

A close-up portrait of a young child with dark, slightly messy hair. The child has a bindi on their forehead and is looking directly at the camera with a neutral expression. The background is out of focus, showing a light-colored wall.

**Putting Child Protection and
Family Care at the Heart of
EU External Action**

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Executive Summary

Globally, an estimated eight million children live in institutions because they are poor, have a disability, or belong to a marginalised group¹. More than 80 percent are not orphans². Whilst most institutions for children (also commonly known as orphanages) are established with good intentions, over 80 years of research from across the world proves that children in institutions, who are deprived of loving parental care, can suffer life-long physical and psychological harm³.

The European Union (EU) has already taken leadership in recognising and tackling this issue and has sent a strong message to its Member States to act. The Regulations for the EU Cohesion Policy investment, adopted in December 2013, stated for the first time that European Structural and Investment (ESI) Funds were prohibited to be spent on any action that contributes to segregation or to social exclusion,⁴ and included specific calls for the funds to be used to support the “transition from institutional to community-based services”⁵. Moreover, in order to access ESI Funds under the thematic objective “Promoting social inclusion, combatting poverty and any discrimination”, Member States need to have a national strategy for poverty reduction in place, including measures to shift from institutional to community based care.⁶ This effectively means that ESI Funds cannot be used to build or refurbish institutions, but should instead support the process of deinstitutionalisation.

To ensure better outcomes for children, fulfil its human rights commitments and achieve policy coherence, it is essential for the EU to also apply the same principles in the framework of its external action. This is a key step to realise the Sustainable Development Goals and ensure that the 2030 agenda meets its promise to leave no one behind.

The process of child protection and care reform or ‘deinstitutionalisation’, as outlined in this report, consists of planning the transformation of the entire care system. This involves strengthening and creating a diverse range of family- and community-based services that take into account the individual needs of each child and closing institutions for children.⁷

1. Pinheiro, P.S. (2006). World Report on Violence against Children. United Nations Secretary General's Study on Violence against Children.

2. Csaky, C. (2009). Keeping Children Out of Harmful Institutions: Why We Should Be Investing in Family-Based Care. London, UK: Save the Children

3. Berens, A.E. & Nelson, C.A. (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 30 August 2017]

4. European Union, Regulation (EC) 1304/2013, Recital 19.

5. European Union, Regulation (EC) 1304/2013, Article 8; European Union, Regulation (EC) No 1080/2006, Recital 15 and 16 and Article 5 (9).

6. This depends on the respective Member State's identified needs for deinstitutionalisation, as established by the European Commission. See European Union, Regulation (EU) No 1303/2013, Article 9: 9.1. For more details, see European Expert Group on the Transition from Institutional to Community-based Care (2014) Toolkit on the Use of European Union Funds for the Transition from Institutional to Community-based Care (revised edition 2014), <http://www.deinstitutionalisationguide.eu/wp-content/uploads/2016/04/Toolkit-07-17-2014-update-WEB.pdf> [accessed 14 July 2017]

7. UNICEF (2010) At Home or in a Home?: Formal Care and Adoption of Children in Eastern Europe and Central Asia, p.52.

Key recommendations to ensure that the EU supports children and families to thrive - throughout the world:

The European Commission should use current policy processes, such as creating the next EU-ACP relations framework, the European Consensus on Development, the implementation of the 2030 Agenda (ensuring children living out households are included in the disaggregated data), budget support and the next programming period to ensure that the same criteria adopted for the ESI Funds are **applied to all EU external funding**. No EU external funds should be used to build, renovate or support institutions for children but instead should be invested to ensure children grow up in safe and loving families, have access to family support, early childhood development, inclusive education and health and social services in their communities. Structural reforms of the child protection system should be prioritised to protect children from violence, abuse and neglect and ensure they realise their rights.

The European External Action Service (EEAS) should champion the reform of child protection and care systems as a human rights priority and ensure that all relevant EU external policy initiatives and instruments prioritise children in institutions, children in alternative care and children at risk of being separated from their families. The EEAS should include an action line on the transition to family and community-based care in relevant initiatives and instruments and raise awareness among staff of the strong links between institutionalisation and violence against children and child trafficking.

The European Parliament should ensure that the harm caused by institutionalisation and the need to support the transition to family and community-based care is addressed in its relevant committees as well as in all policy initiatives linked to EU external action. This should include support for the introduction of a specific conditionality in external funding.

The Council of the EU should ensure that reforming child protection and care systems and securing the transition from institutional settings to family and community-based care is addressed under each Presidency. It should support the introduction of a mechanism to prohibit the use of the EU external funding for maintenance of existing or construction of new institutions, while prioritising the transition process. The Council should also ensure that the situation of children in institutions is addressed in the post-Cotonou framework and the European Consensus on Development (and implementing documents); and implement the Sustainable Development Goals' "leave no one behind" agenda by ensuring that children outside families are included in data gathered to monitor the progress of reform.

The European Investment Bank (EIB) should ensure that the construction of new institutions for children, or their renovation or maintenance, is excluded from EIB lending. EIB policy documents should reference the key legal instruments on children's rights, the rights of people with disabilities and the right to family and community living.

The harm of institutionalisation

1. What is an institution for children?

The size of an institution matters, but is not the only defining feature. An institution is understood to be any residential setting where an 'institutional culture' prevails. Institutional culture, in terms of children, can be defined as follows:

- Children are isolated from the broader community and obligated to live together;
- Children and their families do not have sufficient control over their lives and decisions which affect them;
- The requirements of the organisation take precedence over children's individual needs.⁸

As a result, children cannot form attachments crucial to healthy physical and emotional development.⁹ This definition usually includes large residential homes or 'orphanages', including compound/cluster facilities, congregate care, but also smaller facilities with strict regimes, facilities for children who have committed minor offences, residential healthcare facilities, and residential special schools.

In a very limited number of cases, when no way has been found to support a child with his or her family, an alternate family-like setting can be an alternative. However, most children can live with families in the community, with some support.

2. Negative impact of institutions on children's development and wellbeing

Over 80 years of research from across the world has demonstrated the significant harm caused to children in institutions, who are deprived of loving family care and who can suffer life-long physical and psychological harm as a consequence.¹⁰ This includes attachment disorders, cognitive and developmental delays, and a lack of social and life skills leading to multiple disadvantages during adulthood.¹¹

Babies in particular fail to develop as they should without one-to-one interaction, and research demonstrates the severe impact of institutionalisation on early brain development.¹² Children who are removed from institutions after the age of six months often face severe developmental impairment, including mental and physical developmental delays.¹³ 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.¹⁴ **Put simply, children need families to flourish.**

8. Moreover, a residential facility can be usually identified as an institution if it is displaying some distinctive features that are harmful for children across three core areas: care provision, family and social relationships, and systemic impact. See Costa, M. and Pop, D. (2016), End the Silence: the case for the elimination of institutional care of children. Hope and Homes for Children, pp. 7 – 12.

9. European Commission. (2009). Report of the Ad Hoc Expert Group on the Transition from Institutional to Community-based Care. <http://ec.europa.eu/social/BlobServlet?docId=4017&langId=en> [accessed 30 August 2017]

10. Berens, A.E. & Nelson, C.A. (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), p. 2. [accessed 30 August 2017]

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

12. Judge, S (2003). Developmental recovery and deficit in children adopted from Eastern European orphanages. Child Psychiatry Hum Dev, 34(1). <http://link.springer.com/article/10.1023/A:1025302025694> [accessed 26 Jan 2017].

13. Ibid.

14. Mulheir, G. et al. (2012). Deinstitutionalisation – A Human Rights Priority for Children with Disabilities. The Equal Rights Review (9) 117-137. http://www.equalrightstrust.org/ertdocumentbank/err9_mulheir.pdf [accessed 30 August 2017]

Children with intellectual disabilities remain disproportionately vulnerable to being institutionalised. Historically this has been rooted in the notion that institutions were in their “best interest”; that institutions could care and provide for children and adults with intellectual disabilities better than their families. Research has debunked this notion and confirmed that “best interest” is life with family and in community. However, institutional mindsets continue and children with intellectual disabilities remain at increased risk. They are invisible and often receive no support. The absence of supports and services for children with intellectual disabilities and their families can place families in crisis. When families are unable to care for a person who has an intellectual disability, the only option is often a state-sponsored institution, rather than living with another family, or in rare situations in a family-like environment.

Many young people leaving institutions continue to face significant challenges. Globally, they have been identified as one of the most vulnerable and socially excluded groups¹⁵. All too often, when a young person leaves an institution they have limited support structures, experience negative outcomes and are often ill-prepared to contribute to the socio-economic wellbeing of society.

3. Violence, neglect and abuse in children’s institutions

Evidence from many countries across the world demonstrates that institutions put children at increased risk of violence, abuse, and neglect – often by the staff, officials, peers, volunteers, and visitors responsible for their wellbeing. Documented abuse includes torture, beatings, isolation, restraints, sexual assault, harassment, and humiliation.¹⁶ Even in institutions without harsh disciplinary regimes, children are often neglected.¹⁷

Children in institutions frequently have limited access to education or recreation and are sometimes left in their cribs for long periods without human contact or stimulation.¹⁸ Children in institutions are six times more likely to be victims of violence than their peers raised in families.¹⁹ Children with disabilities in institutions are at even greater risk of abuse.²⁰ There is considerable evidence of reported physical, emotional and sexual abuse, discrimination, and violence, including food deprivation, electroshock therapy without anaesthesia, and routine hysterectomies for young girls.²¹ One study of children under three years of age who were discharged from institutions found that 28 percent of children with disabilities were in fact ‘discharged’ because they had died.²² The mortality rate was found to be 100 times higher for babies with disabilities than for those without disabilities.²³

Women and girls with disabilities face a greater risk of being victims of forced sterilisation when living in institutions. International human rights standards and jurisprudence stress that forced sterilisation is a violation of many human rights, and that the principle of informed consent is a fundamental requirement to exercise one’s individual human rights, including sexual and reproductive rights.²⁴

15. Tanur, C. (2012) ‘Project Lungisela: Supporting Young People Leaving State Care in South Africa’, *Child Care in Practice* 18(4): 325-340.

16. United Nations (2006). *Violence against Children in Care and Justice Institutions*. Chapter 5, p.175. <https://www.unicef.org/violencestudy/l.%20World%20Report%20on%20Violence%20against%20Children.pdf> [accessed 26 Jan 2017].

17. Lumos (2014). *Children in Institutions: The Risks* <https://wearelumos.org/content/children-institutions-risks> [accessed 3 July 2017]

18. Pinheiro, P.S. (2006). *World Report on Violence against Children*. United Nations Secretary General’s Study on Violence against Children.

19. Child Rights International Network (16 January 2012), ‘Armenia: Child Abuse Violence Still Common in Orphanages, Boarding Schools’. <https://www.crin.org/en/library/news-archive/armenia-child-abuse-violence-still-common-orphanages-boarding-schools> [accessed 25 Jan 2017].

20. Milovanovic, et al. (2013). *The Hidden and Forgotten: Segregation and Neglect of Children and Adults With Disabilities in Serbia*. Mental Disability Rights international, Belgrade. <http://www.mdri-s.org/wp-content/uploads/2013/10/the-hidden-and-forgotten-2013-12-17.pdf> [accessed 20 Jan 2017]. See also: Ahern, L. & Rosenthal, E. (2006). *Hidden Suffering: Romania’s Segregation and Abuse of Infants and Children With Disabilities*. Mental Disability Rights International, Washington D.C. http://www.driadvocacy.org/wp-content/uploads/romania-May-9-final_with-photos.pdf [accessed 21 Jan 2017].

21. United Nations General Assembly (2006) Report of the Independent Expert for the United Nations Study on Violence Against Children. A/61/299 P.16. <https://www.unicef.org/violencestudy/l.%20World%20Report%20on%20Violence%20against%20Children.pdf> [accessed 20 Jan 2017].

22. Browne, K., Hamilton-Giachritsis, C., et al. (2005). *Mapping the Number and Characteristics of Children Under Three in Institutions Across Europe at Risk of Harm*. University of Birmingham. http://pure-oai.bham.ac.uk/ws/files/8785985/final_printed_report_.pdf [accessed 30 August 2017]

23. *Ibid.*

24. European Disability Forum (2011) *2nd Manifesto on the Rights of Women and Girls with Disabilities in the European Union: A toolkit for activists and policymakers* <http://www.uildm.org/wp-content/uploads/2011/11/2ndmanifestoEN.pdf> [accessed 28 July 2017]

Why children end up in institutions

1. Common reasons for the institutionalisation of children

- Poverty is a significant underlying factor that causes children to end up in institutions across the world²⁵. Many parents struggle to provide food, housing, medicine and access to education for their children, and are led to believe that placing them in institutions is a positive choice that will provide them with a better future. Prevention measures are often weak or non-existent, leading to high numbers of children unnecessarily entering the system of alternative care.
- Lack of high quality alternative care options is a great challenge. In many countries, institutions are the only available option for children who cannot be cared for by their families. The UN Guidelines for Alternative Care²⁶ recommend that countries offer a range of alternative care provisions as: kinship care, foster care, family-like care in the community and supervised independent living. However, in many countries these are not developed, and institutions remain the blanket solution for children in need of care.
- Children with disabilities are often placed in institutions because their parents don't have access to or cannot afford the necessary treatment, rehabilitation or access to inclusive education.²⁷
- Aid workers and charities have seen in times of natural disaster that orphanages spring up to be willing recipients of international aid, when the provision of very basic support would keep families together.²⁸

2. The business model of institutions

There is evidence from many parts of the world, that institutions actively recruit children from their parents, often through false promises of education, food or improved life chances.²⁹

Evidence shows that establishing institutions has become a lucrative 'business' in a number of countries, including Haiti, Cambodia, Nepal and Uganda.³⁰ A range of private actors (including NGOs and faith-based organisations) run orphanages and other institutions for children and often operate without any proper regulation or supervision.³¹

25. Williamson, J., and Greenberg, A. (2010), Families, not orphanages, Better Care Network working paper, p. 8.

26. United Nations (2009), UN Guidelines for the Alternative Care of Children, A/RES/64/142, paragraphs 53-54. http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf [accessed 12 April 2017]

27. Better Care Network and EveryChild (2012). Enabling Reform: Why Supporting Children with Disabilities Must Be at the Heart of Successful Child Care Reform http://bettercarenetwork.org/sites/default/files/Enabling%20Reform%20-%20Why%20Supporting%20Children%20with%20Disabilities%20Must%20Be%20at%20the%20Heart%20of%20Successful%20Child%20Care%20Reform_0.pdf [accessed 3 July 2017]

28. Doyle, J. (2010). Misguided Kindness: Making the Right Decisions for Children in Emergencies. London, UK: Save the Children.

29. Lumos (2016) Orphanage Entrepreneurs: The Trafficking of Haiti's Invisible Children https://wearelumos.org/sites/default/files/Haiti%20Trafficking%20Report_ENG_WEB_NOV16.pdf [accessed 31st March 2017]

30. 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/ModernSlavery/Submissions

31. UNICEF (2011) With the Best Intentions: A Study of Attitudes Towards Residential Care in Cambodia, UNICEF Cambodia; Punaks, M & Feit, K (2014) The Paradox of Orphanage Volunteering: Combatting Child Trafficking Through Ethical Voluntourism, Next Generation Nepal

In Haiti, a typical model for setting up orphanages is as follows: an orphanage is established; children are recruited through purchase, coercion or deception; children are neglected, abused and exploited, usually for profit; orphanage advertises for support, funds and volunteers; foreigners donate money; volunteers arrive to provide support; children often go missing; few prosecutions or follow up; some institutions close, but many continue to function.³²

The UNICEF Factsheet “Residential Care in Cambodia” highlights that “many centres turn to orphanage tourism to attract more donors, fuelling a system that exposes children to risk.”³³

3. Institutionalisation and trafficking

Contemporary evidence from different country contexts demonstrates how orphanages are central participants in a web of modern slavery and trafficking of children.³⁴ Under international law, child trafficking is defined as “the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploiting the child.”³⁵ The demand for children to fill up orphanages around the world is fuelling the systematic recruitment of children into institutions – a pattern that is increasingly being recognised as trafficking.³⁶ A vicious circle has been created which sees:

- **Children trafficked into orphanages**, often by unscrupulous orphanage directors who financially profit from the orphanage. Parents are tricked or coerced to give up their children, deceived into thinking their child will have a better life, education and food.³⁷ Vast sums of money flow into orphanages, from often well-intentioned donors, but little of this money goes to supporting the children. It acts as an incentive, creating a demand for children to fill up orphanages.³⁸
- **Children trafficked from orphanages** to other forms of exploitation. Evidence shows how children in institutions are vulnerable to being trafficked for purposes of sexual exploitation, compounding the harm they already experience in ‘care’.³⁹ Children, such as unaccompanied refugees, are trafficked with the hope of being reunited with their families in other countries but suffer abuse and exploitation on their journey.
- **Children who have been trafficked** are placed back in orphanages. A common response when children are rescued from being trafficked is to place them into an orphanage. An orphanage cannot meet their basic needs, it cannot address the additional support they will need, and it places them at risk of being trafficked again, reinforcing the vicious circle.⁴⁰

32. Lumos (2016) Orphanage Entrepreneurs: The Trafficking of Haiti’s Invisible Children

33. UNICEF (2011). Residential Care in Cambodia, https://www.unicef.org/cambodia/Fact_sheet_-_residential_care_Cambodia.pdf [accessed 30 August 2017]

34. Lumos (2016) Orphanage Entrepreneurs: The Trafficking of Haiti’s Invisible Children

35. See UNICEF. (2007). Note on the definition of ‘Child trafficking’ http://www.unicef.org/southafrica/SAF_pressrelease_notetrafficking.pdf [accessed 30 August 2017]

36. Terre des Hommes (TdH) (2010). Programme Document : Protection of Children Temporarily or Permanently Umla.TdH and UNICEF. <https://resourcecentre.savethechildren.net/sites/default/files/documents/5251.pdf> [Accessed 11 April 2017]

37. For example, the Programme Cooperation Agreement (2011–2012), which forms the basis of international organisations Terre des Homes and UNICEF’s joint action in Nepal, states that vulnerable families who are seeking better opportunities for their children are routinely deceived by “a network of traffickers who strategically convince parents to turn over relatively large sums of money or exchange of precious goods or land in return for taking their children to Kathmandu or India.”Terre des Hommes (2010) Programme Cooperation Agreement. TdH and UNICEF <https://resourcecentre.savethechildren.net/sites/default/files/documents/5251.pdf> [Accessed 11 April 2017];

John Williamson, ‘Families, not Orphanages: A Review and Recent Developments’ (Paper presented at the USAID 38th Child Welfare Symposium, San Francisco, USA, 2014). See also Lumos (2016) Orphanage Entrepreneurs: The Trafficking of Haiti’s Invisible Children

38. Lumos (2016) Orphanage Entrepreneurs: The Trafficking of Haiti’s Invisible Children

39. Information collected by FRANET: Hungarian Central Statistical Office. (2013). Yearbook of welfare and statistics, 2011 [Szociális Statisztikai Évkönyv], Budapest: KSH, see table 5.24. See also: Commissioner for Fundamental Rights. (2012). Report No. A/JB-2731/2012, p.2. www.ajbh.hu/documents/10180/143247/201202731.rtf/06c12e69-536a-4b7a-a09b-b3847334ee18. See also: House of Commons, Home Affairs Committee. (2009). The Trade in Human Beings: Human Trafficking in the UK Sixth Report of Session 2008–09. London: House of Commons

40. European Commission (2016). Report on the Progress Made in the Fight Against Trafficking in Human Beings (2016) as Required Under Article 20 of Directive 2011/36/EU on Preventing and Combating Trafficking in Human Beings and Protecting its Victims. P. 20. http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/commission_staff_working_document.pdf [Accessed 16 September 2016].

In emergencies, children are sometimes placed in institutions as a measure to prevent them from being trafficked; however, in fact, it exposes them to greater risks. Please see the next section (4) for more details.

The US State Department officially recognised the methods used by orphanages to recruit children as a form of trafficking in the case of Nepal by including the following text in the Nepal Country Narrative of the Trafficking in Persons Report 2017:

“Under false promises of education and work opportunities, Nepali parents give their children to brokers who instead take them to frequently unregistered children’s homes in urban locations, where they are forced to pretend to be orphans to garner donations from tourists and volunteers; some of the children are also forced to beg on the street.”⁴¹

Next Generation Nepal (NGN), who work to reconnect trafficked children in Nepal with their families, found a direct link between orphanage trafficking, institutionalisation, and voluntourism.⁴² Evidence suggests many children in orphanages and other institutions globally are taken from their families by recruiters and sold to institutions for the purpose of profit.⁴³ In May 2014, 600 children rescued from two Indian railway stations were allegedly being trafficked from their homes in Bihar and Jharkhand to an orphanage in Kerala. 43 people were arrested and charged with child trafficking offences.⁴⁴ Children living in residential institutions are more likely to go missing than children in families.⁴⁵ There is a significant relationship between missing children and trafficking, meaning that children missing from institutions are at serious risk of trafficking and exploitation.⁴⁶

In Haiti, an estimated 32,000 children live in approximately 760 residential institutions or ‘orphanages’.⁴⁷ According to a 2013 study by the government department responsible for children, the Institute for Social Welfare and Research (IBESR):

- Fewer than 15 percent of the institutions are officially registered with the Haitian authorities;
- More than 80 percent of these children have at least one living parent;
- The primary reason for their admission to institutions is poverty and a lack of access to basic health, education and social services.⁴⁸

Institutions in Haiti are predominantly privately run, and funded, for the most part, by foreign donors – often small foundations, NGOs, churches, or individuals. Whilst the construction of institutions is an understandable response to natural disaster, research increasingly demonstrates this is not the best approach and that institutions, once established, proliferate long after the disaster.⁴⁹ Their existence can act as a ‘pull factor’, where parents place their children into orphanages in order to access basic services.

Recent research⁵⁰ has documented at least \$70 million per year provided by international private donors to

41. U. S. Department of State (2017) Trafficking in Persons Report 2017. p. 296 <https://www.state.gov/documents/organization/271339.pdf> [accessed 3 July 2017]

42. Punaks, M. & Feit, K. (2014). The Paradox of Orphanage Volunteering: Combatting Child Trafficking Through Ethical Voluntourism. New York, USA: Next Generation Nepal, p.14.

43. Doore, K.E.V. (2016). Paper orphans: Exploring child trafficking for the purposes of orphanages. The International Journal of Children’s Rights. 24(2), p.378.

44. Swamy, R. (28 May 2014). Nearly 600 trafficked kids rescued from Kerala, India Today. <http://indiatoday.intoday.in/story/600-trafficked-kidsrescued%20-from-kerala/1/364115.html> [accessed 20 Jan 2017].

45. European Commission. (2013). Missing Children in the European Union: Mapping, Data Collection and Statistics. http://ec.europa.eu/justice/fundamental-rights/files/missing_children_study_2013_en.pdf [accessed 30 August 2017]

46. Information collected by FRANET: Hungarian Central Statistical Office. (2013). Yearbook of welfare and statistics, 2011 [Szociális Statisztikai Évkönyv], Budapest: KSH, see table 5.24. See also: Commissioner for Fundamental Rights. (2012). Report No. A/B-2731/2012, p.2. www.ajbh.hu/documents/10180/143247/201202731.rtf/06c12e69-536a-4b7a-a09b-b3847334ee18. [accessed 30 August 2017] See also: House of Commons, Home Affairs Committee. (2009). The Trade in Human Beings: Human Trafficking in the UK Sixth Report of Session 2008–09. London: House of Commons.

47. IBESR (2013) L’Annuaire des Maisons d’Enfants en Haïti, (2013), Publication de l’Institut du Bien Etre Social et de Recherches, <http://www.ibesr.com/fichier/Annuaire%20Corrige%202012-2014%20version%20juillet.pdf>. [accessed 14 Jan 2017].

48. Ibid.

49. Better Care Network, ChildFund Alliance, Consortium for Street Children, Family for Every Child, Keeping Children Safe, Maestral International, Plan International, Retrak, Save the Children, SOS Children’s Villages, Terra des Hommes, Terra dos Homens and World Vision. (2013). Protect my future. Why child protection matters in the post-2015 development agenda. London: Family for Every Child. See also: Doyle, J. (2010). Misguided Kindness: Making the Right Decisions for Children in Emergencies. Save the Children UK.

50. Lumos (2017) Funding Haitian Orphanages at the Cost of Children’s Rights. <https://wearelumos.org/sites/default/files/EMBLumos%20-Funding%20Haitian%20Orphanages%20JUNE17.pdf> [accessed 28 July 2017].

just over one-third of Haiti's 750 orphanages. \$70 million donated to orphanages is equivalent to nearly one-third of annual U.S. official aid to its entire Haiti programming. These vast sums of unregulated money often fund unregistered orphanages and act as an incentive to exploit vulnerable children and families.

Increasingly, case evidence demonstrates that many of the 32,000 children could be at home with their families if basic health and education costs were covered.⁵¹

4. Migration and the institutionalisation of children

Current migration flows across the world have resulted in some countries receiving unprecedented numbers of unaccompanied and separated children. These children have been exposed to a variety of protection risks during their journey, ranging from family separation, being institutionalised, abuse from smugglers and traffickers and sexual and gender-based violence, while many continue to be exposed to violence, abuse and exploitation even upon their arrival to Europe. A total of 98,400 unaccompanied refugee and migrant children⁵² applied for asylum worldwide in 2015. This is compared with 34,300 in 2014 and 25,300 in 2013.⁵³ Eurostat calculates that 88,300 of these children applied for asylum in EU countries in 2015.⁵⁴

Institutional care facilities are predominantly used as a response or as the first resort for unaccompanied migrant and refugee children, even by countries who have recently moved away from an institutional model of care for their own citizens.

On arrival in Europe, many children end up in camps, detention centres, institutions, or are left to fend for themselves on the streets. Evidence demonstrates that unaccompanied migrant and refugee children are likely to have suffered abuse and trauma on their journey to, and stay within, Europe and that their needs are not adequately met. Furthermore, it has been reported that some EU countries are considering building institutions outside Europe to send unaccompanied minors.⁵⁵

Placing children in institutions is not a solution and puts children under a serious risk of being trafficked and/or becoming victims of violence. Family and community based care has the potential to better meet unaccompanied migrant and refugee children's needs and to help them integrate into the community.

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51. Lomos (2016). Orphanage Entrepreneurs: The Trafficking of Haiti's Invisible Children.

52. The UN definition of an unaccompanied or separated child is someone under the age of eighteen who is 'separated from both parents and is not being cared for by an adult who by law or custom has responsibility to do so'. UNHCR (1997) Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum <http://www.unhcr.org/3d4f91cf4.pdf> [accessed 21 December 2016]

53. UNHCR (2016) Global Trends: Forced Displacement In 2015 <https://s3.amazonaws.com/unhcrsharedmedia/2016/2016-06-20-global-trends/2016-06-14-Global-Trends-2015.pdf> [accessed 12 January 2017]

54. Eurostat (2 May 2016) Almost 90 000 unaccompanied minors among asylum seekers registered in the EU in 2015. Eurostat. <http://ec.europa.eu/eurostat/documents/2995521/7244677/3-02052016-AP-EN.pdf/> [accessed 12 January 2017]

55. Wierup, L. (9 February 2017). Barnhemsbygge ska få gatubarn att återvända [Building and orphanage to make street children return]. Dagens Nyheter. <http://www.dn.se/arkiv/nyheter/barnhemsbygge-ska-fa-gatubarn-att-atervanda/> [accessed 6 April 2017]

The solution: supporting families and transitioning to family and community-based care

1. Supporting families

Most children can stay with their families, if the right support is provided. This support can include initiatives such as flexible working schemes, counselling, extra support for parents of children with disabilities and raising awareness of the help available.

In a minority of cases, children with very complex needs may require specialist services that cannot be provided in a family and an alternate family-like setting can be an alternative; however, with the right support structures in place, most children with disabilities can live with their own families, and it is their right to do so. Access to family and community-based services⁵⁶, inclusive education, quality health care and rehabilitation, combined with flexible working schemes help keep families together.

2. Reintegration, transition to family- and community-based care and strengthening child protection systems

Transitioning from institutions to family and community-based care is much broader than purely closing existing institutions: the goal is to transform the whole national child protection and care system. It is a cross-sectoral process, linked to reforming the social, health care, education, child protection and finance systems, requiring the involvement of a broad range of stakeholders at national, regional and local levels.

As a result, a one-size-fits-all solution (institutions) is replaced by holistic reform programmes that aim to:

- Prevent the need for institutions and unnecessary entry in alternative care⁵⁷
- Progressively eliminate unsuitable forms of care, such as institutions
- In parallel, develop a range of appropriate family- and community-based services to match the needs of each child⁵⁸
- Put the best interest of the child in the centre of any solution.

56. These can include services for families, emergency intervention services, support services for vulnerable children and those with specific needs, care leavers' services and alternative care services.

57. United Nations (2009), UN Guidelines for the Alternative Care of Children, A/RES/64/142, paragraph 3. http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf [accessed 12 April 2017]

58. Whenever alternative care is effectively needed, such care should be provided in an appropriate way (principle of suitability). A range of care options should be available to match the individual needs of each child, following an individual assessment.

These measures are situated in the context of overall child protection systems strengthening, which often requires enhancing the role and capacity of the State to enforce child rights and fulfil its obligations in terms of service provision, standard-setting, monitoring and oversight.

Experience across a variety of contexts has highlighted that the following conditions need to be in place for reforms to be implemented successfully and sustainably⁵⁹:

- Sustained political will embedded in legislative and policy frameworks for the transition towards family and community-based care;
- Local evidence and know-how to inform policy and practice for service development;
- A capable national social workforce and a coordinated civil society to support and monitor implementation;
- Funds to support the transition process and ensure long-term sustainability of the system.

59. Costa, M. and Pop, D. (2016). End the Silence: The Case for the Elimination of Institutional Care of Children. Hope and Homes for Children, pp. 35 - 41. <http://www.hopeandhomes.org/wp-content/uploads/2016/12/End-the-Silence-Policy-Paper-Final-Copy.pdf> [accessed 30 August 2017]

The legislative and policy case for transition to family and community-based care

1. International policy and legislative framework

The Convention on the Rights of the Child (CRC) affirms that all children have a right to live with their families, unless this goes against their best interests, and that parents or other legal guardians have the primary responsibility to protect and care for the child.⁶⁰ The CRC and the UN Guidelines for the Alternative Care of Children (A/RES/64/142) also call on States to ensure that families have access to services which support them in the caregiving role.⁶¹

The UN Convention on the Rights of Persons with Disabilities (CRPD), to which the EU is a signatory, clearly states that all persons with disabilities have equal rights to live in the community.⁶² For children this means being in family environment and receiving quality care and protection.

Moreover, it affirms that States shall ensure that children with disabilities have equal rights with respect to family life. With a view to realising these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.

Where the immediate family is unable to care for a child with disabilities, States should undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents (art. 23). The Convention further states that international cooperation, including international development programmes, must be inclusive of and accessible to persons with disabilities (Art. 32).

In addition to binding instruments, the UN Guidelines for the Alternative Care of Children clarify that institutions are not a suitable care option for children and that in countries where institutions still exist, “alternatives should be developed in the context of an overall deinstitutionalisation strategy with precise goals and objectives, which will allow for their progressive elimination.”⁶³

Finally, the 2030 Agenda for Sustainable Development is built around the principle of leaving no one behind.⁶⁴ It recognises the essential role that families play in achieving this principle and calls for greater disaggregation of data related to disability and other factors in order to meet needs of those who are most vulnerable, including children.⁶⁵

60. United Nations (1989) UN Convention on the Rights of the Child (Adopted 20 November 1989, entered into force 2 September 1990) Vol.1577, Art. 9

61. UN Convention on the Rights of the Child (1989) Article 18; UN Guidelines for the Alternative Care of Children (2009) Article 3

62. 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), Art. 19

63. United Nations (2009), UN Guidelines for the Alternative Care of Children, A/RES/64/142, paragraph 23. http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf [accessed 28 July 2017]

64. UN General Assembly. (2015). Transforming our World: the 2030 Agenda for Sustainable Development. (Preamble, p. 26) http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E [accessed 23 Jan 2017].

65. Ibid, Preamble, p. 25, p. 19, p. 23

Ending the institutionalisation of children and achieving comprehensive care reform is closely related to the implementation of several SDGs:

SDG 1 – End poverty in all its forms everywhere

Poverty is one of the main underlying reasons for children being placed in institutions. Care reforms play a key role in ensuring that the most vulnerable families get access to basic services in the community and social protection/anti-poverty measures.

SDG 3 – Good health and wellbeing

Institutionalisation has a devastating impact on children's health and wellbeing.

SDG 4 – Ensure inclusive and equitable quality education

Lack of access to education is a key driver of institutionalisation, especially for children with disabilities. Institutions are not a solution: growing up in so-called 'residential schools' can significantly affect children's health, learning and psychosocial wellbeing.

SDG 10 – Reduce inequalities within and among countries

Children from poor and vulnerable families, children with disabilities and children belonging to ethnic minorities are the most affected by institutionalisation – showing a clear pattern of discrimination.

- SDG 16.2 – End abuse, exploitation, trafficking and all forms of violence against and torture of children, and
- SDG 8.7 – Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour.

Institutions put children at increased risk of violence, abuse, and neglect. Children in institutions are also at increased risk of being trafficked and other forms of modern slavery.

2. The EU's leadership in securing child welfare and protection

The EU is a global leader in this area, recognising the harm that institutionalisation causes to children and ensuring that no further investment goes to harmful institutional settings within its borders.

Children in alternative care have been recognised as a particularly vulnerable group by the European Commission in its Recommendation "Investing in children: breaking the cycle of disadvantage".⁶⁶ The Recommendation encourages EU Member States "to stop the expansion of institutional care settings for children without parental care and promote quality, community-based care and foster care within family settings instead where children's voice is given due consideration".⁶⁷

The European Commission's 10 Principles for Integrated Child Protection Systems clearly state the need to ensure adequate care for children in line with international standards, including the UN Guidelines for the alternative care of children⁶⁸.

Moreover, by introducing an ex-ante conditionality on social inclusion (9: 9.1.) with an investment priority on the "transition from institutional to community based services"⁶⁹ in the Regulation 1303/2013 on the ESI Funds, as well as explicit clauses prohibiting the use of funds for any action that contributes to segregation or to social exclusion, the EU has effectively ruled out the possibility for ESI Funds to be used for the maintenance or renovation of existing, and the construction of new institutional settings and has prioritised investment in deinstitutionalisation.⁷⁰

The Commission Staff Working Document The Value Added of Ex ante Conditionalities in the European Structural and Investment Funds concludes that "ExAC brought added value for the EU, Member States and regions, and for citizens and businesses operating in the EU" and that, "they ensured a direct link between the investments co-financed by the ESI Funds and EU level policies". Furthermore, the document states that, "had it not been for ExAC, these changes and reforms might not have happened in some Member States or might have happened at a much slower pace"⁷¹. For example, in order to access funds under the objective of "Promoting social inclusion, combatting poverty and any discrimination," Member States had to adopt national strategies for poverty reduction (NSPF) with measures for deinstitutionalisation, where they may not have done so had the ex-ante conditionality not existed.

The Directorate General DEVCO also put the issue of children in institutions on its agenda at the end of 2015 by publishing the tender 'Study on the institutionalisation of children and possible alternatives care solutions in Asia, Africa, Central and South American countries', "in order to strengthen the knowledge of the European Commission on the nature, the extend and scope of institutionalisation and feasibility for de-institutionalisation (alternative care for children)".⁷²

66. Commission Recommendation of 20 February 2013 Investing in Children: Breaking the Cycle of Disadvantage. OJ L 59, 2 March 2013. http://ec.europa.eu/justice/fundamental-rights/files/c_2013_778_en.pdf [accessed 8 Aug 2016].

67. Ibid. p.9.

68. European Commission (2015). 'Coordination and Cooperation in Integrated Child Protection Systems', Reflection Paper for the 9th European Forum on the Rights of the Child. 30 April 2015.

69. European Commission. (2015). European Structural and Investment Funds 2014 – 2020. Belgium: European Union. http://ec.europa.eu/regional_policy/sources/docgener/guides/blue_book/blueguide_en.pdf [accessed on 22nd Jan 2017]. p 175.

70. In particular, two of the Funds contain a more explicit prohibition of institutions: the Regulation for the European Social Fund states that it "should also promote the transition from institutional to community-based care" and "should not support any action that contributes to segregation or to social exclusion," while the Regulation for the European Regional Development Fund describes community-based services as covering "all forms of in-home, family-based, residential and other community services which support the right of all persons to live in the community, with an equality of choices, and which seek to prevent isolation or segregation from the community." For more information see European Commission (2013) Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006 and European Commission (2013) Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006.

71. European Commission (2017) COMMISSION STAFF WORKING DOCUMENT: The Value Added of Ex ante Conditionalities in the European Structural and Investment Funds, 3 March 2017, SWD(2017) 127, p. 19

72. ARES(2015)5590444

The 'EU Guidelines for the Promotion and Protection of the Rights of the Child (2017) Leave no child behind' have included institutionalisation among the risks for children in vulnerable situations⁷³. The document highlights the importance of appropriate alternative care for children that allows them to participate in community life and preventing family and child separation (see section 5.A)⁷⁴, and states that the primary consideration for expenditure should be the best interests of the child (see section 5.D)⁷⁵. It further recommends improving coherence in the EU's external action on children, including that carried out by member states⁷⁶. The Guidelines underline the importance of data to design effective policy, and especially the importance of disaggregated data ("crucial") to ensure no child is left behind⁷⁷.

3. Current opportunities for the EU to support the transition to family and community-based care in its external action

The EU should actively promote the transition from institutional to family- and community-based care as an integral part of its external human rights and development policy.

The institutionalisation of children represents a serious breach of human rights, and as such it should be reflected in all EU external policies and legislation, in line with the logic enshrined in the EU Action Plan on Human Rights 2015-2019 aiming to pursue a Rights Based Approach to Development.

The Council Conclusions from 26 May 2015 on 'A New Global Partnership for Poverty Eradication and Sustainable Development after 2015' state that "special attention must be given to the most disadvantaged and vulnerable, including children, the elderly and persons with disabilities, as well as marginalised groups and indigenous peoples". It further continues that all countries "should facilitate investment in human capital via education, skills development and training and to ensure access to basic services such as health and education".⁷⁸

Article 21(3) TEU provides for **ensuring consistency between the different areas of the EU external action and between these and its other policies**.⁷⁹ In addition, Article 208(2) of the Treaty on the Functioning of the European Union (TFEU) requires the EU and the Member States to comply with commitments and take account the objectives they have approved in the context of the UN.⁸⁰

In order to ensure coherence between the EU internal and external action on human rights, it is crucial that all relevant EU external policies, instruments and mechanisms – including human rights dialogues with non-EU countries – as well as all EU external funds address the situation of children in institutions and children in alternative care or at risk of being separated from their families and promote the transition to family and community-based care.

73. European Union (2017), Guidelines on the Promotion and Protection of the Rights of the Child https://eeas.europa.eu/sites/eeas/files/eu_guidelines_rights_of_child_0.pdf, p. 4 [accessed 30 August 2017]

74. Ibid, p.19

75. Ibid, p. 21

76. Ibid, e.g. p. 13

77. Ibid, p. 24

78. Council of the European Union (2015). Council Conclusions: A New Global Partnership for Poverty Eradication and Sustainable Development after 2015 (26 May 2015), 9241/15. <http://data.consilium.europa.eu/doc/document/ST-9241-2015-INIT/en/pdf>, p.14. [accessed 14 Jan 2017].

79. European Union (1992), Treaty on European Union (Consolidated Version), Treaty of Maastricht, 7 February 1992, Official Journal of the European Communities C 325/5; 24 December 2002. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2012:326:FULL&from=EN> [accessed 8 Jan 2017]

80. European Union (2007), Consolidated version of the Treaty on the Functioning of the European Union, 13 December 2007, 2008/C 115/01. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN> [accessed 8 Aug 2016].

To ensure that the principle of leaving no one behind⁸¹ is implemented, in line with the 2030 Agenda, it is important that the global monitoring framework includes mechanisms to assess the most vulnerable and hard to reach populations. All children count, but not all children are counted. The world's most vulnerable children - those living in institutions, on the street, trafficked or separated from their families as a result of conflict, disaster, forced labour, or disability, have fallen off the world's statistical map. There is very limited data about how many children live in such precarious circumstances, except for scattered estimates from some countries. Given the inextricable links between data, advocacy, and strategic action, this kind of invisibility has real life repercussions for millions of children and can effectively hinder the achievement of the 2030 Agenda.⁸²

It is therefore essential for the European Union, its Member States and its partner countries to:

- I. Ensure that children living outside families and households are represented in disaggregated data and,
- II. Improve and expand data collection methodologies to ensure all children are represented.⁸³ 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.

Post-Cotonou Framework

The Post-Cotonou framework builds on the internationally agreed UN 2030 Agenda. The **Joint Communication on a renewed partnership with the countries of Africa, Caribbean and Pacific**⁸⁴ states among the EU priorities towards partner countries, that “the future partnership should be based on a shared strong commitment to promote and respect democratic principles, the rule of law, universal human rights and fundamental freedoms for all; respect for human dignity and the principles of equality and solidarity; and good governance. In particular, attention to gender equality, the most vulnerable people and children and youth perspective should further inspire mutual efforts towards democratic governance and human rights for all.”

The Post-Cotonou framework – and its regional pillars - could go further in including specific provisions to uphold and advance children's rights, particularly those that inhabit vulnerable groups, including children in institutions, children with disabilities and migrant and refugee children, including references to the transition from institutional to family and community-based care.

81. UN General Assembly. (2015). Transforming our World: the 2030 Agenda for Sustainable Development. 70/1. http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E [accessed 23 Jan 2017].

82. According to UNICEF's 2015 Progress for Children report, “as the world prepares for a new development agenda, data and evidence will only increase in importance and national systems must be strengthened to meet new demands. The new data agenda will need to harness the potential of new technologies to collect, synthesize and speed up the use of data, and also reinvigorate efforts to ensure complete and well-functioning registration systems. The new data agenda will need to provide insight into the most vulnerable children, relying on household surveys that provide data regardless of whether or not a child attends school or is taken to a health facility, as well as developing new approaches for collecting information about children who are homeless, institutionalized or internally displaced.”

83. An example of this would be UNICEF/Washington Group on Disability Statistics Module on Child Functioning and Disability for data disaggregation by disability: <https://data.unicef.org/resources/unicefwashington-group-disability-statistics-module-child-functioning-disability/> [accessed 28 July 2017]

84. European Union (2016) JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL: A Renewed Partnership With the Countries of Africa, the Caribbean and the Pacific https://ec.europa.eu/europeaid/sites/devco/files/joint-communication-renewed-partnership-acp-20161122_en.pdf [accessed 28 July 2017]

European Consensus on Development

The **New European Consensus on Development: 'Our World, Our Dignity, Our Future'**⁸⁵ proclaims the EU and its Member States' commitment to implementing "a rights-based approach to development cooperation", encompassing "all human rights" (Art. 16). The Consensus pays particular attention to children's rights, and states that the EU and its Member States "will intensify their efforts to provide a safe and nurturing environment for children" (Art. 29). It further promises that, "in line with the principle of leaving no-one behind, the EU and its Member States will give special attention to those who are in disadvantaged, vulnerable and marginalised situations, including children, ... [and] persons with disabilities" (Art. 30).

The implementation of the European Consensus on Development presents an opportunity to link EU internal and external policy and legislation by **recommending the introduction of a similar mechanism to the ex-ante conditionality on social inclusion (9: 9.1.) and its investment priority on the "transition from institutional to community based services"**⁸⁶ for all the EU external funding. Such a measure would be a key step in fulfilling the commitment made in the new Consensus to protecting the rights of children and providing them with a safe and nurturing environment.

The **same principles and criteria established by the EU for the ESI Fund regulations** – which effectively prohibit the use of EU funds for the maintenance of existing orphanages or other institutions or the construction of new ones, and identify the 'transition from institutional to family and community-based care' as an investment priority – **should be transposed to all EU funding streams** – including the European Development Fund (EDF), external instruments such as the EIDHR, DCI, IPA, ENPI, EU humanitarian aid and the loans provided by the European Investment Bank.

85. European Union (2017) The New European Consensus on Development: 'Our World, Our Dignity, Our Future' https://ec.europa.eu/europeaid/sites/devco/files/european-consensus-on-development-final-20170626_en.pdf [accessed 3 July 2017]

86. European Union, Regulation (EU) 1303/2013, Article 9: 9.1

General Recommendations to the EU:

- **Champion the reform of child protection and care systems in the context of the post-Cotonou framework, the European Consensus on Development and the Agenda 2030, promoting the transition from institutions to family and community-based care as a human rights priority.**
- **Mainstream the transition from institutions to family and community-based care for children into all relevant policy frameworks and initiatives (e.g., violence against children, child protection, gender, rights of persons with disabilities, fight against trafficking in human beings, etc.).**
- **Develop regulations to ensure that EU external funds are never used to build, renovate or support institutions for children.**
- **Support the introduction of a similar mechanism to the ex-ante conditionality on social inclusion 9.1 in ESIF Regulation 1303/2013 and its investment priority on the “transition from institutional to community-based services” for the next programming period of EU external funding.**
- **Provide financial support for targeted actions that focus on deinstitutionalisation, family support, early childhood development, inclusive education, health and social services, quality alternative care and strengthening of child protection systems to protect children from violence, abuse and neglect and ensure they can access their full set of rights within families and communities.**
- **Ensure that gender is taken into account so that the rights of girls in institutions are realised, including those with disabilities.**
- **Ensure that the post-2015 global monitoring framework includes all children, by taking measures to improve and expand data collection methodologies so that those living outside households and/or families are represented in disaggregated data.**
- **Promote the meaningful participation of civil society organisations in the process of care reform, so that they can play a key role in developing social services and contributing to policy making both nationally and at EU level.**
- **Ensure that children’s views are properly taken into account when designing, monitoring and implementing projects that concern their lives and wellbeing, including by empowering children with intellectual disabilities and communication difficulties to make their voices heard.**

Specific recommendations

For the European Commission's DG DEVCO, DG Home, DG NEAR, and the Office of the Anti-trafficking Coordinator:

- Take global leadership within existing donor coordination mechanisms to ensure recognition of the transition from institutions to family and community-based care as a key development and human rights priority and promote a more integrated investment agenda.
- Provide opportunities for targeted investment for the transition from institutions to family- and community-based care through the EU Development Fund and the EU thematic and geographical funding instruments/programmes (including among others the European Instrument for Pre-Accession Assistance, the European Neighbourhood Instrument, the European Instrument of Democracy and Human Rights, the Civil Society Organisations and Local Authorities programme and the Global Public Goods and Challenges programme). In particular:
 - Support the design, implementation and evaluation of demonstration deinstitutionalisation programmes led by governments, civil society and international organisations, using evidence to scale child care reforms;
 - Ensure eligibility of actions that focus on family support, early childhood development, inclusive education, health and social services, quality alternative care and child protection systems that protect children from violence, abuse and neglect and ensure they can access their full set of rights within families and communities;
 - Provide budget/sector support to governments to implement national strategies and action plans for comprehensive child protection and care system reform via the transition from institutions to family and community-based care – including strong capacity building and workforce development components.
- Mainstream the transition from institutions to family and community based care in relevant instruments, highlighting the connection between trafficking in human beings and institutionalisation of children.
- Address the gender dimension in all cooperation policies and programmes to prevent and address gender-based violence and all forms of violence against children with disabilities, both within and outside the home, with a particular focus on the rights of girls with disabilities living in institutions.
- Promote partnership with civil society to increase local CSOs' capacity to perform their watchdog role as independent development actors and key partners in the process of child protection and care reform. In particular:
 - Provide funding for civil society advocacy initiatives to promote child protection and care reform through EU Thematic and geographical Programmes;
 - Ensure that the Partnership Principle, linked to ESIF, is transposed into all EU external funding and that local and regional civil society organisations are meaningfully involved in the design, implementation, monitoring and evaluation of programmes;
 - Support further research as well as a participatory dialogue with civil society actors, international organisations and experts to collect information on child protection and care reform, highlight the best examples and lessons learnt, and provide practical advice about how to make a sustained transition from institutions to family- and community-based care for children.
- Raise awareness and build capacity of European Commission Desk Officers and Delegation staff about deinstitutionalisation as a human rights priority.

For the European External Action Service:

Champion deinstitutionalisation with Third Countries through political and human rights dialogues, demarches, bi- and multi-lateral cooperation, partnership development and coordination with international stakeholders – including UN agencies, regional organisations and civil society.

- Raise awareness among EEAS staff about deinstitutionalisation as a human rights priority.
- Ensure EU Delegations promote the transition from institutions to family and community-based care as one of the key human rights priorities in their cooperation with national governments, to ensure care reforms are reflected in the country-based support scheme programmes.

For the European Parliament:

- Champion the rights of children in institutions and child protection and care reform in the EU's external action via relevant committees or sub-committees (DEVE, DROI), intergroups (Disability, Children's Rights) and initiatives.

For the Council of the EU:

- Ensure that each Presidency of the Council of the EU addresses the issue of reforming child protection and care systems through the transition from institutions to family and community-based care
- Ensure that the Council Working Group on Human Rights (Cohom) recognises the reform of child protection and care systems as a human rights priority and promotes the transition from institutional to family and community based care in the implementation process of the Guidelines "Leave no child behind" (2017) – promoting harmonisation of EU Member States position in multilateral human rights fora and collaboration with geographic working groups, the Council Working Party on Development and the European Parliament.

For the European Investment Bank:

- Add the building of new and the maintenance of existing institutions for children to the list of activities and/or policies excluded from EIB lending.
- Raise awareness among all relevant EIB personnel of the harm caused by institutionalisation and the need to prioritise the transition to community based services for children and families.
- Make sure that all the EIB policy documents (2009 EIB Statement of Environmental and Social Principles; Environmental and Social Handbook) contain a clear mention of children's rights, the rights of people with disabilities and the right to family and community living, referencing the UN CRC, CRPD and the ECHR.
- Ensure that project promoters and staff members of the Project Directorate and the Environment, Climate and Social Office (ECSO) have received adequate training on social risks, including the harm caused by institutional settings to both children and adults.⁸⁷

87. The Common European Guidelines on the Transition from Institutional to Community-based Care and the Toolkit on the Use of European Union Funds for the Transition from Institutional to Community Based Care explain the philosophy, principles and main elements of deinstitutionalisation as well as advice on how the ESI Funds can be used for funding the reform.. 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 and (2012) Toolkit on the Use of European Union Funds for the Transition from Institutional to Community Based Care <http://deinstitutionalisationguide.eu/> [accessed 28 July 2017]

Document Authors



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