

## **Hope and Homes for Children's recommendations to the Spanish Presidency of the Council of the EU**

Hope and Homes for Children is a leading child-rights NGO which advocates for the end of **the harmful practice of institutionalisation of children**, and the transition from institutional to family and community-based care systems across the globe.

To turn the tide on child institutionalisation, we advocate for sustained investment in family and community-based care systems, and an end to the insidious funding of institutional care facilities. Present in Bulgaria, Romania, Moldova, Ukraine, Rwanda, South Africa, India and Nepal, we support vulnerable families in these countries and prevent the separation of children from them in the first place and provide quality services to children in alternative care.

Currently, the most vulnerable children and families, in Europe and beyond, are facing critical hardships due to consecutive and overlapping societal crises. These pressures weaken families' resilience, and their ability to remain and thrive together. The upcoming Spanish Presidency is a crucial opportunity to spark a European social shift to support and protect those who need it most, and set an example with the ambitious national commitments, made by the Spanish Government, to social justice and protection. Strong of decades of advocacy and programmatic intervention to keep families together, Hope and Homes for Children addresses below our recommendations to the Government of Spain for an upcoming Presidency of the Council of the EU supporting families, not institutions.

### **Background: The harm of child institutionalisation**

An estimated 5.4 million children in the world, and 345 000 in the EU, still live in institutions across the world. This reality is intolerable, and preventable: the majority of these children are not 'orphans'; approximately 80% have at least one living parent.

Whilst numerous definitions exist of what an 'institution' for children is, Hope and Homes for Children considers an institution **any residential setting where children and young people are subjected to an 'institutional culture'**, characterised by features such as depersonalisation, rigidity of routine, lack of individual support or personal treatment, residents' lack of control over their lives and over decisions affecting them, and lack of prioritisation of their individualised needs.

Institutions are life-threatening. They compromise children's development and well-being, exacerbate inequalities, and increase challenges throughout life. Children growing up in institutions tend to demonstrate delay in their emotional development, have poor cognitive performance and lower than average IQs. In addition, children in these settings face higher risks of abuse or neglect.

Children belong to a family environment and institutionalisation constitutes a deprivation of liberty and a violation of children's rights, with long-lasting negative consequences on children's

development and well-being. Global human rights frameworks categorically recognise the harm of institutions, and **over 100 years of research from across the world demonstrate the significant harm caused to children living in institutions**, as they are deprived of stable, continuous and loving parental care and may consequently suffer life-long harm.

In many countries, institutional care systems are an insidious industry, where private interests build orphanages as a money-making initiative, that is often further supported by misguided good intentioned international humanitarian donors, and even strengthened by foreign volunteers, a practice referred to as ‘voluntourism’. The evidence is however clear: transitioning from institutional to family-based care systems is **a human rights imperative**.

A system where children, when unable to grow up in their own families, end up in institutions, is by definition broken, and in need of reform. Transitioning to a family- and community-based care system necessitates care reform, the comprehensive transformation of a country’s care system for children so that it better meets the needs of children and families. The reform needs to be undertaken **in parallel with the strengthening of interlinked policy areas, such as social protection, education, health care, the justice system, equality anti-discrimination policies, migration**

### **The EU’s crucial leadership in achieving care reform**

The EU is a global leader in the area of child care reform. Within its borders, the EU has committed to deinstitutionalisation since 2013, through the adoption of the **ESIF Regulations 2014-2020**, introducing the ex-ante conditionality on social inclusion 9.1, which contained measures on the transition from institutional to community-based care. This was followed by the enabling condition 4.3 in the **Common Provision Regulation (CPR) 2021-2027** that requires Member States to develop a national strategic framework for poverty reduction and social inclusion, including “measures for the shift from institutional to community-based care”.

In EU external action, the **Neighbourhood, Development and International Cooperation Instrument (NDICI)** seeks to support, in its geographic and thematic programming, *‘the promotion of the transition from institutional to community-based care for children, as well as the promotion of new initiatives to build stronger child protection systems in third countries, (...) including by promoting the transition from institutional to community-based care for children’*. The **Instrument for Pre-Accession Assistance (IPA III)**, which provides technical and financial assistance for reform in view of accession to the EU to candidate countries, also lists the transition to family and community-based care as an area of cooperation and assistance.

The EU’s commitment to child care reform has, finally, been enshrined in key EU policy instruments, including the **EU Strategy on the Rights of the Child (2021-2024)**, the **new Strategy on the Rights of Persons with Disabilities (2021-2030)** and the **EU Action Plan on Human Rights and Democracy (2020-2024)**.

## The case for a Spanish Presidency championing children's right to live in a family

The priorities set by the programme of the previous Trio Presidency included a wide range of initiatives with positive impact on the EU's role in promoting deinstitutionalisation around the world, such as the specific attention given to the new Strategy on the Rights of Persons with Disabilities and the EU Action Plan on Human Rights and Democracy, and the focus on ensuring equal opportunities for every child.

The upcoming Presidency Trio including the Spanish, Belgian and Hungarian Presidencies, will continue being faced with a number of challenges of unprecedented magnitude: the war in Ukraine, tackling the sharp rise in energy prices and gas dependency, food insecurity, climate change, the rising cost of living and the long-standing impact of the COVID-19 pandemic.

**These current crises will impose major strains on the most vulnerable children and families, and communities' abilities to support them. It is imperative for the States to ensure that families at risk of breakdown and children deprived of family care are supported in line with their individual circumstances and needs. To rise up to these challenges, we call on the Spanish Presidency to set a strong and ambitious tone to the Trio's mandate, by putting the rights of the most vulnerable children and families at the heart of its agenda.**

In line with and support of the implementation of:

- The recent guarantees towards child protection enshrined in EU policy frameworks and initiatives, such as: The Strategy on the Rights of the child, The Strategy on the Rights of Persons with Disabilities, The European Child Guarantee, The Youth Action Plan;
- EU funding instruments, including: NDICI, IPA III, The European Social Fund Plus, The European Regional Development Fund;
- The Sustainable Development Goals (SDGs), including: SDG 3 (Good Health and Well-Being), SDG 4 (Quality Education), SDG 5 (Gender Equality), SDG 10 (Reduced Inequalities), SDG 11 (Sustainable cities and communities), SDG 13 (Climate Action) and SDG 16 (Peace, Justice and Strong Institutions)

Hope and Homes for Children outlines below our recommendations for a successful child protection-oriented Spanish Presidency of the Council of the EU.

### Recommendations

**Recommendation 1: Lead, in a context of overlapping crises, EU Member States in ensuring the protection of the most vulnerable children, their families, and communities. In particular:**

- **Combat poverty, social exclusion, and discrimination of vulnerable children, families and communities to ensure the prevention of family separation, and strive to provide all children with the same level of protection, care, and access to the quality services they need.**

In 2021, 24.4% children in the EU were at risk of poverty or social exclusion, amounting to 1 every 4 children. Poverty and social exclusion are leading factors in the separation of children from their families. To break the cycle of inequality and revert these unacceptable figures, the EU adopted in 2021 its **Child Guarantee**. The Guarantee is intended to support the development and implementation within Member States of National Action Plans outlining measures to eradicate child poverty and guarantee that all children in the EU, regardless of their circumstances, enjoy access to the most basic services.

The Guarantee recognises that inequality is compounded by various factors and that certain categories of children must be particularly considered in the measures to support children, families, and communities. **A successful, ambitious, and comprehensive Child Guarantee National Action Plan must therefore embed an intersectional approach**, and cater to the specific, and at times overlapping, needs of homeless children or children experiencing severe housing deprivation, children with disabilities; children with a migrant background, children with a minority racial or ethnic background (particularly Roma); children in alternative (especially institutional) care; and children in precarious family situations.

Achieving that all children in Europe have access to basic services such as health care, housing, food, education, early childhood intervention, is a matter of urgency.

As of February 2023, however, with months of delay from the initial March 2022 deadline, eight EU Member States had yet to publish and kick-off the implementation of their Action Plans. Many civil society organisations report that among countries that have published their Plans, several have done so without the meaningful participation of civil society.

- ✦ In line with the precedent set by the previous EU Presidency Trio, **we call on the Spanish Presidency to encourage Member States' commitment to the implementation of the Child Guarantee at national level.** A high-level conference dedicated to the Child Guarantee, organised jointly with civil society and with meaningful participation of children, would foster dialogue, raise awareness, and become a platform for best practices exchanges between Member States. The conference should particularly seek to address concrete measures related to supporting children from the vulnerable target groups identified in the Child Guarantee, including children in alternative (especially institutional) care.
- **Support measures aiming at family strengthening and prevention of family separation within the most vulnerable communities and the development of family and community-based care services for those children deprived of family care within EU Member States.**

Among the estimated close to 900 000 children in alternative care in the EU, 340 000 are thought to currently live in institutions. Due to critical lack of quality disaggregated data among Member States, the exact number and circumstances of children in alternative care is impossible

to ascertain, the exact division between children in family and community-based, residential, and institutional care is unknown, and the number of children living in institutional care is expected to be higher. The completion of the transition from institutional to family- and community-based care systems within EU Member States necessitate **reforming, strengthening and supporting the child protection and care systems at national level**. The reform of the care system should aim to ensure the prevention of unnecessary family separation through the development of family- and community-based alternative care services. In all cases, the best interest of the child and interconnectedness of child protection adjacent services must prevail.

At EU level, legislative and policy proposals related to social protection, inclusive education, gender equality, health and care, rights of persons with disabilities, fight against housing and energy poverty, anti-trafficking, anti-discrimination, fight against violence in any form, migration policies, have huge potential in ensuring vulnerable children, families and communities receive support to prevent their separation. **They should address the linkages to institutionalisation of children and include measures on transitioning from institutional to family and community-based care.**

To strengthen vulnerable children, families and communities equates to strengthening the European project. Funding mechanisms aiming to combat poverty, fight inequality and social exclusion, should be used for investing in services for children and vulnerable communities, as they are crucial in ensuring that no EU child is left behind and ends up in the institutional care.

- ✦ We call on the Spanish Presidency **to lead, coordinate and support the adoption by the Council of child protection-related legislative and policy proposals** throughout its mandate and cement the commitment of EU Member States by steering the adoption of Council Conclusions supporting relevant policies, such as the upcoming European Commission initiative on Integrated Child Protection Systems. Any such proposal should address the harm institutionalisation causes to children and include measures on the shift from institutional to family and community-based care.

**Recommendation 2: Uphold the rights of the child, including of children in institutions, and child protection as a priority in relevant external action developments throughout the Presidency.**

The EU can be a formidable champion to realise the rights of more than 2 billion children across the globe including children from institutions. It has already committed, in the Global Dimension of the EU Strategy on the Rights of the Child, to: *‘Support actions to invest in the development of quality alternative care and the transition from institution-based to quality family and community-based care for children without parental care and children with disabilities’* and

*‘Support to partner countries in building and strengthening child-friendly justice and child protection systems.*

Through diplomatic, development and cooperation, trade and humanitarian efforts, the EU is a driving force that can propel social justice and long-lasting change far beyond its borders. To ensure the 5.4 million children still living in institutions around the world are able to thrive with the support, care and love of a family, and that institutional care is eradicated in our lifetime, the **EU must act as a champion for care reform across the globe** and concert the international community’s efforts to support vulnerable families and communities, and encourage governments to fully transition from institutional to family- and community-based care systems, including by using EU funding, where relevant, for this purpose. The EU must make full use of the NDICI to ensure care reform and care reform enabling initiatives, such as measures strengthening vulnerable families, are adequately supported by EU financing in partner countries.

At the global stage, poverty, discrimination, trafficking, voluntourism, are among the key driving forces of institutionalisation of children and must be combatted in all upcoming EU policy initiatives related to external action.

- ✦ In light and in line with EU commitments in the EU Strategy on the rights of the Child, we call on the Spanish Presidency to mainstream, in its external action ambitions and initiatives, care reform and children’s right to grow up in a family across the world.

**Recommendation 3: Promote, among EU institutions, fellow Member States, and candidate countries themselves, the imperative need for child protection and care reform and deinstitutionalisation to figure among accession conditions for EU candidate countries, including Ukraine and Moldova:**

The EU accession process is both an incentive and an incredible opportunity for candidate countries to undergo comprehensive reform of their child protection and care systems to ensure standards of care in line with the Acquis Communautaire of the EU.

This resonates particularly in the context and light of the accession process of Ukraine, where the heavily institutional-based child protection and care system, prior to the war, has led to a child protection catastrophe since the onset of the war. **A staggering 100 000 children were associated with the institutional care system prior to the war, often experiencing shocking feats of abuse, neglect and violence.** In the midst of the war, they are even more vulnerable, with increasing reports on human rights violations of Ukrainian children deprived of family care, including forcible displacements of children to the territory of the Russian Federation and territories controlled by Russian forces. With one of the highest rates of institutionalisation of children worldwide, and an abysmal lack of data on their individual whereabouts, circumstances

and needs prior to the war, children from institutions from Ukraine, many of whom with disabilities, have been facing life-threatening danger.

As noted by the European Commission in its opinion on Ukraine's membership to the European Union, **the high institutionalisation rate of children must be tackled as a matter of urgency**. The European Commission President Ursula Von der Leyen has further committed, on 2 February 2023, **to supporting Ukraine with financial and technical assistance to design a modern childcare strategy**. We call on the European Institutions and Member States to make good on this commitment to support care reform, in Ukraine, Moldova, and other EU candidate countries. The European Union should also act to ensure that EU, and other international donors' funds are ringfenced for care reform in a coordinated effort.

Similarly, the European Commission's recent Opinion on Moldova's membership application to the European Union, highlights concern over the high number of children and babies with disabilities in institutional care.

**It is indeed crucial to ensure that the reform of the child protection and care systems, and transition from institutional to family- and community-based care, is held up as a key area for reform in view of accession to the EU**, and supported and enabled through financial aid, in particular IPA III, and technical assistance, for all ongoing EU accession processes.

- ✦ We call on the Spanish Presidency to make the case for EU Candidate countries to **include their child protection and welfare systems, if they rely on residential institutions for children, among the key areas for reform in the accession process**. The Presidency should, in parallel, urge the Commission to include care reform for children among the key areas for monitoring in view of accession to the EU, and **for care reform and deinstitutionalisation to figure among accession conditions, supported with EU financial and technical assistance**. In the case of Ukraine, the Spanish Presidency should support actively, in the course of the initial negotiations on the EU accession and measures for the reconstruction of the country, the development of crucial elements enabling care reform. In particular, EU financial support for Ukraine should include specific funds for the development of family and community-based services. **Any funding regulations, existing or new, should exclude the possibility to build and refurbish institutions**. In addition, financial and technical support should be provided to the Ukrainian government for the establishment of a data collection and management system gathering information on children deprived of family care from Ukraine, including children from institutions.

N.B.: In all legislative and policy initiatives pertaining to the rights of children, in internal and external action alike, **the Spanish Presidency should meaningfully engage with civil society organisation and ensure representative child participation**. In particular, we call on the

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establishment of a safe environment to ensure **the participation and consultation of children with care experience and care leavers in the design, implementation, monitoring and evaluation of any policies and programmes supporting care reform.**

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