



Protecting Children. Providing Solutions.

January 2018

Lumos' response to the European Commission's Peer Review of the Partnership Principle

1. About Lumos

Lumos is an international NGO¹, founded by the author J.K. Rowling, working to end the institutionalisation of children around the world by transforming education, health and social care systems for children and their families; helping children move from institutions to family-based care. Lumos sits on the EU Civil Society Platform against trafficking in human beings and is a founding member of the European Expert Group on the Transition from Institutional to Community-based Care.

2. Institutionalisation of children

Across the world an estimated eight million children live in large residential institutions² that cannot meet their needs.³ At least 80% of these children are not 'orphans' and have at least one living parent;⁴ many are placed in institutions because they are poor, have a disability or belong to a marginalised group⁵, or as a result of trafficking.⁶

Despite good intentions, over 80 years of research from across the world has demonstrated the harm caused to children by institutionalisation.⁷ Studies highlight how, due to the lack of emotional and physical contact, stimulation and interaction, institutions damage children's ability to form the secure attachments they need to develop to their potential. Research into early brain development

¹ Lumos Foundation (Lumos) is a company limited by guarantee registered in England and Wales number: 5611912. Registered charity number: 1112575

²The Common European Guidelines on the Transition from Institutional to Community-based Care define institutions for children "as residential settings that are not built around the needs of the child nor close to a family situation, and display the characteristics typical of institutional culture (depersonalisation, rigidity of routine, block treatment, social distance, dependence, lack of accountability, etc.)" European Expert Group on the Transition from Institutional to Community-based Care (2012), Common European Guidelines on the Transition from Institutional to Community-based Care <http://www.deinstitutionalisationguide.eu/> [accessed 20 Nov 2017]

³ Pinheiro, P.S. (2006). *World Report on Violence against Children*. UNICEF: New York.

⁴ Csáky, C. (2009). Keeping Children Out of Harmful Institutions: Why we should be investing in family-based care. Save the Children, London, 2009, p7. Better Care Network (2009) Global facts about orphanages. http://handstohearts.org/wp-content/uploads/2011/04/Global-Fact-Sheet-on-Orphanages_BetterCareNetwork.pdf

⁵ Pinheiro, P.S. (2006). *World Report on Violence against Children*. UNICEF: New York.

⁶ 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 31 Mar 2017]

⁷ Berens, A. & Nelson, C. (2015) The science of early adversity: is there a role for large institutions in the care of vulnerable children? *The Lancet*. 2015.

demonstrates that institutionalisation has a severe impact on brain development and that this impact is even greater than the impact of child abuse.^{8 9}

The European Union has taken the leadership in ending institutional care by introducing an ex-ante conditionality on social inclusion (9: 9.1.) in the Regulation 1303/2013 on the European Structural and Investment Funds (ESIF). In effect, with the adoption of the Regulation, states are prohibited to use ESIF for the maintenance or renovation of existing and the construction of new large residential institutional settings and they should prioritise investment in the transition from institutional to community-based care.

3. The Partnership Principle in practice

The Partnership Principle is vital to ensure high quality and sustainable reform. The introduction of the European Code of Conduct on Partnership (ECCP) in the Regulation 1303/2013 highlighted the important role that civil society has to play throughout the entire ESIF programming cycle, including: preparation, implementation, monitoring and evaluation. It is crucial to ensure that this principle is fully implemented at country level.

This submission highlights positive and challenging examples of the Principle in action, reported to Lumos by civil society organisations based in the EU Member States.

3.1 Positive experiences

Romania

In a study undertaken by *Community Living for Europe: Structural Funds Watch (CLE:SFW)* focussing on the implementation of the ESIF (*Opening up communities, closing down institutions: Harnessing the European Structural and Investment Funds*), a national NGO representing children in Romania was complimentary about the approach taken in Romania, advising that: *“Methodology guarantees the involvement of civil society in all stages of ESIF planning: consultations on producing the applicant’s guide, on producing the criteria for assessing the application, on producing the Annual Implementation Report, on monitoring the performance score card and on identifying possible aspects that can be problematic.”*¹⁰

Czech Republic

A representative from the Czech Government Council for NGOs highlighted the selection procedure for NGO representatives in the partnership process in the Czech Republic as a positive example, noting

⁸ Nelson, C. and Koga, S. (2004). Effects of institutionalisation on brain and behavioural development in young children. Findings from the Bucharest early intervention project, paper presented at the International Conference on ‘Mapping the number and characteristics of children under three in institutions across Europe at risk of harm’, 19 March 2004, EU Daphne Programme 2002/3 and WHO Regional Office for Europe, Copenhagen, Denmark.

⁹ For more information, see Lumos (2014) Children in Institutions: the Risks http://wearelumos.org/sites/default/files/2.Risks_.pdf [accessed 10 May 2017] and Lumos (2015) Children in Institutions: the Global Picture http://wearelumos.org/sites/default/files/1.Global%20Numbers_2_0.pdf [accessed 10 May 2017]

¹⁰ Neil Crowther, Gerard Quinn and Alexandra Hillen-Moore: Opening up communities, closing down institutions: Harnessing the European Structural and Investment Funds (2017), p.35

that it was transparent and clear. The selection procedure was conducted through cooperation between the EU Committee, the Government Council for NGOs and the programming platform of ESIF 2014-2020. The selection procedure was conducted through cooperation between the EU Committee, the Government Council for NGOs and the programming platform of ESIF 2014-2020. The programming platform, an ad-hoc informal group, nominated the NGO representatives on the basis of motivation letters and letters of recommendation from other NGOs.

3.2 Challenging experiences

Estonia

In the CLE:SFW study, a national children's rights NGO in Estonia advised that they and other organisations involved in the alternative care of children (foster care/adoption services) were consulted on the Partnership Agreement and Operational Programmes. However, the NGO noted that the documents were too complex, with inaccessible terminology, and they were not fully briefed on the process. The timeframe in which comments and feedback were requested was often unrealistic given the capacity of the organisations and available resources.¹¹

Lithuania

Two national NGOs and one local NGO in Lithuania reported in the CLE:SFW survey that relevant civil society organisations had not been involved in the ESIF planning process, such as the development of the Partnership Agreement, or the Operational Programmes. The local NGO advised it was possible that *"some selected NGOs or associations were consulted, but not the key NGOs having the necessary expertise in the deinstitutionalisation process, child rights and the rights of people with disabilities, so both the representation of partners and the transparency in this selection process have been challenging for the Lithuanian NGOs."*¹²

Greece

A national NGO in Greece indicated that ESIF programming documents were planned at the governmental level only and that they and other organisations in their network had not been involved. The NGO attended two working groups after the adoption of the ESIF Operational Programmes. These working groups discussed the need to adopt strategies on, and implement measures for, the transition from institutional to community-based services as well as the need to adopt legislative changes, in particular regarding oversight and monitoring of private sector residential centres. The organisation advised that, despite the promising discussions held in these working group meetings, concrete action on the ground in response to them has as yet not materialised.¹³

¹¹ Ibid, p. 36

¹² Ibid, p. 35

¹³ Ibid, p. 35

Bulgaria, Romania and Lithuania

None of the CLE:SFw survey respondents reported that civil society consultation was representative of groups across the life-course. National and local NGOs in Bulgaria, Romania and Lithuania advised that organisations representing people with disabilities, in particular psychosocial disabilities, were under-represented or not present at all during consultations.¹⁴

Czech Republic

According to a representative of the Czech Government Council for NGOs, the managing authorities are very interested in cooperation with NGOs and generally follow the Partnership Principle. However, an area that could be improved regarding the implementation of the Partnership Principle is that, at present, NGOs that participate in developing the implementation structure for ESIF bear all associated costs – such as travel costs and compensation for the loss of salary. Representation involves a lot of work; many documents have to be carefully reviewed and the NGO representatives do their work on a voluntary basis in addition to their regular scope of work.

4. Lumos recommendations: Improving implementation of the Partnership Principle

Based on analysis of the examples include in this submission, Lumos proposes the following key recommendations to the European Union on the implementation of the European Code of Conduct on Partnership (ECCP):

1. Civil society organisations with expertise in, and experience of, the transition from institutional to community-based care should be involved in all stages of the planning, implementation, monitoring and evaluation of the Operational Programmes in a transparent and structured way.
2. Member States should use their Technical Assistance budget for building the capacity of civil society (Article 17 ECCP) and encouraging their involvement – for example to cover travel costs or compensate for salary loss. This will enable a broader and more representative range of civil society, such as smaller NGOs with limited capacity, to participate at the discussions.
3. The key principles of the European Code of Conduct on Partnership should be included in the Common Provision Regulation of the ESIF post-2020.
4. The European Commission should encourage and support Member States to meaningfully involve people with disabilities, including children with disabilities and their representatives, in all the stages of the ESIF cycle, including planning, implementation, monitoring and evaluation, as required by the partnership principle. Information should be shared in accessible formats.
5. The European Commission should encourage and support Member States to use integrated approaches to territorial development and use tools with built-in partnership requirements, such as the Community Led Local Development (CLLD) tool.
6. The complaints procedure that Member States are required to establish should be more effective, transparent and better communicated to civil society organisations to give them the

¹⁴ Ibid, p. 34

opportunity to highlight their concerns. An example could be an online platform where civil society, particularly small organisations which do not easily come into contact with the European Commission could report abuses of funds and Charter violations as suggested by the European Ombudsman¹⁵. The Managing Authorities should also report back on actions they have taken as a consequence.

7. The European Commission and Member States should provide more information to civil society organisations on the ESIF monitoring mechanisms, for example timeline and indicators, so that they can contribute more effectively to the monitoring process. Also, the feedback mechanisms for civil society organisations on how projects funded by ESIF are being implemented in practice should be more transparent and better communicated.
8. In order to achieve a more coherent approach, the EU should introduce a Code of Conduct on Partnership for all EU external instruments, so that the involvement of civil society is secured for the design, implementation, monitoring and evaluation of any action globally.

5. Contact

Irina Papancheva
EU Advocacy Manager
e-mail: Irina.Papancheva@wearelumos.org
mob.: +32 499 24 74 61
<http://wearelumos.org/>

Charlotte Boetticher
European Knowledge Coordinator
email: charlotte.boetticher@wearelumos.org
mob.: +32 491 20 14 79
<http://wearelumos.org/>

¹⁵ Decision of the European Ombudsman closing her own-inquiry OI/8/2014/AN concerning the European Commission, (European Ombudsman, 2015), p.8