU through the European Solidarity Corps 2021-2027. It is also crucial to ensure that, in any placements where volunteers will be working with children, the appropriate safeguarding policies and procedures are in place.

**Lumos calls on the French EU Presidency to:**

- Ensure that during the implementation phase of the European Solidarity Corps 2021-2027, placements of participants in orphanages or other residential institutions for children are not permitted, and that child protection and safeguarding measures are put in place for all placements involving children;
- Raise awareness of the harms and the risks linked to volunteering in institutions for children.

**Recommendation 7: Raise awareness about institution-related trafficking**

Research and evidence have identified the linkages between trafficking and institutions for children – also referred to as “institution-related trafficking”. There are four key ways that this is realised<sup>31</sup>:

- Children are recruited and trafficked into institutions, solely for the purpose of financial profit (“orphanage trafficking”<sup>32</sup>), and other forms of exploitation;

<sup>28</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*.

<sup>29</sup> Lumos, Orphanage Entrepreneurs. *op. cit.* pp 17 – 25.

<sup>30</sup> Punaks, M & Feit, K (2014). *The Paradox of Orphanage Volunteering*. <https://nextgenerationnepal.org/wp-content/uploads/2017/08/The-Paradox-of-Orphanage-Volunteering.pdf> [accessed 13 April 2021]; Lumos, Orphanage Entrepreneurs, *op. cit.*

<sup>31</sup> Lumos (2020) *Cracks in the system – Child trafficking in the context of institutional care in Europe*. [https://lumos.contentfiles.net/media/documents/document/2020/06/Lumos\\_Cracks\\_in\\_the\\_system\\_Report\\_Web\\_v1Alrpq.pdf](https://lumos.contentfiles.net/media/documents/document/2020/06/Lumos_Cracks_in_the_system_Report_Web_v1Alrpq.pdf) [accessed 13 July 2020]

<sup>32</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade (2017). *Hidden in Plain Sight An inquiry into establishing a Modern Slavery Act in Australia*. Parliament of the Commonwealth of Australia; Lumos, Orphanage Entrepreneurs, *op. cit.*



- Children are trafficked from orphanages/institutions into other forms of exploitation;
- Child trafficking victims and unaccompanied children are often placed in institutions for “protection” reasons, which can put them at risk of trafficking and re-trafficking;
- Care-leavers are more vulnerable to exploitation and trafficking.

In recent years, the phenomenon of ‘orphanage trafficking’ has become more widely recognised. Orphanage trafficking is generally defined as the trafficking of children from vulnerable families into residential institutions for the purpose of financial exploitation. In some cases, children are actively ‘recruited’ into orphanages, often using (false) promises of education and food.<sup>33</sup> Once inside, children can be further exploited, whether sexually or by being forced into labour such as begging on the streets and dancing for tourists to earn money, or through illegal adoption. Some ‘orphanages’ are profit-making ventures and exist to attract the lucrative international flows of volunteers, donations and other funding.

Furthermore, children in institutions are at high risk of becoming victims of onward trafficking. Aware of the extreme vulnerabilities of children living in institutions, human traffickers across Europe are known to approach potential victims directly inside or in the close vicinity of the institution, often capitalising on their wish to run away, often for the purpose of sexual exploitation.<sup>34</sup> Some conditioning tactics include the cultivation of romantic relationships with institutionalised children or the provision of financial support.<sup>35</sup> For example, children and young adults who ran away from local orphanages and penal institutes in Romania and Albania have ended up as victims of sexual exploitation in Italy and Greece.<sup>36</sup>

**Lumos calls on the French EU Presidency to:**

- Recognise the risk of trafficking for children that are in institutional care, and to ensure that this issue remains high on the agenda of discussions to combat trafficking of human beings;
- Push for improved collaboration and information-sharing between child protection actors, law enforcement and the courts across EU Member States for children deprived of parental care, particularly for child victims of cross-border trafficking, unaccompanied children and those children found in need of protection in an EU Member State other than their own.

**Recommendation 8: Ensure that all children are counted in the data underpinning policy**

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. The most recent global study estimates that around 5.4 million children live in institutions worldwide. However, one of the study’s principal findings was the uncertainty

<sup>33</sup> Doore, K.E.V. (2016). Paper orphans: Exploring child trafficking for the purposes of orphanages. *The International Journal of Children’s Rights*. Volume 24, Issue 2.

<sup>34</sup> Lumos (2020). op. cit.; Call for evidence submission from the Council of Europe - GRETA. (2019). France.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid, p. 19.

regarding the number of children living in institutions in many countries, and the pressing need for improving data collection systems to ensure these children are not left behind.<sup>37</sup>

**This kind of invisibility has real life repercussions for millions of children. If children are not included in the data, they are statistically invisible and at serious risk of being left behind.** Data disaggregation by care-giving setting/living arrangement is key to tracking progress for all children. This is critical to a) analyse how trends differ between children living outside households and/or without family care and the general child population; and b) ensure that programmes and policies prioritise the most vulnerable children. To monitor governments' effectiveness in delivering on children's rights, 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 French EU Presidency to:**

- Lead the European Union in making sure that children living outside households and/or without family care are represented in disaggregated data;
- Support the improvement of data collection methodologies internationally to ensure all children are represented. At EU level, it is crucial that Eurostat includes an indicator on children temporarily or permanently living outside households and families.

## Background

### International and EU policy and legal framework supporting the transition from institutional to family- and community-based care

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 (UNCRC)**, 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 (Art. 18). The **Convention on the Rights of Persons with Disabilities (UNCRPD)** and the **UN Guidelines for the Alternative Care of Children**<sup>38</sup> also call on States to ensure that families have access to services which support them in their caregiving role.

Furthermore, the **UN Resolution on the Rights of the Child**, adopted in December 2019 and co-drafted by the EU, expresses a concern that millions of children continue to grow up deprived of parental care, states that family- and community-based care should be promoted over placement in institutions and urges States to take effective action to provide support to families and to *prevent the unnecessary separation of children from their parents, including through investment in social protection services and social services* (para 34).

The EU has recognised the harm caused by institutionalisation by introducing an ex-ante conditionality on social inclusion in the **European Structural and Investment Funds (ESIF) Regulations in the 2014-**

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<sup>37</sup> Desmond. C., et al. *op. cit.*

<sup>38</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].

**2020 programming period** with a dedicated investment priority on the transition from institutional to community-based care. By doing this, the EU has played a leading role in supporting vulnerable children and driving the transition from institutional to family- and community-based systems of care in a number of countries across Europe. This commitment has been further reaffirmed with the introduction of enabling condition 4.3. in the **Cohesion Policy Regulations for the 2021-2027** programming period. Moreover, the European Union showed high political commitment for care reform globally by introducing a reference to the transition from institutional to community-based care for children **in the Neighbourhood, Development and International Cooperation Instrument (NDICI)**.<sup>39</sup>

In addition, the 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>40</sup> and of taking into consideration the child's best interests.<sup>41</sup> The **EU Action Plan on Human Rights and Democracy 2020-2024** prioritises the development of quality alternative care and the transition from institution-based to quality family-and community-based care for children without parental care.<sup>42</sup> Furthermore, the recently adopted **EU Strategy on the Rights of the Child** states that all children, including those with disabilities and from disadvantaged groups, have an equal right to live with their families and in a community, and stresses that the shift to quality community- and family-based care, and support for ageing out of care, need to be ensured.<sup>43</sup>

### **About Lumos**

Lumos is fighting for every child's right to a family by transforming care systems around the world. We are an international charity striving for a future where every child is raised in a safe, loving home, supported by family to help them thrive.

Lumos sheds light on the root causes of family separation – poverty, conflict and discrimination – and demonstrates that children can safely be united with families. By pressing governments to reform care systems, and by building global expertise and capacity with partners, we ensure no child is forgotten.

Founded by author J.K. Rowling, we are lighting a path to a brighter future where all children can grow up in a safe and loving family.

Lumos is a founding member of the European Expert Group on the Transition from Institutional to Community Based Care (EEG), sits on the EU Civil Society Platform against trafficking in human beings, is a member of the Child Rights Action Group (CRAG) and of the EU Alliance for Investing in Children.

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<sup>39</sup> [Proposal for a regulation on the Neighbourhood, Development and International Cooperation Instrument, COM\(2018\) 460 final](#), Annex II and III.

<sup>40</sup> European Union, Guidelines on the Promotion and Protection of the Rights of the Child. *op. cit*

<sup>41</sup> *Ibid*, p. 21

<sup>42</sup> Annex to the joint communication to the European Parliament and the Council. EU Action Plan on Human Rights and Democracy 2020-2024. JOIN(2020) 5 final, p. 3.

<sup>43</sup> European Commission (2021), EU Strategy on the Rights of the Child, COM(2021) 142 final, [https://ec.europa.eu/info/sites/info/files/1\\_en\\_act\\_part1\\_v7\\_0.pdf](https://ec.europa.eu/info/sites/info/files/1_en_act_part1_v7_0.pdf) [accessed 29 March 2021].

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