Recommendations to the Commissioner for Equality:
Support children in Europe and around the world to live in families

Millions of children around the world live in institutions – often called "orphanages" – that expose them to a catalogue of human rights abuses and enhanced risk of violence their human rights and cannot meet their needs. A number of international policy and legal instruments declare that institutional settings are a breach of human rights, including the Convention on the Rights of Persons with Disabilities (UNCRPD), to which all Member States and the EU itself, are parties. Promoting the transition from institutions to family- and community-based services, both inside and outside the EU, is crucial both for the wellbeing of children and for the long-term benefits to society. Moreover, addressing the needs of children in institutional care supports the implementation of the Sustainable Development Goals (SDGs). For more information, please see the background information section below.

The coming five years present a unique opportunity for the European Commission to renew its commitment and global leadership to ensure that children grow up in families and inclusive communities, in line with President Ursula von der Leyen's prioritisation of children's rights. To this end, the portfolio of Equality is crucial to put child protection and family care at the heart of the EU's internal and external action.

We ask the Commissioner for Equality to:

- Ensure that the new **comprehensive Strategy on Children Rights** and the **new European Disability Strategy** include bold commitments towards family support and deinstitutionalisation, both in EU internal and external action, as key aspects of building more sustainable and inclusive societies, in line with the principle of "leaving no one behind".
- Ensure that the **new European Gender Strategy** promotes universal access to community-based services (including for children with disabilities), and offers targeted support to vulnerable groups (e.g. single mothers, pregnant women, women who give birth outside wedlock and their children, women victim of violence, families at risk of poverty and social exclusion), both in EU internal and external action.
- Promote the **use of EU funds, both internally and externally, to support the shift from institutional to family- and community-based care**, and thereby promote equality and full participation of all children within society. The EU funds, and in particular the European Social Fund Plus and the European Regional Development Fund, should continue to be used to develop a wide range of family-based care and community-based services, as laid out in the Checklist developed by the European Expert Group on Deinstitutionalisation and Hope and Homes for Children[1].
- Promote **implementation of the UN CRPD in the EU external action**, including by supporting DG DEVCO, the European External Action Services and EU delegations in the identification of a number of partner countries where the Neighbourhood, Development and International Cooperation Instrument could be used to pilot comprehensive child protection system reform in the 2021-2027 funding period. This should prioritise the transition from institutional to family- and community-based care and the prevention of family separation – in line with CRPD articles

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[1]*Checklist to ensure EU-funded measures contribute to independent living by developing and ensuring access to family-based and community-based services, https://deinstitutionalisationdotcom.files.wordpress.com/2019/11/eeg_checklist_onlineoffice.pdf*

19 and 23 - with a strong focus on capacity building of CSOs and workforce development of employees of the new services.

- Building on the Common European Guidelines on the Transition from Institutional to Community-based Care for EU internal action developed by the European Expert Group on the Transition from Institutional to Community-based Care [2], promote the elaboration of a set of **guidelines on the transition from institutional to family and community-based care in the EU's external action.**
- **Promote partnership with civil society organisations to inform about cooperation in partner countries and to increase CSO capacity to perform their watchdog role and contributing with knowledge and expertise to** the process of child protection and care reform. In particular:
  o Ensure the **implementation of the Partnership Principle** (foreseen in the Common Provisions Regulations for Cohesion Policy), and Inclusive Partnership (foreseen in Neighbourhood, Development and International Cooperation Instrument) by involving civil society organisations and service users in the programming, implementation and monitoring of EU funds in a transparent, structured and meaningful way;
  o **Support CSOs' programmatic interventions and advocacy initiatives to promote child protection and care reform;**
  o **Support further research**, as well as a participatory dialogue with civil society actors, international organisations and experts.
- **Ensure that the global monitoring framework** for the implementation of the SDGs includes methodologies securing that children living outside of households and/or without parental care are represented and that data is used to inform targeted, appropriate, and accessible interventions.

Background Information

1. Institutionalisation of children

There are numerous definitions of what the term 'institution'[3] means when referring to children. The Common European Guidelines on the Transition from Institutional to Community-based Care define institutions for children "as residential setting 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.)".[4]

Over 80 years of research from across the world has demonstrated the significant harm caused to children in institutions who are deprived of loving parental care and who may consequently suffer life-long physical

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[2]https://deinstitutionalisationdotcom.files.wordpress.com/2017/07/guidelines-final-english.pdf

[3] See for example Eurochild's definition extracted from the UN Guidelines for the Alternative Care of Children: *"a residential setting that is not built around the needs of the child nor close to a family situation and display the characteristics typical of institutional culture (depersonalisation, rigidity of routine, block treatment, social distance, dependence, lack of accountability, etc.).* Cited in the *Common European Guidelines on the Transition from Institutional to Community-based Care. European Expert Group on the Transition from Institutional to Community-based Care, November 2012, http://www.deinstitutionalisationguide.eu/.* In addition, UNICEF when defining an institution considers *"whether the children have regular contact and enjoy the protection of their parents or other family or primary caregivers, and whether the majority of children in such facilities are likely to remain there for an indefinite period of time".* Cited in the *UNICEF Consultation on Definitions of Formal Care for Children*, pp.12–13.

[4] 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 11 July 2016].

and psychological harm.[5] Children who grow up in institutions can experience attachment disorders, cognitive and developmental delays, and a lack of social and life skills leading to multiple disadvantages during adulthood.[6] 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.[7]

Research consistently demonstrates that the majority of children in institutions are not 'orphans',[8] but are placed there due to reasons such as **poverty, disability, marginalisation, migration, a lack of family support services in the community and as a result of trafficking**.

2. International policy and legal framework

A number of international and EU policy and legal instruments declare that institutional settings are a breach of human rights. The United Nations Convention on the Rights of the Child (CRC), ratified by all EU Member States, affirms that as far as possible, all children have a right to live with their families and that parents or other legal guardians have the primary responsibility to protect and care for the child.[9] The CRC and the UN Guidelines for the Alternative Care of Children[10] also call on States to ensure that families have access to services which support them in their caregiving role.

The Convention on the Rights of Persons with Disabilities (UNCRPD),[11] to which 27 Member States and the EU itself are signatories, states that children with disabilities should enjoy their human rights on an equal basis with other children (Art. 7.1), that their best interests must be taken into account (Art. 7.2) and that all persons with disabilities have the right to community living (Art. 19). Furthermore, the UN Resolution on the Rights of the Child, adopted in December 2019 and co-drafted by the EU, expresses a concern that millions of children continue to grow up deprived of parental care, states that family- and community-based care should be promoted over placement in institutions and urges States to take effective action to provide support to families and to *prevent the unnecessary separation of children from their parents, including through investment in social protection services and social services* (para 34). A global coalition of 256 organisations, networks, and agencies working at national, regional and international levels on children's care worked together to propose to Member States a set of Key Recommendations to be included this resolution, to address key challenges and opportunities in implementing the rights of children without parental care[12].

The EU has recognised the harm caused by institutionalisation by introducing an ex-ante conditionality on social inclusion in the European Structural and Investment Funds Regulations in the 2014-2020 programming period with a dedicated investment priority on the transition from institutional to community-based care. By doing this, the EU has played a leading role in supporting vulnerable children

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[5] Berens & Nelson (2015). The science of early adversity: is there a role for large institutions in the care of vulnerable children? The Lancet. http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(14)61131-4/abstract [Accessed 16 September 2016]

[6] 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)

[7] *Mulheir, G. et al. (2012). Deinstitutionalisation – A Human Rights Priority for Children with Disabilities.*

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

[9] United Nations (1989) *Convention on the Rights of the Child* (Adopted 20 November 1989, entered into force 2 September 1990) Vol.1577, p.3.
[10] United Nations (2009) *Guidelines for the Alternative Care of Children* (2009) A/RES/64/142 http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf [accessed 27 Jul 2017].

[11] 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).

[12] Key Recommendations for the 2019 UNGA Resolution on the Rights of the Child with a focus on children without parental care, https://bettercarenetwork.org/library/social-welfare-systems/child-care-and-protection-policies/key-recommendations-for-the-2019-unga-resolution-on-the-rights-of-the-child-with-a-focus-on-children

and driving the transition from institutional to family- and community-based systems of care in a number of countries across Europe. This commitment has been further reaffirmed with the introduction of enabling conditions in the draft Cohesion Policy Regulations for the 2021-2027 programming period. Moreover, the European Commission showed high political commitment for deinstitutionalisation globally by introducing a reference to the transition from institutional to community-based care for children in its proposal for the Neighbourhood, Development and International Cooperation Instrument (NDICI)[13]. This proposal is supported by the European Parliament and the Council[14].

In addition, the updated "EU Guidelines for the Promotion and Protection of the Rights of the Child (2017)" highlight the importance of appropriate alternative care for children that allows them to participate in community life, of preventing family and child separation,[15] and of taking into consideration the child's best interests.[16] They further recommend the need for greater coherence in the EU's external action on children, including that carried out by Member States.[17] Additionally, the European Parliament Resolution on the Rights of the Child, adopted in November 2019, also *highlights the importance of strengthening family- and community-based services* to allow all children to grow up not in institutions but in families and communities and of using EU funds to support the transition from institutional to community-based services, both inside and outside the EU[18].

3. About Lumos, Hope and Homes for Children and Save the Children

Lumos is an international NGO founded by author J.K. Rowling, working to end the institutionalisation of children worldwide by 2050. Lumos is a founding member of the European Expert Group on the Transition from Institutional to Community Based Care (EEG), sits on the EU Civil Society Platform against trafficking in human beings and is a member of the Child Rights Action Group (CRAG).

Hope and Homes for Children is an international NGO founded in 1994. Our mission is to be the catalyst for the global elimination of institutional care for children. We work across five regions to design robust child protection systems effective in preventing children's separation from their families and providing quality alternative care in the best interest of all children. Hope and Homes for Children is a member of the Child Rights Action Group (CRAG).

Save the Children 100 years ago, a courageous woman named Eglantyne Jebb founded Save the Children in response to the terrible suffering children were facing as a result of war. Armed with ideas ahead of her time, she changed the course of history when she declared that all children should have rights. This revolutionary idea sparked a global movement aimed at making the world a better place for children. It also helped shape the UN Convention on the Rights of the Child. Currently, Save the Children is a global organization working cross 118 countries. We respond to major emergencies, deliver innovative development programmes, and ensure children's voices are heard through our campaigning to build a better future for and with children.

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[13] *Proposal for a regulation on the Neighbourhood, Development and International Cooperation Instrument, COM(2018) 460 final, Annex II and III*

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

[15] European Union (2017), *Guidelines on the Promotion and Protection of the Rights of the Child* p.19. [accessed 06 Mar 2018]

[16] Ibid, p. 21

[17] Ibid, e.g. p. 13

[18] *P9_TA(2019)0066, para 43*