

Family Support and Alternative Care in the Baltic Sea Region

Background Paper

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1) Introduction

In May 2015, the Council of the Baltic Sea States (CBSS), the Estonian Presidency of the Council and the CBSS Expert Group on Coordination on Children at Risk (EGCC) organised an Expert Meeting on Family Support and Alternative Care in the Baltic Sea Region. In preparation for the Expert Meeting, a regional study process gathered relevant data and information on family support and alternative care in the eleven Member States of the Council of the Baltic Sea States, Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, the Russian Federation and Sweden (see Box 1).

The study on family support and alternative care in the Baltic Sea Region was implemented as a regional consultative process, which culminated in the 2015 Tallinn Expert Meeting on Family Support and Alternative Care and the adoption of the Tallinn Recommendations and Action Plan on Alternative Care and Family Support 2015-2020. The study process resulted in a package of outcomes, which were all closely interwoven and informed each other:

- **Family Support and Alternative Care – The Baltic Sea States Regional Report 2015** provides a regional synergy of key data, analysis and conclusions and proposals for action.
- The **background paper on family support and alternative care in the Baltic Sea Region** offers a more comprehensive and detailed overview of the situation in the CBSS Member States and presents country-specific information and developments more in-depth.
- The **2015 Tallinn Expert Meeting on Alternative Care and Family Support** and its **Meeting Report**.
- The **Tallinn Recommendations and Action Plan on Alternative Care and Family Support 2015-2020**, which will guide the regional action in this field for the years to come.

The complete documentation and all relevant reports are available from the website of the Children's Unit at the Council of the Baltic Sea States.¹

The study on family support and alternative care in the Baltic Sea Region was launched by a decision of the Expert Group for Cooperation on Children at Risk. The objective was to identify progress and challenges in preventing family separation and safeguarding the rights of children in alternative care. The Expert Group selected the following three themes for the study to focus on:

1. Identifying effective interventions to prevent children from being separated from their families by highlighting examples of good practices and services that “work”;
2. Ensuring the transition from institutional care to family based care by building necessary support systems and securing the quality of care; and

¹ All reports and related documentation can be accessed from the website of the Council of the Baltic Sea States Children's Unit at <http://www.childcentre.info/expertlevelmeeting2015/>.

3. Safeguarding children's rights in alternative care by encouraging child participation and by preventing abuse, neglect, exploitation and violence.

In addition, the study addressed as a fourth, cross-cutting theme the general structural organisation of the public administrations and how they operate in order to plan and reform national policies for family support, childcare and protection and to see them through into practice.

The study process has gathered a wealth information and data on family support and alternative care in the Baltic Sea Region and the way that the public administrations operate to implement national laws and policies in these areas into practice. Whereas this background paper presents the vast body of information as a largely descriptive situation report and offers thus a more detailed mapping of laws, policies and implementation measures in the Member States of the Council of the Baltic Sea States, the Baltic Sea States Regional Report on Family Support and Alternative Care presents a more concise synergy of the key findings, conclusions and proposals for action.

Box 1: About the Council of the Baltic Sea States and the Expert Group for Cooperation on Children at Risk²

The Council of the Baltic Sea States (CBSS) is an inter-governmental organisation for the cooperation within the greater Baltic Sea Region. The Member States of the CBSS are Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, the Russian Federation and Sweden. In addition to the eleven states, the European Union participates as a member.

Within the framework of the CBSS, the Expert Group for Cooperation on Children at Risk (EGCC) promotes policymaking and programming to promote the implementation of the UN Convention on the Rights of the Child, with a specific focus on children at risk. The Expert Group consists of senior officials from the CBSS Member States and the European Commission. Administratively, it is part of the Council of the Baltic Sea States and the Children's Unit within the CBSS Secretariat facilitates its work. The Expert Group acts as a platform for professionals from various sectors and disciplines, including governmental departments, international, regional and local organisations, UN agencies, the academia and Ombuds offices.

The Expert Group for Cooperation on Children at Risk contributes actively to the development of comprehensive child protection systems and sustainable interventions to prevent and respond to violence, abuse, neglect and exploitation of children. Within its broad mandate to promote children's rights, the Expert Group is focusing in particular on thematic areas related to child-friendly justice, the prevention of all forms of violence and early intervention, the prevention of sexual abuse and exploitation of children, the protection of migrant children and child victims of trafficking. Safeguarding the rights of children deprived of parental care has been a priority theme since the inception of the Expert Group in the late 1990s and continues to be at the centre of the activities in the region, with particular attention to quality care and family support.

Background

Since its inception in the late 1990s, the Expert Group for Cooperation on Children at Risk (EGCC) has been working on alternative care and related matters as part of its broader priority themes. The members of the Council of the Baltic Sea States (CBSS) recognise the

² Council of the Baltic Sea States, Expert Group for Cooperation on Children at Risk, available at <http://www.cbss.org/safe-secure-region/eg-on-children-at-risk/> accessed on 21 May 2015.

importance of childcare, protection and family support. Most countries have reviewed and reformed their child protection laws and policies. Many countries have enshrined the protection of the family unit into their national constitutions. The progressive transition from institutional to family-based and family-like care continues to be high on the regional agenda.

When the members of the Expert Group decided to hold the Tallinn Expert Meeting, they emphasised the great need to address these issues in a comprehensive way. Despite important achievements in these areas, the countries in the region continue being concerned about promoting deinstitutionalisation, providing appropriate support to parents and ensuring quality standards of alternative care. Many children and caretakers are struggling with diverse, often multiple and intersecting challenges, including poverty, addictions, discrimination, family breakdown and separation, as well as violence against children, including domestic and gender-based violence, abuse, exploitation and trafficking. These issues are also causing severe strain on social systems. There has been a growing recognition that integrated services and protection systems are needed that are well equipped to offer individual and tailor-made support for children and parents with a view to reducing strains and risks, preventing re-victimisation and traumatisation, promoting resilience and social inclusion.

Previous high-level meetings and projects

In May 2005, the Norwegian Minister for Children and Family Affairs, and the CBSS Expert Group for Cooperation on Children at Risk convened a Ministerial Forum in Oslo, where Ministers for social affairs, families and children and leading experts identified priorities in relation to alternative care in the region. The Ministerial Forum issued several recommendations for action. It encouraged the CBSS Member States to support parents in their childrearing and caregiving role and to resort to institutional care only when this is in the best interests of the child. The Ministerial Forum recommended that the Expert Group for Cooperation on Children at Risk and the CBSS Children's Unit cooperate with different professional sectors in order to strengthen the cross-border cooperation and information exchange on children at risk. The Ministerial Forum proposed further that the Children's Unit develop a tool to monitor institutions, which was implemented with the development of AudTrain in 2012, a programme that trained professionals to audit and monitor residential facilities for children. The tool has been widely acknowledged and the Expert Group will continue to update the manual and to train trainers. Over the past ten years, these recommendations have guided the work of the Children's Unit at the CBSS Secretariat, the EGCC and their national counterparts.

The Ministerial Forum encouraged the Expert Group and the CBSS Children's Unit to cooperate with social workers and other professionals in order for them to benefit from the establishment of cross-border cooperation on children at risk. Many child protection workers have been involved in the activities of the Children's Unit, including as National Coordinators and Focal Points. This enriching cooperation resulted, among others, in support measures for unaccompanied children and child victims of trafficking. The experience made with these initiatives has led to new developments, knowledge and networking that provide continuity to the activities and approaches, not least in the context of the PROTECT Children on the Move project, which has been implemented since 2013, and subsequent capacity building for key

stakeholders in the Baltic Sea Region on children at risk of exploitation and trafficking and transnational cooperation in the child protection field.

Ten years after the Oslo Ministerial Forum, the Estonian Presidency of the Council of the Baltic Sea States and the EGCC organised the 2015 Tallinn Expert Meeting on Alternative Care and Family Support. The meeting aimed to offer a platform for regional dialogue on these themes from a comprehensive, rights-based and solution-oriented perspective. The participants included government representatives, experts and professionals from Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, Russia, Sweden, the UK, the European Commission and the Council of Europe. On 6 May 2015, they endorsed the Tallinn Recommendations and Action Plan on Alternative Care and Family Support 2015-2020.

Strong European focus on integrated services

The Council of the Baltic Sea States initiatives to promote quality care for children in the region are complementary to the work of other European agencies such as, for instance, the mapping of national child protection systems conducted by the European Union Agency for Fundamental Rights³, the European Union process to develop principles for a child protection system's approach, and the Council of Europe initiatives in support of children's rights and integrated services that are friendly to children and families. The Baltic Sea study on family support and alternative care has been implemented in synergy with these regional developments and initiatives in the broader European region.

The cooperation in the context of the European Union, the Council of Europe and the CBSS have created platforms for regional consultation and concerted action, to which each country contributes with its own important experience, innovative examples and lessons learned. The CBSS Expert Group for Cooperation on Children at Risk has recognised the potential for mutual learning that the region offers as an opportunity to enrich and inspire the continued development of law, policy and practice, nationally and regionally.

³ Key findings of the research are available on the website of the European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU*, accessed from <http://fra.europa.eu/en/project/2014/mapping-child-protection-systems-eu> on 10 July 2015. A comprehensive report on FRA's research is planned for publication in early 2016.

2) Methodology

This study has been developed through a comprehensive literature review of national, regional and international sources, including specifically reports from the thematic fields of child rights and protection, childcare, alternative care, family support and social services. The sources include the reporting procedure to the Committee on the Rights of the Child, including alternative reports, of the CBSS Member States as well as studies and reports published by national institutions, by United Nations agencies, the European Union (EU) bodies and the Council of Europe, by international and national NGOs, the academia and research institutes. These sources were primarily identified through a search in main international and European databases, including the CRIN Database, EU country profiles, country information available from the Council of Europe and the Hague Conference on Private International Law, the Better Care Network and the Save the Children child protection resource centre.

Databases operated by the Organisation for Economic Cooperation and Development (OECD) and the European Union were consulted for the study.⁴ They provided access to up-to-date statistics and analysis particularly with regard to family policies. The regional scope of these databases does however not cover the CBSS Member States consistently so that some of the data sheets presented in this report are not providing a complete data set comparable for all the CBSS Member States. The OECD sources, for instance, exclude data from the Russian Federation, while EU sources exclude data from Iceland, Norway and the Russian Federation.

The data collection and analysis was guided by international and regional standards, guidelines and recommendations, in particular the UN Convention on the Rights of the Child, the UN Guidelines on Alternative Care for Children, regional Conventions, recommendations and guidelines from the Council of Europe and EU strategic documents and guidelines (see Box 2). On the basis of these international and regional standards and guidelines, key questions and indicators were identified that guided the data collection and the analysis. The detailed research guide enlisting these key standards and guidelines is included in the Annex.

Official data and statistics on children in alternative care were collected through a survey with the members of the Expert Group for Cooperation on Children at Risk. The EGCC Members contributed further by responding to key questions and compiling relevant information on alternative care and family support in their countries, providing information on good practice examples and guiding the analysis through comments, review and critical feedback. Considering the volume of the information collected for each Member State of the Council of the Baltic Sea States, the depth of the review by the Expert Group members differed from country to country. While some reviewed the background paper with a focus on national data

⁴ Organisation for Economic Cooperation and Development, OECD Family Database, OECD, Paris, 2015, accessed from www.oecd.org/social/family/database.htm on 13 February 2015. Council of Europe, The Council of Europe Family Policy Database, accessed from <http://www.coe.int/t/dg3/FamilyPolicy/> on 15 May 2015. European Union, European Platform for Investing in Children, accessed from http://europa.eu/epic/countries/index_en.htm on 13 February 2015.

and information, others conducted a more selective check of key data presented in synergy in the Baltic Sea Regional Report.⁵

The review by the Expert Group members helped identifying recent developments and up-to-date information from each country. This remained a particular challenge in those countries where State Party reports to the Committee on the Rights of the Child have been pending for many years. Overall, the review and the consultative processes leading up to the Tallinn Expert Meeting contributed essentially to ensure that data are up to date and validated. The reviewers inspired the study with their professional expertise representing many different perspectives and backgrounds and institutional affiliations from the broad European region.

Box 2: International and regional standards, guidelines and recommendations that guided the analysis

- UN Guidelines for the Alternative Care of Children, 2010 (hereafter UN Guidelines)
- Council of Europe Committee of Ministers Recommendation on the rights of children living in residential institutions (Rec(2005)5)
- Council of Europe Committee of Ministers Recommendation on children's participation in family and social life (R(98)8)
- Council of Europe Committee of Ministers Recommendation on the participation of children and young people under the age of 18 (Rec(2012)2)
- Council of Europe Committee of Ministers Recommendation on children's rights and social services friendly to children and families (Rec(2011)12)
- Council of Europe Strategy for the Rights of the Child 2012-2015
- Council of Europe Committee of Ministers Guidelines on child friendly health care (2011)
- Common European guidelines on the transition from institutional to community-based care (2012)
- Quality for Children Standards (2007)
- The Hague Convention of 29 May 1993 on the Protection of Children and Cooperation in Respect of Intercountry Adoption
- The Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children

⁵ The graphs and figures on children in alternative care presented in this report are based on data from official national sources, shared by the EGCC Members. Germany has participated in the review with a focus on the data concerning children who are deprived of parental care and live in foster families or institutions.

3) Children in care in the Baltic Sea region: Overview and trends

The Baltic Sea Region⁶

The Council of the Baltic Sea States (CBSS) is an inter-governmental organisation for the cooperation within the greater Baltic Sea Region. The region's geography is characterised by the Baltic Sea connecting nine of the eleven Member States. The northernmost areas of the region share particular geographical aspects and climate conditions. Common histories, geographies and cultures provide a basis for an evolving common identity in this Northern European sub-region.

Transnational cooperation has been well developed in many thematic areas in the region and plays an important role in connecting the EU with its northern and north-eastern non-EU neighbours. Most of the CBSS Member States are Members of the European Union. Iceland and Norway are members of the European Economic Area (EEA)⁷ and the European Free Trade Association (EFTA)⁸. They are therefore closely aligned to EU policies and participate in various cooperation agreements with the EU, such as the common asylum system and the Schengen agreement establishing the area of freedom of movement. All CBSS Member States are also participating states of the Council of Europe. The human rights standards, recommendations and guidance from the Council of Europe specifically in the area of child rights and protection are therefore directly applicable to all countries in the region.

The cross-border cooperation in the region has been formalized through additional institutions including the Council of the Baltic Sea States, the Nordic Council of Ministers, the EU Strategy for the Baltic Sea Region and the Northern Dimension Partnerships. Additional forms of cooperation such as the Russian North-West Strategy contribute to defining common goals for the region.

Demography

The population of the Baltic Sea Region amounts to approximately 57.6 million persons.⁹ The national populations within the region differ significantly in numbers. The Russian Federation,

⁶ Chapter prepared by Shawna von Blixen, Council of the *Baltic Sea States Children's Unit*, February 2015.

⁷ "The Agreement creating the European Economic Area (EEA) entered into force on 1 January 1994. It allows the EEA EFTA States (Norway, Iceland and Liechtenstein) to participate in the Internal Market on the basis of their application of Internal Market relevant acquis. All new relevant Community legislation is dynamically incorporated into the Agreement and thus applies throughout the EEA, ensuring the homogeneity of the internal market. The EEA Agreement is concerned principally with the four fundamental pillars of the Internal Market, "the four freedoms", i.e. freedom of movement of goods, persons, services and capital. But also "flanking policies" such as social policy, consumer protection, and environment policy may be covered. The EEA Agreement does not cover agriculture and fisheries." See: European Union External Action, European Economic Area (EEA), undated, accessed from <http://eeas.europa.eu/eea> on 22 February 2015.

⁸ The European Free Trade Association (EFTA) is an "intergovernmental organisation set up for the promotion of free trade and economic integration to the benefit of its four Member States: Iceland, Liechtenstein, Norway and Switzerland. The Association manages the EFTA Convention; EFTA's worldwide network of free trade and partnership agreements, and the European Economic Area (EEA) Agreement." See: EFTA, The European Free Trade Association, 2011, accessed from <http://www.efta.int/> on 22 February 2015.

⁹ This figure represents the population of the Nordic countries, the Baltic countries, the northern regions of Germany and Poland, and much of the Russian Northwestern Federal District. Including the whole population of all states in the region, the

for instance, has a proportion of children under 18 years of age that is just as populous as the combined child populations of the other ten CBSS member States. In 2013, 18% of the population of the region were under the age of 18 years old (see Table 1).¹⁰

The life expectancy and child mortality rates differ significantly throughout the region. While the average life expectancy was 70 years for children born in 2013, Russia has the lowest life expectancy at 64 and Sweden has the highest at 82 years. The mortality rate for children under the age of 5 was 13 for every 1,000 births in 1990. By 2014, this had decreased to 5 in every 1,000 births, with a lowest rate of 2 in Iceland and a highest of 10 in the Russian Federation.¹¹

The region continues to age – a notable trend all over Europe. Eurostat projections expect that between 2013 and 2050, the population in the Baltic Sea region aged 80 years old and above will grow by 70 percent. During the same time period, the population aged 0-18 is only expected to grow by 1 percent. There is a notable disparity for this metric, as the child and youth population in Lithuania is expected to decrease by 28 percent while the estimates for Norway forecast an increase by 45 percent.¹² Migration plays a key role in these demographic developments, as less developed areas are expected to age faster due to youth emigration.¹³

The Baltic Sea Region is characterised by dynamic patterns of migration. All Member States are countries of origin, transit and destination at the same time, though to varying degrees. In addition to the EU-internal migration within the area of freedom of movement, migrants, asylum seekers and refugees are arriving from third countries.

Table 1: Population in CBSS Member States (2013)

	Total population (thousands)	Population under 18 (thousands)
Denmark	5,619	1,198
Estonia	1,287	241
Finland	5,426	1,078
Germany	82,727	13,288
Iceland	330	82
Latvia	2,050	360
Lithuania	3,017	562
Norway	5,043	1,137
Poland	38,217	6,960
Russian Federation	142,834	26,570
Sweden	9,571	1,929
Total	296,120,182	53,404,307

Source: UNICEF 2015¹⁴

total population amounts to 296.1 million persons, who account for 4% of the world population. Source: United Nations Children's Fund, *State of the World's Children 2015, Reimagine the future*, Country Statistical Tables, 2015.

¹⁰ United Nations Children's Fund, *State of the World's Children 2015, Reimagine the future*, Country Statistical Tables, 2015.

¹¹ United Nations Children's Fund, *State of the World's Children 2014 in Numbers, Revealing disparities, advancing children's rights*, New York, 2014, pp. 84-88.

¹² Comparable numbers from the Russian Federation are unavailable for this statistic. Eurostat, *EUROPOP2013, Population projections at national level*, 2013.

¹³ Anderson, M.A., *Talent Retention Policy and Initiatives in the Baltic Sea Region: A situation analysis*, Swedish Institute, 2014.

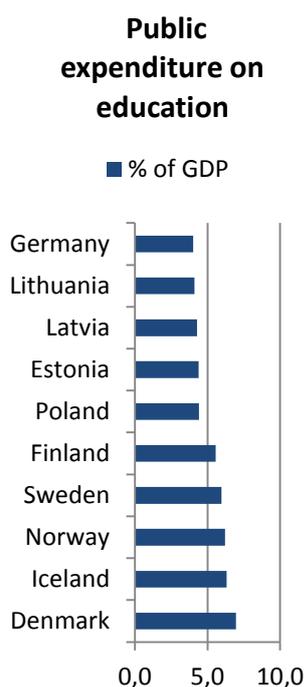
¹⁴ United Nations Children's Fund, *State of the World's Children 2015, Reimagine the future*, Country Statistical Tables, 2015. UNICEF source consulted for data disaggregation by age under 18.

Education

Enrolment in education in the Baltic Sea Region is high. Primary education enrolment for all countries is between 94.7 percent and 99.5 percent. Nearly all enrolled children complete their primary education. Secondary education enrolment is at 100 percent in most countries, with only Latvia, Poland, Russia and Sweden reporting between 95.2 percent and 98.3 percent enrolment. The average length of time that a child spends in school in the region is 16 years.¹⁵

Public expenditure on education as percentage of GDP in 2011 was on average 5 percent in the region, the highest being Denmark at 7 percent, the lowest being Germany at 4 percent and the median being shared between Finland at 5.6 percent and Estonia at 4.4 percent. Public spending on family benefits in cash, services and tax measures, in per cent of GDP in 2011 averaged at 3.1 percent, with Denmark being the highest at 4 percent, Poland the lowest at 1.8 percent, and the median shared between Finland and Norway both at 3.2 percent.¹⁶ In the Russian Federation, the public expenditure on education was 4.1 percent of the GDP in 2008.¹⁷

Figure 1: Public expenditure on education (left) and on family benefits in case, services and tax measures as % of GDP (2011)



Source: OECD Family Database.

¹⁵ United Nations Children's Fund, *State of the World's Children 2015, Reimagine the future*, Country Statistical Tables, 2015. UNESCO Institute for Statistics, School life expectancy, Table 8, 2012.

¹⁶ Organisation for Economic Cooperation and Development, *Social Expenditure Database*, 2014. NB: These statistics do not include Latvia, Lithuania or the Russian Federation.

¹⁷ The World Bank, World DataBank, World Development Indicators, September 2014, accessed from <http://databank.worldbank.org/> on 22 June 2015.

Economics

Economic prosperity in the region is comparatively strong yet disparate. In 2013, the region's GDP (in current US\$) was 8.1 trillion, with the smallest being Iceland at 15.3 billion, and the largest being Germany at 3,730.2 billion. The median for the region is equivalent to Denmark's GDP at 335.8 billion.¹⁸

The economies of the region are well connected to international trade. 52 percent of national GDPs in the region are from the export of goods and services. The highest percentage of GDP resulting from the export of goods and services comes from Estonia at 86 percent, the lowest from Russia at 28.4 percent, and the median from Poland at 46.1 percent.¹⁹

Impact of the economic recession

The recession has affected the countries of the Baltic Sea Region to a significant extent but with national variations. Between 2008 and 2012, the child poverty rate of the region increased by 3.3 percent whereas the average rate throughout the 41 OECD countries increased only by 1.8 percent, measured with a poverty line fixed at 60 percent of the median income. The populations of the three Baltic countries and Iceland were particularly affected, whereas Finland, Norway and Poland registered notable decreases in their child poverty rates. The highest increase of child poverty was registered in Iceland (20.4 percent), and the most significant decrease was noted in Poland (-7.9 percent).²⁰ In 2010, data from the Russian Federation indicate a poverty rate for all age groups at 14 percent, but 19 percent for children aged 1-17 years old. These data could be interpreted to indicate that households with children are disproportionately affected by poverty and correlated inequalities.²¹ In 2007, 28 percent of the Russian population received benefits from a social insurance scheme, a social protection and labour scheme, or both.²²

In some Baltic Sea Region countries, the rate of youth aged 15 to 24 not in education, employment or training (NEET) increased or decreased along with the poverty rate during 2008-2013. In Iceland and Latvia, the NEET rates increased only marginally during this period. Norway, Finland and Poland registered an increase in the NEET rates.²³ In the Russian Federation, the share of youth not in education, employment or training by 2012 was 15.7%, whereas the average for the whole region using the same source from 2011-2012 was 13.6%.²⁴

¹⁸ The World Bank, World DataBank, World Development Indicators, September 2014, accessed from <http://databank.worldbank.org/> on 22 June 2015. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates.

¹⁹ The World Bank, World DataBank, World Development Indicators, 2011-2014, accessed from <http://databank.worldbank.org/> on 22 June 2015

²⁰ United Nations Children's Fund, Office of Research – Innocenti, *Children of the Recession, The impact of the economic crisis on child well-being in rich countries*, 2014. NB: These statistics do not include Latvia, Lithuania or the Russian Federation.

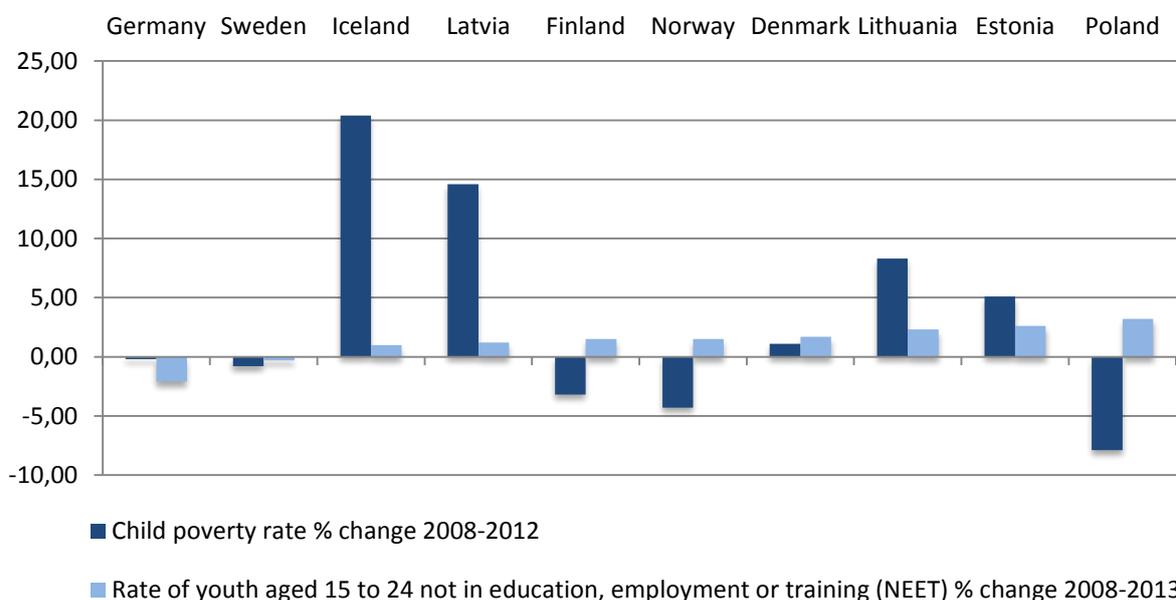
²¹ OECD, poverty rate after taxes and transfers, with the poverty line set at 50% of median income.

²² The World Bank, World DataBank, World Development Indicators, September 2014, accessed from <http://databank.worldbank.org/> on 22 June 2015.

²³ Organisation for Economic Cooperation and Development, *Youth not in education or employment (NEET) (indicator)*, doi: 10.1787/72d1033a-en, 2015. NB: These statistics do not include Latvia, Lithuania or the Russian Federation.

²⁴ The World Bank, World DataBank, World Development Indicators, September 2014, accessed from <http://databank.worldbank.org/> on 22 June 2015.

Figure 2: Impact of the recession on children in the Baltic Sea Region²⁵



Source: European University Institute, EU Statistics on Income and Living Conditions and UNICEF Innocenti Research Centre, Report Card No. 10, 2012.

Insecurity for vulnerable groups

Throughout the region, some groups of children and families are considered particularly vulnerable as they are more likely to be deprived of essential standards of living, such as regular meals and balanced diet, good accommodation and a place to study, books, internet access and appropriate clothing, leisure time activities including sports and peer activities. 10.3 percent of all children in the region were deprived of at least two essential standard of living items in 2009. This number rises to 20.8 percent for single parent families, 30.3 percent for families with low parental education, and 35.8 percent for jobless households. These children of families and households with low incomes or education are on average more affected by deprivation than children of immigrant families, as the rate of deprivation for immigrant families for the region is 13.9 percent.²⁶

²⁵ European University Institute, EU Statistics on Income and Living Conditions, 2009. Cited in: United Nations Children's Fund, Office of Research – Innocenti, *Children of the Recession, The impact of the economic crisis on child well-being in rich countries*, 2014. These statistics do not include data from Latvia, Lithuania and the Russian Federation.

²⁶ Note: The items include: 1. Three meals a day; 2. At least one meal a day with meat, chicken or fish (or a vegetarian equivalent); 3. Fresh fruit and vegetables every day; 4. Books suitable for the child's age and knowledge level (not including schoolbooks); 5. Outdoor leisure equipment (bicycle, roller-skates, etc.); 6. Regular leisure activities (swimming, playing an instrument, participating in youth organizations etc.); 7. Indoor games (at least one per child, including educational baby toys, building blocks, board games, computer games etc.); 8. Money to participate in school trips and events; 9. A quiet place with enough room and light to do homework; 10. An Internet connection; 11. Some new clothes (i.e. not all second-hand); 12. Two pairs of properly fitting shoes (including at least one pair of all-weather shoes); 13. The opportunity, from time to time, to invite friends home to play and eat; 14. The opportunity to celebrate special occasions such as birthdays, name days, religious events, etc. Source: United Nations Children's Fund Innocenti Research Centre, *Measuring Child Poverty, New league tables of child poverty in the world's rich countries, Report Card No. 10*, 2012. European Union Statistics on Income and Living Conditions 2009, cited in: United Nations Children's Fund, Office of Research – Innocenti, *Children of the Recession, The impact of the economic crisis on child well-being in rich countries*, 2014. These statistics do not include data from Latvia, Lithuania and the Russian Federation.

The facts and figures from the region suggest that measures to promote equity and social inclusion and to strengthen the resiliency of particularly marginalised groups need to be multi-faceted. Support measures need to address different social and economic risk factors through services tailor-made to the needs of different population groups and individuals.

Table 2: Deprivation rates for children aged 1-16 years old lacking two or more items in % of child population (2009)

	any household	Single parent families	Families with low parental education	Jobless households	Migrant families
Iceland	0.9	4.4	3.9	17.9	3.6
Sweden	1.3	4.3	6.5	11.8	2.7
Norway	1.9	4.1	5.9	14.6	3.4
Finland	2.5	6.8	2.5	26.2	11.8
Denmark	2.6	10.1	11.7	23.2	7.9
Germany	8.8	29.7	59.5	50	18.8
Estonia	12.4	22.3	29.4	55.5	16.6
Lithuania	19.8	32.7	54.7	51	31.5
Poland	20.9	42.6	61	46.8	-
Latvia	31.8	50.6	67.6	60.8	28.9
Average for Region	10.3	20.8	30.3	35.8	13.9

Note: The items include: 1. Three meals a day; 2. At least one meal a day with meat, chicken or fish (or a vegetarian equivalent); 3. Fresh fruit and vegetables every day; 4. Books suitable for the child's age and knowledge level (not including schoolbooks); 5. Outdoor leisure equipment (bicycle, roller-skates, etc.); 6. Regular leisure activities (swimming, playing an instrument, participating in youth organizations etc.); 7. Indoor games (at least one per child, including educational baby toys, building blocks, board games, computer games etc.); 8. Money to participate in school trips and events; 9. A quiet place with enough room and light to do homework; 10. An Internet connection; 11. Some new clothes (i.e. not all second-hand); 12. Two pairs of properly fitting shoes (including at least one pair of all-weather shoes); 13. The opportunity, from time to time, to invite friends home to play and eat; 14. The opportunity to celebrate special occasions such as birthdays, name days, religious events, etc.

Source: European University Institute, EU Statistics on Income and Living Conditions and UNICEF Innocenti Research Centre, Report Card No. 10, 2012.

Forms of alternative care for children in the region

In the Baltic Sea Region, as in Europe more broadly, the states are operating a diversity of alternative care settings for children, including different types of small-scale or larger residential institutions, family-like and family-based care. In the region and internationally, conceptual clarity on different forms of alternative care has not yet been achieved as each country maintains its specific settings, concepts and definitions.

'Alternative care' refers to care arrangements for children deprived of parental care. It includes family-based and family-like care as well as institutional or residential care. The UN Guidelines on the Alternative Care for Children distinguish informal and formal care arrangements. Informal care includes "any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or friends (informal kinship care) or by others in their individual capacity, at the initiative of

the child, his/her parents or other persons without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body”. Formal care refers to “all care provided in a family environment which has been ordered by a competent administrative body or judicial authority, and all care provided in a residential environment, including in private facilities, whether or not as a result of administrative or judicial measures”.²⁷

The UN Guidelines distinguish alternative care within a family context from residential care. They refer to ‘family-based care’ and ‘family-like care’ but do not explicitly define the differences between them. The Guidelines describe *family-based care* as “a short- or long-term care arrangement agreed with, but not ordered by, a competent authority, whereby a child is placed in the domestic environment of a family whose head(s) have been selected and prepared to provide such care, and who are financially and non-financially supported in doing so.” *Family-like care* on the other hand is described as “arrangements whereby children are cared for in small groups in a manner and under conditions that resemble those of an autonomous family, with one or more specific parental figures as caregivers, but not in those persons’ usual domestic environment.”²⁸

Residential institutions

The UN Guidelines for the Alternative Care of Children do not define what constitutes an ‘institution’, although they describe ‘institutions’ as large residential facilities. Residential care as such is considered “care provided in any non-family-based group setting, such as places of safety for emergency care, transit centres in emergency situations, and all other short- and long-term residential care facilities, including group homes.”²⁹

In order to distinguish institutional care from family-based care, UNICEF recognises that the definition of an institution depends on the alternative care context in each country. In general, an institutional care setting is however determined by the regularity and quality of the contact between the child and the caregiver, the protection offered by primary caregivers, and the duration of stay.³⁰

There are different types of residential institutions offering alternative care for children, including infant homes hosting babies and toddlers, children’s homes or orphanages, as well as boarding schools or ‘internats’ and special institutions for children with psychological or mental problems and children with disabilities. In many countries, the political responsibility for residential forms of alternative care is divided between different ministries and departments. Institutions for very young children are often under the responsibility of

²⁷ United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434) 64/142, 24 February 2010, par. 29.

²⁸ Cantwell, Nigel, *Refining Definitions of Formal Alternative Child-care Settings: A discussion paper*, 2010, accessed from <http://www.crin.org/docs/Definitions%20for%20Formal%20Care.doc> on 20 May 2015. Cited in: European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 28.

²⁹ United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434) 64/142, 24 February 2010, par. 23, 29.

³⁰ United Nations Children’s Fund, *Consultation on Definitions of Formal Care for Children*, 2010, pp.12–13. Cited in: European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 26-27.

Ministries of Health as they have primarily a medical focus. Mainstream children's homes and residential institutions for children with disabilities are generally under the responsibility of Ministries of Social Affairs. Boarding schools and other residential institutions that offer accommodation, care and schooling for children fall commonly under the responsibility of Ministries for Education.³¹

In **Lithuania**, some residential care institutions for children are under the overall responsibility of the Ministry of Social Security and Labour and others under the Ministry of Health, while also the municipalities and NGOs are operating residential institutions. In Iceland, on the other side, all placements of children in alternative care are decided on the basis of the Act on Child Protection, including placements due to disability and there are no other residential care facilities for children operated on basis of any other law. The institutional responsibility rests therefore with the Government Agency for Child Protection.³²

In the absence of a unified definition of institutional care, the notion of an institution is understood to not only rely on the size and number of residents, but to depend also on the country's legal framework and cultural context. The European Expert Group on the Transition from Institutional to Community-based Care align with the Ad Hoc Expert Group Report³³ in that they refer to an 'institutional culture' in alternative care settings. An institutional culture refers to places where residents are isolated from the community and/or compelled to live together, where they do not have adequate control over decisions that affect them, and where the requirements of the organisation tend to take precedence over the individual needs of the residents.³⁴ In consequence, downsizing the number of residents cared for in an alternative care setting does not by itself suffice to overcome the institutional culture of care. The level of participation and choice of the individuals in care, the quality of support provided to the individual and the integration into the community are all important factors in overcoming institutional culture.³⁵

Community-based services

The UN Guidelines refer to 'community-based services' or 'community-based care' as a form of service provision that allows the child to grow up in a family environment within the community. Community-based services include health care and education as well as social and economic support services with regard to housing, employment, cultural and leisure time activities. Support services include mainstream services available and accessible to

³¹ Mulheir, G., Browne, K., *Deinstitutionalising and Transforming Children's Services. A Guide to Good Practice*, University of Birmingham: Birmingham, 2007. European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 26-27.

³² CBSS Data Survey, February 2015, Response from Lithuania. CBSS Data Survey, February 2015, Response from Iceland.

³³ See: European Commission, Directorate General for Employment, Social Affairs and Equal Opportunities, *Report of the Ad Hoc Expert Group on the Transition from Institutional to Community-based Care*, 2009, accessed from <http://ec.europa.eu/social/BlobServlet?docId=3992&langId=en> on 20 May 2015.

³⁴ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 25.

³⁵ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 25.

everyone, as well as specialised support targeted to the individual child and family, such as personal assistance for persons with disabilities, respite care, family and parenting support aiming at the prevention of family separation and protection of children.³⁶

Independent living

In some cases, adolescent children who cannot stay within the family of origin are offered supervised independent living. These arrangements are for children aged 16 and above. Children in independent living arrangements are living alone or in a small group home supervised by an adult caretaker who supports them in the daily life and helps them acquiring the relevant skills required for an independent life.³⁷

Emergency care

Emergency placement is used to remove a child from a situation of imminent risk or harm. Emergency care is of temporary nature and aims to ensure the child's safety and care while a more stable longer-term solution is being sought. This could be assisted family reunification or placement into longer-term alternative care, according to what the competent authorities deem to be in the best interests of the child.³⁸

Types of alternative care placements in the CBSS region

In the Baltic Sea Region, alternative care for children is available in different forms and types of placements, including in residential institutions, in kinship and foster-families or family-like placements. Throughout the region, the public and private sector are involved in providing childcare services and operating residential institutions for alternative care.

Among the residential care institutions, some are specialised on certain groups of children while others are open to a broad target group. Among the specialised institutions, some are targeted specifically at young and very young children, at children with so-called behavioural problems, which might include substance abuse, children in trouble with the law or children who have a criminal record. In addition, there are shelters for child victims of crime, including victims of trafficking, that receive children who are unaccompanied or for other reasons deprived of parental care.

Among the institutions targeting children with behavioural problems, some countries operate the Multifunctional Treatment in Residential and Community Settings model (MultifunC). In **Norway**, for instance, the Office for Children, Youth and Family Affairs (Bufetat), which is the

³⁶ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 32-33.

³⁷ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 28.

³⁸ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 95-96. United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434) 64/142, 24 February 2010, par. 29.

competent agency under the Ministry of Children, Equality and Social Inclusion, operates MultifunC institutions for youth with serious behavioural problems who demonstrate a high risk of developing additional problems. In addition, Bufetat offers foster care for adolescents with serious behavioural problems. The Multidimensional Treatment Foster Care (MTFC) is open for children aged between 12 and 17 years old. It offers foster care-based treatment as an alternative to placement in residential institutions. The treatment involves the child's family actively with the objective to enable the child's return to the family home.³⁹

In **Estonia** residential care is provided as '*substitute home service*' and the caregivers are called '*family parents*'. Approximately 25 percent of the children in alternative care are referred to the substitute home service. Generally, one 'family parent' lives permanently with the children and a maximum of six children can be placed together. Additional caregivers who are operating in the substitute home service are called '*educators*' and are present for regular working hours. Some service providers operate larger residential institutions where children are living in smaller groups called '*families*'. The majority of service providers operate however smaller '*family houses*', which are private houses hosting a few family units, while some units are operated individually and are limited to few children living in a family context.⁴⁰

Residential care in **Finland** is provided in '*child welfare institutions*'. The **Finnish** Child Welfare Act (2007/417) provides for a maximum number of seven children to live in a residence unit of a child welfare institution. The Act defines the minimum number of staff per unit and the maximum number of children, which was reduced from eight to seven.⁴¹

In **Lithuania**, '*social guardianship*' is a form of alternative care arrangement for a maximum of six children within the same unit. Several children can be placed together in foster families with the limitation that the total number of children living in the family, including biological and foster children, may not exceed twelve.⁴²

In **Norway**, children who are at least 12 years old can be placed in residential institutions, while younger children are placed in foster care as a general rule. With regard to unaccompanied asylum seeking children, different age limits determine the type of placement. Unaccompanied children who are at least 15 years of age are cared for by the immigration authorities and are usually placed in residential institutions, while younger children are under the responsibility of the child welfare services and can be placed in special residential institutions for young children or in foster families.⁴³

Other countries also place unaccompanied asylum seeking children in the mainstream child care system, as for instance **Germany** and **Sweden**. These cases are therefore reflected in the official statistics on children placed in alternative care. The mapping study of national child protection systems conducted by the EU Agency for Fundamental Rights (FRA)

³⁹ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties Under Article 44 of the Convention, Fourth periodic report of States parties due in 2008, Norway, CRC/C/NOR/4, 11 May 2009, par. 225-227. See also: MultifunC, undated, accessed from <http://www.multifunc.org/> on 15 May 2015.

⁴⁰ Information provided by the Ministry of Social Affairs, Estonia, April 2015.

⁴¹ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth reports of States parties due in 2008, Finland, CRC/C/FIN/4, 26 May 2010, par. 207-209.

⁴² Law on Social Families, 11 February 2010, No. 25-1176. CBSS Data Survey, February 2015, Response from Lithuania.

⁴³ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2008: Norway, CRC/C/NOR/4, 11 May 2009, par. 463-465.

revealed that in most EU Member States the reception centres for asylum seeking children, as well as closed institutions for children in conflict with the law, do not fall under the responsibility of the national child protection systems. When these institutions are not considered and operated as child protection facilities, the national standards on alternative care for children do not apply.⁴⁴

In **Poland**, alternative care is offered as '*institutional foster care*' or in specialised '*care and education centres*'. These placements provide full-time care and education and aim to address the needs of the child, especially emotional and developmental needs, special needs for health care as well as living, social and religious needs. These centres operate specialised *units for socialisation* for children with 'behavioural problems'; *units for intervention* in crisis situations for a maximum of three months before a decision over family reunification or placement in alternative care is taken; *units for specialist therapy* for children with specific needs such as children with disabilities and children with special therapeutic needs; and *family-based care and education centres* hosting siblings together or adolescents who are about to transition into adulthood and independence.

The *care and education centres* specialised on socialisation, intervention and specialist-therapy usually host children aged 10 years and above. Younger children may be referred to these centres when they are accompanied by a parent or caretakers or when special health needs require the placement in the centre. The care and education centres specialised on interventions in crisis situations transfer children under 10 years of age to family-based placements in foster care. These age limits will enter into force and become legally binding as of 2020. During the transition phase until 2020, these centres may host children as of the age of 7 years old. Age restrictions do not apply to family care and education centres as they are close to family-based forms of alternative care.⁴⁵

In addition, regional care and therapy centres are operative at the regional level of the Voivodeship and host children who require specialist health care and rehabilitation services that cannot be addressed by the mainstream care and education centres. They host larger numbers of children of up to 30 children or up to 45 in exceptional cases. Pre-adoptive intervention centres provide care for new-borns who are waiting for adoption and who are in need of specialist care that cannot be provided by family-based care. These centres host up to 20 children at the same time and for a maximum until the child turns one year old.⁴⁶

In the **Russian Federation**, children deprived of parental care are placed in family-based care in adoption, foster care or with a ward (guardianship or trusteeship), as well as in residential institutions. '*Guardianship*' is a form of placement for children under 14 years of age, while '*trusteeship*' applies to children who are at least 14 years old and up to 18 years.⁴⁷

⁴⁴ European Union Agency for Fundamental Rights, *Mapping child protection systems in the EU*, Luxembourg, Publications Office, 2016 forthcoming report. See also key findings available on the FRA website: European Union Agency for Fundamental Rights, *Mapping child protection systems in the EU*, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection-on-10-july-2015>.

⁴⁵ Act on family support and foster care system, Articles 91 and 232. CBSS Data Survey, February 2015, Response from Poland.

⁴⁶ Information provided by the Department of Family Policy, Ministry of Labour and Social Policy, Poland, data as of 31 December 2013. CBSS Data Survey, February 2015, Response from Poland.

⁴⁷ *Family Placement of Orphan Children and Children Left Without Parental Care in the Russian Federation: Legal basis and regional experience*, undated, pp. 1-3.

Numbers of residential institutions in CBSS Member States

The following provides an overview of the numbers of residential care institutions in Member States of the Council of the Baltic Sea States⁴⁸:

- In **Estonia**, 36 residential institutions were operating as of November 2014.
- **Finland** operates approximately 150 residential care institutions for children. Among them, around 80 are public residential care institutions, while the others are operated by private service providers.
- In **Iceland**, there are 8 residential care facilities for children for the purposes of alternative placement. Most of them have 4 to 6 beds.
- **Latvia** had 37 residential care institutions in 2014 (not including separate branches).
- In **Lithuania**, 97 residential care institutions were operating in 2013.
- In **Norway**, there are about 140 residential care institutions.
- In **Poland**, the highest need of placements during 2013 was in socialisation care and education centres, as well as centres for family-based care and crisis intervention. There were 149 entities of intervention care and education centres, 242 entities of family-based care and education centres, 625 entities of socialisation care and education centres, 30 entities of specialist therapy care and education centre, 3 entities of regional care and therapy centres and 2 entities of pre-adoptive intervention centres.
- In **Sweden**, there are 1,026 residential care institutions for children and young persons up to 21 years old, including the residential care institutions offering emergency care and those hosting young people with psychosocial problems, substance abuse or criminal behaviour. There are also 58 residential care institutions that accommodate children and parents together.

The numbers depend on how a 'residential institutions' is defined. In addition to typical institutions hosting large numbers of children, there are many institutions that operate individual smaller care units, which might be located within the same structure or at different places and which offer small-scale institutional or family-like care arrangements. The figures are therefore not comparable between the countries, as they refer to different types of institutions which have a capacity to care for few or large numbers of children according to the type of institution and set up.

Emergency placement in the CBSS Region

Emergency placement is available throughout the region to care for children whom the social services remove from the birth family due to an acute situation of violence or risk and where placement within the extended family is not an option. Decisions over emergency placement fall usually under the competence of the social services or child welfare services, while a

⁴⁸ Data provided by: **Estonia**: Estonian Ministry of Social Affairs. Number of institutions as of 31 December 2013 CBSS Data Survey, February 2015, Response from Estonia. **Finland**: CBSS Data Survey, February 2015, Response from Finland. **Iceland**: CBSS Data Survey, February 2015, Response from Iceland. **Latvia**: CBSS Data Survey, February 2015, Response from Latvia. **Lithuania**: CBSS Data Survey, February 2015, Response from Lithuania. **Norway**: CBSS Data Survey, February 2015, Response from Norway. **Poland**: Information provided by the Department of Family Policy, Ministry of Labour and Social Policy, Poland, data as of 31 December 2013. CBSS Data Survey, February 2015, Response from Poland. **Sweden**: CBSS Data Survey, February 2015, Response from Sweden.

court order has to be sought subsequently to promptly review the decision and to order a longer-term placement when family reunification is not possible. Some countries have established specialised institutions, centres or shelters for emergency care, as is the case in **Finland, Latvia, Norway, Poland** and **Sweden**. Others integrate the emergency placement into the mainstream services for placement, which is the case in **Denmark, Iceland** and **Lithuania**. In some countries, emergency care is available also in foster families, as for instance in **Iceland, Norway, Poland** and **Sweden**. In **Norway**, young and very young children who require immediate placement are always referred to foster families.⁴⁹

In **Iceland**, ‘acute placement’ is available in family settings, including kinship or non-kinship care, or institutional settings. Typically, children with behavioural problems who require emergency placement are referred to institutions, while children placed due to domestic violence or other acute problems in the birth family can be placed in family-based care or institutional settings for a very brief duration of a few days or weeks. Often, children demonstrating behavioural problems are adolescents and placed in institutions, while family care settings are sought for younger children.⁵⁰

The following data indicate the number of emergency placements in the countries where disaggregated data are available:

- According to official statistics from **Finland**, 4,202 children had been referred to emergency placement in 2013, 3,942 in 2012 and 3,874 in 2011.⁵¹
- In **Poland**, 1,927 children were placed in residential emergency care (intervention care and education centres) and an additional 2,109 children were placed in professional foster families who are specially trained to receive children for emergency placement.⁵²
- In **Sweden**, there are approximately 100 residential care institutions that offer emergency care and in addition, there are foster families who receive children in emergency situations. As of November 2012, nearly 1,700 children were placed in special foster homes for emergency care.⁵³
- In **Iceland**, 345 children were referred to emergency placement during 2013. These cases included 71 acute placements in kinship care, 112 acute placements in family care settings other than kinship care, 82 acute placements in institutional settings due to behavioural problems of the child, and 80 acute placements in institutional settings due to domestic problems or limited parental skills that caused harm or risks to the child.⁵⁴

Although the figures are not comparable across the countries due to different systems and practice of emergency placement, they indicate that the need for short-term removal from the birth family and placement in acute situations is high. While some children would return to

⁴⁹ CBSS Data Survey, February 2015, Response from Norway.

⁵⁰ CBSS Data Survey, February 2015, Response from Iceland.

⁵¹ CBSS Data Survey, February 2015, Response from Finland.

⁵² Information provided by the Department of Family Policy, Ministry of Labour and Social Policy, Poland, data as of 31 December 2013. CBSS Data Survey, February 2015, Response from Poland.

⁵³ CBSS Data Survey, February 2015, Response from Sweden. See also: SOU 2014:3 Delbetänkande av utredningen om tvångsvård för barn och unga, Boende utanför det egna hemmet – placeringsformer för barn och unga” s. 110, accessed from <http://www.regeringen.se/sb/d/18046/a/233528> on 15 May 2015.

⁵⁴ CBSS Data Survey, February 2015, Response from Iceland.

their families in the short or medium term after the emergency placement, others will continue to remain in alternative care for longer periods of time when family reunification is not an option.

Data and statistics

In 2009, a survey with 30 European countries, including countries in the Baltic Sea Region, estimated that one million children are in state or public care throughout Europe. Exact figures are not available as data on alternative care in European countries are not comparable due to different definitions of care settings and different methods of data recording and disaggregation. Yet, the estimates indicate the magnitude of the issue and its relevance for the European context.⁵⁵

In 2005, a survey on young children in residential care in 33 European countries found that 23,099 children under three years old were in residential care. The regional average amounted to 11 in every 10,000 children under three in residential care, while some countries had a ratio between 31 and 60 children per 10,000.⁵⁶

For the Eastern European region and the Commonwealth of Independent States (CEE/CIS), UNICEF noted a decrease of the numbers of children in institutional care. This trend needs to be considered however in the context of a steadily decreasing child population in the region, so that the proportion of children placed in institutions has in fact increased. Among the children placed in institutional care, the number of children with “actual or perceived disabilities” is high. These children face a higher risk than others of being placed in residential institutions and staying for longer periods, some of them for their entire lives.⁵⁷

Data collected from official sources of the CBSS Member States, excluding the Russian Federation, for the year 2013 indicate that there was a total population of 302,314 children under 18 years of age in alternative care throughout the region (see Figure 3 on page 25). The percentage of children in alternative care ranges from 0.8 percent of the total child population under 18 years of age in **Iceland** to 2.3 percent in **Latvia**, with a medium of 1.22 percent (see Figure 4 on page 25).

All countries resort to placements in residential institutions and in family-based care. It is notable that in most countries of the region more than half of the children deprived of parental care are placed in family-based care. The ratio of family-based versus institutional care

⁵⁵ Eurochild, *National Surveys on Children in Alternative Care*, 2nd Edition, January 2010, accessed from <http://www.eurochild.org/policy/library-details/article/national-surveys-on-children-in-alternative-care-2nd-edition/> on 20 May 2015.

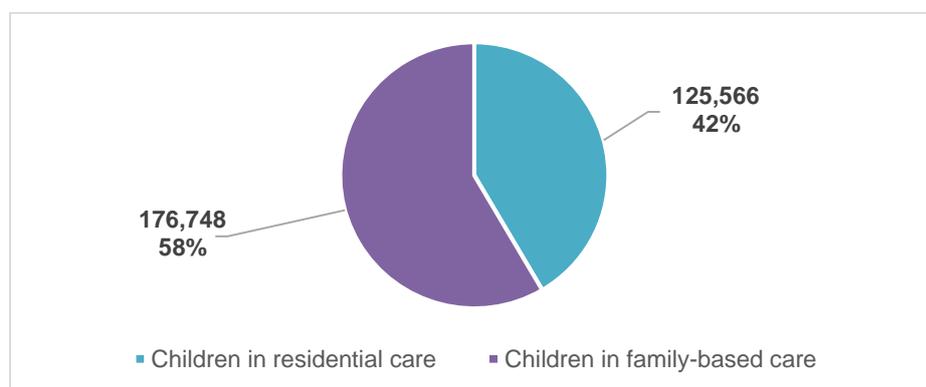
⁵⁶ Browne K.D., et al., A European Survey of the Number and Characteristics of Children Less Than Three Years Old in Residential Care at Risk of Harm, *Adoption & Fostering*, 2005, 29(4), pp. 23–33. Cited in: European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 27.

⁵⁷ UNICEF, *At Home or in a Home? Formal care and adoption of children in Eastern Europe and Central Asia*, 2010, p.5, 27. See also: European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 27.

ranges from 47 percent family-based care in **Germany** to 88 percent in **Norway**.⁵⁸ On average for the region, 58 percent of placements are made in family-based care. Figure 5 shows the regional distribution of placements (see page 26).

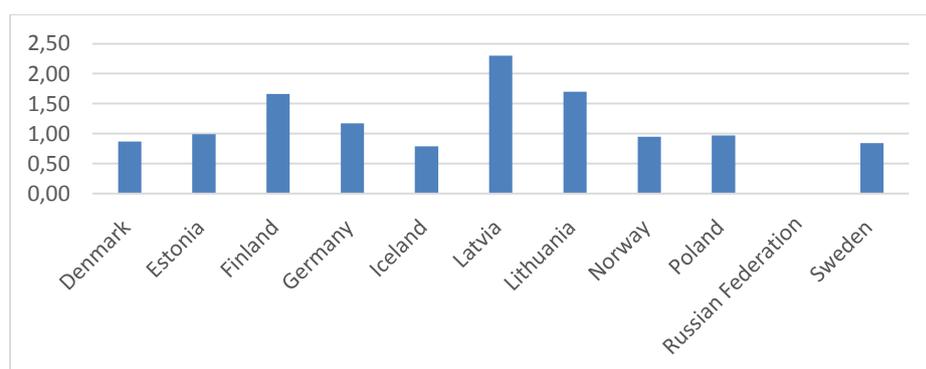
These data suggest that the efforts of the CBSS Member States towards promoting deinstitutionalisation and prioritising family-based care over residential care have shown first success. They demonstrate further that promoting deinstitutionalisation up to a very high ratio of placements in family-based care is possible and that further investments in this area are promising to support the current trend even further in those countries where institutional care can still be further reduced.

Figure 3: Child population in alternative care in the Baltic Sea Region (2013)



Source: Data provided by the senior officials of the Expert Group for Cooperation on Children at Risk during February and March 2015, excluding the Russian Federation. Data refer to children under 18 years of age in alternative care in 2013. Notes on data: Finland: In addition to the children placed in family-based and in residential care, 2,012 children were placed in other forms of alternative care such as placements in the child's or young person's own home (with the parent/s), independently supported accommodation and other forms of care not classified as foster care or residential care. Germany: Children placed in alternative care as of 31 December 2013. Latvia: Data refer to children in alternative care by the end of 2013.

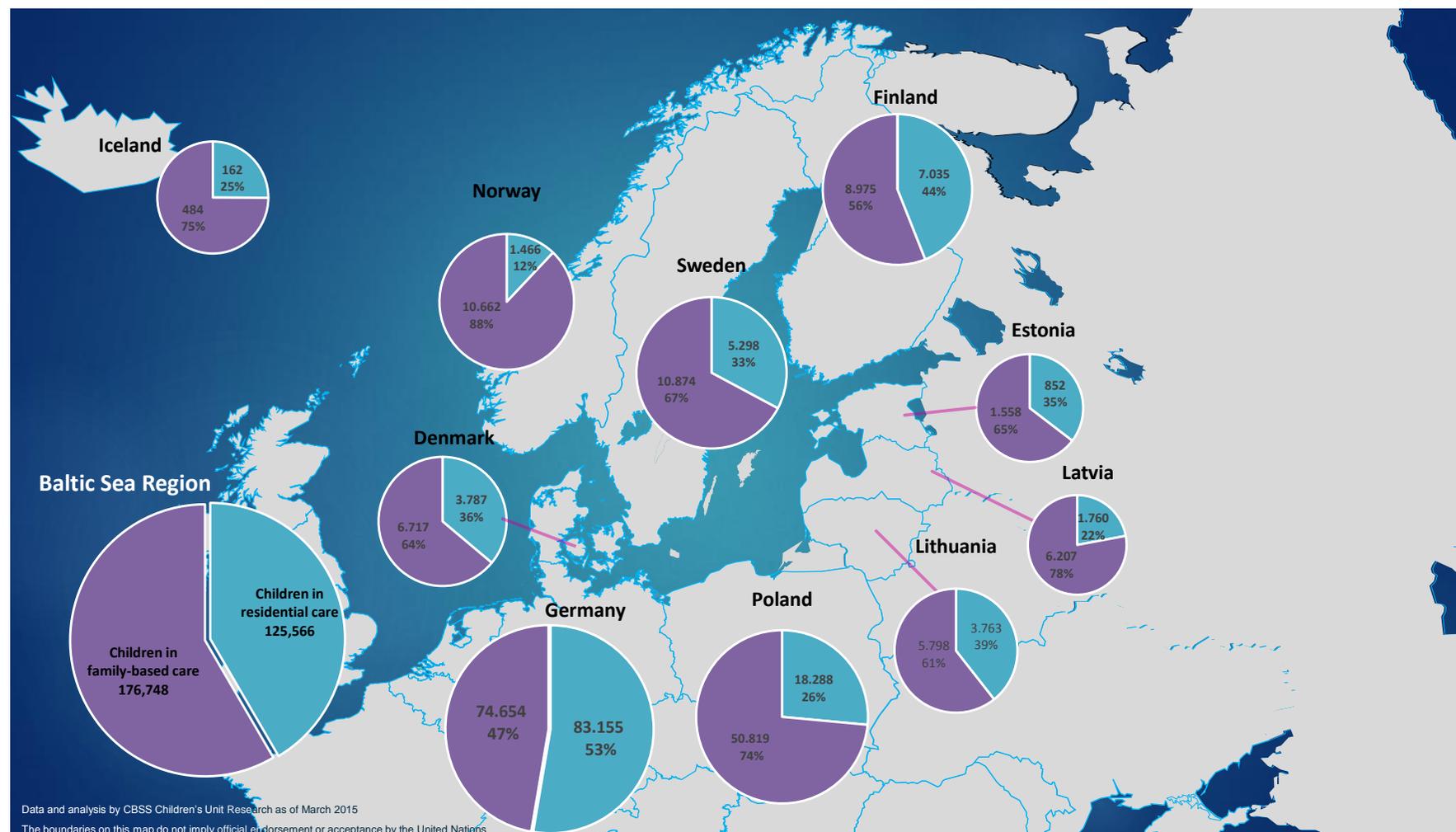
Figure 4: Children in alternative care in the Baltic Sea Region as percentage of total child population (2013)



Source: Data provided by the senior officials of the Expert Group for Cooperation on Children at Risk during February and March 2015, excluding the Russian Federation. Data refer to children under 18 years of age in alternative care in 2013. Notes on data and sources: See Figure 3.

⁵⁸ In Norway, 88% of the children in out-of-home care are placed in family-based care. If including adolescent children placed in supervised individual living arrangement, the percentage in foster care would be 84% as opposed to 11% in institutional care and 5% in supervised individual living arrangements. Information provided by the Ministry of Children, Equality and Social Inclusion, Norway, April 2015.

Figure 5: Children in alternative care in the Baltic Sea Region (2013)



Source: Data provided by the senior officials of the Expert Group for Cooperation on Children at Risk during February and March 2015, excluding the Russian Federation. Data refer to children under 18 years of age in alternative care in 2013. Notes on data and sources: see Figure 3.

Trends in placement

The European Expert Group for the Transition from Institutional to Community-based Care recommends that states invest strongly in the prevention of family separation and in family re-integration after placement wherever this is in the best interests of the child. When placement is required as a measure of protection or treatment, it should primarily be family-based. Within the alternative care system, placement in kinship care, foster families, national adoption and other forms of family-based care are considered the preferred options, which the state should support and develop to the extent needed. Family-based care is considered generally preferable over placements in large-scale residential institutions. The latter should be gradually downscaled in order to retain only a minimum of residential care adequate for specific situations and short-term placements.⁵⁹

Despite the progress made in the transition from institutional to family-based care and the prioritisation of the latter, many of the countries in the Baltic Sea Region have been criticised for not having yet achieved sufficient progress towards deinstitutionalisation.

In **Denmark**, more children are placed in foster care than in residential institutions, in absolute and relative terms. This trend has continued for several years. In 2011, the government noted that the rate of new placements had decreased and the issue was on the agenda of the discussion with the Committee on the Rights of the Child of Denmark's State Party report in 2011. The notable decline in placements needed to be investigated as it was unclear if it was caused by more effective prevention measures in the municipalities or because children in need of alternative care were not being identified and referred effectively. The government committed to developing a package of solutions to explore and address the issue.⁶⁰

In **Finland**, the Child Welfare Act provides that children deprived of parental care should primarily be placed in small units or family-like care. In practice, however, there is an increasing trend of placing children in child welfare institutions rather than in ordinary foster families. The Government of Finland reported this trend to the Committee on the Rights of the Child in 2010 and sees the reasons in the fact that the average age of children entering alternative care has risen by several years. The placements are increasingly motivated by the severe problems that the children are struggling with. For adolescents who have severe behavioural problems, it can be difficult to find foster families that are prepared to care for these children and respond effectively to their needs. To counteract this trend, the Government committed to increasing the availability of training, information and support for foster families.⁶¹ In its 2011 Concluding Observations, the CRC Committee expressed its

⁵⁹ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 96-97.

⁶⁰ Information provided by the National Board of Social Services, Denmark, 18 May 2015. NGO Group for the CRC, *State Party Examination of Denmark's Fourth Periodic Report*, 56th Session of the Committee on the Rights of the Child, 17 January – 4 February 2011, p. 8. Akestyrelsen (National Social Appeals Board), *Anbringelsesstatistik 2013: Færre anbragte børn og unge i 2013*, (Placement Statistics 2013: Fewer children and youth in care in 2013), last update: 30 October 2014, accessed from <http://ast.dk/publikationer/anbringelsesstatistik-2013-faerre-anbragte-born-og-unge-i-2013> on 20 June 2015.

⁶¹ United Nations Committee on the Rights of the Child, *Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth reports of States parties due in 2008, Finland, CRC/C/FIN/4*, 26 May 2010, par. 208.

concerns over the continued practice of placing children in institutions, the increasing number of children in institutions and the insufficient number of foster families.⁶²

The Government of **Germany** reported to the CRC Committee in 2012 about the developments in the alternative care sector and the continued demand for placements. Although the number of placements had decreased significantly over several years, the demand had increased when considering the percentage of children in alternative care. Between 1995 and 2005, the placements of children in alternative care had decreased from 152,500 to 145,400. In the same period, however, the number of cases per 10,000 children and young people under 21 years of age had increased slightly. This trend is rooted in the overall reduction of the population under 21 during the same period.⁶³

In its 2013 Concluding Observations on **Lithuania's** State Party report, the Committee on the Rights of the Child expressed concern about the large number of cases in which parents are deprived of their parental rights and children are placed in institutional care, including young children under three years of age. The Committee noted further, that there was a need for more foster families in order to reduce the need for institutional care and to achieve that placements in institutional care becomes a measure of last resort. It recommended that the Government of **Lithuania** strengthens the family- and community-based forms of alternative care for children, while also improving the care and living conditions in the existing residential institutions.⁶⁴

The Committee on the Rights of the Child expressed similar concerns with regard to the **Russian Federation** in 2005 as it had noted an “increasing number of children in institutional care and that efforts to implement a national policy on deinstitutionalization have not been successful.”⁶⁵ In 2014, the Committee reiterated its concerns and noted that the transition from institutional to family-like and family-based care had not led to significant progress despite recent law reform in relation to alternative care.⁶⁶ The Russian Ministry of Education and Science reported however a 2.5 percent increase of children placed in family based care between 2012 and 2013.⁶⁷

Norway is the country that clearly resorts least to institutional care in the Baltic Sea Region. Although a remaining 12 percent of placements are still made in residential institutions.⁶⁸ The question to which extent institutions might be useful as an integral part of the national

⁶² United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: Finland, CRC/C/FIN/CO/4, 3 August 2011, par. 33-34.

⁶³ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2009, Germany, CRC/C/DEU/3-4, 11 September 2012, par. 145-146.

⁶⁴ United Nations Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of Lithuania, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013), CRC/C/LTU/CO/3-4, 30 October 2013, par. 33-34.

⁶⁵ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: Russian Federation, CRC/C/RUS/CO/3, 23 November 2005, par. 38.

⁶⁶ United Nations Committee on the Rights of the Child, Concluding Observations on the Combined Fourth and Fifth Periodic Report of the Russian Federation, CRC/C/RUS/CO/4-5, 25 February 2014, par. 39.

⁶⁷ *Family Placement of Orphan Children and Children Left Without Parental Care in the Russian Federation: Legal basis and regional experience*, undated, pp. 1, 4.

⁶⁸ If considering also the number of adolescent children placed in supervised individual living arrangements, the rate is 11%. Information provided by the Ministry of Children, Equality and Social Inclusion, Norway, April 2015.

alternative care system is a matter of debate. Some argue that a certain number of places in residential institutions are useful and in fact indispensable.

An area where institutional care was considered to be particularly useful was the placement of children and young people with so-called behavioural problems. Research has given grounds to question this assumption. Evidence suggests that the children placed due to behavioural problems continue to demonstrate this behaviour when they leave the care institution. In addition, there are concerns that placement in residential institutions with other children who share similar problems might have the effect of perpetuating the behaviour rather than helping the children overcoming it. In light of these findings, the political and academic debates continue to discuss deinstitutionalisation even in countries where residential care institutions play a subordinate role. Supporting evidence derives from the recognised benefits of family-based care as well as the cost-effectiveness in operating a foster care system rather than residential care institutions.⁶⁹

Another critical issue in determining the perspectives of children in alternative care relates to policies and practice concerning the termination of parental rights and the priority attached to national adoption. In **Norway** and **Sweden**, there are only limited possibilities for children in alternative care to be adopted, including adoption by the foster family. In **Sweden**, the legal framework makes it very difficult to permanently revoke the parental rights of birth parents, even when social assessments and the competent authorities come to the conclusion that family reintegration is not an option. Children in alternative care therefore tend to remain in care until they age out. In **Norway**, the legislation has recently opened up for adoption as a child welfare measure, although the practice is still limited. Evidence from child development studies have however demonstrated the positive effect of adoption on the development of children deprived of parental care and ample evidence suggests that adopted children fare better than children who are placed in foster families or residential care.⁷⁰

Reasons for placement

Studies into alternative care for children in Europe found that the vast majority of children in care have one or both parents alive. Research findings indicate, for instance, that only between 6% and 11% of children in institutional care in Europe are orphans.⁷¹ Alternative care for children is increasingly catering for families facing difficulties in child rearing, while the loss of parents as reason for placement is of less significance.⁷² When most of the children in care have parents and families, the reasons for placement are related to a complex

⁶⁹ Backe-Hansen, E., et al., Out of Home Care in Norway and Sweden – Similar and Different, *Psychosocial Intervention*, Elsevier, 22(2013) 193-202, p. 197.

⁷⁰ Young, E., Eide, K. and Fransson, E., Adopsjon som tekster i barnevernet (Adoptions as texts in child welfare), *Tidsskriftet Norges barnevern (Norwegian Child Welfare Journal)*, 01/13, 2013. Cited in: Backe-Hansen, E., et al., Out of Home Care in Norway and Sweden – Similar and Different, *Psychosocial Intervention*, Elsevier, 22(2013) 193-202, p. 197.

⁷¹ Browne, K., Hamilton-Giachritsis, C., *Mapping the Number and Characteristics of Children under Three in Institutions Across Europe at Risk of Harm*, University Centre for Forensic and Family Psychology (European Union Daphne Programme, Final Project Report No. 2002/017/C), 2002. Mulheir, G., Deinstitutionalisation, A Human Rights Priority for Children with Disabilities, *Equal Rights Review*, 2012. Cited in: European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 56.

⁷² Rygaard, Niels Peter, *Research, Technology, Child Policies and Caregiver Education, A description of non-profit, open source online caregiver education programs worldwide*, undated, p. 2.

interaction of different socio-economic strains and related issues such as inadequate housing, health problems, mental health issues or substance abuse of parents, domestic violence, abuse or neglect. The biological parents of children placed in alternative care might be absent, not willing or unable to care for the child. Early and unwanted pregnancies also play a role for children to be abandoned or poorly cared for. In consequence, the placement of children could have been avoided in many cases had adequate and targeted support services been available to support the family in coping with these strains.⁷³ Policy planning and implementation processes need to take into account these facts as they have implications for future reform and development.

Poverty plays a role as a contributing factor that can render families at risk more vulnerable to separation. Although there is no general causal relation between poverty and family breakdown, poverty, unemployment, precarious living situations and material deprivation contribute to augmenting the stress factors within families and reducing their resilience to cope with additional difficulties. Poverty may be an underlying reason why parents decide to migrate and leave children behind. Evidence shows that families affected by poverty have higher risks of substance abuse and mental health problems. Studies from developed and developing countries demonstrate that parents who use physical violence against their children are more likely to be poor. In consequence, the number of children from poor families who need placement in alternative care as a protection measure is higher.⁷⁴ These findings, in turn, point to the critical importance of strengthening poverty alleviation programmes and other social protection services to effectively rule out economic issues as reasons for placement. The UN Guidelines on Alternative Care underline explicitly that a child shall not be removed from the family due to poverty and material deprivation.⁷⁵

The reasons why children are placed in alternative care in the **CBSS Member States** are indeed multi-faceted and mirror the trends reported from the broader European context. The conventional and newly emerging challenges confronting children and caregivers keep the demand for social interventions high throughout the region. In addition to violence, neglect and abuse in the home, families are struggling with the effects of the economic crisis that affects CBSS Member States in different forms.

Some countries note that economic challenges result in an increasing trend of migration and mobility and this has implications for the placement of children in alternative care. When parents or caregivers affected by poverty and unemployment decide to use the opportunities presented by the broader European labour market and the area of freedom of movement, they might decide to leave their children behind. Where care within the direct or extended

⁷³ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 51. Institute Philosophy and Sociology, University of Latvia, *Social Orphanhood in Latvia*, SHS Web of Conferences 10, 00047 (2014), 2014, p. 1.

⁷⁴ Pinheiro, P. S., *World Report on Violence against Children*, United Nations, 2006, p. 68. SOS Children's Villages, *A Solid Investment, Integrating children without parental care into the post-2015 development framework*, 2014, pp. 4-5.

⁷⁵ United Nations General Assembly, *Guidelines for the Alternative Care of Children*, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434) 64/142, 24 February 2010, par. 15. European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 56-57.

family is not available, migrating parents might resort to request the authorities to place their children in alternative care.

In **Latvia**, one of the main reasons for the placement of children in alternative care is child abuse. Statistics from 2012 indicate that incidents of neglect, abandonment or abuse were motivating the removal of children from their birth families in a high number of cases. In addition, multi-dimensional social and economic strains contribute to the risk of family separation.⁷⁶

Data from **Lithuania** indicates that the main reasons for children's placement in alternative care in 2012 were cases of domestic violence and neglect or other situations of inadequate care that endanger the health, life and development of the child (72% of child placements). The high rate of children deprived of parental care due to acts or risks of violence and neglect in the family points to the need of strengthening support networks and services for families at risk and integrating financial assistance with child protection and parenting support programmes. Other reasons for placement in Lithuania include the temporary inability of parents to care for their children, due to illness, arrest, conviction or other reasons (14% of placements). The death of parents accounted for 6% of the placements.⁷⁷

There is an emerging trend of children left behind by parents emigrating from **Lithuania**. These children stay with extended families or are placed under 'guardianship', a form of alternative care in families or residential institutions. Since 2010, there has been a high number of placements upon the parents' request. Emigration as a reason for placement accounts for the largest proportion of children in alternative care. In 2010, 83,157 parents left the country as labour migrants. In 2011, 53,863 such cases were recorded.⁷⁸ Temporary placements into guardianship increased from 352 cases in 2006 to 1,733 in 2011.

Temporary placement in guardianship upon the request of the parents is intended for cases in which both parents, or a single parent, depart temporarily from **Lithuania**. There are however increasing numbers of placements when only one of the parents departs. This concerns especially children whose parents have separated when the child has the habitual residence with the departing parent. The trend is that these placements last for increasingly longer periods of time and often for over one year. The number of children left behind without formal care arrangements remains unknown.⁷⁹

As this phenomenon has only recently grown to this scale, it has come to the attention of the authorities and specialised support services to prevent family separation due to migration still

⁷⁶ Institute Philosophy and Sociology, University of Latvia, *Social Orphanhood in Latvia*, SHS Web of Conferences 10, 00047 (2014), 2014, pp. 1, 4-6. Information provided by the Ministry of Welfare, Latvia, April 2015.

⁷⁷ Human Rights Monitoring Group et al., *Rights of the Child in Lithuania, NGO Report for the UN Committee on the Rights of the Child on the 3rd and 4th periodic reports by the Government of Lithuania*, 62nd-63rd Pre-sessional Working Group, 8-12 October 2012, August 2012, p. 12. SOS Children's Villages International, *A Snapshot of Alternative Care Arrangements in Lithuania*, Based on SOS Children's Village's assessment of a state's implementation of the UN Guidelines for the Alternative Care of Children, 2012, p. 4. SOS Children's Villages International, *A Snapshot of Alternative Care Arrangements in Lithuania*, Based on SOS Children's Village's assessment of a state's implementation of the UN Guidelines for the Alternative Care of Children, 2012, p. 7.

⁷⁸ SOS Children's Villages International, *A Snapshot of Alternative Care Arrangements in Lithuania*, Based on SOS Children's Village's assessment of a state's implementation of the UN Guidelines for the Alternative Care of Children, 2012, p. 7.

⁷⁹ Human Rights Monitoring Group et al., *Rights of the Child in Lithuania, NGO Report for the UN Committee on the Rights of the Child on the 3rd and 4th periodic reports by the Government of Lithuania*, 62nd-63rd Pre-sessional Working Group, 8-12 October 2012, August 2012, p. 12.

need to be developed.⁸⁰ As early as in 2004, the **Lithuanian** Supreme Court Senate took up the theme in a 'Review of the Application of Laws in Court Practice in Determining the Place of Residence of Minors Whose Parents Live Separately'. The underlying concern motivating this review was related to the principle of the best interests of the child in cases when parents depart for long-term work abroad and leave their children behind in the care of others. The Supreme Court concluded that the right of the child to be cared for and to live together with their parents is violated in these cases and that social problems arise because the care and maintenance of children left behind needs to be taken over by the state authorities. In response to the Court's statement, the Law on Benefits to Children was amended in 2006. It provided that child care benefits ('guardianship benefit') shall not be paid when, at the parents' request, a child is placed under temporary guardianship due to the parents' temporary absence from the country. Since 2007, parents who are planning to temporarily live or work abroad without their children need to apply to the municipal division for child rights for the appointment of a temporary guardian for the child. When parents fail to comply with this regulation, the responsible local child rights division is entitled to apply to the court for the limitation of parental authority.⁸¹

In **Poland**, children are placed in alternative care due to reasons related to family violence, neglect and abandonment, while alcohol abuse and illness of parents also play a role. In order to address these issues, to prevent family breakdown and to support family reintegration after placement, the social services still need to be prepared and equipped better to remediate these conditions and protect children in families at risk.⁸²

In **Denmark**, the most common reason for the placement of children in institutions are situations when parents are unable to handle the behavioural and emotional difficulties children are struggling with.⁸³

In 2005, the Collaborating Group on the Child Rights Convention in **Denmark** reported about disparities in the practice of placing children in alternative care between children from families of Danish origin and children from national minorities.⁸⁴ It was a cause of concern that children from national minorities were mostly being placed in foster families of Danish origin or in institutions where the staff did not represent the minority population, language and culture. According to a study by the Danish National Institute of Social Research, this was the case with three quarters of the placements involving children from national minorities. Under such

⁸⁰ SOS Children's Villages International, A Snapshot of Alternative Care Arrangements in Lithuania, Based on SOS Children's Village's assessment of a state's implementation of the UN Guidelines for the Alternative Care of Children, 2012, p. 7.

⁸¹ Law No. X-641 Amending and Supplementing Articles 1, 3, 4, 5, 6, 8, 9, 10, 12, 13, 18 of the Law on Benefits to Children of the Republic of Lithuania, 1 June 2006. Regulations of Temporary Child Guardianship (Care) was approved by Order No. A1-145 of the Republic of Lithuania Minister of Social Security and Labour of 28 May 2007. United Nations Committee on the Rights of the Child, Consideration of the reports submitted by States parties under article 44 of the Convention, Consolidated third and fourth periodic reports of States parties due in 2009, Lithuania, CRC/C/LTU/3-4, 1 March 2012, par. 124-125.

⁸² United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: Poland, CRC/C/15/Add.194, 30 October 2002, par. 36-37. SOS Children's Villages International, *Poland*, undated.

⁸³ NGO Group for the CRC, *State Party Examination of Denmark's Fourth Periodic Report*, 56th Session of the Committee on the Rights of the Child, 17 January – 4 February 2011, p. 8. Mulheir, G., Browne, K., *Deinstitutionalising and Transforming Children's Services. A Guide to Good Practice*, University of Birmingham: Birmingham, 2007.

⁸⁴ The Collaborating Group on the Children's Convention in Denmark, *Supplementary NGO Report to the Danish Government's 3rd Periodic Report Submitted to the UN Committee on the Rights of the Child*, Written by: Amnesty International, The Danish Youth Council, The Danish Council of Organisations of Disabled People, DUI – LEG og VIRKE, The Danish Institute for Human Rights, Save the Children Denmark. Save the Children Denmark Youth, and UNICEF Denmark, January 2005, accessed from: <http://www.crin.org/docs/resources/treaties/crc.40/Denmark_ngo_report.pdf>, pp. 10-11.

conditions, children may not have an opportunity to practice and develop their native languages.⁸⁵

Disparities had further been observed between the placement of children of Danish origin and the children of immigrant families or their descendants, in that the latter were referred to alternative care to a lesser extent than Danish children. A study conducted by the Danish National Institute of Social Research concluded that there might be more hesitation in placing children of immigrant families or their descendants in alternative care as their cultural and linguistic needs cannot be respected and guaranteed while in placement.⁸⁶

Disparities are also reported in relation to women and children belonging to national minorities who are affected by violence. A 2004 study found that every year, approximately 2,000 children accompany their mothers to stay in a shelter for women who have experienced domestic or other forms of violence. Among the women and children staying at such shelters, a disproportionately high number belongs to national minorities. The study explained this pattern with a higher prevalence of violence affecting this population group and, in particular, women of national minorities who are married to men of Danish origin, and their children. The study further noted that women from national minorities may have limited social support networks, especially when living on the mainland of Denmark, and therefore may have to recur to assistance in a shelter more frequently than women of Danish origin.⁸⁷ The findings from these studies may be relevant to guide the development of targeted support services for mothers and families with children who are belonging to minority groups.

As in Denmark, also the **Norwegian** authorities have produced disaggregated data about the placement of children of Norwegian origin and children with an immigration background. Among the children placed in residential care in 2012, 76 percent had no immigration background, 19 percent were immigrants and 5 percent were Norwegians born to immigrant parents. Considering the ratio of children placed in alternative care, among children with no immigrant background, 8.3 per 1,000 were in alternative care, while the ratio for immigrant children was 27.1 and among Norwegian children born to immigrant parents was 7.4 per 1,000. The proportion of immigrant children or Norwegian children born to immigrant parents in care was therefore significantly higher. The national origin of these children or their parents has not been registered although the statistics indicate that Afghanistan, Somalia and Iraq

⁸⁵ Egelund, Tine, Anne Dorthe Hestbæk and Dines Andersen, *Små børn anbragt uden for hjemmet*, The Danish National Institute of Social Research, 04:17. Cited in: The Collaborating Group on the Children's Convention in Denmark, *Supplementary NGO Report to the Danish Government's 3rd Periodic Report Submitted to the UN Committee on the Rights of the Child*, Written by: Amnesty International, The Danish Youth Council, The Danish Council of Organisations of Disabled People, DUI – LEG og VIRKE, The Danish Institute for Human Rights, Save the Children Denmark. Save the Children Denmark Youth, and UNICEF Denmark, January 2005, accessed from: <http://www.crin.org/docs/resources/treaties/crc.40/Denmark_ngo_report.pdf>, p. 11.

⁸⁶ Egelund, Tine and Signe Andrén Thomsen, *Tærskeler for anbringelser*, A vignette study about the study of the assessments made by the social administration in cases involving children. 02:03. *Børn og unge anbragt uden for eget hjem*, pr 31 December 2003, available at: <http://www.statistikbank.dk> BIS2.

Cited in: The Collaborating Group on the Children's Convention in Denmark, *Supplementary NGO Report to the Danish Government's 3rd Periodic Report Submitted to the UN Committee on the Rights of the Child*, Written by: Amnesty International, The Danish Youth Council, The Danish Council of Organisations of Disabled People, DUI – LEG og VIRKE, The Danish Institute for Human Rights, Save the Children Denmark. Save the Children Denmark Youth, and UNICEF Denmark, January 2005, accessed from: <http://www.crin.org/docs/resources/treaties/crc.40/Denmark_ngo_report.pdf>, pp. 10-11.

⁸⁷ National Council for Children, *Report to the UN Committee on the Rights of the Child, Supplementary Report to Denmark's 3rd Periodic Report*, January 2005, accessed from: <http://www.crin.org/docs/resources/treaties/crc.40/Denmark_brd_ngo_report.pdf>, p. 24. See also: Helweg-Larsen, Karin and Marie Kruse, *Mænds vold mod kvinder, Omfang, karakter og indsats mod vold (Men's violence against women, The extent and nature of violence and efforts to combat it)*, National Institute of Public Health, November 2004.

were the dominant countries of origin of immigrant children receiving child welfare measures.⁸⁸

In **Norway**, the monitoring of child welfare measures, including preventive services and alternative care, revealed that the placements for reasons associated with the child's behaviour had been halved between 2000 and 2010. While the focus on solving the so-called 'behavioural problems' among children had been strong in the second part of the 1990s, the political interest in redressing this phenomenon is considered to have shown success. In response to the widespread reports about placements motivated by behavioural problems, targeted interventions with parents and children and more attention to these issues in the reorganization of the Child Welfare Services in 2004 are considered to have contributed to these positive developments.⁸⁹

In **Finland**, non-governmental organisations have called upon the government to regularly collect information at the national level on the reasons for children's placement in alternative care and the underlying factors. The NGOs noted that this information is needed in order to enable public and private service providers to better redress the causes of placement and prevent family separation.⁹⁰ Despite the absence of national data, the intense political debate has generated knowledge about the specific challenges faced by children and families belonging to indigenous people and national minorities in Finland.

The need for child welfare services for **Finish** Roma children and the number of Roma children placed in alternative care has increased in Finland during recent years. The Advisory Board for Romani Affairs noted that the traditional family structures are changing in the Roma communities as they have in the mainstream society and the caregiving support that used to be offered by grandparents or other relatives is no longer available to the extent it used to be. Alternative care for children belonging to national minorities is a sensitive issue, as social services might find it difficult to provide cultural mediation and specialised support that fully takes into account the socio-cultural context and the linguistic needs of Finish Roma children and their families. Specialised competence and expertise is required of the social services, childcare staff and the Roma families to work together. The Finnish organisation Romano Mission has specialised in child welfare in respect of Roma children and operates a children's home and a family home for Roma children who need placement in alternative care.⁹¹

The **Finnish** Ombudsman for Minorities reports that the participation of children from Roma families in day care, pre-school and primary education is lower than that of children from the mainstream Finnish population. Although the level of education of the Finnish Roma

⁸⁸ Statistics Norway, *Children and Adolescents with Immigrant Background in Child Welfare Services* 2012, 2015, Summary available in English at <http://www.ssb.no/en/sosiale-forhold-og-kriminalitet/artikler-og-publikasjoner/barn-og-unge-med-innvandrerbakgrunn-i-barnevernet-2012>. Information provided by the Ministry of Children, Equality and Social Inclusion, Norway, April 2015.

⁸⁹ Backe-Hansen, E., et al., Out of Home Care in Norway and Sweden – Similar and Different, *Psychosocial Intervention*, Elsevier, 22(2013) 193-202, p. 196. The reasons for placement of children in alternative care are not being registered in national statistics in Norway. The reasons for children to receive child welfare measures are registered for children who are new clients of child welfare services and did not receive measures in the previous year. Information provided by the Ministry of Children, Equality and Social Inclusion, Norway, April 2015.

⁹⁰ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth reports of States parties due in 2008, Finland, CRC/C/FIN/4, 26 May 2010, par. 215-219.

⁹¹ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth reports of States parties due in 2008, Finland, CRC/C/FIN/4, 26 May 2010, par. 215-219, 452-456.

population has slightly increased, it is still lower than the general level of education among the main population. Children from national minorities who have not attended pre-school education may find it more difficult to start and integrate fully into primary school education. Roma children demonstrate a comparatively high rate of non-attendance and drop-out, poor school achievements and a high number of children in special education classes, which results also in an insufficient command of the Finnish language. The Ombudsman has recommended therefore that generally more social and political attention to social integration of Roma children and families would be important and that any difficulties should be identified and addressed early on. In particular, teachers need to be prepared and competent to promote the integration of Roma families and to cooperate with the families and with social services in order to support children and parents.⁹²

In the Sámi Homeland in Northern **Finland**, the interests of the indigenous Sámi people are represented by a Parliament. Sámi children enjoy the right to school education in their language and other entitlements relating to indigenous people. In this region, Sámi-speaking family workers are available to support Sámi families, including specifically with regard to child protection and welfare issues. The social work with families has been developed with a view to taking into account the resources of the Sámi families and creating support networks. Social services have avoided to place children in different language and cultural environments. The Sámi Parliament is convinced that this approach has led to positive outcomes for children and families even in areas where many families had required social support and the rate of placements of children in alternative care had been high. The status of the Sámi as a recognised indigenous group may have helped to safeguard the right of Sámi children to maintain and practice their own language and culture in child protection and welfare measures. In order to ensure the continued support and early intervention, the Sámi Parliament underlined the need for sustained resource allocation.⁹³

For states to develop quality alternative care and targeted prevention measures, it is important to understand why children and parents get into contact with the social services, and why children are placed in alternative care. Analysing causes and contributing factors of placement and learning from patterns and trends in alternative care are preconditions for developing targeted child protection, family support and reintegration programmes. The objective is that these support programmes safeguard children while reducing the number of placements, facilitating family reunification where possible and preventing family separation in a sustainable way.

The capacity of support services for families with children is the key to preventing family breakdown and separation. An important observation from some countries is the need for better integration of services to ensure that financial aid and social welfare benefits are combined with social support, skills training, child protection services and monitoring, education and health services and other measures to strengthen families through targeted support.

⁹² United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth reports of States parties due in 2008, Finland, CRC/C/FIN/4, 26 May 2010, par. 215-219, 452-456.

⁹³ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth reports of States parties due in 2008, Finland, CRC/C/FIN/4, 26 May 2010, par. 215-219.

Evidence of different patterns in the placement of children with different national or social backgrounds suggests that a review of the decision making processes might be important to understand to which degree attitudes and stereotypes about children's backgrounds and needs influence the decisions over placement. Secondly, these findings suggest also that support for children in alternative care requires a broad spectrum of considerations and services for the child's cultural, linguistic, religious and social backgrounds. The increasing diversity of the societies in CBSS Member States, social dynamics and the evolving nature and composition of the 'family' as a social unit, pose new challenges for social services and care.

Quality care – What does it mean?

The Convention on the Rights of the Child affords under Article 3 that State Parties undertake to ensure the child such protection and care as is necessary for her or his well-being, taking into account the rights and duties of the parents, legal guardians, or other individuals legally responsible for the child. CRC Article 3 provides further that States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

At the international level, the UN Guidelines on Alternative Care for Children is the key guiding document that break this and other provisions under the Convention down into more concrete and operational messages on what constitutes quality care for children.⁹⁴ The Quality4Children Standards for Out-of-Home Child Care in Europe, developed by FICE International, IFCO and SOS Children's Villages in cooperation with national governments and international organisations, provide more specific standards for the European context. These documents offer information and guidance for children, caregivers, professionals and officials involved in alternative childcare. They were developed with a view to define quality standards for the placement of children in alternative care, including with regard to decisions about the placement, the choice of placement, the quality of foster care and follow-up services. The Quality4Children standards were developed in consultation with boys and girls who have themselves experienced alternative care.⁹⁵ Additional standards, recommendations and guidance for childcare, social services and family support in the European region are offered in the framework of the Council of Europe and the European Union.⁹⁶

The European Expert Group on the Transition from Institutional to Community-based Care recommends that national governments develop national standards of care as a fundamental precondition for defining what constitutes quality care and how it can be ensured in practice.

⁹⁴ United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434) 64/142, 24 February 2010.

⁹⁵ SOS-Kinderdorf International, Quality4Children, Standards for out-of-home child care in Europe - an initiative by FICE, IFCO and SOS Children's Villages, SOS-Kinderdorf International, Innsbruck, Austria, 2007.

⁹⁶ See for instance: European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012. Council of Europe Committee of Ministers Recommendation on the rights of children living in residential institutions (Rec(2005)5). See also Box 2.

National standards of care should be developed in a broad-based consultative process involving the public administration at the central, regional and local levels, officials and professionals working in the alternative care sector, including private agencies and civil society organisations, children and families as well as communities.⁹⁷

National standards of care should be rooted in the relevant international and regional standards and national law. They break down these standards into more operational measures and adapt them to the national and local context of the country. National standards of care are therefore an important tool to guide the implementation of international and national law into practice with the primary aim of ensuring quality services for each individual child in care, their families of origin and caregivers. They provide a binding framework for the operation of service providers, care staff and relevant officials. This framework has to regulate all aspects of alternative care for children, from technical and operational matters, safeguards for children and families and their participatory rights, details of service provision, inter-agency cooperation, budget and accounting as well as reporting and complaint mechanisms, the monitoring and evaluation of the implementation of the standards in practice and their impact.⁹⁸

Key determinants for quality care

Although evidence demonstrates that family-based care leads generally to better outcomes for children than institutional care, the quality of care is nonetheless the primary and more important determinant of good outcomes than the type of placement (adoption, foster care, institution).

Stability of placement is one of the most important factors determining the outcomes for children. Stable relations with caregivers, social workers and with peers are considered a precondition for the well-being of children in care, including in relation to their emotional well-being, educational achievements and personal development. Permanency is conditional on a number of issues and considerations at all stages of the placement: a thorough assessment of the child's situation and needs, successful matching of children and foster carers or other caregivers, and meaningful follow-up support, monitoring and review of the placement.⁹⁹

The Committee on the Rights of the Child noted that quality care has to ensure security and continuity of care and affection, and the opportunity for children to form stable and long-term attachments, based on mutual trust and respect. Children have good opportunities to form

⁹⁷ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 138.

⁹⁸ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 136-137.

⁹⁹ Department for Education, *Children in Care, Research priorities and questions*, United Kingdom, March 2014, pp. 8-9. Rygaard, Niels Peter, *Research, Technology, Child Policies and Caregiver Education, A description of non-profit, open source online caregiver education programs worldwide*, undated, p. 2.

stable attachments in foster families, when placed within the extended family or in adoption.¹⁰⁰

The child's own views constitute an essential safeguard in placements of any type. Quality care is therefore fundamentally determined by the opportunity of the child to be heard in each phase of the process and at any moment. In addition to the right to be heard and to have her or his views taken into account, the entire set of the participatory rights of children need to be respected in practice, i.e. the right to seek, receive and impart information in a language that the child understands, the right to freedom of thought, expression and freedom of assembly. In addition to daily opportunities to express their views and to be heard, children as clients of social services and in alternative care need to have access to child-sensitive reporting and complaint mechanisms, including independent and confidential mechanisms. They also need to be informed, enabled and encouraged to use these mechanisms actively, individually and collectively.

Children express their views in many different ways and need to be heard regardless of the means of communication they choose, and even when their messages are uncomfortable to caregivers and service providers. Leaving a placement without informing guardians, caregivers or staff can be a way for children to demonstrate that the placement did not meet their needs. Once they have left, many children face a higher risk of violence and exploitation, especially when living or working on the streets. In 2014, Missing Children Europe reported that 45 percent of the calls received by the missing children hotlines in Europe (network of 116000 hotlines) related to children who went missing from alternative care placements in institutions (24 percent or 33,485 calls) or foster families (21 percent or 29,299 calls).¹⁰¹ In order to prevent children from going missing, caregivers, institutional staff and service providers need to enter into a constructive dialogue with the girl or boy concerned and engage also their social networks in order to find viable and durable solutions in each individual case.

Quality care can only be provided if embedded into a holistic approach that values the child as a person with inalienable human rights. The Committee on the Rights of the Child has extensively commented on the importance of adopting a holistic approach in policy and practice that values the human rights of the child as inter-related and indivisible. It emphasises that progress in relation to a single right cannot be achieved if measures are not integrated into a more holistic approach. The rights to health, leisure time and recreational activities, for instance, are considered directly connected to the child's right to grow and develop her or his full potential. The right to protection from all forms of violence can only be

¹⁰⁰ United Nations Committee on the Rights of the Child, General Comment No. 7 (2005), Implementing child rights in early childhood, CRC/C/GC/7/Rev.1, 20 September 2006, par. 36 (b).

¹⁰¹ In 2014, the national Missing Children hotlines in Europe received 268,309 calls in total, which involved 6,119 registered cases of individual children. 45 percent of the calls were related to children who went missing from alternative care placements, while 51 percent of the calls related to 'runaways' more generally. In response to these calls, the hotlines opened 2,785 cases of 'runaways' in 2014, equivalent to 136,838 calls. These cases were reported from 26 national hotlines (Albania, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, The Netherlands, United Kingdom). Among these children, 45% went missing from alternative care placements. This figure includes data from 12 national hotlines (Albania, Bulgaria, Croatia, Estonia, Hungary, Italy, Lithuania, Luxembourg, Poland, Slovakia, Slovenia, United Kingdom). Source: Information provided by Delphine Moralis and Federica Toscano, Missing Children Europe, 22 June 2015. See also: Missing Children Europe, *Missing Children Facts and Figures 2014, Caseload data from missing children organisations and cross-border family mediators across Europe*, 2014, accessed from <http://missingchildreneurope.eu/Portals/0/Docs/Missing%20children%20facts%20and%20figures%202014.pdf> on 2 July 2015, pp. 7-8.

achieved when all the other rights of the child are effectively promoted. Safeguarding the right to education is considered to lead to positive results also in terms of social and economic rights, health and protection.¹⁰²

National laws and policies on alternative care tend to prioritise the rights and interests of the child with regard to safety and protection, health, education, family relations and physical standards of care such as the quality of the living conditions in placement. A holistic approach to care requires that these rights are promoted in relation to all the rights and needs of the child and that these are understood as interrelated. Issues such as leisure time and recreational activities, sports, play and social contacts are not necessarily regulated by law, but are also fundamental for the child's well-being and development in alternative care. The responsibility for guaranteeing that children enjoy these rights in practice lies therefore primarily with the parents, caretakers, guardians or staff in child care institutions. In consequence, it can be expected that there is a great variability in how children can exercise these rights. While it cannot be desirable to regulate all aspects of a child's life by law, it would however be essential to ensure that all these matters receive due attention in quality standards for family support and alternative care as well as training of relevant professionals.¹⁰³

Ensuring that all the rights and needs of the child are respected effectively in practice is also a precondition for ensuring a non-discriminatory approach in childcare. While care has to be provided on a rights-base, it has to be also needs-based, taking the individual situation, context and background of the child into account and responding to the specific needs of the girl or the boy concerned. This requires the capacity of service providers to assess the individual needs of each person and to apply universal standards and procedures in such a way as to respond to these needs effectively. Achieving equity of care requires therefore a sensible process for safeguarding universal rights and standards by providing services that are tailor-made for each individual child and caregiver. The cooperation between service providers, children and caregivers as partners in the development and implementation of support services is a fundamental precondition for this balance to succeed.

The Convention on the Rights of the Child promotes a holistic understanding of the person and an understanding of the child not only as a vulnerable person in need of care and protection, but as a rights holder and citizen who contributes to the society with her or his evolving capacities. The Convention does not only set human rights standards in international law, it also has a programmatic character and guides an assessment of the rights and needs of the child across all aspects of the child's person and development. It relates to social and

¹⁰² United Nations Committee on the Rights of the Child (2011), General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, CRC/C/GC/12, 18 April 2011, see for instance p. 48. United Nations Committee on the Rights of the Child (2013), General Comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), p. 3. United Nations Committee on the Rights of the Child (2013), General Comment No. 14 (2013) on the right of the child to have her or his best interests taken as a primary consideration (art. 3, para. 1), CRC/C/GC/14, 29 May 2013. United Nations Committee on the Rights of the Child (2001), General Comment no. 1 (2001), Article 29 (1), The Aims of Education, CRC/GC/2001/1, 17 April 2001. United Nations Committee on the Rights of the Child (2013), General comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31), CRC/C/GC/17, 17 April 2013. Cited in: Wenke, Daja, *Improving Monitoring and Protection Systems Against Child Trafficking and Exploitation, Transnational Analysis*, Family and Childcare Centre Greece, Defence for Children International - Italy, et al., 2014, p. 48.

¹⁰³ Wenke, Daja, *Improving Monitoring and Protection Systems Against Child Trafficking and Exploitation, Transnational Analysis*, Family and Childcare Centre Greece, Defence for Children International - Italy, et al., 2014, p. 48.

economic aspects, health and education, the development of skills and capacities, and the child's socio-political participation. When the rights afforded under the Convention are understood not only article by article but also holistically, it can guide policy makers and practitioners in developing more systemic approaches to policy planning and implementation for family support, child protection and alternative care. The Convention offers guidance for policy makers across all sectors concerned with alternative care and family support, including social welfare and child protection, education and health, juvenile justice, law enforcement and the judiciary, labour and employment authorities, and immigration authorities.¹⁰⁴

Quality care and development

In the context of the international debate on the post-2015 sustainable development agenda, international agencies are attracting notice to the significant role of child protection, quality care and family support. An emerging body of evidence demonstrates that investments in these fields generate positive outcomes not only for the individuals and communities concerned but that they make strategic and sustainable contributions to the human, social and economic development of states and societies. In times of financial and economic crisis, labour migration as a coping strategy of families, incoming migration flows of persons fleeing conflict zones, and imminent threats to peace and stability within Europe, this debate is also highly pertinent for the Baltic Sea countries and their shared aspiration to flourish as a safe and secure region.

A review of global evidence and experience from the alternative care sector revealed that social protection for families and quality alternative care for children are indispensable for stability and development. For national governments and the international community, investments in these areas are particularly efficient and effective to break the transgenerational transmission of poverty and inequality, to prevent violence and enable families and children to be resilient and to contribute positively to society.¹⁰⁵

Quality of care offers an important key for children to exit from the vicious cycle of poverty, inequality and violence, marginalisation and vulnerability. In consequence, the provision of family support and high quality care is instrumental for interrupting these dynamics and promoting inter-generational, transformative change. Parents and caregivers have a key role to sensitise, train and inform children in life skills and social competence, health and nutrition and choices made for the transition into adulthood and independence. Children who are growing up in poor quality care settings experience a higher risk of abuse, neglect and violence. The impact of these experiences on the child's longer-term physical, cognitive and intellectual development is considered to be even more severe when children who have already been exposed to acts of violence and abuse are deprived of quality care to support their recovery and rehabilitation. Where this support is missing, child victims of violence are more likely to perpetuate aggressive and violent behaviour in adolescence and adulthood.¹⁰⁶

¹⁰⁴ Wenke, Daja, *Improving Monitoring and Protection Systems Against Child Trafficking and Exploitation, Transnational Analysis*, Family and Childcare Centre Greece, Defence for Children International - Italy, et al., 2014, p. 99.

¹⁰⁵ SOS Children's Villages, *A Solid Investment, Integrating children without parental care into the post-2015 development framework*, 2014, p. 4.

¹⁰⁶ SOS Children's Villages, *A Solid Investment, Integrating children without parental care into the post-2015 development framework*, 2014, pp. 4-5.

Studies into the impact of poor quality alternative care on the well-being and development of children demonstrate the negative outcomes, including in the longer-term cognitive, emotional and social development and the transition into adulthood. Attachment theory underlines that a stable relationship with at least one primary caregiver is essential for infants and older children to develop their self-esteem, emotional stability and capacity to form social relationships. Being deprived of a caring family environment makes children highly vulnerable to attachment disorders, mental health problems such as anxiety and depression, as well as developmental impairments. These negative outcomes are exacerbated when children are placed in overcrowded residential care settings or when they experience further disruptions of relationships in alternative care, for instance when they have to move from one placement to another or when they are split from their siblings.¹⁰⁷

A review of research findings reveals that children in alternative care are more likely to have special educational needs and that it can be more difficult for them to access the support they need. They are also more likely to drop out of school, to experience poorer educational outcomes and life chances when they do not have access to targeted support. Children in alternative care face higher risks of not getting enrolled in vocational training or remaining unemployed. Placement in large-scale residential institutions is particularly detrimental for very young children under three years old and impairs their development. Poor quality alternative care predisposes children to a range of behavioural and social problems during childhood and in adult life. They are more likely to come into contact with the criminal law system, to have physical and mental health implications, to abuse drugs, alcohol or other harmful substances, to be homeless, and to demonstrate behavioural problems. Long-term studies reveal that adults who have grown up in alternative care demonstrate a larger likelihood to have their own children taken into care and to take recourse to violent behaviour. For policy making and practice, it is essential to understand the factors that cause and contribute to these negative outcomes for children in alternative care in order to be able to redress and prevent them.¹⁰⁸

Studies demonstrate that several of these negative outcomes can be attenuated when children are referred to quality care in a family context. Research findings reveal that children growing up in foster or adoptive families fare much better than their peers raised in institutional care, in terms of physical and cognitive development, and with regard to their educational achievements and integration into the community as independent adults.¹⁰⁹

¹⁰⁷ Whetten, Kathryn et al., 'More than the Loss of a Parent: Potentially traumatic events among orphaned and abandoned children', *Journal of Traumatic Stress*, Vol. 24, Iss. 2, 2011, pp. 174–82. Cited in: SOS Children's Villages, *A Solid Investment, Integrating children without parental care into the post-2015 development framework*, 2014, p. 2. See also: Browne, Kevin, *The Risk of Harm to Young Children in Institutional Care*, Save the Children, London, 2009.

¹⁰⁸ Department for Education, *Children in Care, Research priorities and questions*, United Kingdom, March 2014, pp. 4-5. Browne, Kevin, *The Risk of Harm to Young Children in Institutional Care*, Save the Children, London, 2009, p. 2. Pinheiro, P. S., *World Report on Violence against Children*, United Nations, 2006. United Nations Children's Fund, *At Home or in a Home?, Formal care and adoption of children in Eastern Europe and Central Asia*, 2010. European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 47.

¹⁰⁹ Mulheir, G., Browne, K., *Deinstitutionalising and Transforming Children's Services. A Guide to Good Practice*, University of Birmingham: Birmingham, 2007. Cited in: European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives*

Considering this body of evidence, providing high quality care for children deprived of parental care is not only a human rights imperative. It constitutes also a critical investment into the stability, development and social inclusion of the children in care and the society at large.¹¹⁰

Public spending policy and budget allocation for childcare and family support

Institutional care is traditionally perceived to be less costly than family-based care within communities. Cost analyses demonstrate that this perception is misleading. Evidence shows that community-based models of care are not per se more costly than institutional care and a cost-benefit analysis strengthens the arguments for investing in family-based care.¹¹¹

Since large-scale residential institutions produce poorer outcomes for children deprived of parental care, it has been widely recognised that investments into this form of alternative care can be considered counterproductive.

Good public policy therefore prioritises investments into the quality of family-based care within communities, family reunification, early intervention and family support, as well as high-quality care in small and family-like institutions wherever this form of placement is in the best interests of the child. Interventions supporting these targets will produce better outcomes for children, families and the communities. In the longer-term, these investments will also help reducing public spending on services aimed at remediating the negative outcomes of poor quality institutional care.

The European Expert Group on the Transition from Institutional to Community-based Care developed recommendations on how to support the transition process through targeted budget allocation. When residential care institutions are closed down, the Expert Group recommends to set aside – or ‘ring-fence’ – the institutional budget and to ensure that it is transferred to community-based care structures. The objective is to ensure continued support for the target group. This is essential for preventing that the resources freed when residential institutions are closed are allocated for other purposes.¹¹²

Funding policies in family support and alternative care need to be carefully preconceived in order to ensure that budget flows and budgetary decisions create incentives for the ‘right’ decisions in practice that are oriented at child protection and favour preventive services,

for children, persons with disabilities, persons with mental health problems and older persons in Europe, Brussels, November 2012, p. 47.

¹¹⁰ SOS Children's Villages, *A Solid Investment, Integrating children without parental care into the post-2015 development framework*, 2014, p. 2.

¹¹¹ Eurochild, Hope and Homes for Children, *Deinstitutionalisation Myth Buster*, Opening Doors for Europe's Children, 2012, accessed from <http://www.eurochild.org/policy/children-in-alternative-care/> on 20 May 2015. Mansell, J., Knapp, M., Beadle-Brown, J. and Beecham, J., *Deinstitutionalisation and Community Living, Outcomes and costs: Report of a European Study*, Volume 2, Canterbury: Tizard Centre, University of Kent, 2007, p.97. Cited in: European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 50, 100.

¹¹² European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 106-107.

family support and family-based care within communities. The funding channels from the central level of the public administration through to local authorities and funding of private partners in service provision need to be considered also from this perspective. Budget allocation and financial policies can play an important role in creating incentives for progressive deinstitutionalisation, the prioritisation of family-based care, the provision of integrated services and multi-disciplinary cooperation according to quality standards.¹¹³

It is common that states split up the responsibility for financing different forms of alternative care and family support to different ministries and departments. The competences and responsibilities are often divided between the central state and local authorities. In many cases, central and local authorities are responsible for financing different components of the alternative care system. While the provision of social services is commonly financed by local authorities, some residential institutions, especially those catering for children with special needs, might be funded by the central state or by regional authorities. Referring children to these institutions might therefore alleviate the financial burden on the local authorities and create disincentives for providing family support services or family-based care within communities. In the devolution of financial responsibilities and the cooperation with private partners, it is therefore important that priorities are defined primarily according to quality standards and the best interests of the children concerned.¹¹⁴

It would be important to conduct cost-benefit analyses in the CBSS Member States in order to understand better the cost-benefit relations, the impact of public spending, budget policies and financial incentives in family support and alternative care and the quality of outcomes for children, families and the society.

¹¹³ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 106-107.

¹¹⁴ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 106-107.

4) Prevention of family separation

The UN Convention on the Rights of the Child affords children the right to be cared for by their parents and to live with their families (CRC Articles 7 and 9). The Preamble recognises that “for the full and harmonious development of her or his personality, [the child] should grow up in a family environment, in an atmosphere of happiness, love and understanding”. In order to safeguard these rights and to support parents in child rearing, states are obliged to provide appropriate support for parents to fulfil their roles and responsibilities as caregivers. When parents are unable to provide adequate care, the child has a right to substitute family care (CRC Articles 18 and 20).

Children have the right to be protected from all forms of violence, abuse, exploitation and neglect (CRC Article 19). This right applies to any context, including the home and alternative care settings. Children with mental or physical disabilities have a right to enjoy a full and decent life in conditions, which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community. Children with disabilities are entitled to special care and their parents have a right to assistance (Article 23).

These articles together provide for the obligation of states to offer targeted support services for the prevention of family breakdown. The Guidelines on Alternative Care for Children underline that removing a child from the birth family “should be seen as a measure of last resort and should, whenever possible, be temporary and for the shortest possible duration”.¹¹⁵ The best interests of the child shall guide, as the key principle, decisions over when placement in alternative care becomes necessary. The 2005 Recommendations from the Committee of Ministers of the Council of Europe on the rights of children living in residential institutions also underline that “preventive measures of support for children and families in accordance with their special needs should be provided as far as possible”.¹¹⁶

The development of effective prevention measures is therefore an inherent part of national policies for childcare and family support. They should be part of the national standards of care and need to be considered for the development of comprehensive national strategies for the transition from institutional to family-based care.

The underlying assumption of prevention strategies is that many difficulties that families are struggling with and that create a risk of family breakdown can be alleviated by adequate support. Evidence demonstrates, for instance, that poverty alleviation, home visiting programmes, parental training programmes on positive discipline and parenting skills can all achieve significant results for stabilising families, making them safe for children and preventing the removal of the child.

When parental conflicts escalate, children are at risk of experiencing further harm, including by being exposed to domestic violence as victims or witnesses, or in situations of parental

¹¹⁵ United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434) 64/142, 24 February 2010, par. 14.

¹¹⁶ Council of Europe, Committee of Ministers, Recommendation Rec(2005)5 of the Committee of Ministers to member states on the rights of children living in residential institutions, adopted by the Committee of Ministers on 16 March 2005.

alienation or abduction. In the process of, or after, separation, family mediation can be a powerful method to prevent an aggravation of the conflict.¹¹⁷

Considering the diversity of challenges that families face, service providers need to ensure that the support takes into account the individual situation of the child and caregiver. In particular, service providers should refrain from discrediting parental capacity to care for their children due to poverty and from stigmatising them for their national, religious or other origin, a non-traditional family structure, customs and ways of life.¹¹⁸

The European Expert Group on the Transition from Institutional to Community-based Care underlines that a strategy for the prevention of family separation includes an array of measures. An important measure of primary prevention is to ensure universal access to basic services such as quality health care, employment, education, housing, information and communication. Designing these services at the policy level and making them accessible for the target group will be more effective when relevant professionals and officials, community members as well as children and caregivers are involved and effectively consulted in the process.

Prevention services need to be integrated into mainstream services for child protection, social welfare and family support and need to include also specialised support and assistance for families at risk, taking into account the specific living situation of the family and their social-cultural, national, ethnic and religious background, language and other special needs. Understanding the causes and contributing factors that lead to family separation is essential for developing an effective and holistic package of services for prevention, protection and empowerment of children and families at risk. Service providers therefore need to assess the risks and resources of the family, including those that derive from their social networks and environment. They need to be competent, resourced and qualified to deliver these services targeted to the individuals in need. This requires training and capacity building of the relevant authorities and front line staff and the allocation of sufficient budget, combined with incentives and priorities for investing in services for child protection, care and family support.

Financial aid is also key to preventing family breakdown including through social protection services, the provision of quality day care free of charge, parental leave programmes and cash grants.¹¹⁹

Prevention services need to be prepared to identify, anticipate and respond to the specific needs of children with disabilities and their families. The Committee on the Rights of the Child noted that “children with disabilities are best cared for and nurtured within their own family

¹¹⁷ Missing Children Europe reports that 37 percent of the cases reported to missing children hotlines through the 116 000 telephone number in 29 European countries concern situations of parental abductions. Of these abductions, 60 percent are cross border in nature. Source: Information provided by Delphine Moralis and Federica Toscano, Missing Children Europe, 22 June 2015. See also: Missing Children Europe, *Missing Children Facts and Figures 2014, Caseload data from missing children organisations and cross-border family mediators across Europe*, 2014, pp. 9-10.

¹¹⁸ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 84-85.

¹¹⁹ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 86.

environment provided that the family is adequately provided for in all aspects". In order to prevent family separation due to disabilities, the Committee recommended that family support services shall promote the full inclusion of the child with disability in the family and community and support the child to live a dignified and self-reliant life. To this end, family support services need to be targeted at the child and the caregivers as well as siblings and other caregiving persons in the child's social network. Support services include education of parents and siblings on the causes and effects of the disability and the individual physical and mental requirements of the child. Psychological support is important to help the family coping with difficulties. In addition, financial and material support such as special allowances, consumable supplies and necessary equipment help the family to cope and build resilience.¹²⁰

Social services and child protection services produce better outcomes for children and families when they are delivered in an integrated way and when they are part of a network of community-based services that develop a safety net for children and empower families at risk. Community-based services are not only an important element of a comprehensive strategy for the prevention of family separation and institutionalisation; they also support the reintegration of a child into the family and community after emergency placement, temporary or longer-term alternative care. The coordination and integration of services delivered by different public and private actors is important to achieve better outcomes for children and families. Integrated services are considered to be more cost-effective for the service providers and benefitting the users by producing better and more sustainable results for their well-being, health and development, especially for persons with multiple and inter-related needs. Service coordination and integration constitutes therefore an important investment for social inclusion and development.¹²¹

Family support, child protection and alternative care: Regional overview and trends

Fundamental rights of children, parents and caregivers and the protection of the family as a basic unit of society have a high status throughout the Baltic Sea Region. This is demonstrated by the fact that most countries have introduced provisions on families or child protection into their national constitutions, although the levels of detail vary. The constitutions of **Estonia, Germany, Latvia, Lithuania and Poland** include specific provisions on families, while **Iceland, Latvia, Lithuania, Poland, the Russian Federation and Sweden** have included provisions dedicated specifically to children. **Poland** has enshrined the protection of children from harm into its national constitution, while the national constitution of Latvia obliges the State to protect the rights of the child and provide special support to children with disabilities, children left without parental care or children who have suffered from violence. Under the **Finnish** Constitution, children are to be treated equally and as individuals. This

¹²⁰ United Nations Committee on the Rights of the Child, General Comment No. 9 (2006), The rights of children with disabilities, CRC/C/GC/9, 27 February 2007, par. 41.

¹²¹ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 87-88.

provision has far-reaching implications for the rights of children as citizens and the right to non-discrimination on the grounds of age.¹²²

Most countries in the region have introduced general statements into the relevant national laws and policies that affirm the importance for state services to strengthen and support families, particularly in the social services or child protection fields. These statements, made in a legally binding context, underline the political commitment to invest in family support, childcare and protection.

Introducing parenting support into national policy plans and strategic objectives can help lifting the issue up on the political agendas of national, regional and local authorities and institutions. The systematic investment in parenting support and family policies in the Nordic countries has led to well-established support systems for parents. In a global comparative study, Save the Children ranks the Nordic countries (**Denmark, Iceland, Finland, Norway and Sweden**) frequently as the best countries on the world to be a mother, due to parental leave, day-care, quality health care and other forms of support available for mothers.¹²³

In **Denmark**, the national legislation affirms the importance of ensuring that services are in place to assist, support and strengthen families. The most important law regarding support to families and vulnerable children is the Law of Social Services, which provides for counselling and support to children and families, including parents of new-borns. The Law obliges the local municipal council to design a support framework for children in order to ensure coherence between the preventive and general social work policy of the municipality and the specific target areas related to children with special needs (Law of Social Services §11).

In 2014, the Government of **Denmark** launched the 'preventive measures initiative', which introduced massive investments for strengthening the municipalities' capacity to implement preventive measures. The aim is to identify and address the difficulties that children and families are struggling with and to solve them early on in order to prevent that the removal of a child becomes necessary. Since 2013, there have been coordinated actions to protect children against abuse, including through stronger legislation, awareness campaigns, education and other projects for the prevention of sexual and violent abuse. As part of this

¹²² Constitutional references: Estonia (ss.27 & 28), Germany (Art 6), Lithuania (Arts 38 & 39), Poland (Art 71). Dedicated provisions on children: Iceland (Art 76), Latvia (Art 110), Lithuania (Arts 38(2) & 39(3)), Poland (Arts 65(3) & 72), Russian Federation (Arts 7(2) & 38), Sweden (Art 2). Protection from harm: Poland (Art 72(1)). Cited in: Council of Europe, European Commission for Democracy Through Law (Venice Commission), *Table of Constitutional Provisions on Children's Rights*, Prepared by Conor O'Mahony, CDL-REF(2014)009, Opinion 713 / 2013, Strasbourg, 14 March 2014. See further: **Estonia**: United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 139. **Finland**: Constitution of Finland, Article 6. Council of Europe, *Child and Youth Participation in Finland, A Council of Europe policy review, Building a Europe for and with Children*, 2011, pp. 84-86. **Germany**: The Basic Law of Germany (Constitution), Article 1, paragraph. 1 and Article 2, paragraph 1, Article 6 of the Basic Law obliges parents to care for and bring up their children, while the state supervises their activities. If parents are unable to fulfil their responsibility, the state community assumes parental responsibility on a subsidiary basis by virtue of its role of guardian. In doing so, the State may protect and promote parental responsibility and supervise its exercise, but may not suppress or curtail it. The role of guardian is orientated, as is the parental right, to the standard of the best interests of the child. **Poland**: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 14.

¹²³ Save the Children, *State of the Worlds Mothers 2012, Nutrition in the First 1,000 Days*, 2012, p. 52. Save the Children, *State of the Worlds Mothers 2013, Surviving the First Day*, 2013, p. 69. Save the Children, *State of the Worlds Mothers 2014, Saving Mothers and Children in Humanitarian Crises*, 2014, p. 76.

initiative, Children's Houses (Børnehuse) have been established in each region, inspired by the Children's House model in other Nordic countries.¹²⁴

In **Estonia**, the Child Protection Act recognises that the family is the natural environment for the development and growth of the child. Parents and caregivers are held by the law to get to know and understand the child in order to competently support the child in her or his development. In order to achieve this, parents or caregivers are entitled to receive consultation free of charge from a social services department.¹²⁵

The Children and Families' Development Plan 2010-2020 of Estonia was developed with the overall goal to increase the well-being and quality of life for children and families. The plan establishes five strategic objectives for reaching this goal: 1) A uniform and knowledge-based child and family policy supports the development of a sustainable society in Estonia. 2) Quality of life and outcomes for children are improved through advocacy for positive parenting and the provision of adequate support for parents in their child-rearing role. 3) Children's rights are safeguarded and a functioning child welfare system is in place in order to support the well-being and development of children in a safe environment. 4) A combined system of benefits and services provides a sense of economic security of families. 5) A high quality daily life meets the needs of every family member and men and women have equal opportunities of work-life balance.¹²⁶

The **Finnish** Child Welfare Act (2007/417) introduced the concept of 'preventive child welfare'. The Act defines child welfare from a broad perspective to include not only social support for an individual child but also more holistic considerations for the health, well-being and development of children in Finland and in support of parenthood. Preventive child welfare includes therefore the child protection measures undertaken by local child welfare authorities as well as special support provided in health care, day-care, schools and youth programmes. These support measures are targeting also children who are not clients of the child welfare services with the aspiration to have a general empowering and preventive effect. Under the Child Welfare Act, municipalities are obligated to oversee preventive child welfare services to the effect that they are provided effectively to reach children, young people and families with children.¹²⁷

The Child Welfare Act stipulates that the core principle of child welfare is to provide support for the child's parents or legal guardians in child rearing and care. 'Non-institutional support measures' targeting the child in the family home and the family unit take precedence over alternative care. The fundamental precondition is, however, that these measures are appropriate, possible and adequate from the perspective of the best interests of the child, in line with the Child Welfare Act. Non-institutional support measures include support to subsistence and housing for the child and the family, care and therapy services, family work,

¹²⁴ Information provided by the National Board of Social Services, Denmark, 18 May 2015.

¹²⁵ Child Protection Act Section 24, Article 25. Cited in: United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 141. Estonia, Child Protection Act, 2015, accessed from <https://www.riigiteataja.ee/en/eli/506052015001/consolide> on 14 June 2015.

¹²⁶ Permanent Mission of Estonia, *Response of Estonia on the Questions on Children's Right to Health*, Geneva, 4 September 2012, pp. 3-4.

¹²⁷ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth reports of States parties due in 2008, Finland, CRC/C/FIN/4, 26 May 2010, par. 203.

peer activities and vacation or recreational activities.¹²⁸

In **Germany**, the public youth welfare services offer different forms of voluntary and preventive support for parents in child rearing and care. Parents are entitled to receive socio-educational support services under the Social Code, when the present situation does not guarantee the welfare of the child or young person.¹²⁹ The youth welfare offices collaborate closely with family courts, whose role in preventive services was strengthened by the Act Facilitating Family-Court Measures in Cases of Danger to the Best Interests of the Child. The Act mandates family courts to intervene early in cases where the safety and well-being of a child is at risk in the home, with a view to strengthening the family and preventing that placement becomes necessary. The Act reduces barriers for parents to access assistance and provides for low-threshold support. The Act obliges family courts to discuss the risks to the best interests of the child in an oral hearing with the parents and the youth welfare office. This discussion hearing has to take place within one month after the court initiated the proceedings. The family court can oblige the parents to avail themselves of child and youth welfare services and to seek advice on parenting skills and non-violent upbringing. The family court can instruct parents to enrol their child in a kindergarten or to ensure that the child attends school regularly.¹³⁰

In **Iceland**, the Child Protection Act No. 80/2002 states that “efforts shall be made to achieve the objectives of the Act by strengthening families in their child-raising role, and applying measures to protect individual children when applicable” (Article 2). Under Article 4, the Act defines the principles of child protection work, which include family support as well as the promotion of children’s interests and taking account of a child’s views and wishes.

In **Latvia**, support to families with children was one of the priorities under the National Development Plan 2007-2013 and continues to be addressed under the National Development Plan of Latvia 2014-2020.¹³¹

Under the national laws of **Lithuania**, measures and services for supporting families and preventing family separation shall be considered a priority, as afforded, for instance, by the Law of Social Services and the Law of Child Rights Protection. In addition, the Parliamentary Decision No. IX-1569 of 2003 approved the Child Welfare State Policy providing for services for families at risk.¹³²

The **Norwegian** government has stipulated that budget allocation in child welfare services

¹²⁸ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth reports of States parties due in 2008, Finland, CRC/C/FIN/4, 26 May 2010, par. 206.

¹²⁹ Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, pp. 17-18.

¹³⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2009, Germany, CRC/C/DEU/3-4, 11 September 2012, par. 132.

¹³¹ CM Regulation No. 564 of 4 July 2006 Regulations Regarding the Latvian National Development Plan 2007-2013, National Journal Latvijas Vēstnesis, 108 (3476), 11 July 2006. Cited in: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Combined third to fifth periodic reports of States parties due in 2009, Latvia, CRC/C/LVA/3-5, 21 November 2014, par. 39. National Development Plan of Latvia 2014-2020, accessed from http://www.pkc.gov.lv/images/NAP2020%20dokumenti/NDP2020_English_Final_.pdf on 2 May 2015.

¹³² SOS Children’s Villages International, A Snapshot of Alternative Care Arrangements in Lithuania, Based on SOS Children’s Village’s assessment of a state’s implementation of the UN Guidelines for the Alternative Care of Children, 2012, pp. 4-5, 7.

should promote a shift towards prioritising family support and the assistance of children and parents in the home. The Child Welfare Act establishes that children shall grow up with their biological parents. When there is a risk of family separation, the law provides for support and protection services to assist the child and parents in the home. Care orders or the removal of the child from the family can only be issued when assistance in the home does not lead to satisfactory outcomes (Child Welfare Act Section 4-12).¹³³

In **Sweden**, support and assistance for parents, including parenting skills training, is one of six priority areas of the national child rights policy.¹³⁴ In March 2009, the Swedish Government acted upon this premise and adopted a National Strategy for parental support, which is targeted at all parents of children up to the age of 17 years old. The National Strategy aims to support parents to promote the health, well-being, safety and development of their children. It is rooted in the CRC and promotes gender equality. The Government tasked the Swedish National Institute of Public Health to allocate SEK 130 million (approx. 14 million Euro) in order to support the implementation of the strategy and to mobilise local authorities and research institutes to promote parental support programmes and to generate new knowledge and expertise in this area. In 2012, an additional SEK 2 million (approx. 212,000 Euro) were allocated for knowledge dissemination, communication and consultation on the lessons learned from these activities.¹³⁵

The **Swedish** social welfare system is commonly described as family service oriented with elements of a child protection system. Due to its strong orientation at family services, the Swedish approach focuses on the needs of children within families and investigations or assessments aim therefore primarily at identifying the needs of the family. Child protection matters come into play as social services working with families at risk are tasked to monitor also the situation of children within families in order to identify situations of risk to a child's safety and development.¹³⁶

National laws relevant for family support, child protection and alternative care

A review of the national legal frameworks in the **Member States** of the Council of the Baltic Sea States reveals that throughout the region, the number of national laws regulating family support, childcare and protection is high. The relevant laws include civil codes and laws regulating social services, social protection and welfare, labour market and employment laws, child protection laws and acts on children's rights. In many countries, special laws have been developed to regulate day care, guardianship and the prohibition of domestic violence. In addition, procedural laws apply to determine court procedures and decision making

¹³³ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties Under Article 44 of the Convention, Fourth periodic report of States parties due in 2008, Norway, CRC/C/NOR/4, 11 May 2009, par. 222.

¹³⁴ United Nations Committee on the Rights of the Child, Written Replies by the Government of Sweden to the List of Issues (CRC/C/SWE/Q/4) Prepared by the Committee on the Rights of the Child in Connection with the Consideration of the Fourth Periodic Report of Sweden (CRC/C/SWE/4), Office of the High Commissioner for Human Rights, Geneva, CRC/C/SWE/Q/4/Add.1, 24 April 2009, available at: <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.SWE.Q.4.Add.1.pdf>, p. 14.

¹³⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fifth Periodic Report of States Parties due in 2011: Sweden, CRC/C/SWE/5, 5 May 2014, par. 205-206.

¹³⁶ Backe-Hansen, E., et al., Out of Home Care in Norway and Sweden – Similar and Different, *Psychosocial Intervention*, Elsevier, 22(2013) 193-202, p. 198.

processes about the best interests of the child in family matters and placement into alternative care.

In federal States such as **Germany** and the **Russian Federation**, relevant laws on decentralisation and the devolution of competences come into play. The legal framework at the federal level is then replicated at the decentralised levels, according to the devolution of competences to regional and local authorities. **Other CBSS Member States** operate however also with a decentralised public administration and the devolution of competences to regional and/or local authorities. These structures lead almost invariably to high levels of fragmentation in the way that national laws and policies are implemented locally.

The legal framework that guides and regulates family support, childcare and protection is therefore multi-faceted and highly fragmented. As in other complex fields, this situation creates challenges for the coordination and cooperation across different sectors and levels of the public administration and the integration of services provided by different actors. In light of these complexities, there is a need for clearly designated leading institutions in policymaking and practice and effective mechanisms for inter-disciplinary and cross-sectoral cooperation and the coordination of all relevant levels and actors.

Leading institutions

The high degree of fragmentation in the legal domain is reflected also in the institutional mandates and responsibilities in the area of family support, alternative care for children, child protection and child rights.

In **Denmark**, the Ministry of Children, Gender Equality, Integration and Social Affairs holds the leading role for child rights policy within the national government. The administrative coordination rests with the National Board of Social Services. At the local level, municipal authorities are in charge of the day-to-day operations and local implementation.¹³⁷

In **Estonia**, the Ministry of Social Affairs is responsible for national policy planning in the child protection field and for promoting and coordinating the implementation of the Convention on the Rights of the Child.¹³⁸ Within the Ministry, the Department of Children and Families is primarily responsible for the coordination of child rights and protection policies. The Health Department in the Ministry addresses child rights policy specifically in the health sector. The Ministry of Social Affairs cooperates closely with the Ministry of Education, the Police Board and other relevant agencies.¹³⁹

¹³⁷ European Union Agency for Fundamental Rights, *Mapping child protection systems in the EU*, Luxembourg, Publications Office, 2016 forthcoming report. See also key findings available on the FRA website: European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Central authority with national coordinating role*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/national-coordination> on 15 July 2015.

¹³⁸ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 11.

¹³⁹ European Union Agency for Fundamental Rights, *Mapping child protection systems in the EU*, Luxembourg, Publications Office, 2016 forthcoming report. See also key findings available on the FRA website: European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Central authority with national coordinating role*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/national-coordination> on 15 July 2015. United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by

As of December 2014, the Social Insurance Board, with a specialised Child Protection Unit within the Board, is responsible for the implementation of the state child protection policy, the application of national strategies and the coordination of cross-sectoral cooperation in the child protection field. Upon the request from local governments, the Social Insurance Board is mandated to apply the following state measures supporting children and families: a) provision of technical advice to local governments for the preparation of development plans supporting the well-being of children; b) mediation of individual international child protection cases and technical advice for the local government handling these cases; c) assisting local governments in resolving child protection cases; and d) supporting local governments in deciding about suitable measures for children and families from amongst the available state measures. In addition to the Board, the Child Protection Council is a government committee that has been tasked to define the objectives of the state child protection policy and to coordinate the activities necessary for its implementation. The Child Protection Council submits proposals to the government and other relevant institutions concerning children's rights and well-being. It has further been mandated to develop recommendations for strengthening cross-sectoral preventive measures in child protection.¹⁴⁰

The lead agency in **Finland** is the Ministry of Social Affairs and Health. Within the ministry, the Department for Social and Health Services and its Unit for Children, Young People and Families play a key role in the coordination of child protection and welfare measures. They oversee the sectors of family policy, child well-being, early childhood education, child protection and inter-country adoption.¹⁴¹ Two Advisory Boards have been set up under the Unit. One Advisory Board is tasked to coordinate measures to promote the health and wellbeing of children and adolescents and the other is responsible for early childhood education.¹⁴²

In the **German** federal structure, different authorities are responsible for the implementation of the Convention on the Rights of the Child and family policy. At the national level, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth holds the main responsibility for policies concerning child and youth welfare and family matters. The ministry takes into account the technical advice from the National Board of Youth Affairs, an advisory board of 15 experts from politics, administration, NGOs and the academia. Other relevant ministries whose mandates are relevant for child protection policies at the national level include the Federal Ministry of Justice, the Federal Ministry for Education and Research and also the Ministry of the Interior and the Ministry of Health.¹⁴³ In addition, specialised bodies are involved such as the Conference of Youth and Family Ministers and Senators of the

States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 15.

¹⁴⁰ Information provided by the Ministry of Social Affairs, Estonia, April 2015.

¹⁴¹ United Nations Children's Fund, *Living Up To Their Promises? Progress in industrialised countries on general measures of implementation for the Convention on the Rights of the Child: Finland*, August 2009, pp. 6-7.

¹⁴² Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from:

<http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf>, par. 17-18.

¹⁴³ Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, p. 13.

Federal Länder, the Association of Supreme Land Youth and Family Authorities as well as the Commission to Safeguard the Interests of Children in the federal Parliament.¹⁴⁴

In **Iceland**, the Ministry of Social Affairs is the leading agency responsible for child rights policy and the implementation of the Convention on the Rights of the Child. Under the ministry, the Government Agency for Child Protection has been established as an autonomous body and monitors the work of the local child protection committees.

The Family Council is the lead institution on policy making related to all matters concerning families in **Iceland**. The Council has five members, two of whom are elected by the Parliament, two others are nominated, one by the University of Iceland and the other by the Federation of Icelandic Municipalities. The Council's chair is appointed by the Minister for Social Affairs, without nomination.¹⁴⁵ The Family Council's mandate includes the following tasks: providing technical assistance, professional advice and recommendations on family affairs to public authorities; make proposals for policy making and practice in the area of family affairs; take a lead on public discussions on family issues and relevant advocacy; provide guidance to families; promote research into family issues and family policies in Iceland.¹⁴⁶

In **Latvia**, the Government undertook a reform of the central administration in 2009 with the objective of rendering its operations more efficient. In this context, the government dissolved the previous Ministry of Children, Family and Integration Affairs. Its leading role and responsibilities with regard to policies concerning child rights and family matters were split up between the Ministry of Welfare, the Ministry of Justice and the Ministry of Education and Science.¹⁴⁷ The Ministry of Welfare of the Republic of Latvia has the responsibility for coordinating national child rights policies. At the local level, the Social Service Offices within the municipal governments are responsible for the operational work related to local service delivery.¹⁴⁸

In **Lithuania**, the Ministry of Social Security and Labour has the main responsibility for managing child rights issues at the level of the central government. The State Child Rights Protection and Adoption Service is administratively located under the Ministry and mandated to coordinate the work of the municipalities in the child protection sphere and to provide technical advice, information and guidance to the local level. Within municipalities, the

¹⁴⁴ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2009, Germany, CRC/C/DEU/3-4, 11 September 2012, par. 24-25.

¹⁴⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Periodic Reports of State Parties due in 1999, Iceland, CRC/C/83/Add.5, 5 July 2002, accessed from: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/c0cca6213bc3a91cc1256c30002bdf8b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/c0cca6213bc3a91cc1256c30002bdf8b?Opendocument), par. 78.

¹⁴⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Periodic Reports of State Parties due in 1999, Iceland, CRC/C/83/Add.5, 5 July 2002, accessed from: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/c0cca6213bc3a91cc1256c30002bdf8b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/c0cca6213bc3a91cc1256c30002bdf8b?Opendocument), par. 79.

¹⁴⁷ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Combined third to fifth periodic reports of States parties due in 2009, Latvia, CRC/C/LVA/3-5, 21 November 2014, par. 22.

¹⁴⁸ European Union Agency for Fundamental Rights, *Mapping child protection systems in the EU*, Luxembourg, Publications Office, 2016 forthcoming report. See also key findings available on the FRA website: European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Central authority with national coordinating role*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/national-coordination> on 15 July 2015.

director of the municipal administration governs the Municipal Child Rights Protection Units, which are specialised divisions in the municipal administrations.¹⁴⁹

In **Norway**, the Ministry of Children, Equality and Social Inclusion is the lead agency responsible for child rights policy. It holds the overall responsibility for promoting the implementation of the CRC and monitoring how child rights standards are applied in practice.¹⁵⁰ The Ministry is also responsible for strengthening the cooperation and coordination between different ministries that have shared responsibilities for the implementation of child rights. In order to activate the coordination, these ministries meet four times per year and a focal point on child rights has been appointed in each ministry. Under the Ministry of Children, Equality and Social Inclusion, the Directorate for Children, Youth and Family Affairs (*Bufdir*) is responsible for issues related to child welfare, family counselling and adoption.¹⁵¹

In **Poland**, the lead agency for national policy making and coordination in relation to family policy, child protection and the implementation of the Convention on the Rights of the Child rests with the Ministry of Labour and Social Policy. Regional and local authorities are responsible for the local level implementation.¹⁵²

In **Sweden**, the Ministry of Health and Social Affairs is the leading institution at the national level for these policy areas. The Ministry takes the lead in defining strategic objectives, providing overall strategic and policy guidance and decisions about budget allocation. The day-to-day operational matters are implemented through specialised agencies under the Ministry, such as the National Board of Health and Welfare, the National Board of Institutional Care, the Swedish Social Insurance Agency, which is in charge of financial security for persons in need, including families with children. Other national agencies operating under the leadership of the Ministry of Health and Social Affairs and contributing to the implementation of children's rights in specific sectors are the Public Health Agency, the Swedish Agency for Youth and Civil Society, the Health and Social Care Inspectorate, and the Swedish Inter-country Adoption Authority. In addition, the Swedish Agency for Public Management is responsible for oversight of existing structures for the implementation of children's rights. An innovative institution that provides added value in Sweden is the CRC Coordination Unit in the Ministry of Health and Social Affairs. The Unit offers technical

¹⁴⁹ Information provided by the Ministry of Welfare, Latvia, April 2015.

¹⁵⁰ United Nations Committee on the Rights of the Child, Written Replies by the Government of Norway to the List of Issues (CRC/C/NOR/Q/4) Prepared by the Committee on the Rights of the Child in Connection with the Consideration of the Fourth Periodic Report of Norway (CRC/C/NOR/4), Office of the High Commissioner for Human Rights, Geneva, CRC/C/NOR/Q/4/Add.1, 30 November 2009, accessed from:

<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-NOR-Q-4-Add1.doc>, p. 12.

¹⁵¹ United Nations Committee on the Rights of the Child, Written Replies by the Government of Norway to the List of Issues (CRC/C/NOR/Q/4) Prepared by the Committee on the Rights of the Child in Connection with the Consideration of the Fourth Periodic Report of Norway (CRC/C/NOR/4), Office of the High Commissioner for Human Rights, Geneva, CRC/C/NOR/Q/4/Add.1, 30 November 2009, accessed from:

<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-NOR-Q-4-Add1.doc>, p. 12.

¹⁵² European Union Agency for Fundamental Rights, *Mapping child protection systems in the EU*, Luxembourg, Publications Office, 2016 forthcoming report. See also key findings available on the FRA website: European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Central authority with national coordinating role*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/national-coordination> on 15 July 2015.

expertise on child rights and is responsible for ensuring that child rights are duly considered and reflected in national policy making and law reform processes.¹⁵³

In the **Russian Federation**, the Ministry of Education and Science acts as the leading institution at the federal level. It is mandated to coordinate policy making in relation to alternative care for children and placement.¹⁵⁴

Cooperation between central and local authorities: The opportunities and challenges of decentralisation

Across the CBSS region, the laws, policies and standards defined at the national level are implemented in practice by local authorities and decentralised service providers.¹⁵⁵ While some countries have a federal structure (**Germany** and the **Russian Federation**), others have decentralised their public administrations and provide for the devolution of competences in the area of childcare and protection and social services for families to the regional and/or local levels. In some of the decentralised systems, the municipal authorities enjoy a high level of self-government and operate through local decision making bodies, as is the case for instance in **Finland, Norway** and **Sweden**.¹⁵⁶

Decentralisation holds important advantages for the organisation and implementation of child protection activities. Due to the given proximity to communities, local authorities have good chances of being better aware of the specific situation, developments and needs of children and families within the communities.¹⁵⁷ This enables them to contextualise the provisions adopted at the national level to the living reality in the community. Local authorities are also well-placed to develop innovative approaches, new intervention models and local

¹⁵³ United Nations Committee on the Rights of the Child, Written Replies by the Government of Sweden to the List of Issues (CRC/C/SWE/Q/4) Prepared by the Committee on the Rights of the Child in Connection with the Consideration of the Fourth Periodic Report of Sweden (CRC/C/SWE/4), Office of the High Commissioner for Human Rights, Geneva, CRC/C/SWE/Q/4/Add.1, 24 April 2009, p. 2. Regeringskansliet (Government Office of Sweden), *The Ministry of Health and Social Welfare*, Stockholm, 2008, p. 17.

¹⁵⁴ Family placement of orphan children and children left without parental care in the Russian Federation: Legal basis and regional experience, undated, p. 4.

¹⁵⁵ **Denmark:** Denmark: The Consolidation Act on Social Services, Part IV, Section 19(1), Chapters 2, 3 and 11. **Estonia:** United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 15-18. **Finland:** Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from: <http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf>, par. 181, 182. **Germany:** Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, pp. 17-18. **Iceland:** Protection Act No. 80/2002 (Section 3). **Latvia:** Grassman, F., *How to Improve Access to Social Protection for the Poor? Lessons from the Social Assistance Reform in Latvia*, Manchester, 2005. **Lithuania:** SOS Children's Villages International, *A Snapshot of Alternative Care Arrangements in Lithuania*, Based on SOS Children's Village's assessment of a state's implementation of the UN Guidelines for the Alternative Care of Children, 2012, p. 4. **Norway:** Backe-Hansen, E., et al., *Out of Home Care in Norway and Sweden – Similar and Different, Psychosocial Intervention*, Elsevier, 22(2013) 193-202, p. 198. **Poland:** Kulig, Beata, *Legal Solutions on Alternative Care in Poland and How to Advocate for Better Ones*, Polish Foster Care Coalition, PowerPoint Presentation, Belgrade, 17 December 2013, p. 4-7. **Sweden:** Backe-Hansen, E., et al., *Out of Home Care in Norway and Sweden – Similar and Different, Psychosocial Intervention*, Elsevier, 22(2013) 193-202, p. 198.

¹⁵⁶ Backe-Hansen, E., et al., *Out of Home Care in Norway and Sweden – Similar and Different, Psychosocial Intervention*, Elsevier, 22(2013) 193-202, p. 198. Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from: <http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf>, par. 317.

¹⁵⁷ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 17.

partnerships in order to develop and test solutions for challenges that are specific to their communities.¹⁵⁸

In practice, reports from across the region suggest, however, that there are many challenges involved in the decentralisation and the devolution of competences. National governments are well aware of these challenges and take different measures and approaches to redress them. The process of analysing the challenges and developing effective solutions is evolving continuously throughout the region.

The most significant challenge of decentralisation is the high degree of fragmentation and weak coordination across the various sectors and levels of the public administration. In light of the federal system in **Germany**, for instance, the Committee on the Rights of the Child expressed concern about the absence of a central body to coordinate the implementation of the Convention at the federal, *Länder* and community levels. In consequence, it becomes difficult to ensure a comprehensive and coherent child rights policy throughout the country. The Committee recommended to “establish or designate an adequate and permanent national body with full capacity and authority, as well as sufficient human, technical and financial resources to coordinate the implementation of the Convention effectively. This should include addressing cross-cutting issues between the various ministries at the federal level, between the federal and the *Länder* levels and among the *Länder*.”¹⁵⁹

In **Denmark**, the Municipal Reform of 2007 reorganised the division of competences between the national and the local level and transferred the responsibilities for the financing and implementation of social services to the municipalities. A clear national mechanism for the overall horizontal and vertical coordination of the implementation of child rights policy is however not yet in place. The Committee on the Rights of the Child noted this with concern, especially in light of the possible negative effects on the municipalities that are less equipped, including those in the autonomous areas of Greenland and the Faroe Islands. In consequence, there is a risk of disparities in the availability and accessibility of quality services for children and families.¹⁶⁰

In **Estonia**, the new Child Protection Act, which will enter into force in January 2016, establishes an important mechanism for cooperation between the central administration and the local governments and for the cooperation across sectors. While the competences in the child protection field lie primarily with the local governments, the central level Social Insurance Board has been mandated to assist the local governments in resolving child protection cases. The Board supports the local governments in developing suitable measures for children and families amongst the existing state measures. It provides technical advice and assistance to local governments with regard to the preparation of development plans supporting the well-being of children.¹⁶¹ The Social Insurance Board holds also an explicit coordination mandate with regard to cross-border cooperation in the child protection field. It

¹⁵⁸ United Nations Children’s Fund, *Ending the Placement of Children Under Three in Institutions: Support nurturing families for all young children, Report from the international ministerial conference, Sofia, 21-22 November 2012*, 2013, p. 20.

¹⁵⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: Germany, CRC/C/DEU/CO/3-4, 14 February 2014, par. 13-14.

¹⁶⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: Denmark, CRC/C/DNK/CO/4, 7 April 2011, par. 14-15.

¹⁶¹ Information provided by the Ministry of Social Affairs, Estonia, April 2015.

provides technical advice and assistance to local governments with international child protection cases, including specifically with regard to inter-country adoption.¹⁶²

In **Lithuania**, the municipalities are responsible for planning and delivering social services. To this end, the municipalities are tasked to establish and operate social service institutions and to cooperate with non-governmental organizations in service provision. Within the municipal administration, Municipal Child Rights Protection Units have been set up.¹⁶³ Municipalities enjoy a high degree of autonomy as they are not subordinate to the institutions of the central state. In consequence, this poses challenges of holding them accountable. The Ministry of Social Security and Labour is however mandated to coordinate the activities of the Municipal Child Rights Protection Units.¹⁶⁴

Against this background, national laws and policies for child protection, care and family support are not implemented consistently throughout the CBSS Member States. In practice, this leads to different standards in the quality and scope of services available for families and children at the local level. This has been specifically reported from **Denmark, Estonia, Norway** and **Sweden**.¹⁶⁵

In **Estonia**, the quality and extent of community-based support services for families differ from municipality to municipality and services. In some areas, where family support services are particularly weak, there is also a higher prevalence of cases in which children are removed from the family and placed in alternative care.¹⁶⁶

In its review of **Norway's** State Party report in 2010, the Committee on the Rights of the Child noted with concern that services available for children at municipality level differ and that this may render it more difficult for vulnerable groups to access their rights. It noted that despite efforts for improvement, the coordination between the central government and municipalities, among municipalities and within municipalities is not yet effective. The weak coordination has a direct impact on children as services are not equally available or accessible for children

¹⁶² Information provided by the Ministry of Social Affairs, Estonia, April 2015.

¹⁶³ Lithuania, Government (LR Vyriausybė) (2002), The Government Resolution on the Approval of the General Regulations of the Child Rights Protection Units (Lietuvos Respublikos Vyriausybės nutarimas dėl bendrųjų vaiko teisių apsaugos skyrių nuostatų patvirtinimo), No. 1983, 17 December 2002, last amendment No. 1593, 2 December 2009, accessed from www3.lrs.lt/pls/inter3/oldsearch.preps2?a=360146&b= on 20 June 2015.

¹⁶⁴ Lithuania, Government (LR Vyriausybė) (2003), The Government Resolution on the Assignment of the Area of the Child Rights Protection Administration to the Ministry of Social Security and Labour and Designation of the Competence of other Ministries (Lietuvos Respublikos Vyriausybės nutarimas dėl vaiko teisių apsaugos valdymo srities priskyrimo socialinės apsaugos ir darbo ministerijai ir kitų ministerijų kompetencijos nustatymo), No. 194, 6 February 2003. The Government of Lithuania, Seimas (1994), Law on Local Self-governance (Lietuvos Respublikos vietos savivaldos įstatymas), No. I-533, 7 July 1994, last amendment No. XII-620, 26 November 2013, accessed from www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=461670. European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Central authority with national coordinating role*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/national-coordination-on-15-july-2015>. A comprehensive report on FRA's research is planned for publication in early 2016.

¹⁶⁵ Denmark: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: Denmark, CRC/C/DNK/CO/4, 7 April 2011, par. 14-15. Estonia: SOS Children's Villages International, *General Information on Estonia*, undated. Norway: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Norway, CRC/C/NOR/CO/4, 29 January 2010, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.NOR.CO.4.pdf> on 18 May 2015, par. 15. Sweden: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations Sweden, CRC/C/SWE/CO/4, 12 June 2009, Advanced Unedited Version, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-SWE-CO-4.pdf> on 18 May 2015, par. 11.

¹⁶⁶ SOS Children's Villages International, *General Information on Estonia*, undated.

and families. The weak cooperation and coordination makes it also more difficult for municipality to identify and respond to new and emerging challenges.¹⁶⁷

The Child Welfare Services carry out the day-to-day work for the implementation of the Child Welfare Act at the local level. Local child welfare services are receiving and investigating reports about children at risk, they identify and respond to cases of violence against children, including abuse and neglect.¹⁶⁸ The Child Welfare Services operate under the overall supervision of the County Governor. The County Governor acts also as the appeals body for decisions taken by local authorities in individual cases.¹⁶⁹ Decisions about the removal of a child from the family and placement in alternative care are taken at the county level by the County Social Welfare Boards (*Fylkesnemnd*). The Boards are responsible for handling cases of alternative care for children, including placement in institution or foster families.¹⁷⁰ As of 2010, a new Section 2-9 was introduced to the Child Welfare Act that assigns supervisory authority over the Child Welfare Service to the National Board of Health.¹⁷¹

Under the Ministry of Children, Equality and Social Inclusion, the Directorate for Children, Youth and Family Affairs (*Bufdir*) is responsible for issues related to child welfare, family counselling and adoption. The Directorate operates through five regional offices in Norway (*Bufetat*), which oversee 26 Response and Consultation Teams countrywide. These Response and Consultation Teams maintain contact with the local authorities of the Child Welfare Service. Bufetat runs institutions, foster home services and coordinates placements in private institutions.¹⁷²

In **Sweden**, the Committee on the Rights of the Child noted that the high autonomy of municipalities and regional councils, combined with weak cooperation between the central and decentralised levels of the state administration lead to inconsistencies and disparities in the way that the Convention is being implemented at the local level. Inconsistencies are particularly visible in regard to levels of child poverty, the public resources available for social services for children at risk and the performance of children at schools.¹⁷³

¹⁶⁷ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Norway, CRC/C/NOR/CO/4, 29 January 2010, accessed from:

<<http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.NOR.CO.4.pdf>>, par. 10.

¹⁶⁸ The Ombudsman for Children, *Submission to the Universal Periodic Review of Norway, 6th UPR Session, November / December 2009*, Submitted 20 April 2009, accessed from: <<http://www.barneombudet.no/sfiles/80/73/1/file/norwegian-ombudsman-for-children-upr-submission-norway.doc.pdf>>, no page numbers.

¹⁶⁹ Barne-, ungdoms- og familiedirektoratet, (The Norwegian Directorate for Children, Youth and Family), *Children, Youth and Families*, Oslo, undated, accessed from:

<[http://www.bufetat.no/Documents/Bufetat.no/Bufdir/Brosjyre/Bufdir%20\(engelsk\).pdf](http://www.bufetat.no/Documents/Bufetat.no/Bufdir/Brosjyre/Bufdir%20(engelsk).pdf)>, p. 6.

¹⁷⁰ See: Gruppen til Familiens Selvstendige Rett (GFSR), Redd Våre Barn (RVB) and BarnasRett.no, *Comments from GFSR, RVB and BarnasRett.no to Norway's Fourth Periodic Report to the UN Committee on the Rights of the Child – 2008*, 25 January 2009, accessed from: <<http://www.crin.org/docs/critical-comments-to-norway-fourth-periodic-report-to-the-un-committee-on-the-rights-of-the-child-2008.pdf>>.

¹⁷¹ United Nations Committee on the Rights of the Child, Written Replies by the Government of Norway to the List of Issues (CRC/C/NOR/Q/4) Prepared by the Committee on the Rights of the Child in Connection with the Consideration of the Fourth Periodic Report of Norway (CRC/C/NOR/4), Office of the High Commissioner for Human Rights, Geneva, CRC/C/NOR/Q/4/Add.1, 30 November 2009, accessed from:

<<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-NOR-Q-4-Add1.doc>>, p. 4.

¹⁷² Barne-, ungdoms- og familiedirektoratet, (The Norwegian Directorate for Children, Youth and Family), *Children, Youth and Families*, Oslo, undated, accessed from:

<[http://www.bufetat.no/Documents/Bufetat.no/Bufdir/Brosjyre/Bufdir%20\(engelsk\).pdf](http://www.bufetat.no/Documents/Bufetat.no/Bufdir/Brosjyre/Bufdir%20(engelsk).pdf)>, pp. 4, 6.

¹⁷³ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations Sweden, CRC/C/SWE/CO/4, 12 June 2009, Advanced Unedited Version, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-SWE-CO-4.pdf> on 18 May 2015, par. 11.

In addition to social services for families, child protection services and decisions over placement in alternative care, also the day care and early childhood education sector experience different standards and discrepancies in local implementation. This has been reported from **Sweden**. The federal Government of **Germany** also recognised the need to strengthen the quality of early childhood care services at the local and regional levels and to promote common benchmarks and quality standards in cooperation with the Länder.¹⁷⁴

A regional comparison of child welfare in the **Nordic countries** noted additional challenges of decentralisation. In **Sweden**, the strong autonomy of municipalities poses challenges or even obstacles for national data collection and the development of countrywide statistics in the area of day care. It is for instance not possible to gain a national overview of the day care fees imposed by municipalities and key quality determinants such as the group size in day care. While **Finland**, for instance, determines the day care fee from the national level, in **Sweden**, only the maximum rates have been defined while the concrete amount is at the discretion of the municipality.¹⁷⁵ These different approaches can have advantages and disadvantages. Differing fees may be considered a form of differential treatment, possibly amounting to discrimination against certain groups on the grounds of their place of residence. On the other hand, adjusting fees to the socio-economic status of a region could be justified by the costs related to the operation of day care facilities. In a city centre, for instance, the costs associated to rent and living costs may generally be higher than in a rural area, which might be transferred to the day care fees accordingly. The most important aspect is to ensure that fees do not obstruct access to day care for families who are struggling to afford this and the most marginalised groups.

Data collection in decentralised states can constitute a challenge. It is often practically close to impossible for national governments to fully assess and monitor the status and quality of the implementation of the Convention on the Rights of the Child and other international standards at the local levels throughout the country. Getting a clear picture and analysis of the degree to which children and caregivers are able to enjoy their rights, and the progress made in this regard, remains then a challenge.¹⁷⁶

Another difficulty associated to decentralisation is the number of municipal authorities throughout the country, their size and the human and financial capacity to provide quality services. Small municipalities may find it difficult to deliver the broad spectrum of services that may be required, especially when they are confronted with particularly complex cases that require specialised expertise. In Sweden, for instance, among the 290 municipalities throughout the country, some have less than 8 inhabitants per square kilometre.¹⁷⁷

¹⁷⁴ Hiilamo, Heikki, *Promoting Children's Welfare in the Nordic Countries*, Ministry of Social Affairs and Health, Reports of the Ministry of Social Affairs and Health 2008:15, Helsinki, 2008, p. 26. United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2009, Germany, CRC/C/DEU/3-4, 11 September 2012, par. 245.

¹⁷⁵ Hiilamo, Heikki, *Promoting Children's Welfare in the Nordic Countries*, Ministry of Social Affairs and Health, Reports of the Ministry of Social Affairs and Health 2008:15, Helsinki, 2008, p. 26.

¹⁷⁶ Regeringskansliet, *Regeringens Webbplats om Mänskliga Rättigheter, Barnets rättigheter i Sverige*, (Government Offices of Sweden, *The Government's Website on Human Rights, The rights of the child in Sweden*), accessed from www.manskligarattigheter.gov.se/extra/pod/?id=29&module_instance=5&action=pod_show&navid=66&subnavid=29&subnavinstance=5 on 18 May 2015.

¹⁷⁷ Backe-Hansen, E., et al., Out of Home Care in Norway and Sweden – Similar and Different, *Psychosocial Intervention*, Elsevier, 22(2013) 193-202, p. 198.

Recognising these challenges, some countries promote the integration of municipalities into larger units. Some governments have developed mechanisms for ensuring greater equity in access to services, for instance through public budget distribution policies that adjust disparities between poorer and richer municipalities or regions.¹⁷⁸

The Government of **Iceland** has undertaken repeated reforms of the public administration that reduced the number of municipalities and child protection committees in various steps. By 2002, the number of municipalities had been reduced to 124 and further reductions were planned. By unifying small municipalities, the national government aimed to make them more cost-effective, to strengthen them as administrative units and to prepare them to better discharge their functions.¹⁷⁹

In 2007, the number of the municipal child protection committees was reduced to 31, from 56 in 2001. This reduction was achieved in two ways: On one side, municipalities decided to collaborate on child protection and to operate a joint child protection committee, and on the other, a structural reform resulted in the unification of municipalities under a single administration.¹⁸⁰ Promoting the collaboration of municipalities in the child protection field can make a valuable contribution to overcoming the challenges of decentralisation, especially for very small communities.

A high degree of decentralisation causes also challenges for the funding of local authorities.¹⁸¹ In **Norway**, for instance, the Ombudsman for Children noted that this has had implications for the availability and continuity of quality services at the local level:

“In many places in **Norway**, child welfare offices consist of one personnel member, who, in some cases, only works part-time. This does not promote a level of professional breadth and flexibility capable of safeguarding the interests of children in contact with Child Welfare Service. The Ombudsman is concerned about the existence of so many small child welfare offices. In the Ombudsman for Children’s opinion, there should be at least two posts within each child welfare office in order to ensure professional stability. Furthermore, there is a limited capacity within Child Welfare Service to carry out preventative work, which often results in Child Welfare Service intervening when the child’s situation has deteriorated far more than was necessary.”¹⁸²

The **Norwegian** Forum on the Rights of the Child noted that municipalities’ role in organising and monitoring interdisciplinary cooperation to follow-up on cases of vulnerable children was

¹⁷⁸ United Nations Children’s Fund, *Ending the Placement of Children Under Three in Institutions: Support nurturing families for all young children, Report from the international ministerial conference, Sofia, 21-22 November 2012*, 2013, p. 20.

¹⁷⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Periodic Reports of State Parties due in 1999, Iceland, CRC/C/83/Add.5, 5 July 2002, accessed from [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/c0cca6213bc3a91cc1256c30002bdf8b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/c0cca6213bc3a91cc1256c30002bdf8b?Opendocument) on 18 May 2015, par. 6.

¹⁸⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Iceland’s Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc> on 18 May 2015, par. 128.

¹⁸¹ The Ombudsman for Children, *Supplementary Report to the UN Committee on the Rights of the Child*, Oslo, 2009, accessed from http://www.barneombudet.no/sfiles/48/24/1/file/supplementary-report-to-the-un_english.pdf on 18 May 2015, p. 17.

¹⁸² The Ombudsman for Children, *Supplementary Report to the UN Committee on the Rights of the Child*, Oslo, 2009, accessed from http://www.barneombudet.no/sfiles/48/24/1/file/supplementary-report-to-the-un_english.pdf on 18 May 2015, p. 17.

still weak.¹⁸³ In order to strengthen monitoring of implementation of child rights at municipality level, the Government has launched a new monitoring initiative, the “Better Monitoring”.¹⁸⁴

In 2010, the **Norwegian** Government increased the budget allocation to the municipalities in order to create 400 new posts at the municipal levels. It remained however at the discretion of the municipal authorities to decide, in which sectors these posts will be created.¹⁸⁵ The Committee on the Rights of the Child recommended that the Government of **Norway** conducts budget tracking from a child right’s perspective in order to enable the monitoring of budget allocations for children.¹⁸⁶

In **Denmark**, the Municipal Reform entered into force in 2007 and reduced the number of municipal authorities from 275 to 98. It abolished the regional authorities of the counties. In the context of this reform, an organisation named VISO was established. VISO is mandated to generate knowledge of the situation of vulnerable children in **Denmark**, to provide technical advice to municipalities and to ensure that targeted services are in place for the children. “The target group for VISO are children with disabilities, children with social or behavioural problems, vulnerable groups, social psychiatry, other groups with very complex problems, special teaching and special education assistance for children and adults”.¹⁸⁷

The provision of technical expertise and advice from a central level is essential in order to support local authorities and service providers in their day-to-day work. In particular when local authorities are confronted with rare and complex cases and when they note emerging trends in the kind of challenges that families face, centralised expertise, technical advice and regular updates on law and policy reforms are important to support local authorities and service providers. In order to strengthen the communication and cooperation between central, regional and local levels of the public administration, there are different initiatives, associations and platforms in place throughout the region.

The **Danish** Ministry of Social Affairs and the Department of Family Affairs (*Familjestyrelsen*) under the Ministry of Justice conducted a research into the possibilities for strengthening the collaboration between regional and local authorities, including on social issues and matters affecting children and families. As a result, recommendations were published as part of an overall report in February 2004. In follow-up to these recommendations, an initiative to

¹⁸³ Norwegian Forum on the Rights of the Child, *Children’s Rights in Norway: Key issues of concern, Submission by the Norwegian Forum on the Rights of the Child related to Norway for Universal Periodic Review 6th Session*, undated, accessed from <http://www.reddbarna.no/default.asp?HMFILE=134352> on 18 May 2015, pp. 4-5.

¹⁸⁴ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Norway, CRC/C/NOR/CO/4, 29 January 2010, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.NOR.CO.4.pdf> on 18 May 2015, par. 11.

¹⁸⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Norway, CRC/C/NOR/CO/4, 29 January 2010, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.NOR.CO.4.pdf> on 18 May 2015, par. 15.

¹⁸⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Norway, CRC/C/NOR/CO/4, 29 January 2010, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.NOR.CO.4.pdf> on 18 May 2015, par. 16.

¹⁸⁷ *Supplementary NGO Report to the Danish Government’s 4th Periodic Report to the UN Committee on the Rights of the Child*, Written by The Rights of All Children, Amnesty International Danish Section, The Joint Council for Child Issues, Children’s Welfare in Denmark, Disabled Peoples Organisation Denmark, DUI – Leg og Virke, Save the Children Denmark, Save the Children Youth Denmark, The Danish Red Cross Youth, The Danish National Committee for UNICEF, May 2009, English translation June 2010, p. 8.

enhance the 'cross-disciplinary cooperation between the regional state administrations and the local authorities' was developed.¹⁸⁸

In **Sweden**, the Municipal Partnership for Implementation of the CRC was established in 2004. It is a network of municipalities that exchange information, experience and consult each other on the implementation of the Convention, including through a system of peer review among the municipalities. The initiative is supported financially by the Government.¹⁸⁹

The **Swedish** Association of Local Authorities and Regions is a network for exchange and cooperation established at the county council level. It brings together the Heads of Operations of all 20 county councils of Sweden as well as specialists on the issues of health and CRC implementation. The association meets several times per year. It aims to promote children's rights and disseminate good practices and working methods that have proven successful in producing good outcomes for children and families.¹⁹⁰ Between 2007 and 2009, the Swedish Association of Local Authorities and Regions carried out the 'National Comparison Project', a government funded initiative to strengthen coordination between central, regional and local levels of the public administration. The initiative aimed to reach the target of 200 municipalities and involve them actively in a partnership for the improvement of service provision and the development of national quality indicators.¹⁹¹

The **Swedish** Public Health Agency is mapping the services offered by local authorities in the area of parenting support. In 2013, the mapping revealed that 85 percent of the Swedish municipalities offered parent support programs. A majority of the municipalities offered parent counselling (84 percent) and so-called 'open kindergartens' ('öppen förskola') where parents with small children up to the age of 5 years old can come in together with their children (78 percent). Open lectures about parenthood and parent support were offered in 67 percent of the municipalities. Half of the municipalities organised special parents' meetings with lectures about different themes that were considered important for the parents in the municipality. In addition, online education for parents was available in 6 percent of the municipalities.¹⁹²

The **Finnish** Child Welfare Act obliges municipalities to develop a local plan for their activities for the promotion of the wellbeing of children and adolescents and the organisation and development of child welfare services. The plan provides an analytical overview of the

¹⁸⁸ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2008: Denmark, CRC/C/DNK/4, 22 January 2010, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.DNK.4.doc> on 18 May 2015, par. 156.

¹⁸⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2007: Sweden, CRC/C/SWE/4, 28 January 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.SWE.4.doc> on 18 May 2015, par. 16, 19. The participating municipalities are: Borlänge, Gunnared City District in Göteborg, Gävle, Haninge, Kalmar, Karlskoga, Västerås, Sigtuna, Trelleborg, Uppsala, Örebro, Östersund.

¹⁹⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2007: Sweden, CRC/C/SWE/4, 28 January 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.SWE.4.doc> on 18 May 2015, par. 20.

¹⁹¹ United Nations Committee on the Rights of the Child, Written Replies by the Government of Sweden to the List of Issues (CRC/C/SWE/Q/4) Prepared by the Committee on the Rights of the Child in Connection with the Consideration of the Fourth Periodic Report of Sweden (CRC/C/SWE/4), Office of the High Commissioner for Human Rights, Geneva, CRC/C/SWE/Q/4/Add.1, 24 April 2009, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.SWE.Q.4.Add.1.pdf> on 18 May 2015, p. 4.

¹⁹² Information provided by Katarina Munier, National Board of Health and Welfare, April 2015.

situation of children and young people in the municipality. It assesses their state of wellbeing, the availability of activities and services to promote their wellbeing and prevent harm. The plan analyses further the services available to ensure that the local authority fulfils its duties under the Child Welfare Act and the cooperation between different authorities. In addition to the situation analysis and a service map, the plan includes provisions for its implementation, monitoring and recommendations for budget allocation at the local level to achieve the targets defined. The plan has to be adopted by the municipal council and is reviewed and updated every four years. Considering the small size and limited resources of some municipalities, the plan can be developed by two or more municipalities in cooperation.¹⁹³ The municipal council has to take the plan into account for the development of the municipality's annual budget and financial plan.¹⁹⁴ The Association of Finnish Local and Regional Authorities supports the municipalities in developing these plans and provides technical assistance.¹⁹⁵

The Act on the Restructuring of Local Government and Services (169/2007) aims to enhance the availability of equal services at the local level, including by promoting the cooperation of smaller municipalities. Local services include many aspects that are relevant to children's health, development and wellbeing, such as basic education, day-care, maternity and child clinics, libraries, sports and leisure time activities for children.¹⁹⁶

Recognising however the persisting challenges of decentralisation particularly in the welfare system, the Government of **Finland** decided to embark on a reform of the social welfare and health care sector. The objective is to re-organise the administration of social and health services at the regional level by 2017.¹⁹⁷

The Association of **Finnish** Local and Regional Authorities implemented a child policy evaluation project entitled "LapsiArvi" in 2006-2008. The project aimed to support the steering and development of welfare work among children and adolescents in municipalities.¹⁹⁸

In **Iceland**, the Government Agency for Child Protection is responsible for the day-to-day administration of child protection services and coordinates and supports the work of the local child protection committees.¹⁹⁹ The specific tasks under the Agency's mandate are the following:

1. "Offer instruction and council to Child Protection Committees at the local level with regard to family welfare and the management of child protection cases;

¹⁹³ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 18 May 2015, par. 76.

¹⁹⁴ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth reports of States parties due in 2008, Finland, CRC/C/FIN/4, 26 May 2010, par. 204-205.

¹⁹⁵ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 18 May 2015, par. 45.

¹⁹⁶ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 18 May 2015, par. 204.

¹⁹⁷ Finland, Ministry of Social Affairs and Health, Social Welfare and Health Care Reform, accessed from www.stm.fi/vireilla/kehittamisohjelmat_ja_hankkeet/palvelurakennemuutistus on 20 June 2015.

¹⁹⁸ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 18 May 2015, par. 47.

¹⁹⁹ Barnaverndarstofa (Government Agency for Child Protection), Government Agency for Child Protection, accessed from <http://www.bvs.is/?ser=10> on 18 May 2015.

2. Monitor the work of Child Protection Committees, through the review of annual reports and other means to be determined;
3. Supervise and monitor institutions and homes operated or supported by the government for children and youth;
4. Assist Child Protection Committees in finding suitable foster parents;
5. Support research and development work in the area of child protection;
6. Provide education and instruction concerning child protection.”²⁰⁰

The Agency’s combined tasks of administration, guidance, coordination and monitoring offer a particularly comprehensive approach to the cooperation and communication between the central agency, the local child protection committees and other relevant actors at the local level.

The local child protection committees are established and regulated under the Child Protection Act No. 80/2002 (Section 3). They are responsible for the day-to-day child protection work, service provision and monitoring of children and families at risk within their communities. They also provide parenting and family support and other measures required to implement the Child Protection Act at the local level (Article 12). The Act provides that the staff of a child protection committee shall be qualified and specialized or have access to relevant expertise if and as required (Articles 11 and 14).

As in **Finland**, also the **Icelandic** municipalities are held to develop strategic plans for their child protection work. Such plans are developed for each elective term. The child protection committees submit their plans to the Ministry of Social Affairs and the Government Agency for Child Protection (Child Protection Act, Article 9).

In **Poland**, the Government set up a “Good Practice Bank” at the Ministry of Interior and Administration. This database aims to foster the dialogue and information exchange between the central and local levels of the public administration and social organisations in Poland. The Good Practice Bank compiles experiences accrued by public authorities across different sectors and levels as well as organisations and other private partners. In a national database, the Good Practice Bank offers access to a body of initiatives for increasing safety and security within local communities. These initiatives have been tested and found to be valuable for replication. Among the recommended initiatives are preventive programmes directed at children and youth and dedicated to the issues of alcohol and psychoactive drugs addiction, violence and aggression and promoting appropriate leisure time activities.²⁰¹

²⁰⁰ Barnaverndarstofa (Government Agency for Child Protection), Government Agency for Child Protection, accessed from <http://www.bvs.is/?ser=10> on 18 May 2015.

²⁰¹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 464.

Public-private cooperation in family support, child protection and alternative care

Many **CBSS Member States** cooperate with private service providers or are specifically required to do so by law. **Denmark, Estonia, Finland, Germany, Latvia, Lithuania, and Sweden** have made legal provisions for subcontracting and/or outsourcing social services and alternative care services to private institutions, civil society organisations or, in some countries, private companies.²⁰²

Private service providers, NGOs and other civil society organisations are important actors in child protection and social service delivery in the region. Their active involvement as service providers increases however the fragmentation of institutional mandates and responsibilities in decentralised systems even further and poses additional challenges to monitoring and accountability.

The countries in the Baltic Sea Region have undertaken arrangements to different degrees of public-private partnership. In **Lithuania**, for instance, private actors are less utilised in social service delivery, while **Finland** and **Germany** rely heavily on the cooperation with private commercial service providers, especially in the context of alternative care.²⁰³

In **Finland**, the National Institute for Health and Welfare reports a stark increase in the involvement of private service providers: “The ratio of social services provided by the private sector has increased steadily during the 21st century, from 2700 units providing services in 2000 to 4350 units in 2010. 72 percent of these services are bought by the municipalities. In 2011, of all child welfare institution and family care and other child and family services 44 percent were acquired from the private sector (the number in 1997 was 17.8 percent). The Ministry of Social Affairs and Health concluded that the inadequate human resources and the rising workload in child protection in the municipal social services has led to the continuous increase of the use of private sector service providers in meeting the rising demand for alternative care services.”²⁰⁴

In **Sweden**, the welfare model has changed significantly during the last decade and is characterised by an increasing trend of privatization. In 2010, almost 20 percent of all employees within the welfare sector were employed by a private agency or organisation. The government encouraged this development on purpose in order to diversify the services offered and the choice for the users while reducing public expenditures. In practice, studies have however found that the privatization has not resulted in significant economic gain. The number of private, commercial actors in the social welfare and care sector has also increased in **Norway**, including in the alternative care sector for children. In other countries that rely

²⁰² European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Care service providers*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/service-providers> on 15 July 2015. A comprehensive report on FRA's research is planned for publication in early 2016.

²⁰³ European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Care service providers*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/service-providers> on 15 July 2015. A comprehensive report on FRA's research is planned for publication in early 2016.

²⁰⁴ Finland, The National Institute for Health and Welfare, *Yksityiset sosiaalipalvelut 2010*, Helsinki, Statistical Report, National Institute for Health and Welfare (THL), 25/2011, Official Statistics of Finland, Social Protection: 2011, p.1. Finland, Ministry of Social Affairs and Health, *Toimiva Lastensuojelu, Selvitysryhmän loppuraportti, Sosiaali- ja terveysministeriön raportteja ja muistioita 2013:19*, Helsinki, 2013, accessed from www.stm.fi/c/document_library/get_file?folderId=6511574&name=DLFE-26809.pdf on 20 March 2015.

strongly on private service providers, the public debate is increasingly questioning the commercialisation of the social welfare sector. It would be important to conduct a comprehensive cost-benefit analysis to better understand the implications for public spending, the quality of services and the impact on children and families.²⁰⁵

In **Denmark**, the municipalities are responsible for the implementation of the Act on Social Services, which regulates also services for children. The municipalities are free to choose whether they provide services directly from the municipal authority or whether they outsource some services to private or civil society organizations. The overall responsibility for the implementation of the national law rests however with the municipal authorities. In practice, family support services and alternative care for children are mostly provided by civil society organisations. The activities of these organisations is regulated by cooperation agreements between the organisations and the local government at municipal level and relevant executive orders issued by the Ministry of Social Affairs.²⁰⁶

In **Germany**, the competence for child and youth welfare services rests with counties and towns. The Child and Youth Welfare Services are decentralised in order to be located close to the children, young people and families whom they seek to assist. They are obliged to set up a Child and Youth Welfare Authority mandated to ensure the implementation of the following tasks, as defined under the Social Code (Section 1 §3):

- Support young people in their individual and social development and contribute to reducing or preventing disadvantages;
- Offer counselling and support for parents and other guardians in order to support them in their childrearing roles and responsibilities;
- Protect children and young people from threats to their well-being; and
- Contribute to creating and maintaining positive living conditions for young people and families and a child- and family-friendly environment.

Parents are entitled to a range of welfare services in support of their childrearing roles and responsibilities. These services are financed by the state and organized according to the principle of subsidiarity, i.e. private (independent or non-governmental) service providers are given preference over public services. The Child and Youth Welfare Authorities are responsible to ensure that there is a variety of providers and that these provide a diverse range of services, work with different applied methods and value orientations. Children and caretakers whom the Child and Youth Welfare Authorities consider entitled to these services have the right to choose the provider and the type of assistance as long as they remain within

²⁰⁵ Backe-Hansen, E., et al., Out of Home Care in Norway and Sweden – Similar and Different, *Psychosocial Intervention*, Elsevier, 22(2013) 193-202, p. 194.

²⁰⁶ Denmark, Act on Social Services, Consolidated Act no. 254 of 20 March 2014 on Social Services (Bekendtgørelse af lov nr. 254 af 20. marts 2014 om social service), accessed from <https://www.retsinformation.dk/Forms/R0710.aspx?id=161883> on 20 March 2015. Denmark, Ministry of Social Affairs, Executive Order No. 1554 of 18 December 2013 on Care families (BEK nr 1554 af 18/12/2013 om plejefamilier), accessed from <https://www.retsinformation.dk/Forms/R0710.aspx?id=160453> on 20 March 2015, and No 712 of 19 June 2013 on payment for residence in institutions for children and youth under 18 years of age and for residence and preparatory residence for youth between 18 and 22 years of age (BEK nr 712 af 19-06-2013 Bekendtgørelse om betaling for ophold i anbringelsessteder for børn og unge under 18 år samt for døgnophold og udslusningsophold for unge i alderen 18 til og med 22 år), accessed from <https://www.retsinformation.dk/Forms/R0710.aspx?id=152339> on 20 March 2015. See also: European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Decentralised child protection responsibilities*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/decentralisation> on 15 July 2015. A comprehensive report on FRA's research is planned for publication in early 2016.

a predetermined cost scheme.²⁰⁷

The Child and Youth Welfare Authority is obliged under the Social Code to cooperate with the private child and youth welfare services in a spirit of partnership and to promote and fund these services (Section 4, Social Code SGB VIII). The authority shall not provide services itself whenever they can be outsourced to private organizations.²⁰⁸

In **Lithuania**, the Law on Social Services provides for the possibility to outsource social services to a firm, a public institution, or an organisation. It is not a legal requirement that social service providers have to be civil society organisations working on a non-profit basis.²⁰⁹

Although the overall responsibility for local service provision lies with the state, public-private partnership can be a sensible model for ensuring complementarity of state and private actors and quality services at the local level. The funding for private service providers should be conducive to enable longer-term and stable contracts of staff as well as continuity and sustainability of service provision. Quality standards for service provision need to be developed under the leadership of the state and in cooperation with private partners, civil society and service users. These quality standards should also guide effective monitoring, reporting and evaluation of service delivery, by public and private actors.²¹⁰

The state is responsible for regulating the accreditation and contracting of private service providers. **Lithuania** has recently introduced legal provisions that make the registration, accreditation and licensing of private service providers mandatory in social service and child protection. Other CBSS Member States have also regulated the accreditation and licensing of service providers in the social welfare sector, health care and child protection services. The social service providers in **Latvia** are registered with a central registry. Findings from the mapping of child protection systems conducted by the EU Fundamental Rights Agency show that most Member States of the EU do however not have a central registry in place. In **Germany**, for instance, the main national civil society organizations and non-profit associations are recognized and accredited under the Social Code. They need to have each single service they offer licenced. There is however no central registry for civil society organizations at the federal or Länder level in **Germany**.²¹¹

²⁰⁷ Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, pp. 17-18.

²⁰⁸ Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, p. 46.

²⁰⁹ Lithuania, Law on Social Services, 19 January 2006 No X-493, Article 2.4 and 2.9, accessed from http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=277880 on 20 May 2015.

²¹⁰ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 80.

²¹¹ **Estonia**: Mandatory legal provisions are established in state funded services like substitute home service, foster family service, child care service. Local services provided by local municipality or public-private partnership are regulated by each municipality with minimum demands from State level. Information provided by the Ministry of Social Affairs, Estonia, April 2015. **Finland**: The National Supervisory Authority for Welfare and Health is in charge of licensing and supervision of social services and health care. See: National Supervisory Authority for Welfare and Health, Valvira, 2015, accessed from <http://www.valvira.fi/web/en/valvira> on 15 July 2015. **Germany**: Bundesarbeitsgemeinschaft der Freien Wohlfahrtsverbände (Federal Coalition of Welfare Agencies), Member agencies, accessed from <http://www.bagfw.de/ueber-uns/mitgliedsverbaende/> on 20 May 2015. **Latvia**: Ministry of Social Affairs, Latvia, information available at www.lm.gov.lv/text/1047, accessed on 20 May 2015. **Lithuania**: "From 2015, only licensed social care institutions will have the right to provide social care. Long-term, short-term and day social care will be licensed. Institutional social care establishments, day social care centre and institutions which provide social care at home, will have to obtain licenses as well."

Multi-sectoral and inter-disciplinary cooperation in family support, child protection and alternative care

While the lead responsibility for child rights, child protection and family matters is commonly allocated with Ministries of Social Affairs in CBSS Member States, the broad spectrum of policies for family support, child protection and alternative care require the involvement of a range of actors at the central, regional and local levels.

Policies for family support, child protection and alternative care are in fact cutting across many different institutional mandates and sectors. They require substantial contributions from social affairs, child protection, health care, education, the labour market and employment, justice system, budget allocation and finance.

Due to these highly fragmented institutional mandates, it is necessary to develop effective mechanisms for cooperation and coordination. While specialised expertise is important for the development of up-to-date policies and quality standards in each sector, the high degree of fragmentation bears a risk that a holistic perspective of the children and caretakers is getting neglected.

With regard to these challenges, UNICEF noted that “childcare reform can no longer focus solely on what one sector can do. Instead, it must define what needs to be done for each child by different sectors, always with the focus on enabling children to live in a nurturing family environment. This requires the development of a continuum of services along with a central agency that can carry out the very important function of assessing the needs of each child and developing a plan for the support needed by the child and his/her family. Because various causes contribute to separation, there is also a need for a multifaceted, often multi-sectoral, response.”²¹²

In order to achieve that different actors and sectors work together effectively and contribute each to a more holistic and integrated approach to service provision, there is a need for political attention to some key considerations.

Cooperation and coordination mechanisms need to be established at the level of the central government and involve all relevant ministries, departments and national institutions. Assigning a leading body or chair is critical for ensuring the effective management of the cooperation. In developing national priorities and strategic goals, in line with international and regional standards, it is important to ensure the buy-in of each sector and institution involved and to determine clearly the action to be taken by each towards their implementation. Reform goals need to be realistic and time-bound, supported by clearly assigned institutional responsibilities, partnerships and budget allocation. Coordination within and across the

(...) The Law on Social Services approved the requirements and the conditions for social establishments and The Rules of the License for Social Care Establishments (Official Gazette, 2012, No 57–2864) define the specify requirements for social establishments to provide institutional social care. These requirements are suitable for non-profit organization either. The requirements for common and social attendance services are defined by local municipalities.” Law on Social Services (Official Gazette, 2006, No 17-589) and Rules of the License for Social Care Establishments (Official Gazette, 2012, No 57–2864). See: Council of Europe, European Social Charter, 10th National Report on the Implementation of the European Social Charter submitted by the Government of Lithuania, (Articles 3, 11, 12, 13 and 14 for the period 01/01/2008-31/12/2011), 16 January 2013, accessed from http://www.coe.int/t/dghl/monitoring/socialcharter/reporting/statereports/Lithuania10_fr.pdf on 18 July 2015, pp. 68, 70.

²¹² United Nations Children’s Fund, *Ending the Placement of Children Under Three in Institutions: Support nurturing families for all young children, Report from the international ministerial conference, Sofia, 21-22 November 2012*, 2013, p. 9-10.

various ministries and departments is as important as the cooperation with non-ministerial partners, public authorities at the regional and local levels of the public administration, private agencies and civil society. Considering the high number and diversity of actors involved at each level, effective monitoring and oversight are key for ensuring that the policy goals determined at the central level are actually translated into practice locally, where children and families live.²¹³

Multi-sectoral and inter-disciplinary cooperation is equally essential for the practice at the local level, i.e. for case assessments, decision making processes and service delivery, in each individual case. UNICEF noted that the diversity of reasons why children are placed in residential care invite for a paradigm shift in state policies and approaches. In order to prevent family separation more effectively, the various ministries and departments need to work together more effectively across the different sectors involved in social protection and welfare, child protection and care. Effective support for families at risk can only be provided if these sectors collaborate to provide an integrated and concerted package of services, such as financial support, health care, social protection education.²¹⁴

In the field of early childhood education and care, there is a longer-standing tradition of working through multi-disciplinary programmes that include measures for child protection, health and education services, and the promotion of children's development, including services for children with special needs, parenting support, social protection for families and facilitating the labour force participation of mothers.²¹⁵ Approaches and models that have proven successful in this field, and the lessons learned from organising multi-disciplinary programmes, can inform and inspire concerted action in the broader field of family support, child protection and alternative care as well.

Since 2006, the **German** Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has initiated the Action Programme "Early assistance for parents and children and social early warning systems" in partnership with the *Länder* and local authorities. The programme aims to create cross-sectoral networks connecting the health system, child and youth welfare services, pregnancy advice centres, women's support facilities and many other institutions for parents and children. The objective is to reach parents as early as during pregnancy as well as families who are living in difficult and precarious situations and families at risk. The programme targets these families and offers easily accessible and timely support services that are coordinated across the different disciplines and providers. The programme's focus on 'early assistance' refers to support provided as early as during pregnancy, for parents of infants and toddlers, while it also implies an aspiration to offer preventive assistance before risks transform into actual harm. The increasing political attention to 'early intervention' was justified by the emerging understanding that families at risk and those living

²¹³ United Nations Children's Fund, *Ending the Placement of Children Under Three in Institutions: Support nurturing families for all young children, Report from the international ministerial conference, Sofia, 21-22 November 2012*, 2013, p. 9-10.

²¹⁴ United Nations Children's Fund, *Ending the Placement of Children Under Three in Institutions: Support nurturing families for all young children, Report from the international ministerial conference, Sofia, 21-22 November 2012*, 2013, p. 9-10.

²¹⁵ Hiilamo, Heikki, *Promoting Children's Welfare in the Nordic Countries*, Ministry of Social Affairs and Health, Reports of the Ministry of Social Affairs and Health 2008:15, Helsinki, 2008, p. 22.

under precarious conditions rarely take advantage of the available support services that they are entitled to.²¹⁶

The federal state has promoted model projects under the Action Programme in all 16 *Länder*. It established the “National Early Assistance Centre” under the shared patronage of the German Youth Institute (DJI) and the Federal Centre for Health Education. The double patronage helps ensuring that the structural framework is firmly established in both systems, the child and youth welfare and the health care system, as both are essential for early assistance. The Centre coordinates, supports and evaluates the activities in the *Länder*. It provides information, facilitates the knowledge transfer and offers technical assistance for the implementation of early assistance programmes in the *Länder*. The implementation is monitored by research and evaluation studies that analyse local child protection structures and give recommendations on how to strengthen them and make them more effective. In order to collect the results generated by the model projects and related research, the federal state allocated a budget of 11 million Euro in 2010 to initiate and evaluate model projects and to coordinate the implementation process through the National Early Assistance Centre.²¹⁷

The National Early Assistance Centre supported the development of a handbook that guides the child and youth welfare services and the public health services to work together in order to support parents during pregnancy or families with small children who are considered in need of support. The handbook provides information and recommendations on how to establish cross-sectoral partnership and cooperation networks.²¹⁸

A country-wide assessment revealed that by 2010, almost all child and youth welfare authorities had entered into a partnership cooperation with public health services to offer early prevention services at municipal level, although this was not obligated by the law. The assessment revealed that the public health authorities considered the child and youth welfare authorities the most important point of reference for early prevention services whereas the child and youth welfare authorities were to a lesser extent referring to the public health services as a partner in this context. The collaboration that had been established was therefore considered important but still largely unidirectional. The assessment revealed further that binding cooperation agreements or contracts between the two authorities were rare. The authorities that had engaged in successful cross-sectoral partnership and cooperation identified some important lessons learned: Networking and cross-sectoral

²¹⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2009, Germany, CRC/C/DEU/3-4, 11 September 2012, par. 154-164. See also: Bundesministerium für Familie, Frauen, Senioren und Jugend (Federal Ministry for Family, Women, Senior Citizens and Youth), Aktionsprogramm "Frühe Hilfen": Expertise benennt Schwachstellen im Kinderschutz (Action Programme 'Early Assistance': Expert opinion points to weaknesses in child protection, accessed from <http://www.bmfsfj.de/BMFSFJ/kinder-und-jugend.did=115002.html> on 20 June 2015. Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, pp. 22-24.

²¹⁷ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2009, Germany, CRC/C/DEU/3-4, 11 September 2012, par. 154-164. See also: Bundesministerium für Familie, Frauen, Senioren und Jugend (Federal Ministry for Family, Women, Senior Citizens and Youth), Aktionsprogramm "Frühe Hilfen": Expertise benennt Schwachstellen im Kinderschutz (Action Programme 'Early Assistance': Expert opinion points to weaknesses in child protection, accessed from <http://www.bmfsfj.de/BMFSFJ/kinder-und-jugend.did=115002.html> on 20 June 2015. Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, pp. 22-24. Zypries, Brigitte, *Child Protection and Children's Rights - Challenges for a Modern Legal Policy in Germany*, Federal Minister of Justice, Berlin, undated, pp. 2-4.

²¹⁸ Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, p. 37.

partnership generally enhanced the mutual understanding of the different actors, their mandates and approaches. It also had positive effects on the cooperation at the general institutional level and in individual cases. Binding cooperation agreements were considered more effective. The professionals involved in the cross-sectoral partnership identified the need to allocate budget and designate human resources and specific worktime for cross-sectoral cooperation. In order to guarantee continuity of the cooperation, it was further considered important to clarify data protection regulations, develop assessment tools and train staff.²¹⁹

In **Germany**, the Social Code obliges the child and youth welfare authority to cooperate with other institutions whose mandates are relevant for the living situation of children and parents. These include schools, institutions for education and training, the public health sector, the unemployment office, other social services and the police. While the legal obligation to cooperate is important, its impact is considered to remain limited in practice as the obligation has unilaterally been imposed on the Child and Youth Welfare Authority without introducing respective obligations in the mandates of the partner agencies and institutions.²²⁰

The legislative competence for regulating the cooperation between the child and youth welfare services, schools, day care providers and the police rests with the federal *Länder*. Currently, more than half of the *Länder* have introduced provisions into the education laws to regulate the cooperation between the school administration and the child and youth welfare services. Often, this mandatory cooperation is limited to reporting obligations in cases where a child's health and safety is considered to be at risk. Since 2005, the child and youth welfare offices are further obliged to enter into a contractual agreement with child day care providers on reporting obligations when a child is at risk. The conclusion of these agreements has proceeded however only reluctantly. Two years after the law entered into force, 40 percent of the child day-care institutions had signed an agreement. Another area of bilateral cooperation involves the youth welfare offices and the police. They cooperate closely in cases of domestic violence, for instance when the police intervene in cases of partnership violence and children are in the household, they shall immediately notify the youth welfare office.²²¹

The Federal Child Protection Act obliges the Child and Youth Welfare Authority to initiate networks in child protection and to ensure a close and constructive cooperation (§81). In some *Länder* such networks have already been established. The law provides that one of the network members shall take a planning and steering role. The cooperation is regulated by a binding agreement among all partners and institutions involved.²²²

Many municipalities throughout **Germany** have established 'Round Tables' to improve inter-disciplinary cooperation and to develop coordinated responses and prevention of cases of

²¹⁹ Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, p. 37.

²²⁰ Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, pp. 33-35.

²²¹ Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, pp. 33-35.

²²² Federal Republic of Germany, *Bundeskinderschutzgesetz (Federal Child Protection Act)*, accessed from http://www.bgbl.de/xaver/bgbl/text.xav?SID=&f=xaver.component.Text_0&toctf=&qmf=&hlf=xaver.component.Hitlist_0&bk=bgbl&start=%2F%2F%5B%40node_id%3D%27291168%27%5D&skin=pdf&tlevel=-2&nohist=1 on 15 May 2015. Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, pp. 33-35.

domestic violence. These round tables are more or less formalised networks involving key professionals and officials. The exact composition varies from municipality to municipality but usually the members include representatives from the police, women's shelters and counselling services, the Child and Youth Welfare Authorities, family judges, men's counselling and child protection institutions.²²³

The Child and Youth Welfare Services have entered into cooperation with the child and adolescent psychiatry in a pilot project that was tested and evaluated positively. The pilot was developed as an outpatient treatment programme for adolescents in residential care. The programme included the diagnosis of adolescents at the residential home, the provision of psychiatric treatment and training for the pedagogic staff of the institution. An important element of the initiative was the decision to convene common case conferences of psychiatrists and the pedagogues who worked together to define the objectives of the therapy for each individual adolescent. The overall objective of the programme was to stabilize the adolescents and to prevent the need for inpatient psychiatric treatment.²²⁴

In **Denmark**, the Care Placement Reform obliged local authorities to develop a comprehensive children's welfare policy with the objective to achieve local cohesion between the different sectors, such as day-care services, schools, the health sector, the voluntary sector and special support for children and young people. The objective is to strengthen the cohesion between the general preventive work and the targeted measures for children and young persons in need of special support.²²⁵

In **Estonia**, the Estonian Union for Child Welfare has been driving more active networking and cooperation across the different sectors involved in childcare, protection and family matters. The Union has issued several publications to educate officials and professionals working with and for children about the importance and nature of networking. In response to this initiative, Children's Support Centres and other non-profit organisations in the main cities have successfully promoted local networking, which helped to protect children from maltreatment and to find durable solutions for the children and families concerned. The local cooperation networks for child protection and family support include officials and professionals from the social services, educators, the police, health-care workers and, if necessary, the prosecutor's office and courts.²²⁶

Family counselling is offered by public and private service providers in **Estonian** municipalities. Under the Child Protection Act parents and caregivers are entitled to receive counselling free of charge. Counselling centres are operating throughout the country and provide services from different professionals, including psychologists, psychotherapists, psychiatrists, sexologists, and speech therapists. In many cases, the users need to pay a fee

²²³ Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, pp. 36-38.

²²⁴ Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, pp. 36-38.

²²⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2008: Denmark, CRC/C/DNK/4, 22 January 2010, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.DNK.4.doc> on 18 May 2015, par. 233.

²²⁶ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 18.

as a share in the cost of the services. In addition, psychologists are based in many schools and offer diagnosis and counselling of children as well as advice to teachers and members of the school administration. The school psychologists work individually with children and involve families or other parts of the local support network when necessary. In addition, there is a trend of local authorities that started employing social workers in schools. Today, most schools have their own support specialists such as social workers and psychologists, or they can buy support services from regional centres (*Rajaleidja*), which are operated by the Ministry of Education and Science.²²⁷

In **Estonia**, the Ministry of Social Affairs has launched an initiative to develop four child-specific mental health centres in Tallinn, Pärnu, Ida-Virumaa and Tartu. The centres are created with the objective to improve services and support for children with mental health problems, to enable their early identification and timely intervention. The same centres will also provide diagnostic services for child victims of violence and assistance services. To this end, the centres will train child protection officers, social workers, law enforcement officers and teachers to identify signs of child abuse and domestic violence and to create effective networks among them.²²⁸

In **Finland**, inter-disciplinary family support services are offered at the municipality level. Since 2005, the government has promoted a reform of the structure of services for children and families within municipalities and sub-regions. It established Family Centres in almost 100 municipalities that provide an integrated set of low-threshold services from the social sector, health care and education. The target group of the services are adults and families with children under 18 years of age and those expecting a child. The Family Centres enable inter-disciplinary cooperation of different professionals and a close and committed partnership with families, the basic service sectors, civil society organisations, voluntary actors, parishes and others. The principal objective is that basic family services and parenthood support contribute to promoting children's wellbeing and preventing family breakdown as well as violence, abuse and neglect.

The Family Centres provide maternity and child clinic services, early childhood education, day-care, local early support and family services, including extensive parenting training and services promoting fatherhood. Setting up the Family Centres has created infrastructures and models for promoting social wellbeing and preventive family services in the municipalities. Since the Family Centres have become operational, the number of local meeting points for families has increased. These meeting points and other elements of the emerging infrastructure enable also peer activities and support between parents.²²⁹

Inter-disciplinary cooperation is anchored in various national laws of **Finland**, which provide for a stable and legally binding framework for the partnership across sectors. The Decree on Welfare Clinic Services, School Health Services and Student Health Services obligates

²²⁷ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 151-154. Information provided by the Ministry of Social Affairs, Estonia, April 2015.

²²⁸ Estonia, Ministry of Social Affairs (Sotsiaalministeerium), Regionaalsed vaimse tervise keskused tõstavad lastepsühhiaatria teenuste taset ja kättesaadavust (Regional mental health centre will increase the quality and improve the access of child psychiatric services), Press release, 25 November 2013.

²²⁹ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth reports of States parties due in 2008, Finland, CRC/C/FIN/4, 26 May 2010, par. 210-212.

municipalities to organise family counselling for expectant mothers and fathers. Family counselling programmes aim to support future parents in their child rearing and childcare roles and responsibilities. The counselling takes place in interactive group sessions and through peer support. These support services are offered through a cooperation of the **Finnish** Welfare Clinic Services, day care service providers and schools. Parents regularly discuss child rearing and child development with day care and school staff. These interactive counselling sessions are regulated in the relevant laws and regulations. Since 2011, the involvement of the schools has been strengthened through the Basic Education Act. The Act obliges homes and schools to co-operate. Discussions on child rearing, how to listen to children and children's participation are conducted at parents' evenings at school, in parental associations and in other peer activities. Under the new Decree on School Health Services, schools must arrange a medical examination for the whole family, i.e. both children and parents, in certain grades. On this occasion, teachers, school staff and parents can discuss matters related to parenthood and the family's well-being.²³⁰

In **Iceland**, the *Parliamentary Resolution on a four-year action plan to improve the situation of children and young persons (2007-2011)*²³¹ aimed to contribute to the harmonisation of measures by Government Ministries that are targeted at children and families with children. Under the Resolution, an inter-ministerial consultative committee was established including representation from the Ministry of Social Affairs, the Ministry of Health and Social Security, the Ministry of Justice and Ecclesiastical Affairs, the Ministry of Finance and the Ministry of Education, Culture and Science.²³² The chair of this inter-ministerial committee is to be appointed by the Minister of Social Affairs.²³³ The consultative committee was tasked to review obligations under international treaties and relevant recommendations from treaty bodies and international organisations, such as the Concluding Observations of the Committee on the Rights of the Child to Iceland's State Party reports on the implementation of the Convention, the 2006 recommendations from the Committee of Ministers of the Council of Europe to Member States on policies related to positive parenting, and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.²³⁴

The Parliamentary Resolution tasked the inter-ministerial committee to take measures in the following seven thematic areas:

- Measures to improve the financial position of families with children;

²³⁰ Council of Europe, *Child and Youth Participation in Finland, A Council of Europe policy review, Building a Europe for and with Children*, 2011, pp. 82-83.

²³¹ See: Ministry of Social Affairs and Social Security, *Parliamentary Resolution on a four-year action plan to improve the situation of children and young persons, approved by the Alþingi on 13 June 2007*, accessed from <http://eng.felagsmalaraduneyti.is/legislation/nr/3553> on 18 May 2015.

²³² United Nations Committee on the Rights of the Child, *Consideration of Reports Submitted by States Parties under Article 44 of the Convention*, Office of the High Commissioner for Human Rights, Geneva, Iceland's Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc> on 18 May 2015, par. 17.

²³³ Ministry of Social Affairs and Social Security, *Parliamentary Resolution on a four-year action plan to improve the situation of children and young persons, approved by the Alþingi on 13 June 2007*, accessed from <http://eng.felagsmalaraduneyti.is/legislation/nr/3553> on 18 May 2015. See: I. General measures and consultation.

²³⁴ United Nations Committee on the Rights of the Child, *Consideration of Reports Submitted by States Parties under Article 44 of the Convention*, Office of the High Commissioner for Human Rights, Geneva, Iceland's Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc> on 18 May 2015, par. 18.

- Measures for the benefit of children, young persons and parents and support for those involved in raising children;
- General preventive measures;
- Measures to benefit children and young persons with mental disturbances and developmental disorders, and chronically ill children;
- Measures to benefit children and young persons with behavioural problems and drug-abuse problems;
- Measures to protect children and young persons against sexual offences; and
- Measures for the benefit of the children of immigrants.²³⁵

Under each thematic set of measures, several objectives were defined. The implementation of these measures is, however, left to the discretion of ministries that are expected to draw up and implement relevant projects. The Resolution emphasises that proposals are to be developed in a joint effort by state authorities, municipalities and social partners.²³⁶

The measures defined under the various thematic areas focus specifically on issues related to parenting and family issues, creating opportunities to balance work life and family life, including through child care and regulations of employment and working hours, and the care for disabled children; and health issues affecting children including mental health issues, and the prevention of substance abuse.²³⁷ Due to the bank crisis and the consequent state fiscal deficits in 2007 and 2008, the inter-ministerial consultative committee transformed into a body referred to as 'Welfare-watch', which assumed a broader role related to the socio-economic situation of the population during crisis.²³⁸

In **Lithuania**, the State Child Rights Protection and Adoption Service has issued recommendations to municipal child protection units that provide guidance and methods for inter-agency cooperation at the local level. It organises also consultations with the local units to promote the application in practice of these recommendations. Research into the social services in Lithuania has evidenced that a common understanding of what inter-agency cooperation means and how it can be achieved is not yet in place.²³⁹ In order to strengthen inter-agency and cross-sectoral cooperation, there is thus a need to define the forms, rules and procedures and the objectives of cooperation.

²³⁵ See: Ministry of Social Affairs and Social Security, Parliamentary Resolution on a four-year action plan to improve the situation of children and young persons, *approved by the Alpingi on 13 June 2007*, accessed from <http://eng.felagsmalaraduneyti.is/legislation/nr/3553> on 18 May 2015.

²³⁶ Ministry of Social Affairs and Social Security, Parliamentary Resolution on a four-year action plan to improve the situation of children and young persons, *approved by the Alpingi on 13 June 2007*, accessed from <http://eng.felagsmalaraduneyti.is/legislation/nr/3553> on 18 May 2015. See: I. General measures and consultation.

²³⁷ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Iceland's Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc> on 18 May 2015, par. 19.

²³⁸ Information provided by the Government Agency for Child Protection, Iceland, April 2015.

²³⁹ Lithuania, ESTEP (Europos socialiniai, teisiniai ir ekonominiai projektai), Research 'Possibilities of improvement of service infrastructure in the development of family welfare', Tyrimas 'Paslaugų infrastruktūros tobulinimo galimybės siekiant šeimos gerovės', Research Report, 2 May 2013 (23 July 2013 edition), accessed from www.esparama.lt/es_parama_pletra/failai/ESFproduktai/2_SADM_tyrimas_paslaugos-seimos-gerovei_2013-07.pdf on 20 June 2015.

Local responsibility and mobility: Challenges for family support, child protection and alternative care in in transnational cases

Local authorities are responsible for monitoring and supporting children and families at risk in their municipality or district. When children, caregivers or entire families are moving, the cooperation between the authorities in the place of origin, transit and destination is vital for ensuring continuity of care. Effective cooperation and communication between the local authorities involved and between the service providers and the service users is critical to ensure that services are delivered timely and to avoid interruptions that might place children or families at risk. Effective cooperation is also a precondition for the cost-effective operation of social services, as the assessments do not need to be repeated and the knowledge from previous locations can be transferred as children and caregivers move. It is particularly important to avoid that one local authority relinquishes its responsibility before another one has taken over. Where cooperation and handover of cases is weak or absent, transfers and mobility might put children and families at risk of falling through the gaps in service provision.²⁴⁰

Mobility of children and caretakers and entire families within the Baltic Sea **Region** takes place for many reasons and in many different forms. The European area of freedom of movement facilitates the mobility between the participating states. Children and adults who have been living in alternative care, might leave the place in order to reintegrate with their family, which might involve movement to another city or country. Some children who lose their caregivers or need placement for other reasons might be transferred to family members living in a different city or country. Children and adults are moving alone or accompanied for reasons of work and income-generating activities and in search of better opportunities for studies and employment, within their countries or abroad. They might also simply join family members elsewhere. Some leave their place of residence on purpose in order to discontinue contact with the social services and avoid being monitored by them. Some children, caregivers or entire families are exploited while away, including in the context of trafficking.

National and local authorities in **CBSS Member States** receive requests from abroad concerning children who have been identified by the authorities of another country and who need social support abroad or assistance for return. Cooperation between national and local authorities is essential in these cases. They might be requested to conduct assessments of the child's family situation and potential risks upon return. These assessments often have to be conducted and communicated promptly to the authorities abroad. When children are returned from another country, the receiving authorities need to be prepared to receive the child, transfer the child to the home town and offer adequate reintegration support and follow-up monitoring. In **Lithuania**, the central Child Protection and Adoption Service has developed

²⁴⁰ Mansell, J., Knapp, M., Beadle-Brown, J. and Beecham, J., *Deinstitutionalisation and Community Living, Outcomes and costs: Report of a European Study, Volume 2*, Canterbury: Tizard Centre, University of Kent, 2007, p.101. Mulheir, G., Browne, K., *Deinstitutionalising and Transforming Children's Services. A Guide to Good Practice*, University of Birmingham: Birmingham, 2007, p.133. Cited in: European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 80.

a unique model for combining the national coordination of social services and transnational contacts and information exchange in child protection and family matters (see Box 3).

Cross-border mobility is also an issue when children are placed in temporary alternative care abroad. In reviewing **Germany's** combined third and fourth State Party Report on the implementation of the Convention on the Rights of the Child in 2014, the Committee on the Rights of the Child expressed concern about the practice of placing children with behavioural difficulties into foster care in other countries of the European Union. The children who were placed abroad did not benefit from proper supervision and the quality of services was not effectively monitored or evaluated. The Committee invited the Government to revisit this practice and to ensure appropriate follow-up services and supervision.²⁴¹

Box 3: Promoting national and transnational social service cooperation: The Child Protection and Adoption Service in Lithuania²⁴²

In **Lithuania**, the central Child Protection and Adoption Service is a unique model for strengthening the cooperation and information exchange on child protection cases within the country and across borders. Located within the Ministry of Social Security and Labour, it is the central authority for all child protection matters within Lithuania and in transnational cases.

Within Lithuania, the authority acts as a central information, coordination and monitoring body. It communicates information on new laws and procedures in the area of child protection and seeks to strengthen their application in the country. The Child Protection and Adoption Service keeps a central registry of families at risk in Lithuania. Data are received from social services throughout the country and from abroad and are fed into the national registry. This database is an important tool to keep track of families and children who move within the country, to monitor children's situation in families where the child might be at risk, and to manage information received from abroad. When the primary responsibility for providing services and ensuring an effective child protection system is with the local municipalities in Lithuania, this kind of data collection, information management and monitoring function is critical. The central registry offers an innovative example of how the situation at the local level can be monitored more closely, both with regard to the children and families at risk and the social services provided by the local authorities.

The central registry is regulated by the Order of the Ministry of Social Security and Labour on the Approval of Procedure of Record Keeping of Social Risk Families Raising Children in a Municipal Child Rights Protection Unit. When a family is inserted into the registry, the Municipal Child Rights Protection Unit is tasked to follow a certain procedure of assessments, service provision and monitoring of the family's situation. The Unit conducts an assessment of the family's needs with regard to social services and proceeds to deliver the services to the family, including the children, accordingly. The family situation is periodically assessed in order to determine whether the social services should be adjusted to the evolving needs. When the risk situation of the family has ended through the services, the Municipal Child Rights Protection Unit informs the central registry of the developments and the family is removed from the registry.²⁴³

²⁴¹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: Germany, CRC/C/DEU/CO/3-4, 14 February 2014, par. 46-49.

²⁴² Council of the Baltic Sea States, Child Centre, Expert Group for Cooperation on Children at Risk, *Children Trafficked for Exploitation in Begging and Criminality: A challenge for law enforcement and child protection*, Stockholm, 2013, p. 25.

²⁴³ Lithuania, Order No. A1-212 of 28 July 2006 of the Minister of Social Security and Labour on the Approval of the Procedure of Record Keeping of Social Risk Families Raising Children in a Municipal Child Rights Protection Unit (Dėl Socialinės rizikos šeimų, auginančių vaikus, apskaitos savivaldybės Vaiko teisių apsaugos tarnyboje (skyriuje) tvarkos aprašo patvirtinimo), last amendment No. A1-676, 15 December 2009, accessed from www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=281274&p_query=&p_tr2= on 20 June 2015.

In transnational cases, the central authority acts as the primary contact point for child protection authorities from abroad and coordinates all activities at the national level, including the engagement of the local child protection services in Lithuania. The central authority provides information on individual cases upon requests from authorities abroad, organises the return of children to Lithuania and assists in cases of children who are under the supervision of social services abroad or who have committed a crime abroad. The Child Protection and Adoption Service is therefore a key actor for the transnational referral of children and oversees all actions from the initial assessments through to return and the identification and implementation of a durable solution.

Fostering partnership with children and families in service provision

Services in support of families and childcare will be more effective when the approach and attitudes driving policy making and implementation evolve from a 'rescue approach' of children at risk towards an understanding of children and caretakers as partners in finding viable solutions to the challenges they are facing.²⁴⁴

In order to progress towards this paradigm shift, policy reforms in the fields of family support, child protection and alternative care need to understand and influence the attitudes and perceptions prevalent throughout society, among public officials and service providers. Awareness raising may be required to sensitise professionals and officials working with and for children and caretakers to the human rights of children. Sensitisation is also needed for the evolving notion of 'family' and new, emerging forms in how families are composed, how the composition may evolve over time, including through changing gender roles and labour market participation, and what makes good quality care for children.

An approach that respects children and caregivers as partners differs from the traditional service delivery approach where children and caretakers have more strongly been perceived as 'beneficiaries'. While 'beneficiaries' may be assumed to fit into a set of services pre-determined by the service provider, service 'users' or 'clients' may be perceived partners at eye-level who are competent to co-determine the type of support they need. By considering children and caregivers as partners in service provision, there are better chances for determining and delivering the right type of support, targeted to the individual situation and needs of the service user.

Traditionally, children were perceived rather as dependent members of family units who were primarily characterised by their perceived vulnerability, immaturity and need of protection. The Convention on the Rights of the Child promotes however an understanding of boys and girls as rights holders and citizens. When children and caregivers are considered as partners in family support services, the service providers need to give them space, to listen and hear what they have to say and to take their views into account, to understand their individual situation and needs and to support them from within that context in building resilience, solving problems, ensuring a safe environment and realising the maximum possible standards of well-being, health and development.

²⁴⁴ United Nations Children's Fund, *Ending the Placement of Children Under Three in Institutions: Support nurturing families for all young children, Report from the international ministerial conference, Sofia, 21-22 November 2012, 2013*, p. 9-10.

In **Sweden**, a partnership principle has been introduced and emphasised in the national law on social welfare. The local social service agencies are held to work in partnership with families to support children's personal and psychosocial development.²⁴⁵

Since law reform in 1993, the **Norwegian** social welfare and child protection services evolved into a more proactive and integrated model that gradually introduced new approaches. The law strengthened the rights of the individual as a client. Specialised child protection workers were equipped with a stronger competence to invite families to participate actively in child protection matters, to improve the situation in the family and to strengthen the resilience of the family to prevent further problems. The law aimed to strengthen the preventive capacity of service providers by providing for a range of volunteer support services, such as inspection by child protection workers, financial support, access to weekend homes, and help to improve the childcare in the home. A child can also voluntarily be placed in alternative care as a temporary, preventive measure. The childcare workers used this scope of action proactively. As a result, the number of children who received services from the child welfare system as voluntary family support measures and the provision of services to advise and supervise families in their home increased. Between 2003 and 2011, the number of children and young adults up to 22 years old in alternative care increased from 6,747 to 8,485. This represents a 25.7 percent increase. The number of children who received voluntary services within the birth family increased however in the same period from 29,263 to 43,613, which represents a 49 percent increase. Researchers have interpreted these developments as an indication that the 1992 Act has led to a more 'child- and family-friendly' service model and succeeded to prioritise preventive services over placements in alternative care. Due to its broad, preventive orientation, the Norwegian model is considered to generally increase the level of welfare in the population, while the positive impact on child rearing and care is considered as part of these broader outcomes.²⁴⁶

Encouraging equal participation in child-rearing and care: Evolving gender roles and the emerging notion of 'family'

Throughout the Baltic Sea Region, parental leave programmes are in place for mothers and fathers, including maternity and paternity leave with relevant benefits. Introducing paternity leave and advocating with fathers, mothers and employers that men take advantage of it, is an important political measure to support the equal contact and bonding of the child with both parents and to enable a good balance between employment and family life for men and women. Laws on maternity and paternity leave aim also to facilitate the equal participation of men and women in the labour market.

In **Iceland**, in addition to the maternity leave before and after birth, the child's father has an independent entitlement to a vacation of three months after childbirth with a continued payment of 80 percent of his ordinary wages. The paternity leave is not transferrable to the

²⁴⁵ Backe-Hansen, E., et al., Out of Home Care in Norway and Sweden – Similar and Different, *Psychosocial Intervention*, Elsevier, 22(2013) 193-202, p. 198.

²⁴⁶ Backe-Hansen, E., et al., Out of Home Care in Norway and Sweden – Similar and Different, *Psychosocial Intervention*, Elsevier, 22(2013) 193-202, pp. 194-195.

mother.²⁴⁷ The principle of non-transferability of paternity leave has also been introduced in **Sweden**.²⁴⁸

Promoting parental equality by law is an important first step to sensitise mothers and fathers, and the society more broadly, including employers, for the values of equal involvement of both parents in child rearing and care. In **Lithuania**, the law establishes the principle of parental equality of the biological mother and father who enjoy equal rights and duties regardless of their marital status, regardless of whether they live together or separated before the child's birth.²⁴⁹

Following law reform, awareness raising and sensitisation programmes are important in order to mobilise the essential support from employers and positive, supportive attitudes in the workplace to the role of fathers in childrearing and care. All this generates important opportunities in practice for fathers to take time off from work for parenting tasks (see also Box 4 on page 84).

In the **Nordic countries**, initiatives to strengthen the role of fathers as caretakers have gradually led to increased participation of fathers in child rearing and care. In **Norway**, for instance, family counselling offices are offering a range of services in cooperation with the private sector, local assistance networks and churches to strengthen the roles and responsibilities of fathers in childrearing and care. These activities promote sensitisation for equality in family life and engage employers and leaders to facilitate a working climate in which men are more actively participating in child rearing and care. In addition, these themes have been introduced into the upper secondary school education to reach adolescents.²⁵⁰

Parental leave programmes are essential for enabling a healthy work-life balance for the parents of new-born children. While the ILO Convention on maternity leave provides for a minimum of 14 weeks, the WHO and UNICEF recommend that new-born children are exclusively breastfed for a minimum of four to six months after birth.²⁵¹ This standard is barely achievable when mothers have to return to the job sooner.

In the Baltic Sea Region, parental leave is granted for up to three years duration. Public income support payments during parental leave range from 100% of the previous salaries or reduced rates with stark variations throughout the region (see Figures 6-8).²⁵² Parental leave programmes are particularly beneficial for the family when they allow the parent to take time off from work for special care needs up to several years after birth. Fathers are encouraged to take advantage of paternity leave programmes when all or part of their leave entitlement

²⁴⁷ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth reports of States parties due in 2009, Iceland, CRC/C/ISL/3-4, 29 November 2010, par. 97.

²⁴⁸ Swedish Institute, Sweden, Gender Equality in Sweden, 2013-2015, accessed from <https://sweden.se/society/gender-equality-in-sweden/> on 20 June 2015.

²⁴⁹ United Nations Committee on the Rights of the Child, Consideration of the reports submitted by States parties under article 44 of the Convention, Consolidated third and fourth periodic reports of States parties due in 2009, Lithuania, CRC/C/LTU/3-4, 1 March 2012, par. 116. Lithuania, Civil Code Chapter XI, Parental rights and duties in respect of their children, Section 1, Article 3.156.

²⁵⁰ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties Under Article 44 of the Convention, Fourth periodic report of States parties due in 2008, Norway, CRC/C/NOR/4, 11 May 2009, par. 192.

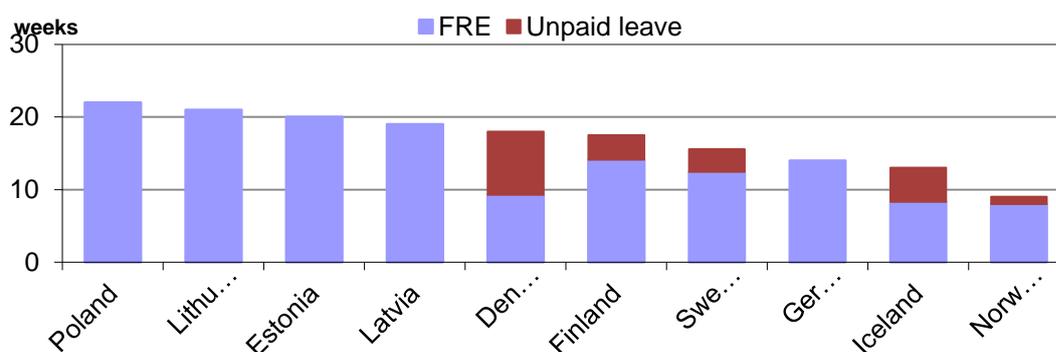
²⁵¹ International Labour Organisation, Maternity Protection Convention, 2000 (No. 183). United Nations Children Fund, World Health Organisation, Innocenti Declaration on the Protection, Promotion and Support of Breastfeeding, Florence, 1990.

²⁵² Organisation for Economic Cooperation and Development, Social Policy Division, Directorate of Employment, Labour and Social Affairs, OECD Family Database, 1 May 2014.

is not transferrable upon the mother. In some countries, parental leave entitlements apply also for persons who adopt a child.

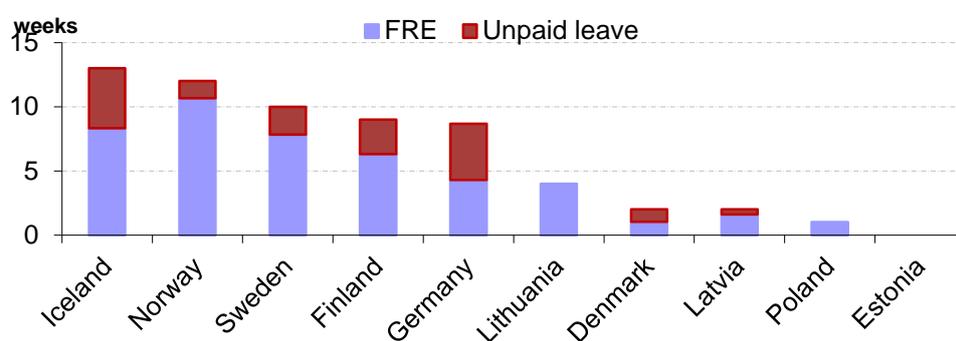
Paid child-related leave periods by duration the full-rate equivalent (FRE) of the leave period if paid at 100% of usual earnings, and the remaining "unpaid" weeks (OECD, 2013)

Figure 6: Paid maternity leave entitlement (OECD, 2013)²⁵³



Source: Data and analysis by OECD, 1 May 2014.

Figure 7: Paid paternity leave entitlement for fathers, which cannot be transferred to partners (OECD, 2013)²⁵⁴

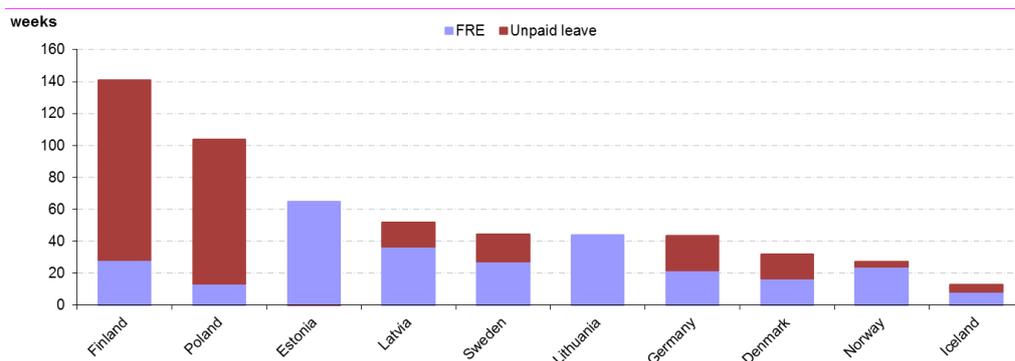


Source: Data and analysis by OECD, 1 May 2014.

²⁵³ Data and analysis by the Organisation for Economic Cooperation and Development, as of 1 May 2014. Figures 1, 2, and 3 show the duration (in weeks) of employment-protected leave for maternity, paternity and parental leave periods, respectively (regardless of income support). To get a better view of cross-national comparisons of systems with different payment rates and durations of paid leave periods, the entitlement to paid leave is also presented as the full-rate equivalent of the proportion of the duration of paid leave if it were paid at 100% of last earnings. This full-rate equivalent (FRE) is defined as: FRE = Duration of leave in weeks * payment (as per cent of average wage earnings) received by the claimant. Cited in: Organisation for Economic Cooperation and Development, *Key characteristics of parental leave systems*, OECD - Social Policy Division - Directorate of Employment, Labour and Social Affairs, OECD Family Database, 1 May 2014, pp. 1, 3. Notes on data: The table refers to the entitled weeks of paid leave as at April 2013. See Tables PF2.1.B, PF2.1.C, PF2.1.D and PF2.1.E for details on benefit payment rules and conditions. The "average payment rate" is defined as the average replacement rate over the length of paid leave entitlement for a person normally on average wages. If this covers more than one period of leave at two different replacement rate then a weighted average is calculated based on length for each period. Information refers to the entitlement for paternity leave and the father quota included in some parental leave regulations (for example, Finland and Iceland). Information refers to parental leave and subsequent prolonged periods of paid leave to care for young children (sometimes under a different name, for example, "Childcare leave" or "Home care leave"). The total paid leave for mothers refers to the maximum duration of the paid parental leave entitlement not for exclusive use by the father minus any period of maternity leave taken after the birth of a child that overlaps with the period of parental leave. There is no statutory entitlement to maternity leave as such in Australia. However, women may take up to six weeks of the parental leave entitlement prior to the expected birth, for which payment can be received under the Government's Parental Leave Pay.

²⁵⁴ See previous footnote.

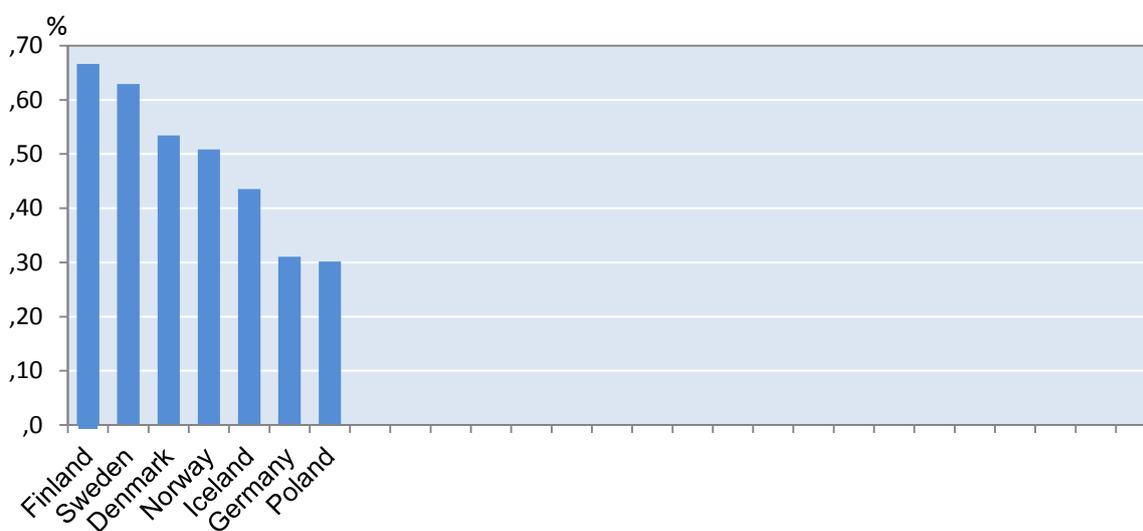
Figure 8: Paid parental leave entitlement (OECD, 2013)²⁵⁵



Source: Data and analysis by OECD, 1 May 2014.

Figure 9 provides an overview of the amount of leave-related family payments in relation to the number of children born. This offers a more comprehensive picture of the number of children and parents who are benefiting from parental leave schemes and the roles of lump-sum payments at birth.

Figure 9: Spending on maternity and parental leave payments per child born, 2009 (2011 data will be available shortly following the update of the OECD SOCX database) Spending per birth as a % of GDP per capita²⁵⁶



Source: Data and analysis by OECD, 1 May 2014.

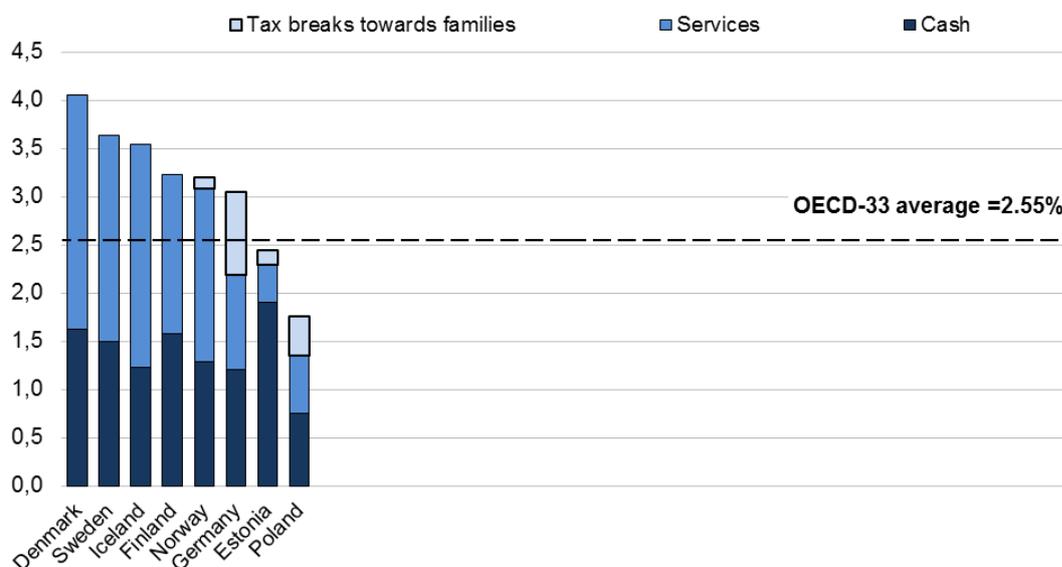
An analysis of OECD data on public spending for family benefits demonstrates a large variation within the CBSS region. The **Nordic countries** invest approximately half of the public spending for family benefits into services and half in cash grants. **Germany** and

²⁵⁵ Data and analysis by the Organisation for Economic Cooperation and Development, as of 1 May 2014. Spending on maternity and parental leave payments per child born, 2009 1 (2011 data will be available shortly following the update of the OECD SOCX database) Spending per birth as a % of GDP per capita. Cited in: Organisation for Economic Cooperation and Development, *Key characteristics of parental leave systems*, OECD - Social Policy Division - Directorate of Employment, Labour and Social Affairs, OECD Family Database, 1 May 2014, p. 4. See Notes on data as in previous footnote.

²⁵⁶ Data and analysis by OECD as of 1 May 2014. Data from Iceland as of 2005. Data from Germany as of 2008. Data from Estonia, Latvia, Lithuania and the Russian Federation not available.

Poland provide also tax breaks towards families, which is in place in **Norway** as well but less significant. In **Estonia**, a significant proportion of the public spending for family benefits is allocated to cash grants, while less funding is provided for services (see Figure 10).

Figure 10: Public spending on family benefits in the CBSS region, in percentage of GDP²⁵⁷



Source: Data and analysis by OECD, 19 September 2014.

²⁵⁷ Data and analysis by the OECD as of 19 September 2014. Notes: Public support accounted here only concerns public support that is exclusively for families (e.g. child payments and allowances, parental leave benefits and childcare support). Spending recorded in other social policy areas as health and housing support). Spending recorded in other social policy areas as health and housing support also assists families, but not exclusively, and is not included here. Coverage of spending on family and community services in SOCX may be limited as such services are often provided, and/or co-financed, by local governments. The latter may receive general block grants to finance their activities, and reporting requirements may not be sufficiently detailed for central statistical agencies to have a detailed view of the nature of local spending. In Nordic countries (where local government is heavily involved in service delivery), this does not lead to large gaps in measurement of spending, but it does for some countries with a federal structure. Cited in: Organisation for Economic Cooperation and Development, *Public spending on family benefits*, OECD - Social Policy Division - Directorate of Employment, Labour and Social Affairs, OECD Family Database, 19 September 2014, p. 2.

Box 4: The role of fathers as caregivers²⁵⁸

Research on fatherhood revealed that fathers' participation in childcare and child-rearing has a positive impact on the well-being of children, mothers, and the fathers themselves. The active participation of fathers and the quality of time they spend with their children has been demonstrated to have a positive impact on children's health, social and emotional development and school completion rates. Evidence suggests that male caregivers have a significant impact on the well-being and development of children.

Although a father's involvement in child rearing and care is important, it is not per se necessary as men can play important roles in family support in a range of different roles and relations. Research has shown that in general it is beneficial for the child when two or more caregivers are involved, regardless of the sex of the caregivers. Two or more caregivers can support each other and thus enhance the safety net for children. In addition to the child's biological father, a 'social father' or other male caregiver, such as a step father, uncle or family friend, can play an important role in strengthening the family and promoting the well-being of the child. As traditional family structures are more and more evolving into a diversity of family models, the role of 'social fathers' is getting increasingly relevant.

The role of men as fathers and caregivers needs to be understood in relation to the social construction of masculinity and related gender roles and norms. Perceptions and attitudes of fatherhood depend closely on men's roles in society and the socialisation of boys and young men. In many countries around the world, there are still prevailing assumptions that men are less interested or less competent as caregivers. Influencing the perceptions and attitudes of policy makers, officials and practitioners involved in family support measures is therefore critical when fatherhood support programmes are to be designed.

Considering the positive impact of meaningful fatherhood, policy and programme support to fatherhood can make an important contribution to the well-being and development of children and families and strengthen the cohesion and development of societies at large. Policies and programmes that promote the inclusion of fathers can be started as early as during the pregnancy and child birth. They include the granting of paternity leave and automatic shared parental responsibility of fathers and mothers at separation. In addition, public awareness raising and sensitisation programmes are important to advocate for fathers' active participation in child rearing and care. Education in schools and other appropriate contexts can influence perceptions of the role of men and gender roles among children and adolescents and influence their behaviour as adults.

²⁵⁸ Wenke, Daja, *Strengthening Families, Save the Children programs in support of childcare and parenting policies*, Save the Children Sweden, 2012, pp. 32-33. See: Barker, Gary and Fabio Verani, *Men's Participation as Fathers in the Latin American and Caribbean Region: A critical literature review with policy considerations*, Promundo, Save the Children, 2008, pp. 5-6, 17-18, 22. Davis, J. and W. Perkins, *Fathers' Care: A Review of the Literature*, Philadelphia, PA: National Center on Fathers and Families, University of Pennsylvania, 1995. Lewis, C. And M. Lamb, *Fathers: The Research Perspective*, Draft prepared for the International Fatherhood Summit, Oxford, UK, 2003. See further: International Centre for Research on Women, Instituto Promundo et al., *What Men Have to Do With It, Public policies to promote gender equality*, 2010. United Nations, Department of Economic and Social Affairs, Division for Social Policy and Development, *Men in Families and Family Policy in a Changing World*, New York, 2011. Eurochild, *Building a Co-ordinated Strategy for Family and Parenting Support – Making the difference to outcomes for children*, Agata D'Addato, October 2011, pp. 12-13. National Center on Fathers and Families, *The Fathering Indicators Framework: A tool for quantitative and qualitative analysis*, Philadelphia, PA, 2002. Johnson, D., *Father Presence Matters*, National Center on Fathers and Families, University of Pennsylvania, Philadelphia, 1995. See also: Levto R., van der Gaag N., Greene M., Kaufman M., and Barker G., *State of the World's Father Report 2015, A MenCare advocacy publication*, Washington, DC: Promundo, Rutgers, Save the Children, Sonke Gender Justice and the MenEngage Alliance 2015, accessed from http://sowf.s3.amazonaws.com/wp-content/uploads/2015/06/08181421/State-of-the-Worlds-Fathers_23June2015.pdf on 27 July 2015.

Family composition and dynamics in the Baltic Sea Region are evolving. The increasing participation of fathers is one aspect of these dynamics. Other factors include the decreasing role of traditional family units and marriage, an increasing prevalence of single parents and changing caregivers when couples separate and form new partnerships. Traditional family structures are also eroded when one or both parents migrate within the country or abroad in order to find employment and support the family back home through remittances. Policy makers need to be ahead of these dynamics and understand the underlying causes and contributing factors in order to develop and provide meaningful support.

The role of homosexual parents as caregivers for children deprived of parental care is gaining increasing attention in the public and political debates. While prevailing stereotypes still exclude same sex couples from acting as foster or adoptive parents in many countries, the Council of Europe has taken a more advanced position. The 2008 European Convention on the Adoption of Children applies a non-discriminatory understanding of the family unit and prospective adoptive parents. It stipulates that State Parties shall permit that a child can be adopted by two persons of different sex who are married to each other or who have entered into a registered partnership where this institution exists. Single persons can also qualify as prospective adoptive parents. The Convention stipulates further that States are free to extend the scope of the Convention to same sex couples who are married to each other or live in a registered partnership where this institution exists, or to different sex couples or same sex couples who are living in a stable relationship (Article 7).

In **Latvia**, the Constitutional Court issued a ruling in 2004 that was seminal for an evolving notion of the 'family' concept. The reason for the ruling was a narrow definition of the family under Article 214 of the Civil Law, which describes a family to consist of the spouses and their children who are part of a common household. The Constitutional Court held, however, that the concept may be interpreted more broadly. It emphasised that the family concept is not limited to a relationship based on marriage. It can be based on other de facto family ties such as the cohabitation. The Court noted however also that the notion of 'family life' may be considerably impacted upon by many factors, such as whether a couple lives together, the duration of the relationship, whether both parties are faithful to each other and whether they have common children. The Court concluded that the State must protect all families.²⁵⁹

The concept of the family and family members is relevant under EU law, especially with regard to the regulations concerning the free movement of labour and persons. Council Regulation No. 1612/68 of 15 October 1968 on the freedom of movement for workers within the Community provides that a national of an EU Member State has the right to be joined by her or his family when moving to work in another Member State. In this context, the family is understood to comprise the spouse and children, as well as the parents of the migrant worker and any other person who has thus far been part of the migrant worker's household.²⁶⁰ The Council Regulation leaves therefore room for a broad interpretation of the family concept.

²⁵⁹Constitutional Court of Latvia, Judgement of 11 October 2004, Case No. 2004-02-010647, accessed from <http://www.likumi.lv/doc.php?id=94831> on 18 May 2015. United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Combined third to fifth periodic reports of States parties due in 2009, Latvia, CRC/C/LVA/3-5, 21 November 2014, par. 297.

²⁶⁰ Council of the European Communities, Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community, accessed from <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:31968R1612> on 20 June 2015.

The data and analysis on the composition of families and households available from the Organisation for Economic Cooperation and Development indicate that throughout the Baltic Sea Region, between half and two thirds of the households are households without children. In several **CBSS Member States**, only 4-6 percent of the households have three and more children living in the household. **Poland** stands out with three or more children in 9 percent of the households. 12-27 percent of the households in the region are living with one or two children (see Tables 3 and 4).

Table 3: OECD data on households by number of children (late-2000s)²⁶¹

	0	1	2	3 and more	Percentage of households with children under 6
Estonia	57	24	14	5	15
Finland	68	13	12	6	13
Germany	67	17	13	4	12
Latvia	54	26	15	5	16
Lithuania	46	27	20	6	16
Norway	70	12	12	6	..
Poland	44	27	21	9	18

Note: Data indicate Percentage of households. **Source:** Data and analysis by the OECD, 2014.

Table 4: OECD data on households with children²⁶²

	The share of households with children in all households	The share of couples with children in all couple families	The share of sole-parent families in all households with children.
Denmark	35,3	45,3	18,2
Estonia	48	60,6	34,1
Finland	38,3	51	23
Germany	35,3	47,8	18,1
Iceland	40,4	52,2	22,5
Latvia	59,6	66,1	40,2
Lithuania	54,4	58,6	23,1
Norway	40,8	58,8	21,8
Poland	59,7	72,4	23,6
Sweden⁶	36,1	..	19,66

Source: Data and analysis by the OECD, 2014.

²⁶¹ Data and analysis by the Organisation for Economic Cooperation and Development, as of 30 January 2014. Cited in: Organisation for Economic Cooperation and Development, *Family Size and Household Composition*, OECD - Social Policy Division - Directorate of Employment, Labour and Social Affairs, OECD Family Database, 30 January 2014, p. 6. Note on data: For OECD non EU countries, data refer to children aged less than 18 living within the household and still dependent with the exception of New Zealand where children are classified as dependent if not in full-time employment, and for Canada where there is no age limit. For Member States of the European Union, data include children not yet 15 years of age, or aged 15 to 24 and dependent (not employed and with at least one parent in the household). Data for Norway from 2001, all other countries from 2007. Data for Norway on percentage of households with children under 6 not available.

²⁶² Data and analysis by the Organisation for Economic Cooperation and Development, as of 30 January 2014. Cited in: Organisation for Economic Cooperation and Development, *Family Size and Household Composition*, OECD - Social Policy Division - Directorate of Employment, Labour and Social Affairs, OECD Family Database, 30 January 2014, p. 5. Note on data: All children included without any age restriction, except for 5 and 6. Data concern 2010 for Estonia, Finland, Latvia; 2011 for Denmark, Lithuania, Norway, Poland; 2005 for Sweden.

Training for professionals working with and for childcare and family support

While policymakers determine the overall strategic priorities and standards in childcare, protection and family support, local officials, social workers, care staff and other service providers are the ones who are working actively to apply these strategic goals and quality standards in practice, at the local level where the children live. It is therefore essential to establish an effective communication channel between the central, regional and local levels of the public administration, providing effective supervision and monitoring of service practice and fostering effective partnerships with private service providers, health care staff, teachers and school administrations, civil society and communities. Investing in well-trained front-line social workers and care staff is critical for developing and sustaining quality services at the local level and ensuring the full implementation of national standards within the communities.²⁶³

The European Expert Group on the Transition from Institutional to Community-based Care reviewed the international debate on what constitutes quality social services. This review has helped to identify the following universal principles for social work:

- a) *Participation in the community*: Social services should enable the users, including children and caregivers, to participate fully in the community on an equal basis as other community members. This requires measures to enable access to mainstream and specialised services, removing barriers to community participation and promoting social and economic inclusion. For children and caregivers this implies access to day care, schools and professional education, leisure time activities and sports, and employment opportunities.
- b) *Choice and control*: Quality social services will recognise the right of children and caregivers to make choices about the decisions concerning them and to have control over their lives. This implies that service providers consider the service users not simply as ‘beneficiaries’ or ‘objects of care’ but as partners and experts in the care and support they receive. In order to exercise an active role, children and caregivers need to have access to information, they need to be heard and listened to.
- c) *Person-centred and child-centred support*: Traditionally, social services are provided within a state-determined framework that the individual user needs to adapt to and which offers a fixed set of options for the user to choose from. Experience shows, however, that service provision is more effective when the services are personalised to the individual needs of the child and caregiver. In order to achieve that social services are prepared to provide individualised support while safeguarding universal standards and principles, the spectrum of services should be developed by professionals in consultation with the children and caregivers who are using them.
- d) *Continuity of service delivery*: Social support services should be provided for a sufficient period of time to be effective and periodic review and amendments are

²⁶³ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 17.

critical during this time to ensure adjustments are made timely and as required. Children who are ageing out of care require stable after care to support their transition into adulthood and an independent life.

- e) *Separation of housing and support*: Social support services are considered more effective when they reach children and caregivers in their living environment and follow them when they move. This is important for ensuring that children and caregivers do not lose the support when they move, that the contact with service providers does not need to be re-established in the new place and that assessments of the family situation do not need to be repeated.
- f) *Dispersed over cluster-style housing*: Dispersed housing for persons in care has shown to provide better quality outcomes for the service users. As opposed to clustered, campus-style housing, dispersed housing allows the service users to be better integrated into the community and social networks. It also prevents stigmatisation and promotes independent living.²⁶⁴

Social workers and child care staff need to be enrolled in systematic training on the rights of the child, relevant national and international standards, the strategic goals and quality standards defined under national policy plans on alternative care. Training needs to address how to work in practice with the fundamental guiding principles of child protection and care and how to support children in their transition into adulthood. Training should further include hands-on guidance on how to cooperate across different disciplines and agencies, between state and private service providers. Many aspects of the professional training are relevant also for the training of foster parents and other caregivers and should be delivered and updated periodically. Training needs to be provided initially and periodically. Training curricula should be developed, reviewed and updated in a process of inter-disciplinary and multi-stakeholder consultation, involving children in care and those ageing out of care, foster parents, birth parents and other caregivers.²⁶⁵

The effectiveness of national training for social workers and other professionals and officials involved in family support and alternative care for children needs to be assessed and evaluated regularly, including through independent evaluation, and in consultation with representatives of all relevant professional groups, children, parents and caregivers. Such assessments should investigate to which degree the training enables social workers and other care staff to apply international and national standards in practice, according to their mandates. Assessments are also relevant to understand what kind of support, monitoring and supervision social workers have access to and where they can turn to for technical advice, information, continued learning and acquisition of knowledge and skills, coaching, mentoring and for reporting difficulties within the existing structures. Quality assessments should further review the work practice, including the caseload, the available budget, the functionality and practicality of operational and administrative routines and regulations,

²⁶⁴ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 83-84.

²⁶⁵ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 151-152.

salaries and social status, the quality of relations between service providers and users, and the professional interaction, communication and cooperation with other authorities and private partners. In addition, assessments and evaluations need to develop indicators to measure the quality and sustainability of outcomes, user satisfaction, the cost-benefit analysis and the effectiveness of reform processes informed by the knowledge, experience and evidence of relevant officials, professionals and services users, including children and caregivers.²⁶⁶

Under the leadership of the Social Protection Committee, the European Commission has issued a series of communications to provide a common understanding and framework for the provision of quality social services in the European Union. The European Commission provided a general framework for social services in its Communication on social services of April 2006.²⁶⁷ The communication includes a broad range of services under the concept of 'social services' including social assistance, long-term care, childcare, employment and training services, personal assistants and social housing. The 2007 European Commission Communication on services of general interest and on social services of general interest and the 2010 Voluntary European Quality Framework for Social Services provide a more detailed definition of the objectives and principles of social services as well as a methodological guide for the organisation of social services. A fundamental principle is that social services must be comprehensive and personalised, and conceived and delivered in an integrated way. These guidance documents developed at EU level aim to guide national authorities in the development of relevant tools for the definition, measurement, monitoring and evaluation of social services and for promoting quality standards at the national, regional and local levels.²⁶⁸

The European Platform for Rehabilitation has developed a set of European Principles of Excellence in Social Services (EQUASS) that comprise a framework for the accreditation and certification of social programmes. The ten EQUASS criteria that need to be fulfilled for accreditation are the following: Leadership, personnel/professionals, rights, ethics, partnership, participation, person-centred, comprehensiveness, result orientation and continuous improvement. A set of indicators guide the assessment of services and programmes in preparation for their accreditation. The EQUASS certification system is used throughout the Baltic Sea Region for the accreditation of service providers. Some countries

²⁶⁶ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 154.

²⁶⁷ Commission of the European Communities, Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, Services of General Interest, Including Social Services of General Interest: A new European commitment, Accompanying the Communication on "A single market for 21st century Europe", COM(2007) 725 final, Brussels, 20 November 2007, accessed from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0725:FIN:EN:PDF> on 20 June 2015.

The Social Protection Committee, A Voluntary European Quality Framework for Social Services, SPC/2010/10/8 final, accessed from <http://ec.europa.eu/social/BlobServlet?docId=6140&langId=en> on 20 June 2015.

²⁶⁸ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 140.

use the EQUASS criteria as an official certification system to identify programmes for public budget support.²⁶⁹

Considering the dynamics of law and policy reform in the social sector and the constantly evolving knowledge and evidence emerging from research and practice, advanced and on-the-job training is essential to ensure that social workers and child protection staff are up-to-date, competent and prepared to identify and address emerging issues and to operate according to the evolving national standards of quality social services.

In **Sweden**, the National Board of Health and Welfare has been mandated to develop a programme to enhance the safety and security of children in alternative placement. The programme shall guide municipalities in their alternative care measures. The programme was based on an analysis and evidence from the alternative care sector. It targets guardians and caregivers for children in alternative care and supports them with advice, support and other assistance they need. Within the framework of this programme, the National Board of Health and Welfare was tasked to provide guidance to municipalities on case management consistent with national standards and informed by evidence. Training material for foster homes was developed and municipalities were prepared to offer systematic follow-up services when children are placed in alternative care. The National Board of Health and Welfare cooperates in this initiative with the Swedish Association of Local Authorities and Regions, the Ombudsman for Children and professionals working with and for children in alternative care.²⁷⁰

The Government of **Sweden** also tasked the National Board of Health and Welfare to develop guidance on how to document the assessment of the child's situation and background and the decision making process on the best interests of the child in matters concerning care and placement. Further guidance in this area was considered necessary because the Child Protection Study had evidenced that there were still weaknesses in the way that children are being heard and how their views are taken into account by social services. With regard to the documentation of the case management process, there was previously no official guidance on how detailed the documentation should be and how it should be written in order to ensure that also the child can read and understand the case files concerning her- or himself.²⁷¹

The Council of Europe policy review on child participation in **Finland** revealed that professionals working with and for children do not yet have access to systematic training on the right of the child to be heard and how to safeguard this right in practice. The availability and access to training in this area should be strengthened for lawyers, judges, police officers, social workers, community workers, psychologists, carers, residential and prison officers, teachers at all levels of the education system, doctors, nurses and other health professionals,

²⁶⁹ See: EQUASS, accessed from <http://www.epr.eu/index.php/equass> on 15 May 2015. European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 141.

²⁷⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fifth Periodic Report of States Parties due in 2011: Sweden, CRC/C/SWE/5, 5 May 2014, par. 213-217.

²⁷¹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fifth Periodic Report of States Parties due in 2011: Sweden, CRC/C/SWE/5, 5 May 2014, par. 213-217.

civil servants and public officials and asylum officers. Although training courses are available for some professional groups and special training components have been introduced into the curriculum of certain disciplines, a consistent approach to training is not yet in place and the access depends therefore much on the initiative of the individual professional or the support from employers or training institutions. In consultations, professionals working with and for children expressed the wish and need to access training on how to involve children, how to listen to them and take their views into account for decision making processes. This need expressed by professionals is reaffirmed by the children who participated in the Council of Europe survey. They expressed that they did not always feel that they were listened to or taken seriously when talking to professionals.²⁷²

In **Iceland**, the Government Agency for Child Protection is responsible for the training of foster parents and staff working in treatment homes for children with so-called behavioural problems.²⁷³ The Agency introduced in 2007 courses on Aggression Replacement Training (ART) for treatment home personnel. This training programme is considered an effective model for preventing and mitigating disruptive and aggressive behaviour exhibited by children. The Government Agency aimed to enrol all staff of treatment centres in the ART-training before the end of 2009.²⁷⁴

It was noted in **Iceland** that the training of professionals in different sectors on child rights matters is limited and patchy as the composition of the training curricula differs between universities and vocational training centres. In order to ensure consistent enrolment in quality training on child rights and the Convention, it would therefore be important to develop a comprehensive policy on child rights training that embraces all relevant sectors.

Throughout the Baltic Sea Region, social workers are struggling with a high caseload, limited resources, high pressure and demand, challenging working situations and limited access to supervision, coaching and mentoring. The social status and payment of social workers is not always perceived to be in line with the critical role that they have for societies, considering their central role for the safety and development of children and the younger generations, for promoting social inclusion and cohesion, fostering equitable societies and assisting persons in need. In consequence, many countries notice a high fluctuation of social workers although stability in service provision, the generation of an experienced workforce and sustaining institutional memories are all essential for making social services effective at the local level and country-wide. Retaining talent and sustaining and strengthening high-quality social services with qualified, motivated and dedicated staff who enjoy excellent working conditions, is therefore an important investment for the continued social and human development of the region.²⁷⁵

²⁷² Council of Europe, *Child and Youth Participation in Finland, A Council of Europe policy review, Building a Europe for and with Children*, 2011, pp. 61-62.

²⁷³ The Icelandic Human Rights Centre, Save the Children Iceland and Icelandic Committee for UNICEF, *Report to the UN Committee on the Rights of the Child, Supplementary report to Iceland's 3rd periodic report*, December 2010, p. 11.

²⁷⁴ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth reports of States parties due in 2009, Iceland, CRC/C/ISL/3-4, 29 November 2010, par. 85.

²⁷⁵ See for instance: Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, pp. 39-41.

The Federal Association of the Local Youth Care Agencies in **Germany** has criticized the limited financial resources available for child protection and youth work at the municipal level and the correlated high case load for an insufficient number of staff in the Child and Youth Welfare Authorities.²⁷⁶ The Federal Working Group of the Local Child and Youth Offices reported that the Youth Agency in several districts of Berlin is struggling to deliver services to children due to the high workload so that the actual support available remains limited and insufficient.²⁷⁷

Similar concerns were reported from **Lithuania**. The National Audit Office revealed in 2012 that the availability of social services for families and children at risk was insufficient. Social workers are struggling with a high caseload and limited resources.²⁷⁸ Since 2014, the caseload per social worker has been limited to the effect that one social worker cares for a maximum of 17 families. In addition, the overall number of social workers has been increased from 670 to 753 specifically for the work with families at risk.²⁷⁹ This constitutes an important investment for prevention.

Data and analysis concerning the social services sector are essential as a precondition for understanding the strengths and weaknesses of the national child protection system, especially when reliable, comparable and disaggregated data are available. They guide the ongoing process for strengthening the system by addressing weaknesses and gaps through targeted interventions.

The debate around these challenges that social services are struggling with throughout Europe is complex and multifaceted. More evidence and analysis are required to identify viable solutions for making social work more effective for prevention and response. While an increased allocation of public funds and an increase of staff might be a solution, the critique of current levels of bureaucracy and administrative demands within the social service sector invite to look also for other possible solutions. Rather than deciding for more budget allocation and higher staff numbers, the attention could be directed to analysing and understanding better the inefficiencies within the system. The objective is to identify innovative proposals for change, with a strategic investment for early intervention, prevention and empowerment. One solution could be to allocate social workers in schools and equip them to work interdisciplinary, build networks and strengthen circles of care around children.

In **Sweden**, the Ombudsman for Children conducted a survey in 2010 with social welfare committees responsible for providing social care. The survey responses revealed that only about one third of the social welfare committees, have specific directives on the health care

²⁷⁶ Wolfgang Hammer, Der Vergessene Einmischungsauftrag der Jugendhilfe, in: *Forum Jugendhilfe*, 2/2013, p.7.

Bundearbeitsgemeinschaft Landesjugendämter, *Weiterentwicklung und Steuerung der Hilfen zur Erziehung (Advancement and control of support measures for parenting)*, 2013, accessed from www.bagljae.de/downloads/bag-stellungnahme_anhoerung-steuerung-der-hze-.pdf on 20 June 2015.

²⁷⁷ Bundearbeitsgemeinschaft Landesjugendämter, *Weiterentwicklung und Steuerung der Hilfen zur Erziehung (Advancement and control of support measures for parenting)*, 2013.

²⁷⁸ Lithuania, National Audit Office of Lithuania (Lietuvos Respublikos valstybės kontrolė), State Audit Report, "Is the child protection system organised efficiently?" (Valstybinio audito ataskaita "Ar efektyviai organizuota vaiko teisių apsauga"), No. VA-P-10-3-21, 31 December 2012.

²⁷⁹ Lithuania, Ministry of Social Security and Labour (Socialinės apsaugos ir darbo ministerija), Order on Revision of the Order No. A1-193, 13 July 2006 on Methods of Calculating Funding for Performing of State Functions Delegated to Municipalities (Dėl Lietuvos Respublikos socialinės apsaugos ir darbo ministro 2006 m. liepos 13 d. įsakymo nr. A1-193 „Dėl valstybinėms (perduotoms savivaldybėms) funkcijoms atlikti skirtų lėšų apskaičiavimo metodikos patvirtinimo“ pakeitimo), No. A1-441, 26 July, 2013.

and schooling of children who have been removed from their families and placed in alternative care. Approximately one fifth of the social welfare committees have adopted directives on how social services should act when there are indications that the conditions in a foster home or a residential institution for children are unacceptable.²⁸⁰

²⁸⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fifth Periodic Report of States Parties due in 2011: Sweden, CRC/C/SWE/5, 5 May 2014, par. 228.

5) Transition from institutional to family-based care

Institutional care has for a long time been considered appropriate for children without parental care. Evidence demonstrates, however, that institutional care results in poorer outcomes for children during childhood and in their adult lives. The negative impact has been measured with regard to a lower quality of life and emotional well-being as well as higher risks of social exclusion. Research has also evidenced that the placement in institutions can negatively affect the brain development of very young children. With the growing awareness of the impact of care on the development and well-being of children and the increasing commitment to child rights standards, a trend towards deinstitutionalisation has set in that prioritises placement in community- and family-based care.²⁸¹

The UN Convention on the Rights of the Child provides that, “for the full and harmonious development of her or his personality”, a child should “grow up in a family environment, in an atmosphere of happiness, love and understanding”.²⁸² The right of the child to know and be cared for by her or his parents and not to be separated from their parents, as afforded under Articles 7 and 9, together with a range of other rights afforded under the Convention can be interpreted to imply that it is in the best interests of the child to grow up in a family environment, ideally in the birth family.

When the birth parents cannot care for the child, for whatever reasons, and when the support offered by the state does not succeed to enable adequate care in the home, the child has the right to substitute family care (CRC Article 20). Children with physical or intellectual disabilities have a right to live in conditions, which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community (Article 23).²⁸³

The right to grow up in the birth family is therefore not absolute. In cases where the health, development, safety and wellbeing of the child is at risk, despite the support services provided to the family, the state has a duty and an obligation to decide about the removal of the child from the family. Although the removal of a child and placement in alternative care is considered a measure of last resort, it does become a necessity when the child experiences neglect or acts of abuse, maltreatment or other forms of violence in the home or when there is a concrete risk of serious harm to the child.

The UN Guidelines on Alternative Care for Children underline that poverty and material deprivation cannot be a reason for the removal of children from their family. Poverty and

²⁸¹ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 10.

²⁸² 1989 United Nations Convention on the Rights of the Child Preamble.

²⁸³ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 18.

material deprivation should instead be considered a sign for the need to provide appropriate support to the family.²⁸⁴

Decisions over the removal of a child from the birth family need to be justified and proportionate to the aim pursued by the removal. The public authorities need to ensure that the measures of intervention are necessary and proportionate to the needs and risks of a child in the specific situation.²⁸⁵

Decisions should be taken in consultation with the child and under preparation of an individual care plan. Placement shall preferably be in a family-based context and while the child is placed in alternative care, measures for maintaining contact and rehabilitating the parents need to set in to prepare family reunification if and as appropriate when this is in the best interests of the child.²⁸⁶

As noted above, the transformation of institutional to family-based placements is by itself not a guarantee for better quality care. The transition from institutional to community-based care needs to be monitored carefully with clear targets and indicators of quality services. Monitoring needs to continue also when the transition process has been completed in order to ensure an ongoing evaluation of the quality of care and services delivered.²⁸⁷

The UN Guidelines on Alternative Care for Children recommend that states develop a national strategy for deinstitutionalization in alternative care. The strategy shall define precise goals and objectives for the progressive elimination of residential institutions. A national strategy therefore should go hand in hand with national standards of care that define the quality and conditions of care and enable the evaluation of care settings against these standards. A national strategy reduces the number of accreditations of new large-scale residential institutions and provides incentives, including budgetary incentives, for the transition to community-based care. Alternatives for residential care shall be sought particularly for young children and infants who are under three years old.²⁸⁸ Deinstitutionalisation strategies need to address also the placement of children with special needs, such as children with disabilities or children with 'behavioural problems'.

The 2005 Recommendations from the Committee of Ministers of the Council of Europe on the rights of children living in residential institutions provide for basic principles for the

²⁸⁴ United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434) 64/142, 24 February 2010, par. 15. European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 84-85.

²⁸⁵ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 39.

²⁸⁶ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 84-85.

²⁸⁷ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 14.

²⁸⁸ United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434) 64/142, 24 February 2010, par. 22, 23.

placement of children in residential institutions as well as quality standards and guidelines for safeguarding the rights of children in residential care. They state that the “placement of a child should remain the exception and have as the primary objective the best interests of the child and her or his successful social integration or re-integration as soon as possible”.²⁸⁹

The Recommendations call upon states to ensure that children’s rights are duly reflected in social service planning, delivery and evaluation and that social services are adapted to the needs of children and their families. While the recommendations focus on institutions, they also call upon states to promote deinstitutionalisation. Deinstitutionalisation programmes should be developed in coordination with efforts to increase family- and community-based care services, including and particularly for children under the age of three and children with disabilities.²⁹⁰

The European Expert Group on the Transition from Institutional to Community-based Care identified critical lessons learned for a successful transition process from institutional to community-based care. The Expert Group noted that it is essential to create a political vision for change, to engage and consult with civil society in all stages of the transition, including with children and caregivers as service users, and to bring all stakeholders on board. A clearly assigned leadership is key for driving this process. In addition, from the political level, incentives can help initiating and facilitating the process. Incentives for change could include targeted budgetary support for the transition by gradually reducing the funding allocated to institutions and adjusting the policy for the accreditation of new institutions.²⁹¹ Regional cooperation, as for instance in the Baltic Sea Region, can play an important role in defining and communicating key components and milestones of the transition process.

National standards of care and strategies for deinstitutionalisation

In 2008, the Council of Europe assessed the status of implementation of the 2005 Council of Ministers Recommendations on the rights of children living in residential institutions. The survey identified some general trends throughout the region. While most countries have incorporated important standards on alternative care into their national laws and policies, ‘national minimum standards of care’ have been formally developed as a distinct policy document only in few member States of the Council of Europe. The development of national minimum standards of care can however be useful to guarantee a more comprehensive package of safeguards for children. As a unified document for policy and practice, national standards of care are well placed to promote important principles of quality care such as continuity of care and a holistic approach. National standards of care balance the child’s right to protection, prevention, empowerment and development, and include fundamental

²⁸⁹ Council of Europe, Committee of Ministers, Recommendation Rec(2005)5 of the Committee of Ministers to member states on the rights of children living in residential institutions, adopted by the Committee of Ministers on 16 March 2005.

²⁹⁰ Council of Europe, Committee of Ministers, Recommendation Rec(2005)5 of the Committee of Ministers to member states on the rights of children living in residential institutions, adopted by the Committee of Ministers on 16 March 2005.

²⁹¹ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 22.

safeguards such as easily accessible and independent complaints and reporting mechanisms, quality monitoring and supervision.²⁹²

Within comprehensive national strategies for alternative care, quality standards of care should be defined and promoted systematically towards the objective of deinstitutionalisation. The approaches of national governments in the Baltic Sea Region to promote the transition from large-scale institutional to community-based and family care differ from country to country.

Some countries have chosen to enshrine the priority of family-based care into their national legislation. In **Poland**, for instance, the 2011 Act on family support and the foster care system provides for the primacy of family-based forms of foster care.²⁹³ This approach puts a legal obligation on state authorities to commit to deinstitutionalisation. It can offer important strategic advantages with regard to reporting and monitoring the progress made with the implementation of the law and holding the competent authorities accountable. Over the three years since the Act entered into force (1 January 2012), the activities of district local governments in the area of family support and foster care have been subsidized with funds from the state budget. The Ministry of Labour and Social Policy provides financial support by announcing programs for co-financing the tasks implemented by local governments. Funding is provided particularly for the employment of family assistants, coordinators, family foster care and providing training for current and prospective foster parents.²⁹⁴

The progressive deinstitutionalization and prioritization of family-based care was supported also by targeted activities, including budgetary investments and financial subsidies from the state to the local governments, for the development of family-based forms of alternative care and the professionalization of foster care. Foster families receive professional aid from a coordinator of family foster care. They participate in training to improve their educational qualifications and to prevent professional burnout. In addition, the Act promotes deinstitutionalization through intensive prevention and supply of personalized services for families with children. Against this background, the Act provided the legal basis for strengthened investments in the family support services and the prevention of family breakdown. During the first year after the Act had entered into force, a significant decrease of the number of children in placement has been noted. This trend continued during 2013 and 2014 and resulted in an additional slight decline in the number of children placed in alternative care. These achievements had been possible due to the use of new support tools, such as the family assistants, and the introduction of the principle of co-financing the placement of children in foster care by the gmina's local government.²⁹⁵

The Act on family support and the foster care system regulates the transition from large-scale residential institutions to smaller, specialized institutions. The law stipulates standards for residential institutions that will take effect as of January 2020. These standards afford that children shall be placed in educational care facilities only as of the age of 10 years old, while younger children shall be placed in family-based care, and that institutional foster care

²⁹² Guðbrandsson, Bragi, *Rights of Children in Institutions, Report on the implementation of the Council of Europe Recommendation Rec(2005)5 on the rights of children living in residential institutions*, Council of Europe, 2008, p. 3.

²⁹³ Act of 9 June 2011 on family support and foster care system. CBSS Data Survey, February 2015, Response from Poland.

²⁹⁴ Information provided by the Ministry of Labour and Social Policy, Poland, April 2015.

²⁹⁵ Information provided by the Ministry of Labour and Social Policy, Poland, April 2015.

facilities will receive a maximum of 14 children as a general standard size by 2021. Currently the institutions host up to 30 children at the same time. The law does therefore not specify the date of complete abolishment of institutional care facilities, but makes requirements aimed at transforming existing facilities and increasing the quality standards of care. As a first result, between 2012 and 2014, there has been an increase in the number of small facilities that have implemented the standards provided by the law and receive only up to 14 children.²⁹⁶

The mapping of national child protection systems conducted by the EU Fundamental Rights Agency in 2014-15 noted that most of the EU Member States have achieved significant progress in reducing the number of large-scale residential institutions. Large institutions for children have gradually been replaced with family-like care facilities or small scale family homes. These are often operated as institutions but offer family-like care close to communities, and are therefore considered to provide for a better quality of care than large institutions. Deinstitutionalisation and community-care remains nonetheless a key challenge in most EU Member States, particularly for children with special needs, such as children with disabilities and those with mental health problems.²⁹⁷

In **Iceland**, placement in foster care has been the priority in alternative care for the past 50 years. This practice has been corroborated when Iceland transposed the UN Convention on the Rights of the Child in its entirety into national law in 2013. CRC Article 20, which emphasises the priority of placement in family settings, became thereby part of the national legislation. Children are placed in residential care mainly for the purpose of therapeutic intervention due to behavioural problems or substance abuse. For more than a decade, children under 13 years of age have not been placed in institutions, with the exception of temporary acute placement due to child abuse, neglect or psychiatric assessments. Children with disabilities receive appropriate home based support.²⁹⁸

In 2008, the evidence based program MST (Multi-Systemic-Therapy) was introduced in **Iceland**. MST is a family- and community-based intervention model, which offers intensive 24/7 services that address risk and protective factors of the child and her or his social environment. Since MST has been introduced in Iceland, there has been a steady decline in the demand for institutional treatment. This development is reflected also by the fact that the number of residential care facilities has decreased by half since 2008, from 8 to 4 residential units.²⁹⁹

In **Finland**, the Child Welfare Act (2007/417) provides that children deprived of parental care are to be placed primarily in small and family-like units, including foster care or professional family homes. Specialised institutional care is offered mostly in small groups and targeted at children in need of specific treatment, which these group homes are better prepared to provide. Placement in an institution is mandatory by law when the competent authorities deem restrictive measures necessary also against the child's will for reasons related to care,

²⁹⁶ Information provided by the Ministry of Labour and Social Policy, Poland, April 2015.

²⁹⁷ European Union Agency for Fundamental Rights, Fundamental Rights, Challenges and achievements in 2014, Annual Report, accessed from <http://fra.europa.eu/en/publication/2015/fundamental-rights-challenges-and-achievements-2014> on 15 July 2015.

²⁹⁸ Information provided by the Government Agency for Child Protection, Iceland, April 2015.

²⁹⁹ Information provided by the Government Agency for Child Protection, Iceland, April 2015.

legal protection or education.³⁰⁰ Despite the commitment to the prioritisation of family-based care, there are, however, no unified national standards that establish criteria for placement, care planning and regular review of placement decisions. The Committee on the Rights of the Child expressed concern about this gap in 2011 and recommended that unified national standards for the assessment and placement of children in alternative care be developed and rolled out.³⁰¹

In **Denmark**, it is required by law to consider the placement in a foster family the first option for any child who is being removed from her or his family of origin. Only in cases where placement in a foster family is deemed not to be in the best interests of the child other options such as placement in an institution, can be considered.³⁰²

In **Estonia**, the Ministry of Social Affairs completed a green paper on alternative care policies in 2014. The policy paper recognises the need to develop guidelines on the placement in institutional or family-based care and the prioritisation of the latter. The guidelines are to be established by law.³⁰³

In **Germany**, the Social Code does not provide for any general preference of family-based over institutional care. The decision on the type of placement is to be guided entirely by an assessment of the best interests of the individual child.³⁰⁴

In **Latvia**, the orphan's courts are responsible for proceedings in child protection and family matters, including decisions over removal of children from the family and placement in alternative care.³⁰⁵ The orphan's courts are held to prioritise placements in foster families or to assign care to a guardian. In cases where this is not possible, a child can be placed in a residential institution.³⁰⁶

In the **Russian Federation**, the President expressed in his address to the Federal Assembly in 2010 that the state was committed to increase the efforts and measures to promote the placement of children deprived of parental care in family-based care and to develop programmes to support adoptive and foster families. The policy measures aimed at promoting family-based care have shown first results. The Ministry of Education and Science reports

³⁰⁰ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth reports of States parties due in 2008, Finland, CRC/C/FIN/4, 26 May 2010, par. 207.

³⁰¹ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: Finland, CRC/C/FIN/CO/4, 3 August 2011, par. 33-34.

³⁰² Information provided by Iben Attrup Nielsen and Astrid Leschly Holbøll, National Board of Social Services, Denmark, 18 May 2015.

³⁰³ CBSS Data Survey, April 2015, Response from Estonia.

³⁰⁴ The Code of Social Law of Youth and Welfare Services affords an entitlement to support ("Hilfen zur Erziehung") in cases where the best interests of a child or adolescent is not guaranteed; this includes an entitlement to family support and alternative care. See § 27 Abs.1 SGB VIII; see further §42. The 'Bund-Länder Arbeitsgemeinschaft' (*Working Group of the Federal State and the Länder*) on Strengthening the Rights of the Child will advocate for recommendations on quality standards in alternative care. The 'Deutscher Verein für öffentliche und private Fürsorge' (*German Association for public and private welfare*) has published several sets of recommendations for care ("Weiterentwickelte Empfehlungen zur Vollzeitpflege/Verwandtenpflege" and "Empfehlungen des Deutschen Vereins zur Verwandtenpflege"). Information provided by the Ministry for Family, Senior Citizens, Women and Youth, Germany, 7 July 2015.

³⁰⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Combined third to fifth periodic reports of States parties due in 2009, Latvia, CRC/C/LVA/3-5, 21 November 2014, par. 15.

³⁰⁶ Latvia, Law on Orphan's Courts, Section 24, Paragraph 2; Protection of the Rights of the Child Law Section 27, Paragraphs three and three prim. United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Combined third to fifth periodic reports of States parties due in 2009, Latvia, CRC/C/LVA/3-5, 21 November 2014, par. 29-30.

that the number of children placed into family-type care increased by 2.5 percent between 2012 and 2013.³⁰⁷ In 2014, the Committee on the Rights of the Child recommended that the deinstitutionalisation process be further sustained and supported.³⁰⁸

Promoting the rights of children with disabilities in national deinstitutionalisation strategies

National strategies for deinstitutionalisation need to address specifically the needs of children with disabilities. The UN Convention on the Rights of Persons with Disabilities (CRPD) provides for important safeguards that are rooted in international and universal human rights standards and reiterated specifically for persons with disabilities. The CRPD recognises explicitly the right of a person with disability to live independently in the community. Under Article 19, States are obliged to ensure that persons with disabilities have access to community services that support and enable them to live in the community, promote their inclusion and prevent isolation or segregation. Placing children with disabilities in institutional care would however contravene this right.

In the Baltic Sea Region, all countries have ratified the UN Convention on the Rights of Persons with Disabilities between 2008 and 2013, except Finland and Iceland that signed the Convention in 2007 and where ratification is pending (see Table 5).

Table 5: Status of ratification of the UN Convention on the Rights of Persons with Disabilities in the CBSS Region³⁰⁹

Country	Signature	Ratification
Denmark		24-7-2009
Estonia		30-5-2012
Finland	30-3-2007	
Germany		24-2-2009
Iceland	30-3-2007	
Latvia		1-3-2010
Lithuania		18-8-2010
Norway		3-6-2013
Poland		25-9-2012
Russian Federation		25-9-2012
Sweden		15-12-2008

³⁰⁷ *Family Placement of Orphan Children and Children Left Without Parental Care in the Russian Federation: Legal basis and regional experience*, undated, pp. 1, 4.

³⁰⁸ United Nations Committee on the Rights of the Child, Concluding Observations on the Combined Fourth and Fifth Periodic Report of the Russian Federation, CRC/C/RUS/CO/4-5, 25 February 2014, par. 39.

³⁰⁹ United Nations Enable, Convention and Optional Protocol Signatures and Ratifications, undated, accessed from <http://www.un.org/disabilities/countries.asp?navid=17&pid=166> on 6 March 2015.

Country Example Lithuania: National strategy for deinstitutionalisation in Lithuania

Since 2007, **Lithuania** has embarked on a process for the reform of the childcare sector. The reforms gained new momentum with the adoption of the Strategy of Reorganization of the System of Child Care (Fosterage) and the Plan of Implementing Measures 2007-2012.³¹⁰ Following the adoption of this strategy, the Government of **Lithuania** approved the Strategic Guidelines for the deinstitutionalisation of social care homes for 2010-2020. The overall objective of these measures is to develop a consistent and coordinated system of assistance and services that create opportunities for children deprived of parental care as well as children and adults with disabilities. These target groups shall be enabled to live in a safe environment that is conducive to their personal development, receive individual and personalised services, be involved in community life and participate without experiencing social exclusion.³¹¹

In order to operationalise and implement these strategic objectives, the Government adopted an Action Plan for the transition from institutional care to community-based services (2014-2020). The activities under the plan aim to strengthen families and prevent family breakdown, including specifically for children with disabilities and their families. For children deprived of parental care, the action plan aims to strengthen the quality of care, the availability of foster families, including new forms of care such as professional guardianship for children, and a support system to help them in their childcare and child rearing roles. The restructuring of the alternative care systems is planned and rolled out step by step to ensure a smooth transition. This process involves an analysis of the existing services in each region, the development of an individual support plan for each resident of an institutional care facility, the evaluation of the competences of each employee who will lose her or his job when institutions are closed down, and a plan for developing a service net and infrastructure in each region. This organizational restructuring process is combined with measures to influence attitudes and values among professionals and the general population. Educational initiatives aim to inform and raise awareness among the general public about disabilities, educating the society about positive parenting, involving communities in the transition process and monitoring the progress made over time. The overall objective of this concerted action is to ensure that community-based services are in place in support of children, caregivers, disabled persons and family members.³¹²

The Committee on the Rights of the Child commended these developments, noted however also that family-based alternative care has not yet been developed to a sufficient and

³¹⁰ The plans had been approved by Resolution No. 1193 of the Government of the Republic of Lithuania of 31 October 2007. See: United Nations Committee on the Rights of the Child, Consideration of the reports submitted by States parties under article 44 of the Convention, Consolidated third and fourth periodic reports of States parties due in 2009, Lithuania, CRC/C/LTU/3-4, 1 March 2012, par. 126-128.

³¹¹ Information based on the Presentation by Rūta Pabedinskienė, Senior Specialist, Ministry of Social Security and Labour, Lithuania, delivered at the Tallinn Expert Meeting on Alternative Care and Family Support, 5-6 May 2015, accessed from http://www.childcentre.info/public/ExpertMtg2015/DE_eng_2014_06_27_pertvarka_angliskai_pristatymas_Talinui.pdf on 10 July 2015.

³¹² Information based on the Presentation by Rūta Pabedinskienė, Senior Specialist, Ministry of Social Security and Labour, Lithuania, delivered at the Tallinn Expert Meeting on Alternative Care and Family Support, 5-6 May 2015, accessed from http://www.childcentre.info/public/ExpertMtg2015/DE_eng_2014_06_27_pertvarka_angliskai_pristatymas_Talinui.pdf on 10 July 2015.

appropriate degree. The number of foster families is still too low and they receive little support in caring for foster children.³¹³

Family-based care is not only more conducive to the development and well-being of children deprived of parental care, it is also more cost-efficient for the state as demonstrated by public expenditure data from **Lithuania**. In 2011, the average amount allocated by the State to the maintenance of a child in children's social care home was LTL 2,000 (579 Euro) regardless of whether the institution was operated by the state, by municipal authorities or by non-governmental service providers. Social care homes for children with disabilities were funded with the amount of approximately LTL 2,300 (EUR 666) per child and month. The public benefits granted to family-based care under the guardianship arrangement amounted however only to LTL 520 (EUR 150) per month and child.³¹⁴

In 2011, the Ombudsman for Children's Rights assessed the situation of young children under four years in orphanages for infants with special needs and other care institutions.³¹⁵ The assessment identified many challenges in providing adequate care for these very young children in institutions. It concluded with concrete recommendations to improve the situation. Thus far, there has however not been a coordinated process of follow-up to these findings and recommendations. The number of children placed in institutions is still high with approximately 1,000 children per year, and the majority (52 percent) of these children are under 10 years old. Approximately 33 percent of the children deprived of parental care are under three years old and are placed in large institutions.³¹⁶

The **Lithuanian** Human Rights Monitoring Group reported in 2012 that many of these very young children in institutional care have a medical diagnosis which reduces their chances of adoption or being transferred to family-based guardianship arrangements. Despite the political commitment to deinstitutionalisation, the number of placements of children in family-based care (guardianship) has steadily decreased for several years. In 2007, 1,216 children were placed under guardianship; 1,216 in 2008; 1,054 in 2009; 915 in 2010; and 908 in 2011.³¹⁷ Official data suggest further that approximately two thirds of the children placed in family-based guardianship are placed within their extended family (2009-2011). The availability of qualified and supported foster families is low. In order to support the process of deinstitutionalisation, it would be important to invest in creating more opportunities for

³¹³ United Nations Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of Lithuania, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013), CRC/C/LTU/CO/3-4, 30 October 2013, par. 33-34.

³¹⁴ Human Rights Monitoring Group et al., *Rights of the Child in Lithuania, NGO Report for the UN Committee on the Rights of the Child on the 3rd and 4th periodic reports by the Government of Lithuania*, 62nd-63rd Pre-sessional Working Group, 8-12 October 2012, August 2012, p. 11.

³¹⁵ Ombudsman for Children's Rights of the Republic of Lithuania, Assessment No 15/05/16-2011/KI-13 of 16 November 2011 On the Problems of Situation of Children Under the Age 3-4 in Orphanages for Babies with Special Needs and Other Care Institutions, 2011, accessed from <http://www3.lrs.lt/docs2/CVTPYNYX.PDF> on 20 May 2015. Assessment No 15/05/16-2011/KI-13 "On the Problems of Situation of Children under the Age 3-4 in Orphanages for Babies with Special Needs and Other Care Institutions".

³¹⁶ Human Rights Monitoring Group et al., *Rights of the Child in Lithuania, NGO Report for the UN Committee on the Rights of the Child on the 3rd and 4th periodic reports by the Government of Lithuania*, 62nd-63rd Pre-sessional Working Group, 8-12 October 2012, August 2012, p. 11.

³¹⁷ Human Rights Monitoring Group et al., *Rights of the Child in Lithuania, NGO Report for the UN Committee on the Rights of the Child on the 3rd and 4th periodic reports by the Government of Lithuania*, 62nd-63rd Pre-sessional Working Group, 8-12 October 2012, August 2012, p. 11.

children to be placed in family-based care and continue strengthening the foster care system.³¹⁸

Despite these challenges, the adoption of a national strategy for deinstitutionalisation is an important step to clearly affirm the political commitment. The national strategy bears important opportunities to launch a coordinated and transparent process of reform. An essential advantage, a national strategy offers a structured framework for implementation, reporting and monitoring of the progress made. Deinstitutionalisation and the development of a high quality system for family-based care is a medium to longer term process. Lessons learned from the first steps of implementation provide valuable information, experience and evidence to revisit and adjust the reform process accordingly.

Decision making processes on placement

Decisions over a child's placement in alternative care and determining the most appropriate form of placement should be guided by an assessment of the best interests of the child from a holistic approach considering all the human rights of the child as inter-related and indivisible, the social and cultural context of the child and her or his family and social support networks. The decision to remove a child from the family has to be taken through a judicial, administrative or other recognised formal procedure and by the competent authority mandated by law. During the assessments and procedures leading up to the decision, a child has a right to legal representation and to have her or his views heard and taken into account. Children and parents or legal guardians have a right to information in a language that they understand about the objective of the procedures and all relevant steps to be taken. The child's parents or legal guardian have to be heard during this process. Assessments will be stronger when conducted through multi-disciplinary cooperation involving all relevant stakeholders and authorities.

The European Expert Group on the Transition from Institutional to Community-based Care recommended that decisions over placement should be based on the following principles, in line with international and regional standards, guidelines and recommendations:

- *Removal as last resort:* Removing a child from the care of the family should be considered a measure of last resort. Wherever possible, it should be of temporary nature.
- *Contact with the family:* The child should be placed in geographic proximity to the birth family in order to allow the child and the family to maintain contact, provided that this is in line with the best interests of the child, and to enable continuity in the child's social network, educational, cultural and social activities.
- *Family reunification:* Wherever this is in the best interests of the child, the child and the family should be supported during the placement period with a view to enable family reunification. Alternative care should only be provided when family reunification

³¹⁸ United Nations Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of Lithuania, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013), CRC/C/LTU/CO/3-4, 30 October 2013, par. 33-34. Human Rights Monitoring Group et al., *Rights of the Child in Lithuania, NGO Report for the UN Committee on the Rights of the Child on the 3rd and 4th periodic reports by the Government of Lithuania*, 62nd-63rd Pre-session Working Group, 8-12 October 2012, August 2012, p. 11.

is not safe for the child or when the family is not able, capable or willing to care for the child even with the support of relevant services and assistance.

- *Family-based care for children under three years old:* Young children, especially boys and girls under three years old, should always be placed in family-based care.
- *Residential care:* Children should be placed in residential institutions only in cases where this form of placement is considered appropriate, necessary and constructive for the individual child, in line with the best interests of the child.
- *Siblings should not be separated:* Siblings should be placed in the same care setting and live together, except in cases where separation is considered to be in the best interests of the siblings.
- *Permanency:* Placement decisions should be taken with a view to allow for permanency. Frequent and unnecessary changes in the care arrangements are detrimental to the child's development as they negatively impact the child's ability to form attachments. Frequent changes to the placement of children in alternative care should therefore be avoided. In the case of short-term and emergency placements, due considerations should be given to identify and enable an appropriate permanent solution.³¹⁹

When the assessments conducted by social services come to the conclusion that removal from the family home is in the best interests of the child, there are different options in how the removal is conducted administratively. The mapping of national child protection systems conducted by the European Union Agency for Fundamental Rights noted that the pathways for decision making depend primarily on the consent of the parents and, to some extent, the child's own consent. When the parents consent to the child's placement in alternative care, the social services or child protection authorities issue a care order when they are competent under national law to do so, or lodge a request to the competent court or administrative body to issue a care order. The care order legitimises the child's removal. In cases where the parents do not give their consent to the child's removal, the social services or child protection services are nonetheless entitled to remove the child and place the child in emergency care in situations where there is an imminent risk to the safety and well-being of the child. While the child is placed in emergency care, the necessary assessments are being conducted or finalised. Social services or child protection authorities might also place the child directly into alternative care through the relevant procedures, which usually involve a court or administrative body to issue a care order. When the child is removed from the family home against the will of the parents, the parental responsibility is limited temporarily or permanently, or terminated, by the competent court or administrative body. When this happens, a guardian needs to be appointed for the child who takes over the legal guardianship from the parents as long as required.³²⁰

³¹⁹ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 119-120.

³²⁰ European Union Agency for Fundamental Rights, *Mapping child protection systems in the EU*, Luxembourg, Publications Office, 2016 forthcoming report. See also key findings available on the FRA website: European Union Agency for Fundamental Rights, *Mapping child protection systems in the EU*, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection> on 10 July 2015. For more information on guardianship systems,

In the **Russian Federation**, the Ministry of Education and Science and the Office of the Commissioner for Children's Rights emphasise the importance of ensuring that the removal of a child from parental care ought to be considered a measure of last resort and the decision over removal should be taken only by the competent authorities and in line with applicable child protection standards. The rights and responsibilities of parents for child rearing and care should be respected as a principle of family policy combined with the presumption of responsible parenting. The Ministry recommends that these principles are promoted consistently throughout the Baltic Sea Region.³²¹

In the **Member States of the Council of the Baltic Sea States**, the inviolability of private and family life has been enshrined into national constitutions. Social laws provide for exceptions that authorise the competent authorities to interfere with the private life of families when the life, health and safety of a child is at risk. National laws relating to social services and child protection, as well as relevant procedural and administrative laws, regulate the procedures and safeguards that need to be in place to legitimise this interference. They provide further for measures for prevention, support and periodic review as well as rights to legal remedy. The following examples describe the decision making procedure in selected countries from the region.

In **Estonia**, the Child Protection Act affords that a child and her or his parents must not be separated against their will, unless the child is in danger. According to the Child Protection Act, a 'child in danger' refers to a child who is in a situation which endangers her or his life or health or a child who endangers, through the own behaviour, her or his life or health or that of others.

A child in danger shall be assisted immediately and the causes of the endangerment shall be eliminated. If necessary, a child in danger may be placed in a safe accommodation until the danger passes. This placement can be ordered without the consent of the person exercising the right of 'custody' (parental responsibility) over the child. If the child is not endangered due to the activity or inactivity of the person exercising the right of custody or the danger arising from that person has ceased, the child shall be returned to the person having the right of custody.

The local government or the Social Insurance Board are authorised to order the separation of a child from the family and the restriction of the right of custody. They are also entitled to determine the procedure of communication of the parent and the child during placement, which is especially relevant when the communication between a parent and the child is considered a cause of endangerment for the child. The local government or the Social Insurance Board shall make a decision on temporary separation of a child in danger from the family in the following cases: a) the child has been endangered due to the activity or inactivity of the person exercising the right of custody over the child; or b) the person exercising the right of custody over the child does not consent to the temporary placement of a child. (Child Protection Act Article 30-33).

see also: European Union Agency for Fundamental Rights, *Overview of Guardianship Systems for Children Deprived of Parental Care in the European Union, with a particular focus on their role in responding to child trafficking*, Luxembourg, Publications Office, 2015 forthcoming.

³²¹ Information provided by the Ministry of Foreign Affairs, Russian Federation, 29 May 2015.

The Family Act regulates the removal of a child from the birth family. A court may separate a child from the parents only if damage to the interests of the child cannot be prevented by other supporting measures. A court is authorised to permanently terminate the parental right of custody only if other measures have not yielded any results or if there are reasons to presume that the application of the measures is not sufficient to prevent danger. Upon hearing a matter concerning a substantive restriction or the permanent termination of the right of custody, a court shall include a rural municipality or city government in the proceedings and hear their opinion. If leaving a child in her or his family endangers the health or life of the child, a rural municipality government or city government may separate the child from the family before a court ruling is made. In this case, the rural municipality government or city government shall promptly submit an application to the competent court for the restriction of the parental rights (Family Law Act Article 135).³²²

When the child is separated from the family, the local municipality or city government has to arrange for the child's placement, care and childrearing. The Act provides that sisters and brothers shall be placed together when separated from their family, unless this would be contrary to their best interests. When any of the conditions that led to the family separation ceases to exist, the child and family are to receive assistance for reunification. The local authorities are responsible for working with the family to prepare reunification.³²³

When a child is placed in care outside the administrative jurisdiction of her or his habitual place of residence, the local government in the placement location is responsible to ensure that the child is able to preserve her or his family ties and social contacts with the child's home town.³²⁴

In **Finland**, decision making processes in child welfare matters are regulated under the Child Welfare Act. The Act provides that decisions shall be based on qualified expertise and impartial assessments and that legal safeguards need to be in place for the child, the parents and legal guardians. When a child is taken into care against the will of the parents, the Administrative Court is the competent decision making authority in the first instance, upon applications handed in by the Director General in charge of the local social welfare department in the municipality. When a decision is based on the consent of the parents or when the social welfare services deem it necessary due to its urgency, the officials in charge at the social welfare department of the municipality are entitled to decide. These decisions can be directly appealed to the Administrative Court, even before the decision has been subjected to judicial review in the first instance.³²⁵

The Child Welfare Act provides for the legal representation of a child. When a child is involved in legal proceedings, a guardian can be appointed for the child under the Child Welfare Act. The appointment of a guardian is not mandatory although a court can order that it is

³²² Information provided by the Ministry of Social Affairs, Estonia, April 2015.

³²³ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 168-182.

³²⁴ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 168-182.

³²⁵ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth reports of States parties due in 2008, Finland, CRC/C/FIN/4, 26 May 2010, par. 185.

necessary to appoint a guardian in a specific case. A guardian should be appointed when the interests of the child and the parent are considered to be in conflict so that the parent is not expected to be impartial when representing the child's interests and opinions at court. In these cases, the guardian acts also as a substitute for the child's custodian.³²⁶

The guardian is tasked to inform the child about the proceedings, to consult with the child on her or his opinions, to explain the procedures to the child and the meaning and possible consequences of the child expressing her or his opinion. When necessary, the guardian is also entitled to present the child's opinions at court. In legal proceedings under the Child Welfare Act, the competent authority for appointing the guardian is the local registry office or district court.³²⁷

The Child Welfare Act provides for the possibility to appoint a counsel for court proceedings. This applies for cases heard by a court of appeal or the Supreme Administrative Court. The Child Welfare Act provides further that a social worker be appointed to support the child during legal proceedings, especially to inform the child and to meet regularly with the child if the child has been placed in alternative care or is otherwise a client of the child welfare services (Section 53). The caseload for social workers is high in some municipalities, so that regular meetings and contacts are not always held and this might have implications for the child's right to be informed and supported in a language that he or she understands, in accordance with the child's age and maturity.³²⁸

The **Finnish** Child Welfare Act is innovative in the way it provides guidance on the areas that need to be taken into account when the best interests of the child are being assessed. Being enshrined in a national law, the guidance is legally binding for child welfare officers and service providers. It offers opportunities for ensuring a broader scope of best interests' assessments and determinations in child welfare matters, including decisions over alternative care, and promotes more holistic perspectives (see Box 5).

Box 5: The Finnish Child Welfare Act: Legally binding guidance for best interests' assessments

The Child Welfare Act (417/2007) makes reference to the principle of the best interests of the child as a primary consideration when a child's need for welfare measures under assessment and when child welfare measures are implemented (Section 4). The Section defines which issues are to be considered for a best interests assessment for a child:

"When assessing the interests of the child, consideration must be given to the extent to which the alternative measures and solutions safeguard the following for the child:

- 1) balanced development and wellbeing, and close and continuing human relationships;
- 2) the opportunity to be given understanding and affection, as well as supervision and care that accord with the child's age and level of development;
- 3) an education consistent with the child's abilities and wishes;

³²⁶ Council of Europe, *Child and Youth Participation in Finland, A Council of Europe policy review, Building a Europe for and with Children*, 2011, pp. 64-66.

³²⁷ Council of Europe, *Child and Youth Participation in Finland, A Council of Europe policy review, Building a Europe for and with Children*, 2011, pp. 64-66.

³²⁸ Council of Europe, *Child and Youth Participation in Finland, A Council of Europe policy review, Building a Europe for and with Children*, 2011, pp. 64-66.

- 4) a safe environment in which to grow up, and physical and emotional freedom;
- 5) a sense of responsibility in becoming independent and growing up;
- 6) the opportunity to become involved in matters affecting the child and to influence them;
and
- 7) the need to take account of the child's linguistic, cultural and religious background.”

Source: Child Welfare Act, Chapter 1, Section 4(2).

In **Iceland**, the local child protection committees are generally in charge of matters concerning alternative care. They are obligated under the Child Protection Act No. 80/2002 to send a request for placement of a child to the Government Agency for Child Protection. The Government Agency has a gate-keeping role for decisions over placement and is mandated to ensure that the suitability principle is maintained in each case (Article 80). The Government Agency assesses the application received from local child protection committee and makes a decision on placement in consultation with the committee, including with regard to the most suitable placement for the child, when the placement is to begin and its duration.³²⁹

In **Latvia**, the Law on the Protection of the Rights of the Child (Section 27, Paragraph 1, Clause 1) provides that a child may be separated from her or his family, if the life, health or development of the child is seriously threatened due to violence, if there are justified suspicions regarding violence against the child and when the child is at risk due to a lack of care or due to the circumstances in her or his home (social environment). Separation can also be ordered when the child is seriously threatening her or his health or development by using alcohol, narcotic or toxic substances, or when the child has committed a criminal offence. Removing the child from the family is considered legitimate when it has not been possible to remediate the risky conditions for the child in the family (Article 27).

The orphan's courts are responsible for decisions concerning the removal of children from the family and placement in alternative care.³³⁰ The orphan's courts are guardianship and trusteeship institutions established at the local level by a municipality or the local government of a city. Orphan's courts are mandated to safeguard the rights and legal interests of a child or another person who is deprived of the legal capacity to act. The mandate of the orphan's courts includes ordering the placement of children in alternative care when required. There are currently 150 orphan's courts throughout **Latvia**. Decisions adopted by the orphan's courts come into force immediately and should be promptly implemented. The individuals concerned have a right to appeal against the court's decisions to an administrative court. The pending appeal does however not suspend the enforcement of the decision adopted by the orphan's court.³³¹

³²⁹ Information provided by the Government Agency for Child Protection, Iceland, April 2015.

³³⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Combined third to fifth periodic reports of States parties due in 2009, Latvia, CRC/C/LVA/3-5, 21 November 2014, par. 15.

³³¹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Combined third to fifth periodic reports of States parties due in 2009, Latvia, CRC/C/LVA/3-5, 21 November 2014, par. 29-30.

A child who has been separated from the family, shall be provided with alternative care with a guardian, a foster family or in a child care institution. Decisions over the appropriate type of placement shall take into account the views of the child. When siblings have to be placed in alternative care, they shall not be separated except where this is in their best interests. Emergency care in medical treatment institutions or assistance in rehabilitation institutions is provided free of charge if and as applicable.

When the orphan's court decides to remove a child from the family, it has to immediately inform the social service office in the municipality where the child and family have their habitual place of residence. The local social services are then responsible for developing a programme for family support and assistance, in cooperation and consultation with the child protection institution and other relevant institutions and together with the child's parents.

A child who has been placed in alternative care (guardianship, foster family or child care institution), has the right to maintain contact and visit her or his parents and close relatives. An exception can be ordered when these contacts or visits are considered harmful to the health, development and safety of the child or pose a threat to the guardians, foster families, the employees of child care institutions or to other children (Article 33 of the Law on the Protection of the Rights of the Child).

Orphan courts are the competent authorities for taking decisions to revoke parental authority (Article 22 of the Law on Orphan's Courts). These decision are lawful when there are impediments that make it factually impossible for the parent to take care of a child; when a child lives in conditions that are dangerous to her or his health or life and that have been caused by the parent; when the parent does not ensure care and supervision of the child; when the parent has agreed to give the child up for adoption; or when a parent has committed an act of child abuse or when there are justified suspicions of abuse. When the reasons that promoted the removal decision cease to exist, the orphan court shall take a decision to re-establish the parent's rights to care for the child. When the serious impediments persist and the parent continuous to not effectively take care of the child or posing risks to the child, the orphan's court takes a decision on lodging an application for the removal of parental responsibility rights in a court. In either of these cases, the orphan's court has to ascertain whether or not the reasons are still valid and apply that had originally motivated the decision to temporarily remove the child care rights from the parents. To this end, the orphan's court requests an opinion from the social service office in the place of residence of the parent and other information about the quality of the child-parent relationship and support available to the family. Upon the orphan's court's request, the social services assess the possibilities for the child to return to the care of the parent (Paragraph 1, Article 23, Law on Orphan's Courts).

The Law on Orphan's Courts includes also provisions for the placement of children who have their habitual place of residence abroad. In cases where a child has to return to the country of her or his habitual residence and where the return cannot be immediately executed, the orphan's court has the competence to decide whether to separate the child from the family and place the child in a crisis centre or other safe placement and to order that the person who has unlawfully removed or retained the child, or to the child's relatives, to remove the child from this placement. The orphan's court is authorised to refuse to notify the person who has unlawfully removed or retained the child, or the child's relatives, about the child's location

and to interdict these persons to meet with the child. These prohibitions are lawful when these persons threaten the enforcement of the court's decision over the child's return to her or his place of habitual residence.³³²

Development of individual care plans

The care planning process involves a multi-step process of assessments, decision-making, implementation and review. This process informs the development and roll-out of an individual care plan for the child and should include safeguards to ensure that the care plan is tailor-made for the person, in line with her or his best interests, preferences and special needs. For service providers, the care plan determines, which kind of services are required and helps planning the involvement of services from different disciplines, the timing and funding of service provision, as well as monitoring and evaluation of targets reached. For children, parents and caregivers, a care plan can render the key steps in the process more transparent.

The UN Guidelines on Alternative Care for Children recommend that the case assessment should be holistic and comprehensive. It should take into account the child in her or his social and cultural context, prioritise the immediate needs to ensure the child's safety and well-being, as well as perspectives towards the longer-term continuity and stability of care and the child's development. In order to achieve a comprehensive perspective, the assessments should therefore address the child's "personal and developmental characteristics, ethnic, cultural, linguistic and religious background, family and social environment, medical history and any special needs".³³³

It is important that the child is at the centre of these assessment processes, that the child caregivers and social contacts participate actively and that they are supported to do so. Assessments will be oriented not only at the difficulties in the situation of the child and the family, but will seek to identify resources, resiliencies and assets that can be mobilised to strengthen the child and the family.³³⁴

In **Denmark**, the Act on Social Services provides that municipal authorities have to develop an individual action plan for a child under 18 years old or a young person (18-22 years old) whom they assist (Sections 52, 76 and 140). The action plan has to be developed before a decision on protection or assistance measures is taken. The action plan is informed by the previous assessments of the child's or young person's case. It defines the objective of the intervention of the social services and the type of services required to achieve this objective. It defines specific interim and longer-term targets and the overall duration of the measures taken (Section 50) in relation to the following dimensions: development and behaviour; family

³³² United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Combined third to fifth periodic reports of States parties due in 2009, Latvia, CRC/C/LVA/3-5, 21 November 2014, par. 297-316.

³³³ United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434) 64/142, 24 February 2010, par. 57.

³³⁴ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 115-116.

matters; school education; health and well-being; leisure time and friendships; as well as any other matters of relevance (Section 140(5)).

It is the responsibility of the local authority to supervise the child's situation while in care and to conduct periodic reviews. For the duration of the placement and irrespective of the type of placement, the local authority has to maintain personal contact with the child. The first review of the care plan takes place within the first three months after the placement decision. The review is intended to assess if adjustments or changes to the care plan are needed and to which extent the pre-determined targets have been reached. After the first review, the subsequent periodic reviews have to take place at intervals of no more than six months. When the review reveals that changes to the care plan are needed, the local authority is competent to make a decision over changes. Such decisions should be made, to the extent possible, in consultation with the person who has the parental responsibility over the child in care. The person who holds the parental responsibility can also at her or his own initiative request changes to the care plan and children in care are entitled to request that changes be made as of the age of 15 years old. In addition to the scheduled reviews, the local authority is free to revise the care plan at any time and is obliged to do so if the situation requires immediate adjustments.³³⁵

In its supplementary report to the Committee on the Rights of the Child, a group of NGOs reported in 2009 that the development and implementation of the individual action plans for children was however inconsistent: There were cases of children for whom an individual action plan had not been prepared at all, and the action plans did not consistently cover all the areas they are supposed to. Measures concerning education, for instance, were not included in all the action plans.³³⁶

The National Council for Children criticised that the provisions under the Act on Social Services relating to case investigation and decisions about alternative care are implemented in an unsystematic way and that the alternative care situations as well as the procedures of local authorities fail to give due consideration to the best interests of the child.³³⁷ The Danish National Centre for Social Research (SFI) conducted a study into how the cases of children who were placed in alternative care were being handled by the local social services. The study findings revealed that placements were highly unstable, which is considered as detrimental to the well-being of the affected child:

“... 41% of cases of children placed with foster parents, in 24-hour care, or in social care homes experience a lack of stability in the caring environment. This runs counter to the very intention of placement. About one fourth of placements break down shortly after

³³⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third periodic reports of States parties due in 2003, Denmark, CRC/C/129/Add.3, 30 March 2005, par. 203-213.

³³⁶ *Supplementary NGO Report to the Danish Government's 4th Periodic Report to the UN Committee on the Rights of the Child*, Written by The Rights of All Children, Amnesty International Danish Section, The Joint Council for Child Issues, Children's Welfare in Denmark, Disabled Peoples Organisation Denmark, DUI – Leg og Virke, Save the Children Denmark, Save the Children Youth Denmark, The Danish Red Cross Youth, The Danish National Committee for UNICEF, May 2009, English translation June 2010, p. 14, 21.

³³⁷ National Council for Children, *Report to the UN Committee on the Rights of the Child, Supplementary Report to Denmark's 4th Periodic Report*, May 2009, accessed from <http://www.boerneraadet.dk/files/Brd.dk%20filbibliotek/PDF%20FILER/EKSTERNE%20RAPPORTER/BRD%204.%20Suppl.%20Rapp.%20til%20FN%20-%202009%20-%20UKversion.pdf> on 18 May 2015, pp. 17-18.

being established – either because the child leaves the placement or because the placement is forced to give up. Moreover, 15% experience other forms of instability such as planned changes in the placement.”³³⁸

Another study implemented by the National Social Appeals Board revealed that there were major mistakes made by local authorities in two thirds of cases concerning alternative care:

“These mistakes consist primarily in local authorities either wholly failing to carry out the obligatory §50 [*i.e. Section 50*] investigations of the child’s overall situation, or carrying out these investigations unsystematically, inadequately and without inclusion of the child in the investigative process.”³³⁹

In order to redress these challenges and gaps, the National Council for Children has recommended to improve the training of professionals and management in local authorities, placement homes and other institutions for children. The National Council recommended further that more attention be given to the involvement of the child and her or his views, and that investigations into a child’s situation could generally be initiated without the consent of the child’s parents or guardians. The consent of the parents or guardians is currently required for investigations into matters covered by the Social Services Act §50 and §51 [*i.e. Sections 50 and 51*].³⁴⁰

The development of a care plan for children in alternative care in **Finland** is provided for under the Child Welfare Act. The Act regulates under which conditions a child becomes a client of child welfare. There are obligations to assess the child’s specific needs for child welfare measures within a prescribed period of time. Once a child has become a client of child welfare, the Act provides that a care plan shall be developed for the child and the family, together with the parties concerned, to plan for the specific support they need. The care plan has to be revised and adjusted periodically if and as appropriate.³⁴¹

The Child Welfare Act provides that a plan must be developed not only for children in placement but for every child who is a client of child welfare, except where the need for child welfare is only of temporary nature for providing advice and guidance or when the assessment of the child’s situation reveals that there is no need for the child to be a client of child welfare. This client plan must be developed and reviewed in cooperation with the child

³³⁸ Egelund, T. and K. Vitus, *Sammenbrud i anbringelser af unge. Risikofaktorer hos de unge, forældre, anbringelsessteder og i sagsbehandlingen*, SFI – The Danish National Centre for Social Research, 07:24, 2007. Cited in: National Council for Children, *Report to the UN Committee on the Rights of the Child, Supplementary Report to Denmark’s 4th Periodic Report*, May 2009, accessed from

<http://www.boerneraadet.dk/files/Brd.dk%20Filbibliotek/PDF%20FILER/EKSTERNE%20RAPPORTER/BRD%204.%20Suppl.%20Rapp.%20til%20FN%20-%202009%20-%20UKversion.pdf> on 18 May 2015, p. 17.

³³⁹ The National Social Appeals Board, *Ankestyrelsens praksisundersøgelser. Anbringelse af børn og unge (The National Social Appeals Board Practice Studies: Placement of children and youth)*, January 2008. Cited in: National Council for Children, *Report to the UN Committee on the Rights of the Child, Supplementary Report to Denmark’s 4th Periodic Report*, May 2009, accessed from

<http://www.boerneraadet.dk/files/Brd.dk%20Filbibliotek/PDF%20FILER/EKSTERNE%20RAPPORTER/BRD%204.%20Suppl.%20Rapp.%20til%20FN%20-%202009%20-%20UKversion.pdf> on 18 May 2015, p. 17.

³⁴⁰ National Council for Children, *Report to the UN Committee on the Rights of the Child, Supplementary Report to Denmark’s 4th Periodic Report*, May 2009, accessed from

<http://www.boerneraadet.dk/files/Brd.dk%20Filbibliotek/PDF%20FILER/EKSTERNE%20RAPPORTER/BRD%204.%20Suppl.%20Rapp.%20til%20FN%20-%202009%20-%20UKversion.pdf> on 18 May 2015, pp. 17-18.

³⁴¹ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from

http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 18 May 2015, par. 183.

and her or his custodian. If considered necessary, the development and review of the plan is done also with the involvement of the child's other legal representative, the parent, another person responsible for the child's care and upbringing or a person close to the child, as well as any other party closely involved in the child's care (Section 20(1) and (2), Child Welfare Act).³⁴²

In **Poland**, the care and education centres prepare a child assistance plan in cooperation with the family assistant. The centres are responsible for the implementation of the plan. The plan shall enable the contacts between the child and her or his parents and other close persons, unless a court has established that these contacts would not be in the best interests of the child. The plan is ultimately aimed to contribute to the family reintegration and prepare the child's return to the family, wherever this is in the best interests of the child. The plan determines the delivery of services and assistance for the child, including with regard to access to education, therapy and healthcare.³⁴³

Regular and appropriate contact between the child and the family of origin

The placement of a child in alternative care has, in many cases, the purpose of removing the child from a situation of imminent risk or danger and ensuring the child's safety while the situation is further assessed and a durable solution is being identified. This is particularly the case when the child has been exposed to, or is at risk of, neglect, violence or abuse in the home. In some cases, it might be clear from the moment of the removal that the child requires a permanent placement in alternative care. In other cases, the social services might wish to place the child in emergency or temporary care and explore the possibilities for family reunification. In both case scenarios, the child and the birth parents have generally the right to remain in contact and to develop their relations except when this would not be in line with the best interests of the child. Involving the child's birthparents or caregivers is therefore an imperative for all decision making processes from the delivery of support services and family assistance, the decision about removal of the child and placement through to the care planning and considerations for family reunification.

Some countries have introduced family-group conferences in order to involve the parents of the child in care and other relatives actively in decision making processes concerning the child's placement. When children are placed in institutions, it is of utmost importance that the responsible authorities actively involve the child's parents and other family members and facilitate the contact in line with the best interests of the child. Parents might feel disempowered and refrain from seeking the contact themselves when there are no clear structures and communication on their contact and involvement.³⁴⁴

³⁴² Council of Europe, *Child and Youth Participation in Finland, A Council of Europe policy review, Building a Europe for and with Children*, 2011, pp. 84-86.

³⁴³ CBSS Data Survey, February 2015, Response from Poland.

³⁴⁴ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 113.

When there are allegations of abuse or violence in the home, it can still be in the best interests of the child to maintain contact with the suspected parent while contact with the other parent or family members should generally be maintained. Some countries have made good experiences with offering 'neutral spaces' where the child, the parent(s) and family members can meet and interact under supervision. Such supervised contact enables the child to maintain family relations, while it also offers an opportunity for the social services or competent authorities to observe the interaction and gather evidence from the observation, while guaranteeing the child's safety. Ensuring that contact is not interrupted is also responding to the fundamental right of the parent in cases where allegations turn out to be unfounded.³⁴⁵

In **Denmark**, the Care Placement Reform acknowledges the fundamental importance for the child and her or his parents and relatives to remain in contact and develop their relationship also during placement. The child has a right to see her or his parents, wherever this is not contrary to the best interests of the child. The Reform aimed, among others, to strengthen the considerations given to the involvement of the family in placement decisions and alternative care and the maintenance of family relations during placement. When social services assess a child's situation in order to determine the best interests of the child with regard to service provision and possible placement in alternative care (the so-called 'Section 50 Examination' under the Social Services Act), they have to give due consideration to the child or young person's relations. The assessment has to describe in detail the relations of the child or young person.

On that basis, the local authority has to decide about the access of persons from a child's network wherever this is considered to be in the best interests of the child and to provide support in order to enable access and contact. The local authority has to ensure that the parents of a placed child are informed regularly on the child's daily life and activities and it has to support the development of a positive relationship and a stable cooperation between the parents, the place of care and the responsible authorities. The objective of this positive and proactive engagement is to foster an understanding of the shared objective to ensure quality care for the child and enable family reunification where possible. Working towards this objective in partnership with the child and the parents and other persons involved is particularly important when the parent-child relationship and the placement decision are perceived as a cause of conflict between the various parties involved. Conflicts between parents and the alternative care providers should be mediated and solved as they can affect the child or young person in care in a negative way. The knowledge and resources offered from within the child's family and social support network are critical for the child's further development and the potential process of family reunification. The local authorities have a margin of action in deciding which methods to use for family involvement as for instance

³⁴⁵ See for instance: Saini, Michael, Melissa van Wert and Jacob Gofman, Parent-child Supervised Visitation Within Child Welfare and Custody Dispute Contexts: An exploratory comparison of two distinct models of practice, *Children and Youth Services Review*, Elsevier, Volume 34, Issue 1, January 2012, pp. 163–168, accessed from <http://www.sciencedirect.com/science/article/pii/S0190740911003598> on 20 May 2015. Pienperheydistys ry, *Child Contact Centre – Tapaamispaiikka*, Helsinki, 2015, accessed from <http://www.pienperhe.fi/single-parent-association/child-contact-centre-tapaamispai/> on 20 May 2015. Government of Norway, Supervised Contact Visits, Protective supervision and supportive supervision, last update, 27 January 2015, accessed from <https://www.regjeringen.no/en/topics/families-and-children/innsiktsartikler/bosted-og-samvar/foreldretvister/domstolsbehandling-av-foreldretvister/samvar-med-tilsyn/id2076319/> on 20 May 2015.

family consultations or network meetings. (Care Placement Reform Act No. 1442 of 22 December 2004).³⁴⁶

While the Care Placement Reform has been welcomed specifically for the way in which it strengthened the right of the child to see her or his parents while in placement, the **Danish** NGO Reporting Group for the Convention on the Rights of the Child noted that it would be important to legislate clearly that a child cannot be forced to meet with her or his parents against the child's will.³⁴⁷

The **Finnish** Child Welfare Act obliges local authorities to support the continued communication and contact between a child placed in alternative care and the child's biological parents. The communication between the child and the parents must be defined and agreed upon in the development of the care plan, which has to be revisited at least once a year in cooperation with the child and the parents to the extent possible, and giving due regards to the child's opinion. The contact and communication must be maintained in a way that is not harming the child and in line with the child's best interests. Should there be disagreement about the ways and frequency of the child-parent communication and if the parties cannot reach an understanding, the social worker responsible for the child has to make a decision on the extent and forms of communication. The social worker has a right to limit the child-parent interaction. Such restrictions are considered lawful when the communication with the biological parent might endanger the child's life, health, development or safety, when it might put the purpose of the child's placement at risk, or when restricting the communication is necessary for the safety of any of the parties involved, including other family members, foster parents or staff in the placement location. Decisions on the restriction of contact are taken for a fixed period of time, a maximum of one year, and have to be reviewed and renewed if necessary. The decision can be appealed to the Administrative Court and the Supreme Administrative Court. As of the age of 12 years old, children have a right to object themselves to be in contact with their parents and the same applies for younger children who are considered to have the maturity to judge upon and decide these matters.³⁴⁸

In **Estonia**, a child who has been separated from one or both parents has the right to maintain personal relations and contact with both parents and other close relatives, unless such relations and contacts would harm the child and not be in line with the child's best interests. The Child Protection Act of 2014 provides in Article 34 that local governments shall provide for the continuity in raising a child when a child is placed in alternative care, including by taking into account the ethnic, religious, cultural and linguistic origin of the child. The child protection official in the local government is required to support the child to maintain relations with the family of origin if possible, and siblings may be separated in placement only as an

³⁴⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Fourth period report of States parties due in 2008, Denmark, CRC/C/DNK/4, 22 January 2010, par. 151-155.

³⁴⁷ *Supplementary NGO Report to the Danish Government's 4th Periodic Report to the UN Committee on the Rights of the Child*, Written by The Rights of All Children, Amnesty International Danish Section, The Joint Council for Child Issues, Children's Welfare in Denmark, Disabled Peoples Organisation Denmark, DUI – Leg og Virke, Save the Children Denmark, Save the Children Youth Denmark, The Danish Red Cross Youth, The Danish National Committee for UNICEF, May 2009, English translation June 2010, pp. 2-3.

³⁴⁸ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth reports of States parties due in 2008, Finland, CRC/C/FIN/4, 26 May 2010, par. 221-223.

extreme measure in situations where their staying together would considerably endanger their rights or well-being.³⁴⁹

In **Sweden**, placements are ordered as a general rule with the understanding that they should be of temporary nature and that the objective of the care and social services provided is eventually the family reintegration. The law provides for the maintenance of contact between children, their parents and relatives, unless this would be contrary to the best interests of the child. As the family reunification can be a lengthy process, the law excludes that a child in alternative care be adopted without the consent of the birth parents. In the majority of placements, the birth parents maintain their legal 'custody' (parental responsibility) over the children throughout the entire duration of a placement and up to the point where the child ages out of care.³⁵⁰

Preparation and contract for family reintegration

The removal of a child from the birth family and placement in alternative care constitutes a major disruption in the life of the child and family. Even if placement decisions are inherently aimed at safeguarding the child, improving the situation and initiating a process for family reunification, these events are often perceived as an invasion of the privacy of the family life. This perception itself bears a significant risk of harm. It is therefore essential that the care planning and decision making process is designed and implemented in a way that minimises the disruptive experiences for the child and the family, promote continuity and stability and work towards clearly defined objectives.

In **Denmark**, the Care Placement Reform aimed to promote continuity of care for children placed in alternative care, regardless of whether placements were ordered with or without the parents' consent. The reform introduced a provision in the Social Services Act that voluntary placement may be continued for up to six months after the parents revoked their consent to the placement (Section 60, Social Services Act). When a child is placed without the parents' consent, the local Child and Youth Committee has the competence to decide to suspend the child's return to the parents for up to six months, even in cases where there is no formal basis on which to sustain a placement but where the local committee considers that there are threats to the best interests of the child.³⁵¹

In **Estonia**, the placement of a child in substitute home service is generally considered to be of temporary nature. The Social Welfare Act provides that the local government of the municipality or city where the child has her or his place of residence is responsible to provide assistance to the family in order to establish the conditions that are necessary for family reunification (Article 25). The Child Protection Act also provides that local governments are mandated to provide services to the child in placement and her or his family of origin (Article

³⁴⁹ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 168-182. Information provided by the Ministry of Social Affairs, Estonia, April 2015.

³⁵⁰ Höjer, Sallnäs, & Sjöblom, 2012. Backe-Hansen, E., et al., Out of Home Care in Norway and Sweden – Similar and Different, *Psychosocial Intervention*, Elsevier, 22(2013) 193-202, p. 198.

³⁵¹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Fourth period report of States parties due in 2008, Denmark, CRC/C/DNK/4, 22 January 2010, par. 160.

17).³⁵²

In **Germany**, the alternative care practice has been critiqued for the strong priority attached to parental 'custody' (parental responsibility) rights, which might reduce the continuity of care and lead to negative implications for the child's well-being and development during placement. When a child lives permanently in a foster family due to protection reasons and has developed close ties and positive relationships with the foster family, the parents maintain nonetheless the right to remove the child from the foster family even after years of placement. The objective of ensuring continuity in a child's upbringing, as afforded under CRC Article 20.3, is therefore not guaranteed effectively in practice. The National Coalition for the Implementation of the Convention on the Rights of the Child in **Germany** noted a legislative gap and recommended that the child's need and right to form close and stable relations are considered with due priority when the best interests of the child are being assessed in matters of placement and family reunification.³⁵³

Research findings from Germany suggest that in the majority of child abuse and neglect cases, which result in 'outpatient services' or fulltime placement of the child in alternative care, the difficulties in the family are not being addressed successfully before the child is reunified with the family. In consequence, it is not uncommon that new child protection interventions are required within few years after the first incident. Among children who were removed from their birth families and who grew up in foster families, a significant proportion have difficulties at school, demonstrate signs of psychopathology and children with mental health problems do not consistently receive treatment.³⁵⁴

In **Norway**, the Child Welfare Act (Section 4-16) entrusts the child welfare services with the responsibility to offer services for the parents after a child has been removed from the family home. The child welfare services are responsible to monitor the development of the child and the parents. They have to offer follow-up services and guidance to the parents. These services have to be offered promptly after the care order was issued, if the parents wish so. As the parents may have complex needs for support, the child welfare services are held to set the parents in contact with service providers from other agencies, according to their needs. The objective of this service is to enable the parents to take care of their child again and to support them in the process towards family reintegration. In cases where the child's return to the family is not an option, the services may nonetheless enable the continued contact between the child in placement and the birth parents. Overall, the services aim also to generally improve the parents' situation and living conditions and to empower them to lead an independent live without necessitating social service support in the future.³⁵⁵

³⁵² United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 168-182. Information provided by the Ministry of Social Affairs, Estonia, April 2015.

³⁵³ National Coalition for the Implementation of the UN Convention on the Rights of the Child in Germany, *Supplementary Report of the National Coalition to the Third and Fourth Report of the Federal Republic of Germany to the United Nations pursuant to Article 44, para. 1(b) of the Convention on the Rights of the Child*, undated, p. 22.

³⁵⁴ Galm, Beate and Regine Derr, *Combating Child Abuse and Neglect, Child protection in Germany, National Report*, Deutsches Jugendinstitut, Wissenschaftliche Texte, 2011, p. 32.

³⁵⁵ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties Under Article 44 of the Convention, Fourth periodic report of States parties due in 2008, Norway, CRC/C/NOR/4, 11 May 2009, par. 236-238.

Foster care

The availability of a sufficient number of foster families who are prepared, trained and supported to provide quality care to children in need of placement is indispensable for an alternative care system. In order to make the foster care system functional, operational and reliable, states need to invest in building up a pool of accredited foster families and viable matching procedures to identify a suitable foster family for each child. Foster families requires special preparation, support and counselling before, during and after placement and the quality of care they provide should be monitored closely as the safety, well-being and development of the child placed in foster care. National associations of foster carers can play an important role in representing the views and interests of foster carers, including their specific experience within the alternative care system and recommendations for improvement.

Consistent and reliable support for foster carers is essential to ensure stability of placement and quality care, especially for foster families caring for children with special needs. Support includes fiscal alleviations and/or financial remuneration. The financial support granted by the state should be adequate to the needs of the child and foster carers while preventing improper financial gain.³⁵⁶

Foster care services fall under the responsibility of regional or local authorities. They are responsible for ensuring training and screening of foster parents, keeping a registry of foster families (except in **Denmark**, where this registry is kept nationally) and monitoring the quality of care in foster families. The practical organisation and provision of foster care is often outsourced to private service providers or civil society organizations. Foster parents are subject to vetting to ensure they have no criminal record and are suitable for their roles as caretakers.³⁵⁷

As evidenced by the EU-wide mapping conducted by the European Union Agency for Fundamental Rights, foster parents receive reimbursements or salaries for their services as well as special allowances and in kind support in all EU Member States.³⁵⁸ The extent of these payments and allowances differs however between the **CBSS Member States**. It is a common practice that foster parents sign a contract with the service provider, i.e. the competent state authority, a private institution or civil society organisation. This contract commits the foster parents to their roles and responsibilities as caretakers. It is considered a good practice when foster parents commit – as part of the contract or other agreement – to contribute to the implementation of the child’s care plan. The close involvement of foster parents is important for quality care as they are partners who participate in care conferences and review meetings and support actively the reintegration of the child.

³⁵⁶ Recommendation provided by the Ministry of Foreign Affairs, Russian Federation, 29 May 2015.

³⁵⁷ European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Vetting of foster families and residential care personnel*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/vetting-foster-families-on-15-july-2015>. A comprehensive report on FRA’s research is planned for publication in early 2016.

³⁵⁸ European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Vetting of foster families and residential care personnel*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/vetting-foster-families-on-15-july-2015>. A comprehensive report on FRA’s research is planned for publication in early 2016.

In **Lithuania**, the basic requirements for prospective guardians of children in alternative care afford that these need to be over 21 years old, legally capable and not suffering from chronic mental or other diseases, alcohol or drug abuse. Preparatory training for prospective guardians is offered in a 30-hour course. Participation in the training is mandatory for guardians who are not related to the child but is not required for close relatives to the child who act as guardian, such as adult siblings or grandparents. The **Lithuanian** Human Rights Group and other organisations involved in the subsidiary reporting to the Committee on the Rights of the Child recommend that the training becomes mandatory for all prospective guardians in order to raise the quality of care also in intra-family placement.³⁵⁹

The Committee on the Rights of the Child noted in its 2013 Concluding Observations to Lithuania that there were still too little foster families available to care for children deprived of parental care and that the support for foster parents needed to be scaled up in order to ensure quality care.³⁶⁰

The PRIDE training programme has been rolled out in **Lithuania** since 2008 to train prospective foster and adoptive parents. The programme was adapted to the **Lithuanian** context and the relevant laws, policies and practice. The programme offers a broad framework for the training and evaluation of foster and adoptive parents and guides the authorities in offering qualified support. The training programme addresses a range of themes such as the needs of children deprived of parental care. It helps prospective parents to assess their own level of preparedness and possibilities for taking on the responsibilities of foster or adoptive parents and to decide whether they will be able to satisfy the needs of a foster or adoptive child. The programme was introduced as part of the Strategy of Reorganisation of the System of Child Care (Fosterage) and the Plan on Implementing Measures 2007-2012. Methodological guidebooks and visual training materials were developed for joint training programmes for prospective guardians (caretakers) and adoptive parents. Initially, a train the trainers course qualified 16 social service employees who subsequently rolled out the training of further trainers to spread the programme throughout the country.³⁶¹

In **Iceland**, the PRIDE training and qualification programme has been in use since 2004. The Governmental Agency for Child Protection complements this programme by offering courses focusing on special themes in order to prepare prospective foster parents for their roles and responsibilities.³⁶²

The Committee issued a recommendation also to **Norway** to make more foster families available as children sometimes have to wait for placement. The trend in policy and practice

³⁵⁹ Human Rights Monitoring Group et al., *Rights of the Child in Lithuania, NGO Report for the UN Committee on the Rights of the Child on the 3rd and 4th periodic reports by the Government of Lithuania*, 62nd-63rd Pre-sessional Working Group, 8-12 October 2012, August 2012, p. 11.

³⁶⁰ United Nations Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of Lithuania, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013), CRC/C/LTU/CO/3-4, 30 October 2013, par. 33-34.

³⁶¹ United Nations Committee on the Rights of the Child, Consideration of the reports submitted by States parties under article 44 of the Convention, Consolidated third and fourth periodic reports of States parties due in 2009, Lithuania, CRC/C/LTU/3-4, 1 March 2012, par. 126-128.

³⁶² United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth reports of States parties due in 2009, Iceland, CRC/C/ISL/3-4, 29 November 2010, par. 94.

to prioritise family-based care over institutional care has increased the demand for foster families. While this is a positive development, its impact for quality care can only be achieved when a sufficient number of foster families are available to receive children in need of placement and that the support structures are scaled up accordingly: “The Committee notes with regret that not all children in foster homes have someone appointed for their supervision and that supervisors may not be sufficiently prepared for their tasks. (...) The Committee is further concerned that the Child Welfare Services responsible for assistance to families and children at home and for placement in alternative care, are severely underfunded and have limited capacity to do preventive and follow-up work when children are in foster families or homes.”³⁶³

The Child Welfare Act provides that child welfare services shall assess whether a child can be placed in foster care within the extended family or close network. The child welfare services shall give the parents an opportunity, to the extent possible, to express their views on the selection of a foster family for the child, and their views shall be taken into account for the placement decision. When selecting a foster home, the child welfare services are held to decide for a solution that is most conducive to the child and helps the child feel comfortable and express her or his views without entering into a loyalty conflict with the birth parents or family.³⁶⁴

Since 2011, the Government of **Poland** has intensified its support to the development of foster care with a view to promoting more placements in families, including specifically professional foster families. These initiatives were combined with strengthened social work for the prevention of family separation and for more intense work with the birth parents of children in placement. The government committed to allocate communal family assistants at the local level responsible for delivering social services for families and support dysfunctional families and families at risk. The family assistant are to be supported by inter-disciplinary teams at the communal level.³⁶⁵

In the **Russian Federation**, the Presidential Decree No. 1688 of the 28 December 2012 ‘On certain measures to implement the state policy in the sphere of protection of orphan children and children left without parental care’ regulates alternative care for children, with a priority attached to family-based care. The Decree regulates provides for legal, organizational, psychological and pedagogical support for prospective foster or adoptive parents. The Decree assigns the responsibility for financial support to foster or adoptive parents and other caretakers to the constituent territorial entities of the Russian Federation. The amount of monthly payments and benefit schemes for adoptive and foster parents, child guardians (trustees) and other caretakers differs by region.³⁶⁶

³⁶³ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties Under Article 44 of the Convention, Concluding Observations, Norway, CRC/C/NOR/CO/4, 3 March 2010, par. 34.

³⁶⁴ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties Under Article 44 of the Convention, Fourth periodic report of States parties due in 2008, Norway, CRC/C/NOR/4, 11 May 2009, par. 228-231.

³⁶⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 491-492.

³⁶⁶ *Family Placement of Orphan Children and Children Left Without Parental Care in the Russian Federation: Legal basis and regional experience*, undated, pp. 1-3.

Foster families have to be registered and authorized by entering into an agreement with the guardianship or trusteeship body for a pre-determined period of time, according to the needs of the child for placement and care. The territorial entities of the **Russian Federation** offer preparatory training for foster parents in order to prepare them for the psychological, pedagogical and legal aspects of their role as foster parents. A federal government agency is responsible for defining and developing the content of the preparatory training programme for prospective foster parents and for determining the forms of certification of foster parents.³⁶⁷

National adoption

The adoption of a child deprived of parental care is considered a viable option when the child's parents are not alive or when all possibilities for family reunification have been exhausted and a final decision has been taken that the child cannot return to her or his biological family. Traditionally, adoption implies that all contacts with the child's birth family are severed permanently, until the child turns 18 years old. For many children deprived of parental care, the placement in stable and permanent family-based care is of fundamental importance. At the same time, even when family reunification is not considered an option, there may still be interests on the side of the child and the parents to maintain a certain level of contact and communication. In order to bridge this dilemma, some countries have introduced the model of 'open adoption' which allows for the child to be placed permanently in a family while maintaining contact with the birth family.

Children who are adopted generally have the right to know about the adoption, also when the adoption took place at a very young age. This forms part of the child's right to information and to know about her or his origins. The so-called practice of 'secret adoption', which hides information about the adoption from the child, is considered to pose a risk to the stability of adoption and the adopted child might develop problems with her or his personal identity while growing up and in adulthood.³⁶⁸

Prior to adoption, the prospective adoptive parents need to be screened, trained and matched. Support to adoptive parents and the adopted child is important to ensure quality care, including follow-up support and monitoring of the child's safety, well-being and development in the adoptive family.

In **Estonia**, national and inter-country adoption are regulated primarily under the Family Law Act (Chapter 11), in accordance with the principles and procedures established under the Child Protection Act and the Code of Civil Court Procedures. Adoption may take place only in the best interests of the child. Decision over adoption are to be made by a county or city court of first instance, following the application of the person who wishes to adopt a child. The court hears the opinion on the case of the county government, which acts as the child protection state authority in adoption cases. The County Government is responsible for

³⁶⁷ *Family Placement of Orphan Children and Children Left Without Parental Care in the Russian Federation: Legal basis and regional experience*, undated, pp. 1-3.

³⁶⁸ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 96-97.

preparing and compiling the case information for the court and participates in the court hearing. The court decision has to be made with due consideration to the best interests of the child. When the adoption is approved, it establishes permanent relations between the adoptive parents and the child with all related rights and duties (Family Law Act, Article 159). On the basis of the court decision on adoption, the child's birth registration is amended accordingly.³⁶⁹

The county government shall explain the persons wishing to adopt their rights and the legal consequences of adoption. In the course of the preparation of adoption, a county government is required to bring the child into contact with the adoptive parent; and explain to the child the circumstances relating to the adoption. This information has to be provided in the presence of the child's legal representative, in a language and manner that the child understands. The county government is required to examine the living conditions at the place of residence of the person wishing to adopt and verify the suitability of the conditions for raising a child. Prospective adoptive parents are held to participate in a training programme prior to adoption.³⁷⁰

Within the county government, a child protection worker of the social and health department is responsible for assessing the case in order to determine the possibility, necessity and lawfulness of adoption. The child protection worker assesses the situation of the child and her or his biological parents or legal guardians, and seeks their consent to the adoption if applicable. The child's consent is sought when the child is at least 10 years old. The opinion of children under 10 years of age is also assessed depending on the maturity of the child (Family Law Act, Article 151). During this assessment process, the child protection worker checks also the psychological health and financial situation of the prospective adoptive parents and their preparedness to raise the child, makes home visits and advises the persons involved on the adoption.³⁷¹

In preparation for adoption in **Estonia**, the prospective adoptive parents should participate in the PRIDE training programme and the regional child protection worker should conduct home visits and interviews to prepare the family for their role as adoptive parents. Post-adoptive services are not offered as a special set of services but within the mainstream family support services available to all families with children. In addition, the NGO Oma Pere offers specialized services for adoptive families in accordance with an agreement with the Ministry of Social Affairs. These support services include, for instance, family counselling and group sessions, self-support groups, parenting training, the designation of a support person for the child or the family. Services for all families with children and child protection services are provided by the local government, whereas the specific counselling or group counselling for parents and families are offered by the regional child protection worker from the county level. The coordination and arrangement of national adoptions falls under the responsibility of the

³⁶⁹ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 209-220.

³⁷⁰ Information provided by the Ministry of Social Affairs, Estonia, April 2015.

³⁷¹ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 209-220.

county administration. Every county administration has one child protection worker who is specifically responsible for adoption matters.³⁷²

An adopted child who has become an adult, or an underage adopted child with the consent of the adoptive parent, has the right to obtain information from the county government concerning the adoption, her or his biological parents, grandparents, brothers and sisters, if these persons have granted consent to the disclosure of the information. If consent for communication of information is not granted, a county government shall provide information concerning these persons to the extent and in a manner which does not enable identification of the biological parents, grandparents, brothers or sisters of the adopted child who have not granted consent. If an adopted child wishes to obtain information concerning her or his underage biological brother or sister adopted by another family, prior consent of the adoptive parent is required for requesting the consent from the brother or sister (Family Law Act Article 164).³⁷³

The **Estonian** law does not impose any age limitations on the right of a person to access the documentation about her- or himself. Children therefore have the right to know about their origins also when they have been adopted and do not need to wait until they turn 18 years old. The responsible social worker at the county level is mandated to help adopted children or adults to find out about their origins. Every person can also directly contact the Registry Office or the first instance court to obtain this type of information or the central authority for inter-country adoptions. The information about the origin of adopted children has to be kept within the registries for 75 years.³⁷⁴

If an adoption fails, the child is considered a child deprived of parental care. In these cases, the local government and the county social worker have to find a new placement for the child and provide services as appropriate. In cases of inter-country adoption, the authorities of the child's country of origin are to be informed about the failure of adoption.³⁷⁵

The most common form of adoption in **Germany** is within the family, by relatives or step-parents. It makes up for approximately half of the national adoption cases. Since the mid-1990s, the numbers of adoptions have decreased. With 4,201 cases registered in 2008, adoption is one of the less prevalent forms of alternative care. This trend is partially explained by the evolving legal framework in family matters and attitudes with regard to adoption. Recent law reform has gradually strengthened the status, rights and responsibilities of step-parents vis-à-vis their step-children, as for instance with regard to access rights (Civil Code, Section 1685, subs. 2). There is also a growing practice of courts to order that a child remains with a step-parent in case of separation (Civil Code, Section 1682). In addition, adoption by step-parents has increasingly been considered in a critical way as it used to serve more for

³⁷² European Network of National Observatories on Childhood, *Estonia, Form for the compilation of good practices in the post adoption phase for the Seminar on post adoption Art.9 c) Hague Convention*, CHILDONEUROPE Seminar on Post-Adoption, Florence, 26 January 2006.

³⁷³ Information provided by the Ministry of Social Affairs, Estonia, April 2015.

³⁷⁴ European Network of National Observatories on Childhood, *Estonia, Form for the compilation of good practices in the post adoption phase for the Seminar on post adoption Art.9 c) Hague Convention*, CHILDONEUROPE Seminar on Post-Adoption, Florence, 26 January 2006.

³⁷⁵ European Network of National Observatories on Childhood, *Estonia, Form for the compilation of good practices in the post adoption phase for the Seminar on post adoption Art.9 c) Hague Convention*, CHILDONEUROPE Seminar on Post-Adoption, Florence, 26 January 2006.

legitimising the role of a step-parent rather than being primarily driven by considerations for the best interests of the child.³⁷⁶

The **Icelandic** Adoption Act No. 130/1999 was amended in 2006 in order to take into account the equality of the legal status of homosexuals. The amendment introduced the same rights to adopt children for heterosexual and homosexual couples. Regardless of the sexual orientation, each case is evaluated individually in order to determine whether adoption is in the best interests of the child concerned. As of 2007, adoptive parents are entitled by law to receive financial support for the adoption.³⁷⁷

The **Latvian** Law on the Protection of the Rights of the Child (Article 31) supports adoption as a measure to ensure a family environment for a child deprived of parental care. Since 2004, the Ministry for Children and Family Affairs, succeeded by the Ministry of Welfare since 1 July 2009, has promoted foster care and adoption as part of its broader efforts to reduce the number of children in institutions. The Ministry succeeded to achieve an increase of national adoptions and a parallel decrease of inter-country adoptions.

According to provisional data in 2008, a significant proportion of the adoptable children who were living in institutions had a disability or serious health problems. On 1 April 2015, among 1,306 adoptable children in alternative care (foster family, guardian's family or institution), 442 children had serious health problems. In order to support the adoption of these children, it is particularly important that psychological and financial support services are available to adoptive families, including medical and psychological follow-up after the adoption and general awareness raising and sensitisation campaigns supporting national adoption of children with special needs. The Cabinet of Ministers' Regulation No. 111 on the Procedure of Adoption introduced mandatory follow-up to national adoptions. The Orphans' Courts are responsible for ensuring that follow-up services are provided.³⁷⁸

In 2010, the majority of children listed for adoption in **Lithuania** were above 10 years old and few families are available to adopt children at that age. The prolonged adoption process is largely due to the fact that parental authority is rarely limited to the point that a child would be considered adoptable.³⁷⁹

The Committee on the Rights of the Child expressed concern about the often lengthy adoption process, limited cooperation of authorities and institutions, and administrative obstacles that might be perceived as a burden by prospective adoptive families and dissuade them from pursuing the process for adoption. Children do not always receive sufficient information and support during the adoption process. The Committee recommended that these issues be addressed and that effective procedures facilitate the adoption process while

³⁷⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2009, Germany, CRC/C/DEU/3-4, 11 September 2012, par. 147-149.

³⁷⁷ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth reports of States parties due in 2009, Iceland, CRC/C/ISL/3-4, 29 November 2010, par. 118-120.

³⁷⁸ United Nations Human Rights Council, Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Najat M'jid Maalla, Mission to Latvia, A/HRC/12/23/Add.1, 13 July 2009, par. 67.

³⁷⁹ Human Rights Monitoring Group et al., *Rights of the Child in Lithuania*, NGO Report for the UN Committee on the Rights of the Child on the 3rd and 4th periodic reports by the Government of Lithuania, 62nd-63rd Pre-sessional Working Group, 8-12 October 2012, August 2012, p. 11.

at the same time ensuring proper screening of prospective adoptive parents. Children should be informed, consulted and supported at each step of the adoption process.³⁸⁰

In **Poland**, the law provides that adoption can only take place for the benefit of the child (Art. 114 Family and Guardianship Code - FGC). Prospective adoptive parents need to be adults who have full legal capacity and the required personal qualifications for caring for the adoptive child. There should be a sufficient age difference between the adoptive parent and the child. As of the age of 13 years old, the child's consent is mandatory for adoption to take place (Art. 118 § 1 FGC). Younger children have a right to be heard by the competent court, according to their age and maturity (Art. 118 § 2 FGC). In exceptional cases, when the child is not capable of giving her or his consent, the guardianship court can adjudicate in favour of the adoption without hearing the child or without her or his consent. This option exists also when the court's review of the relation between the adoptive parent and the child reveals that the child believes to be the child of the adoptive parent, when the requirement of obtaining the child's consent or hearing the child would be considered contrary to the interests of the child (Art. 118 § 3 FGC). The child's birth parents have to give their consent to the adoption, except where they have previously been deprived of parental authority or when the parents are unknown or contacting them is impossible (Art. 119 § 1 FGC). Considering the principle that adoption shall be primarily for the best interests of the child, the adoption can be adjudicated by a court even when the birth parents do not consent, provided the court comes to the conclusion that the adoption is in line with the best interests of the child (Art. 119 § 2 FGC).³⁸¹

Adoption centres have been established with the mandate to carry out national adoption procedures. The centres are regulated by the Law of 9 June 2011 on family support and foster care system.³⁸²

In the **Russian Federation**, national adoption is considered the priority when a child has to be placed in alternative care. Adoption is possible for children under 18 years of age and shall safeguard the opportunities for the child to enjoy the full development of their physical, mental, intellectual and moral development. The law prohibits that siblings are split up in adoption, except where this would be in the best interests of the children.³⁸³ The Committee on the Rights of the Child notes that the national law did not provide for the right of adopted children to know their origins and identity and recommended that this gap be addressed through law reform.³⁸⁴

In **Sweden**, adoption without the consent of the child's birth parents is not possible. The aim of the placement of a child in alternative care is eventually that the child be able to return to

³⁸⁰ United Nations Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of Lithuania, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013), CRC/C/LTU/CO/3-4, 30 October 2013, par. 35-36.

³⁸¹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 447-459.

³⁸² United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 447-459.

³⁸³ *Family Placement of Orphan Children and Children Left Without Parental Care in the Russian Federation: Legal basis and regional experience*, undated, pp. 1-3.

³⁸⁴ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: Russian Federation, CRC/C/RUS/CO/3, 23 November 2005, par. 40-43.

her or his parents and that the parents are supported to fulfil their childrearing and caretaking role. In practice, experience shows that family reunification can take a long time and that many children in alternative care remain in placement for extended periods of time and sometimes even until ageing out of care. Nonetheless, the birth parents maintain their legal 'custody' (parental responsibility) of the child and the child cannot be listed for adoption without the parent's consent. These facts have been at the centre of the Swedish national debate around national adoption in for several years. Evidence suggests that the possibility for children to be adopted by their foster parents contributes to the permanency and stability of care and that this can have a significant impact on the child's development. In fact, the Swedish law provides for a possibility to transfer custody from the child's birth parents to foster parents or a permanent guardian, as a measure intended to enhance permanency of care. This option applies to children who have been living in the same foster family for at least three years. During 2011, 22 children and young people were adopted by their foster carers and in 213 cases was the custody transferred from the birth parents to the foster parents or guardian. This practice is however used reluctantly. Foster parents lose the support from social services in caring for the foster child when the child is adopted or when custody is transferred, and this can act as a disincentive for applying this measure. In addition, there are also concerns as to whether the transfer or adoption would negatively impact the relationship with the child's birth parents.³⁸⁵

Inter-country adoption

When placement is not available or not suitable for a child within the country, inter-country adoption might be considered. Although inter-country adoption is considered more beneficial for the child than placement in large-scale residential institutions, trends of growing numbers of inter-country adoption from some countries have been observed critically. The European Expert Group recommended to consider inter-country adoptions as a viable alternative in accordance with the Convention on the Rights of the Child.³⁸⁶ Article 21 of the Convention recognises that "inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin". The Article provides further that the same safeguards shall apply in inter-country adoption as in national adoptions and states shall ensure that inter-country adoption does not result in improper financial gain for any party involved in it.

The Hague Convention No. 33 of 29 May 1993 on the Protection of Children and Cooperation in Intercountry Adoption provides for the subsidiary principle, which affords that inter-country adoption should only take place if a suitable family for the child cannot be found within the country. The Convention promotes the family-principle to underline that family-based care be

³⁸⁵ Backe-Hansen, E., et al., Out of Home Care in Norway and Sweden – Similar and Different, *Psychosocial Intervention*, Elsevier, 22(2013) 193-202, pp. 199-200. United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2007: Sweden, CRC/C/SWE/4, 28 January 2008, par. 128.

³⁸⁶ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 96-97.

prioritised over institutional placements.³⁸⁷

In the Baltic Sea Region, the 1993 Hague Convention on Inter-country Adoption has been ratified by all Member States, with the exception of the Russian Federation. The Convention entered into force on 1 May 1995.³⁸⁸

In **Estonia**, inter-country adoption is regulated by the Family Law Act. In accordance with the Convention on the Rights of the Child, inter-country adoption is considered a last resort for family placement. It is therefore an option, when there are no possibilities to provide the child with alternative care in a family or other type of placement and when a guardian or adoptive parents cannot be identified within the country. When the possibilities for finding a care arrangement for the child in **Estonia** have been exhausted and no family has been found for the child in the country within two months, the option of inter-country adoption can be considered. The guardianship authorities forward the information about the child to the Ministry of Social Affairs, which will arrange for inter-country adoption in accordance with the Family Law Act (Paragraph 165). Generally, the same principles apply for inter-country adoption as for national adoption.

The procedures for inter-country adoption are centralised and under the control of the Ministry of Social Affairs. The Ministry holds information about children for whom national care arrangements cannot be found and on prospective adoptive parents from abroad who wish to adopt an **Estonian** child and who have registered their application with the Ministry. Inter-country adoption can only take place with the consent of the Intercountry Commission under the Ministry of Social Affairs to each case (Family Law Act, Paragraph 165). The central control of the Ministry aims to prevent improper financial gain through inter-country adoption. Private adoptions and adoptions through intermediaries are prohibited. An exception is the inter-mediation of organisations from other countries that are entitled under the law of their countries to arrange for adoptions and that have signed an agreement with the Ministry of Social Affairs. By imposing these conditions, the Ministry aims to ensure effective controls of inter-mediations and safe adoption procedures. In order to be considered eligible for the inter-mediation in inter-country adoptions, agencies from abroad need to present documents that prove their certification as an inter-country adoption agency. In some cases, these agencies are required by the national law of the country where they operate to obtain the permission for inter-mediation in adoptions from **Estonia**. The Ministry of Social Affairs collaborates with the representations of partner countries in Estonia and keeps them informed about new intermediating agencies or organisations.³⁸⁹

³⁸⁷ "Subsidiarity principle: "Subsidiarity" in the Convention means that Contracting States recognise that a child should be raised by her or his birth family or extended family whenever possible. If that is not possible or practicable, other forms of permanent care in the State of origin should be considered. Only after due consideration has been given to national solutions should intercountry adoption be considered, and then only if it is in the child's best interests. As a general rule, institutional care should be considered as a last resort for a child in need of a family." Cited in: Hague Conference on Private International Law, *The Hague Convention of 29 May 1993 on Protection of Children and Co-Operation in Respect of Intercountry Adoption, Outline*, January 2013, accessed from <http://www.hcch.net/upload/outline33e.pdf> on 20 May 2015.

³⁸⁸ See: Hague Conference on Private International Law, *The Hague Convention of 29 May 1993 on Protection of Children and Co-Operation in Respect of Intercountry Adoption, Status Table*, last update: 11 June 2015, accessed from http://www.hcch.net/index_en.php?act=conventions.status&cid=69 on 20 May 2015.

³⁸⁹ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 209-220.

In **Denmark**, the Adoption Act prohibits that children are offered for adoption, except by authorised agencies. It provides that adoption cannot be granted if anyone who has to consent to the adoption pays or receives a fee or another form of consideration, including payments for loss of earnings. The competent authorities are entitled to demand any type of information from any of the parties involved in order to verify whether any fee or other consideration has been paid or received (Adoption Act, Sections 31 and 34, Subsection 2).³⁹⁰

The National Social Appeals Board, Division of Family Affairs, acts as the central authority for inter-country adoption. A single accredited private organisations has been authorised to inter-mediate in adoptions to **Denmark** from abroad.³⁹¹

The Committee on the Right of the Child noted in 2005 that there were high numbers of children in alternative care in **Denmark** and also a high number of inter-country adoptions to **Denmark**. It recommended to revisit the alternative care practice from this perspective with a view to increasing the number of national adoptions. With the reform of the adoption regulations in 2009, the Government of **Denmark** aimed to increase national adoptions by enabling that children be adopted even without the consent of the child's biological parents in cases where the biological parents are permanently not in a position to take care of the child or to play a positive role in the child's upbringing.³⁹² The rules on adoption without the consent of the child's biological parents were subsequently loosened by a new regulation entering into force on 1 October 2015.³⁹³

Post-adoption services were strengthened through an initiative launched in 2007 that offered free counselling for adoptive families in order to address any problems that might arise after the adoption. The counselling is offered by a specially trained professional and is available for families who have adopted nationally or transnationally. The Government commissioned an evaluation of the initiative in 2010 and decided, on that basis to continue and sustain it as a permanent programme under the Appeals Board. The initiative provides counselling to adoptive families, as well as free education for relevant institutions and professionals.³⁹⁴ A Bill was presented for adoption on 2 June 2015 (LF 187) to legislate for mandatory post-adoption services.³⁹⁵

As of the age of 12 years old, adoption can only take place with the child's consent. Before the child's consent is being sought, the child shall be informed and heard in an interview on the adoption, its consequences and implications. Younger children have a right to be provided with information about the adoption in accordance with the age and maturity of the child and

³⁹⁰ Kofod Olsen, Birgitte, Christoffer Badse and Nanna Margrethe Krusaa, *FRA Thematic Study on Child Trafficking, Denmark*, European Union Agency for Fundamental Rights, undated, accessed from <http://fra.europa.eu/fraWebsite/attachments/Child-trafficking-09-country-dk.pdf> on 18 May 2015, pp. 19-20.

³⁹¹ Information provided by the National Board of Social Services, Denmark, 18 May 2015.

³⁹² NGO Group for the CRC, *State Party Examination of Denmark's Fourth Periodic Report*, 56th Session of the Committee on the Rights of the Child, 17 January – 4 February 2011, p. 9.

³⁹³ Denmark, Law L 530 of 29 April 2015. Information provided by the National Board of Social Services, Denmark, 18 May 2015.

³⁹⁴ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Fourth period report of States parties due in 2008, Denmark, CRC/C/DNK/4, 22 January 2010, par. 250-251. Evaluation of the programme from 2010 available at <https://ast.dk/born-familie/adoption/radgivning-til-adoptivfamilier> accessed on 15 May 2015. CBSS Data Survey, April 2015, Response from Denmark.

³⁹⁵ Information provided by the National Board of Social Services, Denmark, 18 May 2015.

the views of the child shall be taken into consideration to the greatest extent possible.³⁹⁶

Persons applying for the adoption of a child from abroad have to participate in a pre-adoption course. Such courses offer information, training and counselling to prepare the prospective adoptive parents on their roles and responsibilities in caring for a child adopted from abroad. They address the motivations for adoption, the background of children from abroad and the child's feelings, possible reactions of the child to the new situation and the integration of the adoptive child into the family. Adoptive parents are encouraged to inform their child about the adoption and to support the child in relating to her or his own biological and cultural origin.³⁹⁷

When a State Party to the 1993 Hague Convention on Inter-country Adoption has an interest to facilitate inter-country adoption from or to a country that has not ratified the Convention, it is important to introduce relevant legal and procedural safeguards, to prohibit or regulate private adoptions, and to prevent illegal or commercial adoptions. This can be achieved, for instance, by entering into a bilateral agreement with the government of the state concerned and ensuring that the agreement reflects all the standards afforded under the Convention. The Government of **Denmark** has taken this approach with Viet Nam in 2003, as Viet Nam had not yet ratified the 1993 Hague Convention at the time.³⁹⁸

The **Danish** adoption authorities, authorised agencies and interested organisations have initiated a cooperation to define, for the Danish context, what constitutes 'post-adoption services'. This inter-agency initiative aimed to develop a common understanding of what kind of support services and measures should be in place for adopted children and adoptive parents, and to map relevant existing services and institutional responsibilities in Denmark, prepare for networking, information exchange and coordination.³⁹⁹

While **Germany** is witnessing a decrease of national adoption, the numbers of inter-country adoption has increased up to the early 2000s and fell again between 2002 and 2006 as the legal regulations and safeguards of the 1993 Hague Convention gradually showed effect and led to a stricter adoption regime. Since 2007, the number of inter-country adoptions has remained rather stable. Adoption agencies are responsible for assessing the suitability of prospective adoptive parents before initiating the procedures for inter-country adoption.⁴⁰⁰

In 2006, the Minister of Social Security and Labour amended the Procedure of Granting Authorisation to Foreign Institutions to Act in Respect of Inter-country Adoption in the Republic of **Lithuania**. With the amendment, foreign institutions that applied to act in respect

³⁹⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Periodic reports of States parties due in 1998, Denmark, Addendum, CRC/C/70/Add.6, 31 March 2000, par. 169-175.

³⁹⁷ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third periodic reports of States parties due in 2003, Denmark, CRC/C/129/Add.3, 30 March 2005, par. 203-213.

³⁹⁸ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third periodic reports of States parties due in 2003, Denmark, CRC/C/129/Add.3, 30 March 2005, par. 203-213. Bilateral agreement between Denmark and Vietnam BKI No. 31 of 7 October 2003. Information provided by Iben Attrup Nielsen and Astrid Leschly Holbøll, National Board of Social Services, Denmark, 18 May 2015.

³⁹⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third periodic reports of States parties due in 2003, Denmark, CRC/C/129/Add.3, 30 March 2005, par. 203-213.

⁴⁰⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2009, Germany, CRC/C/DEU/3-4, 11 September 2012, par. 147-149.

of inter-country adoption in **Lithuania** were no longer granted permission. As the number of national adoptions and placement in family care within **Lithuania** was growing, the number of children under six who were considered eligible for inter-country adoption decreased simultaneously. Foreign institutions that were authorised to act as inter-mediate in inter-country adoptions from **Lithuania** were allowed to lodge adoption requests for children under six years old only for a maximum of two families per calendar year. Exceptions are granted when a family wishes to adopt a child with special needs.⁴⁰¹

The State Child Rights Protection and Adoption Service, under the Ministry of Social Security and Labour, acts as the central authority of **Lithuania** for inter-country adoptions. As part of this mandate, the State Child Rights Protection and Adoption Service operates according to the principles and safeguards afforded under the 1993 Hague Convention on Inter-country Adoption. It examines and authorises non-profit organisations or agencies from other countries to act as inter-mediate in inter-country adoptions from **Lithuania**. The authorisation of eligible organisations or agencies aims to ensure that inter-country adoptions do not result in improper financial gain, in line with the CRC Article 21(d) and Article 8 of the Hague Convention. The rights, duties, responsibilities and control of authorised inter-country adoption agencies or organisations from other states is regulated under the Specification of the Procedure for Granting Authorization to Foreign Institutions in Respect of Inter-country Adoption in the Republic of **Lithuania** (2005). The Service organises the preliminary inter-country adoption procedure through the central authorities or accredited bodies of other states.⁴⁰²

Since 2007, the Government of **Lithuania** has promoted specifically the adoption of children with special needs who are deprived of parental care, including by families abroad.⁴⁰³ The Convention on the Rights of the Child provides in Article 23 that mentally or physically disabled children have a right to enjoy a full and decent life in conditions that ensure dignity, promote self-reliance and facilitate the child's active participation in the community. These rights are affirmed also under the 1993 Hague Convention on Inter-country Adoption. It provides in Article 9 that Central Authorities shall take, directly or through public authorities or other accredited bodies in their state, all appropriate measures to facilitate, follow and expedite proceedings with a view to obtaining the adoption. In order to promote the implementation of these rights and provisions, the Minister of Social Security and Labour approved in 2007 the Specification of the Pre-trial Procedure Regarding the Adoption of Special Needs Children Eligible for Adoption.⁴⁰⁴

⁴⁰¹ Order No. A1-195 of the Minister of Social Security and Labour of 17 July 2006 amended the Procedure of Granting Authorization to Foreign Institutions to Act in Respect of Inter-country Adoption in the Republic of Lithuania. See: United Nations Committee on the Rights of the Child, Consideration of the reports submitted by States parties under article 44 of the Convention, Consolidated third and fourth periodic reports of States parties due in 2009, Lithuania, CRC/C/LTU/3-4, 1 March 2012, par. 14, 180-181.

⁴⁰² The Specification of the Procedure for Granting Authorization to Foreign Institutions in Respect of Inter-country Adoption in the Republic of Lithuania was approved by Order No. A1-162 of the Republic of Lithuania Minister of Social Security and Labour of 3 June 2005. See: United Nations Committee on the Rights of the Child, Consideration of the reports submitted by States parties under article 44 of the Convention, Consolidated third and fourth periodic reports of States parties due in 2009, Lithuania, CRC/C/LTU/3-4, 1 March 2012, par. 179.

⁴⁰³ United Nations Committee on the Rights of the Child, Consideration of the reports submitted by States parties under article 44 of the Convention, Consolidated third and fourth periodic reports of States parties due in 2009, Lithuania, CRC/C/LTU/3-4, 1 March 2012, par. 181-182.

⁴⁰⁴ Order No. A1-32 of the Republic of Lithuania Minister of Social Security and Labour of 1 February 2007.

This Procedural Specification aimed to facilitate the process of adoption for children with special needs and enhance the possibilities for these children to find families that are best for their needs. The agencies and organisations that are authorised to inter-mediate in inter-country adoptions from **Lithuania** were specifically encouraged to contribute to the implementation of the Programme on Special Needs Children Eligible for Adoption, as their performance in this regard was made one of the key criteria used to evaluate the activities of foreign inter-country adoption agencies authorised to operate in Lithuania. The State Child Rights Protection and Adoption Service keeps foreign states and central authorities informed of the quota of children under six years old who are considered eligible and the fact that the majority of children eligible for inter-country adoption are children with special needs. Due to the transparency and communication of this prioritisation, most of the families applying for inter-country adoption from abroad are aware and determined to adopt children with special needs. Between 2006 and 2008, the majority of children who were adopted by families abroad from Lithuania were children with special needs.⁴⁰⁵

The **Norwegian** Directorate for Children, Youth and Family Affairs has been appointed as the Central Authority for inter-country adoption under the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption.⁴⁰⁶ The Adoption Act provides in Section 6 that children aged seven years or above who are to be adopted to **Norway** from abroad, have a right to be informed about the adoption and to be heard and express their own opinion before a decision about the adoption is taken. This also applies to younger children who are capable of expressing their views.⁴⁰⁷

In **Poland**, the law assigns priority to national over inter-country adoption. When adoption leads to a change of residence of the child from within Poland to another country, the adoption can only be adjudicated when an appropriate family environment can be provided to the child (Article 1142 §1 Family and Guardianship Code - FGC). The guardianship court is the competent authority mandated to examine whether the child qualifies for inter-country adoption as provided for under the Act of 9 June 2011 on family support and the foster care system. The law provides also for the standards and procedures to assess whether the child and the prospective adoptive parents qualify for adoption.⁴⁰⁸

In cases of inter-country adoption, a pre-adoption period has to be determined to safeguard the best interests of the child in the process (Article 120¹ FGC). This period serves for the court to review the case documentation, the qualification of the prospective adoptive parents and hear the views of the education and care facility, and ensure that all safeguards, including procedural safeguards in the pre-adoptive phase, have been respected. The decision over

⁴⁰⁵ United Nations Committee on the Rights of the Child, Consideration of the reports submitted by States parties under article 44 of the Convention, Consolidated third and fourth periodic reports of States parties due in 2009, Lithuania, CRC/C/LTU/3-4, 1 March 2012, par. 182.

⁴⁰⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2008: Norway, CRC/C/NOR/4, 11 May 2009, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.NOR.4.doc> on 15 May 2015, par. 240.

⁴⁰⁷ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2008: Norway, CRC/C/NOR/4, 11 May 2009, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.NOR.4.doc> on 15 May 2015, par. 241.

⁴⁰⁸ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 447-459.

adoption is taken by court. Adoption can be terminated only on the basis of a court decision when the termination is not detrimental to the child (Article 125 § 1 FGC).⁴⁰⁹

Inter-country adoption procedures are performed by three adoption centres authorised to carry out inter-country adoptions in co-operation with organisations or adoption centres licenced by the governments of other countries, as outlined in the Announcement of the Minister of Labour and Social Policy of 11 October 2013. The Provincial Adoption Centre operates a central data bank of children who are awaiting inter-country adoption. The Ministry of Labour and Social Policy acts as the central authority for inter-country adoption under the 1993 Hague Convention. The operative tasks of the central authority fall under the responsibility of the Family Policy Department.⁴¹⁰

The **Russian Federation** has signed but not yet ratified the 1993 Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. The Committee on the Rights of the Child noted that significant gaps prevailed in inter-country adoptions from the Russian Federation that placed children at risk and recommended therefore that the Convention be signed and implemented in Russia. Currently, the federal authorities do not yet exercise sufficient control of foreign adoption agencies. This is notable particularly with respect to the documentation required for adoption, illicit payments, and the possibility for prospective adoptive to select the child they will adopt, rather than putting a place a matching and safeguarding procedure controlled by the competent authorities. In 2003, more children were adopted from Russia to other countries than national adoptions. The Committee on the Rights of the Child recommended that a system be established for the accreditation and control of foreign adoption agencies and that prospective adoptive parents be effectively screened, selected and matched with the adoptive children. Promoting domestic adoption should be a priority.⁴¹¹ As a result of the reforms undertaken by the Government of the Russian Federation between 2003 and 2009, the ratio changed significantly, to the effect that in 2009, 73 percent of the children deprived of parental care were adopted by Russian citizens, while close to 27 percent were adopted by foreign nationals.⁴¹²

In **Sweden**, the National Board for Inter-country Adoptions (MIA) acts as the central authority under the 1993 Hague Convention on Inter-country Adoption. The Board is mandated to grant authorization to associations involved in intercountry adoptions and oversees their activities. The mandate includes also the monitoring of international developments in inter-country adoption and conducting cost analyses of intercountry adoptions. The Intercountry Adoption Intermediation Act regulates the authorization of agencies involved in inter-country adoption

⁴⁰⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 447-459.

⁴¹⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 447-459.

⁴¹¹ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: Russian Federation, CRC/C/RUS/CO/3, 23 November 2005, par. 40-43.

⁴¹² The figures relate to the children deprived of parental care registered in the national state database, which has been built up since 2003. At the end of 2009, there were 662,300 children in registered in this database who were deprived of parental care. United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth and fifth periodic reports of States parties due in 2011, Russian Federation, CRC/C/RUS/4-5, 27 August 2012, par. 125.

and their operations, and provides oversight instruments.⁴¹³

The Social Services Act safeguards the rights of the child in the adoption process. Prospective adoptive parents who are seeking to adopt a child from abroad must obtain the consent of the local Social Welfare Committee in their home municipality before the child leaves her or his country of origin. Prior to adoption, the prospective adoptive parents have to participate in courses for parenting training arranged by the municipality. The National Board of Health and Welfare and the MIA have jointly produced the training material for these courses, in order to ensure uniform content and quality of training throughout the country.

The Institute for Evidence-Based Social Work at the National Board of Health and Welfare have conducted research into the situation and well-being of children who have been adopted to Sweden from abroad. The study findings suggest that the vast majority of the children adopted from abroad are doing well. The importance of adoption as a source of protection rather than a risk factor for the child has been confirmed by the research. The study noted however also that children adopted from abroad are “overrepresented in some areas of unfavourable development in their teenage years or young adult years. The most worrying example relates to attempted and completed suicides. Greater risks of serious mental illness are also clear, as is the risk of placement in social care during the teenage years”.⁴¹⁴

Between 2007 and 2011, an average of 647 children were adopted to **Sweden** from abroad, with the mediation of authorised organisations. The number of inter-country adoptions to Sweden has declined in recent years. The development over recent years reveal also that children are adopted at a slightly older age than before and a growing number of children have special needs, including different types of disabilities.⁴¹⁵

⁴¹³ Sweden, The Intercountry Adoption Intermediation Act, Swedish Code of Statutes - SFS 1997:192.

⁴¹⁴ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2007: Sweden, CRC/C/SWE/4, 28 January 2008, par. 137-140.

⁴¹⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fifth Periodic Report of States Parties due in 2011: Sweden, CRC/C/SWE/5, 5 May 2014, par. 236-238.

6) Safeguarding children's rights in alternative care

The UN Convention on the Rights of the Child provides for states to take all appropriate legislative, administrative, social and educational measures to protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child (Article 19). The Convention also affords that children must not be subjected to torture or other cruel, inhuman or degrading treatment or punishment (Article 37(a)). The right to be safe relates to all the other rights afforded under the Convention. Being protected from all forms of violence is a fundamental precondition for children to enjoy their right to life, survival and development and to grow up in a nurturing environment that enables them to develop their evolving capacities and realise their potentials.

Safeguarding children in alternative care requires a comprehensive set of measures for the prevention of all forms of violence and effective responses when acts of violence have taken place. Hearing the views of the child and taking them into account is essential for enabling children to contribute to developing appropriate services and for staying safe in care.

Article 12 under the Convention on the Rights of the Child obliges States parties to “assure the child who is capable of forming her or his own views has the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child”. Article 12.2 reiterates this right specifically for judicial and administrative proceedings.

The right of the child to express her or his views and to have them taken into account, is an element of basic democracy. It also promotes children's development and protection: “Children who are encouraged to express their views are less vulnerable to abuse and better able to contribute towards their own protection. Access to information necessary for their protection, opportunities to participate in key decision-making processes, and encouragement in speaking out can empower children to challenge abusive behaviour.”⁴¹⁶

While the Convention does not explicitly define a child's ‘right to participate’⁴¹⁷, Article 12 has to be read in connection with a range of other articles of the Convention that are jointly interpreted as the ‘participatory rights of children’. These include, among others, the child's right to seek, receive and impart information (Article 13) and other civil rights regarding the

⁴¹⁶ Lansdown, Gerison, *Can You Hear Me? The right of young children to participate in decisions affecting them*, Working Papers in Early Childhood Development, Working Paper 36, Bernard van Leer Foundation, The Hague, 2005, accessed from http://www.bernardvanleer.org/Can_you_hear_me_The_right_of_young_children_to_participate_in_decisions_affecting_them on 20 May 2015, pp. 8-9.

⁴¹⁷ The rights afforded under CRC Article 12 are often referred to as the right to “participation”. In the absence of a unified definition of child participation, the term is widely used to refer to consultations with children in order to ensure that children's views are heard and taken into account in decision making processes affecting an individual child or groups of children more generally.

freedom of thought, conscience and religion (Article 14) and the freedom of association (Article 15).⁴¹⁸

The Committee on the Rights of the Child emphasises that “this principle, which highlights the role of the child as an active participant in the promotion, protection and monitoring of his or her rights, applies equally to all measures adopted by States to implement the Convention.”⁴¹⁹ The Committee therefore urges States parties to address child participation in an institutionalised and systematic way by moving “from an events based approach of the right to participation to systematic inclusion in policy matters in order to ensure that children can express their views and effectively participate in all matters affecting them.”⁴²⁰

The right to be heard can only be safeguarded in a meaningful way when the child has access to a child-sensitive reporting mechanism and complaints procedure, within the responsible administrative structure as well as outside of it, including independent mechanisms. When the rights of a child have been infringed upon or violated, or when there is a risk thereof, the possibility to report or complain constitutes a fundamental safeguard. Effective reporting mechanisms and complaints procedures enable children to contribute to their own safety, well-being and development. To be effective, these mechanisms and procedures need to be known and accessible for children. They also need to guarantee effective follow-up to reports and complaints lodged by children. In many cases, it is important to offer anonymous reporting and complaints procedures that guarantee the child confidentiality.

In addition, monitoring, inspection and evaluation of alternative care for children contribute to enabling children to be heard and to facilitate the dialogue between children in care, service providers, care staff, policy makers and officials at all levels.

This chapter provides an overview on measures for safeguarding children in care in the Member States of the Council of the Baltic Sea States. It identifies positive and innovative initiatives throughout the region as well as common challenges in this area.

The right to be heard: Children's involvement in the development and review of individual care plans

The right of the child to be heard and to have her or his views taken into account in matters affecting them, as afforded under CRC Article 12, is a fundamental safeguard for children in alternative care. Decisions over placement should be based on an assessment of the best interests of the child and take into account the views of the child. They need to be periodically reviewed in order to ensure that the placement decisions are indeed and continue to be in the best interests of the child. The involvement of children in decision making processes should start from the first contact with social services or child protection services and continue

⁴¹⁸ See United Nations Children's Fund, *Implementation Handbook for the Convention on the Rights of the Child*, Fully Revised Edition, New York, 2002, p. 159.

⁴¹⁹ United Nations Committee on the Rights of the Child, General Comment No.5, General Measures of Implementation for the Convention on the Rights of the Child, CRC/GC/2003/5, 3 October 2003, par. 12.

⁴²⁰ United Nations Committee on the Rights of the Child, Day of General Discussion on the Right of the Child to be Heard, 43rd Session, Unedited Version, 29 September 2006, par. 25.

from decisions over placement, care arrangements and services through to the child's transition into adulthood, the provision of after-care and support for independent living.⁴²¹

The UN Guidelines for the Alternative Care of Children emphasise the need to hear and consult the child at all stages of decision making processes, in accordance with the child's age, maturity and evolving capacities.⁴²² The Council of Europe Recommendation on the participation of children and young people under the age of 18 states that "there is no age limit on the right of the child or young person to express her or his views freely".⁴²³

Hearing a child in a way that is sensible, respectful and meaningful requires special skills and qualifications from the adults who communicate with the child. This is particularly required for hearing young children who can also participate in decisions that affect them when they are given appropriate support, information in a language they understand, and when they have the time and space to express their views in an adequate way.⁴²⁴

When looking at the legal framework determining children's right to be heard, there are laws that regulate, which children have a right to be heard in what contexts. The age limits differ from sector to sector. For very young children, the law may provide alternative ways of assessing the views of the child, including by observation. In addition, laws come into play that regulate the child's right to information and how information shall be shared with the child to ensure that the child understands fully the matters at stake, the consequences and implications of decisions, possible alternative options and the procedures that are going to follow. The right to be heard includes also rights to be consulted periodically on the development of the situation, ongoing reviews and future decisions. Laws that require the child's explicit consent to a decision are particularly strong in guaranteeing children's right to be heard.

The states in the **Baltic Sea Region** have all introduced specific laws affording the right of the child to be heard as well as legal provisions regulating the hearing of children and procedures for taking their views into account. Such laws exist, for instance, with regard to child protection and social welfare, family matters, education and health, as well as civil and criminal procedural laws. Notable are the differences in age limits relating to children's right to be heard, to complain or appeal by themselves, to act as a litigant or party in proceedings. There are such differences between states as well as differences between sector-specific laws within the same country.

⁴²¹ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, p. 112-113.

⁴²² United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434)] 64/142, 24 February 2010, par. 6, 48, 56

⁴²³ Council of Europe, Committee of Ministers, Recommendation CM/Rec(2012)2 of the Committee of Ministers to member States on the participation of children and young people under the age of 18, 28 March 2012, accessed from <https://wcd.coe.int/ViewDoc.jsp?id=1927229&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021BackColorLgged=F5D383> on 20 May 2015.

⁴²⁴ Lansdown, G., *Promoting Children's Participation in Democratic Decision-making*, UNICEF Innocent Research Centre, Florence, 2001, accessed from <http://www.unicef-irc.org/publications/pdf/insight6.pdf> on 20 May 2015, p.8.

In **Finland** and **Germany**, the law obliges the authorities to hear the views of the child as of a certain age. Where age limits are defined or when the law provides for the right to be heard 'according to the age and maturity of the child', the possibilities for younger children to be heard are in practice at the discretion of the respective official or professional in charge. When formal procedures for hearing children and young children are not clearly regulated by law and developed in practice, children might lose out on their right to be heard, especially when professional and officials have not been trained on how to hear and listen to children, including young children.⁴²⁵

In **Estonia**, the Child Protection Act does not limit the age of the child to be heard (Article 21). In all matters, where the best interests of the child are being assessed, it is necessary to explain the content and reasons of the planned decision to the child, to hear the child and take her or his views into account in accordance with the age and development of the child. If the best interests of a child differ from the child's opinion or if a decision which does not coincide with the child's opinion is made on other grounds, the reasons for not taking the child's opinion into account must be explained to the child.⁴²⁶

The opinions and wishes of a child are to be heard by a social worker when the child is separated from the parents. The hearing shall be documented and annexed to the case files. The Social Welfare Act provides that children's views have to be considered as of the age of 10 years old in decisions concerning the placement of the child in a children's home. For younger children, the wishes of the child have to be considered according to the level of development of the child (Social Welfare Act, Article 32).⁴²⁷ The Child Protection Act provides that the placement of a child in alternative care, including adoption, shall proceed from the continuity of raising the child, taking into account the ethnic, religious, cultural and linguistic origin of the child.⁴²⁸

The **Estonian** law provides that all children have the right to protect their interests (Child Protection Act, Article 21). There are some decisions that cannot be taken without the consent of the child who has reached the age of 10 years old. These include decisions over adoption or changing the name of the child (Family Law Act, Article 151). A child who is separated from her or his home and family has the right to receive information about her or his origin, the reasons of family separation and questions concerning the child's future (Social Welfare Act, Section 25).⁴²⁹

⁴²⁵ European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Provisions introducing age requirements on the right of the child to be heard in placement decisions*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/age-provisions> on 15 July 2015. A comprehensive report on FRA's research is planned for publication in early 2016. The **Polish** legislation does not identify the age of child that imposes an obligation to let the child be heard, however, Article 216(1)(2) of the Law of 17 November 1946 "The Code of Civil Procedure" (Official Journal of Laws of 2014, item 101) lays down that the court shall hear the child in the cases concerning a minor provided that his/her mental development level, health status and maturity permit such action. The hearing is carried out outside the courtroom. According to the circumstances, mental development, health status and maturity of the child the court will take his/her view and reasonable requests into account. Information provided by the Ministry of Labour and Social Policy, Poland, April 2015.

⁴²⁶ Information provided by the Ministry of Social Affairs, Estonia, April 2015.

⁴²⁷ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 168-182.

⁴²⁸ Information provided by the Ministry of Social Affairs, Estonia, April 2015.

⁴²⁹ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 51-53.

In **Germany**, the Child and Youth Welfare Further Development Act obliges the youth welfare office to conduct a risk assessment for a child when there are concerns about the child's safety, well-being and development. The risk assessment has to be carried out in cooperation with relevant experts from different disciplines. As a general rule, children and parents have to be involved in the risk assessment.⁴³⁰

The **Finnish** Child Welfare Act (417/2007) regulates the child's right to have her or his views heard and taken into account for the context of child welfare measures. The views of a child shall be heard and taken into account "in so far it is possible considering the age and level of her or his development".⁴³¹ The Act further provides that the views of the child are to be heard with discretion in order to avoid any unnecessary strain on the relationship of the child with her or his parents or other persons who are close to the child.⁴³² Psychologists or experienced child welfare professionals should be consulted to understand the views of very young children through observation. By observing, for instance, the interaction between a new-born or toddler and the parents, conclusions can be drawn, which are then documented and shared with the decision makers.⁴³³

When child welfare services assess the needs of a child, provide services or decide about matters concerning the child, special attention must be paid to the views and wishes of a child (Section 5, Child Welfare Act). When child welfare measures are provided, the child's wishes and views must be ascertained and taken into account in a way that is appropriate for the child's age and level of development (Section 20(1), Child Welfare Act). In decisions on taking a child into care, substitute care or on terminating care, child welfare services have to ascertain the child's views and provide the child with an opportunity to be heard (Section 42, Child Welfare Act). Specific recommendations on how to hear and listen to children are included in the national child welfare quality recommendations and the national foster care action plan.⁴³⁴

The Child Welfare Act provides further that a child aged 12 years or above has full procedural rights in child welfare matters concerning the child, with the exception of some matters where the right to appeal applies only as of the age of 15 years.⁴³⁵ This implies for children in alternative care that they are free to demand independently to be transferred to another substitute care placement or request a change in the conditions of communicating with

⁴³⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2009, Germany, CRC/C/DEU/3-4, 11 September 2012, par. 131.

⁴³¹ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 15 May 2015, par. 140.

⁴³² Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 15 May 2015, par. 140.

⁴³³ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 15 May 2015, par. 145.

⁴³⁴ Council of Europe, *Child and Youth Participation in Finland, A Council of Europe policy review, Building a Europe for and with Children*, 2011, pp. 84-86.

⁴³⁵ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 15 May 2015, par. 141.

persons close to her or him. The child may also request social welfare authorities that the placement be discontinued.⁴³⁶

The **Finnish** Constitution (Article 6) provides that children must be treated equally and as individuals and that they must be allowed to influence matters pertaining to them in a way that corresponds to their level of development. The Child Welfare Act (Section 5) states that a child has the right to obtain information and to express her or his opinion in a child welfare case affecting her or him in accordance with the child's age and level of development. The Act provides that a child or young person who has been placed in alternative care have a right to know why they are placed in care and what will happen to them. Social workers are obliged to inform children to this end, in a language that is appropriate to the age and maturity of the child. A child must have a designated social worker. It is mandatory to ensure that the child knows the name of this social worker and how to contact her or him. A child must not be given information that might endanger her or his development or that would be contrary to a personal interest of the child that is of particular importance to her or him.⁴³⁷

Under the Child Welfare Act, a child is always considered a party to the proceedings in child welfare matters. When the child is not entitled to be heard her- or himself, the child's views are represented by a legal representative. The Child Welfare Act defines who is entitled to speak in procedures on behalf of a child.⁴³⁸ In a child welfare matter, a trustee is nominated to take over this function from the child's legal guardian, "... if there is reason to assume that the legal guardian cannot supervise the child's best interests in an impartial manner or, if nominating a trustee is necessary in order to settle the matter or otherwise necessary for the purpose of safeguarding the best interests of the child."⁴³⁹

The Act on the Status and Rights of Social Welfare Clients (812/2000) includes further provisions to safeguard the rights of children who are clients of social welfare services. Reference is made to the principle of the best interests of the child and the right of the child to have her or his views heard and taken into account.⁴⁴⁰

The Administrative Procedure Act (423/2003) provides that a child aged 12 years or above shall be given an opportunity to have her or his views heard in child welfare matters concerning the child. Exceptions can be made only when hearing the child would be of harm to the child's health or development.⁴⁴¹ The Administrative Procedure Act also states that a

⁴³⁶ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from

http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 15 May 2015, par. 141.

⁴³⁷ Council of Europe, *Child and Youth Participation in Finland, A Council of Europe policy review, Building a Europe for and with Children*, 2011, pp. 84-86.

⁴³⁸ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from

http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 15 May 2015, par. 142.

⁴³⁹ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from

http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 15 May 2015, par. 142.

⁴⁴⁰ United Nations Human Rights Committee, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Fifth Periodic Report, Finland, CCPR/C/FIN/2004/5, 24 July 2003, accessed from

[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/a7c930bfea7c9838c1256e31002ceec0?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/a7c930bfea7c9838c1256e31002ceec0?Opendocument) on 15 May 2015, par. 316.

⁴⁴¹ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from

http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 15 May 2015, par. 140.

child aged 15 or above and her or his parent or guardian both have the right to be heard in matters concerning the child, including being heard separately (Section 14(3)).⁴⁴²

Box 6: The views of children in alternative care: Survey results from Finland

In 2011, the Council of Europe assessed the possibilities for children to participate in matters concerning them in Finland. Consultations and surveys involved professionals and experts from the alternative care sector as well as children placed in care. The findings revealed a mixed picture.

While not all children who participated in the Council of Europe survey had experiences of alternative care, half of the responses to the question whether they felt that they were being heard in alternative care settings said that they were able to express their views in care. This group also felt that their views were taken seriously always or most of the time. About a quarter of the children responding to this question noted however that their views were hardly ever or never taken into account.

Experts noted that social workers had a significant power and influence on children's experiences and well-being in residential institutions and that this might result in power imbalances between the social workers and the children in placement. In some cases, this might lead to situations where decisions taken by social workers are not in line with the best interests of the child and where the feeling of being powerless has a negative effect on the well-being of the child. The survey revealed further that some children in alternative care had never been able to meet with and talk to a social worker while in care or their social worker changed frequently. These experiences undermined children's ability to build trust and their feeling of being looked after.

The revised Child Welfare Act is expected to have a positive impact on strengthening children's views and the way they were taken into account in decision making processes. There is consensus that these developments should be closely monitored. The expert consultations held in the context of the Council of Europe review concluded with the recommendation that social workers should be trained better on how to show respect for children and to encourage a relationship founded on mutual respect, to be flexible enough to adapt to the individual needs of each boy or girl, to take the views and concerns of the child into account while moving within the universal standards and safeguards afforded under the Child Welfare Act and other relevant laws. Achieving this delicate balance requires a skilled, well-trained and supported social work force. It was considered essential that social workers have more time to listen to children and to interact with caregivers, care staff and foster families. The required training should not only equip social workers with methods and tools on how to hear children, but also sensitise them to the importance of listening to children and taking them seriously.

In addition, the opportunities and structures enabling children to make their views heard can still be strengthened in practice. An important innovation proposed was the setting up of youth councils in alternative care institutions and raising children's awareness and skills of how to work together in these councils to make their views heard and taken into account.⁴⁴³

⁴⁴² Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 15 May 2015, par. 142.

⁴⁴³ Council of Europe, *Child and Youth Participation in Finland, A Council of Europe policy review, Building a Europe for and with Children*, 2011, pp. 84-86.

The **Lithuanian** Civil Code (Article 3.164) provides that boys and girls child can participate in safeguarding their rights. Children must be heard only when they are capable of formulating their views. This implies that for children aged 10 years or above, the child must be heard directly or through a representative. For children under ten years of age, a specialist, usually a psychologist, is consulted to decide if the child is considered capable of formulating her or his views. Decisions concerning a child must be taken with due consideration to the child's wishes, unless that is considered to be contrary to the best interests of the child. In decisions concerning the appointment of a guardian or caretaker for the child, or when guardianship or childcare provisions are terminated, the views of the child shall be given paramount consideration. This applies to temporary child guardianship in alternative care as well as permanent and regular guardianship. The former decisions are taken by a decree of the director of the municipal administration, while the latter is taken by a court order.⁴⁴⁴

In **Iceland**, the Child Protection Act includes reference to the views of the child as one of the 'principles of child protection work' as defined under Article 4: "In their work, child protection authorities shall take account of children's views and wishes, in accordance with the age and maturity of the child."

As of the age of 15 years, a child is considered a party to a child protection case concerning her- or himself, and a litigant if the case is taken to court, according to the Child Protection Act No. 80/2002 (Article 46).⁴⁴⁵ Article 46 states further that, a "child shall be given the opportunity of expressing her or his views in cases affecting her or him, in accordance with the child's age and maturity, and the child's views shall be fairly taken into account for the resolution of the case. A child who has reached the age of 12 shall always be given the opportunity to express her or his views." As a party to a child protection case, a child is entitled to an opportunity to express her or his views freely, and to receive a legal counsel and a grant from the child protection committee to pay for the fees of the legal counsel (Article 47). Article 46 further provides for a spokesperson for a child in cases when the child protection committee is initiating an investigation. A spokesperson for a child shall be appointed when a child is to be placed in alternative care and before legal action is taken to revoke parental responsibility over a child. The Child Protection Act makes reference to Regulations No. 56/2004 that specify the qualifications and role of a spokesperson to more detail.

In cases when parental responsibility is being revoked, a child aged 15 years or above has the right to be a party to the child protection case and to have a spokesperson appointed (Article 55).

With regard to decisions over parental responsibility in divorce cases, the Children's Act No. 76/2003 provides that "a child who has reached sufficient maturity, shall be given the

⁴⁴⁴ United Nations Committee on the Rights of the Child, Consideration of the reports submitted by States parties under article 44 of the Convention, Consolidated third and fourth periodic reports of States parties due in 2009, Lithuania, CRC/C/LTU/3-4, 1 March 2012, par. 77-78.

⁴⁴⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Iceland's Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc> on 15 May 2015, par. 59.

opportunity to comment on the case, unless this can have a detrimental effect on the child or has no effect on the settlement of the case” (Article 43).⁴⁴⁶ A specific age limit is not defined.⁴⁴⁷

In **Latvia**, the Law on the Protection of the Rights of the Child provides that a child shall be given the opportunity to be heard in any adjudicative or administrative proceedings concerning the child, either directly or through a legal representative or a relevant institution (Paragraph 3, Article 20). The Civil Procedure Law (Section 238, Paragraph 3) reiterates more generally for civil law cases that a child’s opinion shall be heard in matters that affect the child. This applies to cases of divorce or parental separation and related matters of parental responsibility and contact as well as civil matters related to child abduction. The Law on Orphan’s Courts (Section 16, Clause 6) affords that orphan’s courts are entitled to discuss matters with a child without the presence of other persons.

In **Denmark**, municipalities are obliged to consult with the child in decisions concerning the child’s care (Section 48(1) of the Consolidation Act on Social Services). Children who are considered sufficiently mature have a general right that their opinion be heard with regard to all decisions concerning them and irrespective of whether the child is a litigant in the case or not.⁴⁴⁸ An exception is provided in regard to children who are considered not sufficiently mature or when the “nature of the case strongly suggests that the decision should be made without prior consultation”. If the child cannot be consulted, “steps must be taken to establish the child’s position to the contemplated decision” (Section 48(2)). The wording of this provision (“must”) is strong and obliges municipal authorities to hear and listen to the views of the child in cases relating to alternative care.

As of the age of 12 years, children are entitled to complain about decisions that concern their placement. As of the age of 15 years, the child is considered a litigant in her or his own case, has access to the case documentation, has a right to be heard before a decision is taken and is entitled to legal assistance free of charge (Section 73(1); 74(1)).⁴⁴⁹ The National Council for Children recommended that the age limit be lowered to 12 years.⁴⁵⁰ It is concerned, however, that in practice children are not always fully informed and heard about their case prior to decisions over their placement are taken, although public funding had been allocated to improve the practice of the local authorities in this regard. These shortcomings had been confirmed by a study conducted by the National Social Appeals Board in 2008.⁴⁵¹

⁴⁴⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Iceland’s Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc> on 15 May 2015, par. 58.

⁴⁴⁷ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Iceland’s Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc> on 15 May 2015, par. 58.

⁴⁴⁸ Information provided by the National Board of Social Services, Denmark, 18 May 2015.

⁴⁴⁹ National Council for Children, *Report to the UN Committee on the Rights of the Child, Supplementary Report to Denmark’s 4th Periodic Report*, May 2009, accessed from <http://www.boerneraadet.dk/files/Brd.dk%20Filbibliotek/PDF%20FILER/EKSTERNE%20RAPPORTER/BRD%204.%20Suppl.%20Rapp.%20til%20FN%20-%202009%20-%20UKversion.pdf> on 15 May 2015, p. 18.

⁴⁵⁰ National Council for Children, *Report to the UN Committee on the Rights of the Child, Supplementary Report to Denmark’s 4th Periodic Report*, May 2009, accessed from <http://www.boerneraadet.dk/files/Brd.dk%20Filbibliotek/PDF%20FILER/EKSTERNE%20RAPPORTER/BRD%204.%20Suppl.%20Rapp.%20til%20FN%20-%202009%20-%20UKversion.pdf> on 15 May 2015, p. 19.

⁴⁵¹ The National Social Appeals Board, *Ankestyrelsens praksisundersøgelser, Anbringelse af børn og unge (The National Social Appeals Board Practice Studies: Placement of children and youth)*, 2008. Cited in: National Council for Children, *Report*

Children who have not yet attained the age of 12 years may not be given an opportunity to be heard prior to a decision on alternative care being taken (Section 74(2)).

In **Norway**, the Children's Act and Child Welfare Act afford children the right to be heard in matters affecting them. The age limit for hearing children has been lowered from twelve to seven years. The law provides also for the possibility to hear younger children, although this is not obligatory. In the context of health services, children have the right to be heard only as of twelve years.⁴⁵² The Government of **Norway** has issued guidance for child welfare officers on how to speak and listen to children.⁴⁵³

The child's right to be heard in administrative procedures is regulated under the Public Administration Act. A child is represented in administrative procedures by her or his guardian.⁴⁵⁴ The Civil Procedures Act provides for the right of the child to receive information and to be heard under certain circumstances.⁴⁵⁵

Under certain circumstances, children are entitled to contact family counselling offices on their own initiative and without the consent or involvement of their parents. Children aged between 12 and 16 years old can contact family counselling offices independently for seeking information, advice and counselling. The staff of family counselling offices need to decide case by case whether the consent and involvement of the parents is deemed necessary. In cases, where the contact with the child leads to the provision of therapy or treatment, the parents' consent should be sought.⁴⁵⁶

The Ministry of Children, Equality and Social Inclusion has conducted an evaluation of children and young people's right to independent contact with a family counselling office. The law concerning family counselling offices provides for the right to information of clients and affords that parents or guardians of children aged between 12 and 16 years old are not entitled to access information concerning the child when the competent staff consider there to be reasons for not disclosing information about the child.⁴⁵⁷

to the UN Committee on the Rights of the Child, *Supplementary Report to Denmark's 4th Periodic Report*, May 2009, accessed from

<http://www.boerneraadet.dk/files/Brd.dk%20Filbibliotek/PDF%20FILER/EKSTERNE%20RAPPORTER/BRD%204.%20Suppl.%20Rapp.%20til%20FN%20-%202009%20-%20UKversion.pdf> on 15 May 2015, p. 18.

⁴⁵² United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Norway, CRC/C/NOR/CO/4, 29 January 2010, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.NOR.CO.4.pdf> on 15 May 2015, par. 24.

⁴⁵³ The Ombudsman for Children, *Supplementary Report to the UN Committee on the Rights of the Child*, Oslo, 2009, accessed from http://www.barneombudet.no/sfiles/48/24/1/file/supplementary-report-to-the-un_english.pdf on 20 May 2015, p. 13.

⁴⁵⁴ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Third Periodic Report of States Parties due in 2003: Norway, CRC/C/129/Add.1, 6 October 2004, accessed from [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.129.Add.1.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.129.Add.1.En?OpenDocument) on 15 May 2015, par. 83.

⁴⁵⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Third Periodic Report of States Parties due in 2003: Norway, CRC/C/129/Add.1, 6 October 2004, accessed from [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.129.Add.1.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.129.Add.1.En?OpenDocument) on 15 May 2015, par. 88-89.

⁴⁵⁶ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties Under Article 44 of the Convention, Fourth periodic report of States parties due in 2008, Norway, CRC/C/NOR/4, 11 May 2009, par. 184-185.

⁴⁵⁷ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties Under Article 44 of the Convention, Fourth periodic report of States parties due in 2008, Norway, CRC/C/NOR/4, 11 May 2009, par. 184-185.

In 2009, the Ombudsman for Children reported about cases, in which the child welfare service did not apply the right of the child to be heard in practice: "Children have told the Ombudsman that families have received help from child welfare service for many years without anyone from this agency having spoken to the child alone. (...) It is necessary to increase caseworkers' competence in speaking to children."⁴⁵⁸ The Committee on the Rights of the Child has also expressed concern that the child's right to be heard is not yet implemented systematically and may not be respected in practice, in particular in cases relating to alternative care and immigration.⁴⁵⁹

In **Poland**, the Social Welfare Act affords that in the cases of children receiving social welfare services, the service providers have to take into consideration the "subjectivity of the child and the family and the right of the child to, inter alia: have access to information, and voice its opinions in issues concerning the child" (Article 70, paragraph 3 of the Act of 12 March 2004 on Social Welfare).⁴⁶⁰

Children have the right to be heard at court in civil procedures on the condition that the physiological development, health and maturity of the child allows for a hearing to take place. Children shall not be heard in the courtroom. The court is held to take the child's opinion and reasonable wishes into account "with the expedience reasonably required by the circumstances, psychological development, health condition and level of development of the child". The wording of the law leaves therefore a considerable margin of discretion to the court to which extent a child will be heard and the child's views be taken into account. These provisions apply primarily to family matters, property rights and adoption (Civil Procedure Code, Article 216¹ § 1 and 2, and Article. 576 § 2).⁴⁶¹

As in other countries, the Committee on the Rights of the Child expressed concern about the limited application of these rights in practice in **Poland**, particularly in proceedings involving children placed in institutions, children in conflict with the law, unaccompanied asylum seeking children and in hearings concerning parental responsibility. The Committee recommended to strengthen public information and awareness raising initiatives as well as targeted sensitisation and training of relevant professional groups as well as institutions and organisations working with and for children.⁴⁶²

In the **Russian Federation**, the Family Code affords children the right to be heard in relation to any decisions taken by the family that affect them and in judicial proceedings. For children aged 10 years old or above, the Family Code affords further that the views of the child must be taken into account on decisions that concern changes of the child's name or surname, the

⁴⁵⁸ The Ombudsman for Children, *Supplementary Report to the UN Committee on the Rights of the Child*, Oslo, 2009, accessed from http://www.barneombudet.no/sfiles/48/24/1/file/supplementary-report-to-the-un_english.pdf on 15 May 2015, p. 13.

⁴⁵⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Norway, CRC/C/NOR/CO/4, 29 January 2010, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.NOR.CO.4.pdf> on 15 May 2015, par. 24.

⁴⁶⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 219-260.

⁴⁶¹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 219-260.

⁴⁶² United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: Poland, CRC/C/15/Add.194, 30 October 2002, par. 27-31.

restoration of parental rights, placement in foster care, adoption and the registration of the adoptive parents as the child's parents in the civil registry. There may be exceptions when hearing the child would be considered contrary to the best interests of the child.⁴⁶³

In **Sweden**, the Social Services Act (SFS 2001:453) and the Care of Young Persons (Special Provisions) Act (SFS 1990:52) provide for the right of the child to be heard and to have their views taken into account. This right relates to the context of social services provision for children, family law, financial assistance and alternative care. The means and ways by which these provisions are implemented vary between municipalities so that the chances of a child to have her or his views heard and taken into account differ according to where the child lives.⁴⁶⁴ Under the Social Services Act, a child's "attitude shall be clarified as far as possible" and "allowance shall be made to the child's wishes, having regard to the child's age and maturity" (Chapter 3, Section 5). The Care of Young Persons Act, referring to legal and administrative procedures involving children, provides the right to be heard only for children aged 15 or above, whereas younger children shall be heard if that is likely to benefit the investigations and not to cause harm to the child (Section 36).

In 2010, the Government of **Sweden** tasked the Ombudsman for Children to assess the experiences and views of children and young people living in foster homes and residential institutions for children (HVB). The objective of this study was to identify how children and young people perceive social services for alternative care, the gaps and weaknesses as well as positive aspects according to the children's perspective. As part of the assignment, the Ombudsman was tasked to develop and test a method for consulting with children and gathering their views. The method should subsequently be handed over to state authorities, municipalities and county councils for continued application. As a result of the implementation of the study, the Ombudsman supported children and young people to present their views directly to policy makers such as the Minister for Children and Senior Citizens. The government allocated SEK 1.2 million (approx. Euro 128,000) to the Ombudsman for Children to undertake this assignment.⁴⁶⁵ In the consultations with the Ombudsman for this study, children and young people stated that they felt that social workers and staff in the children's homes did not believe them and that they needed adults whom they can trust and who can make them feel comfortable, provide support and guidance.⁴⁶⁶

Since 2008, the laws regulating social services and the care of young people provide for stronger rights of children and young people to information when in contact with the social services. Children and young people are entitled to receive information about their case. When a social welfare committee makes an application for care in accordance with the Act

⁴⁶³ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth and fifth periodic reports of States parties due in 2011, Russian Federation, CRC/C/RUS/4-5, 27 August 2012, par. 61.

⁴⁶⁴ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2007: Sweden, CRC/C/SWE/4, 28 January 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.SWE.4.doc> on 15 May 2015, par. 87.

⁴⁶⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fifth Periodic Report of States Parties due in 2011: Sweden, CRC/C/SWE/5, 5 May 2014, par. 138.

⁴⁶⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fifth Periodic Report of States Parties due in 2011: Sweden, CRC/C/SWE/5, 5 May 2014, par. 228.

(1990:52) on the care of young people, the committee is held to document what information was provided, how the information was given to the child or young person, and the attitude that the child or young person expressed. Since 2010, the Social Services Act provides for the possibility that a social worker who is conducting a child protection investigation is entitled to speak to the child without the parent's or guardian's consent and presence. This possibility applies also in cases where social welfare committees initiate an investigation because the child's parent or guardian is negligent in childcare or when a child is permanently living in a private home other than that of the parents.⁴⁶⁷

The **Swedish** BBIC model (Barns behov i centrum / Children's Needs in Focus) has yielded positive results in strengthening the role of the child in the childcare system and in the case management process. BBIC aims to harmonise and standardise the assessment, planning, decision taking, and review of cases of children who are placed in alternative care. The model provides a concept for working with children and families at risk, including a structure for case management and documentation to systematize the process from initial referral and assessment until a decision for placement of the child is taken and providing for periodic reviews of the child's situation and that of her or his family of origin (see Box 7).

Since 2010, the National Board of Health and Welfare is entitled to interview children when conducting an inspection of the child's situation and living conditions. The interview can take place, when it is not considered to cause any harm to the child, without the presence or consent of the child's parent or guardian. The National Board of Health and Welfare was instructed by an Ordinance (2009:1243) to exercise its supervisory role by integrating a child perspective and developing methods for how supervision relating to children and young people should be undertaken to achieve a child-focused perspective.⁴⁶⁸

The National Board of Health and Welfare has produced information material for children and young people in alternative care on their rights and where they can turn to if they feel that their rights are not respected or when they wish to seek advice. The National Board operates a telephone hotline for children and young people in care, which they can use if they have questions or complaints.

The Ombudsman for Children and the organisation Children's Rights in Society (BRIS) have also produced an information leaflet for children and young people in alternative care. The leaflet provide general information about the rights of children and the UN Convention on the Rights of the Child as well as specific information for children and young people who are in contact with the social services or in alternative care.⁴⁶⁹

⁴⁶⁷ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fifth Periodic Report of States Parties due in 2011: Sweden, CRC/C/SWE/5, 5 May 2014, par. 150-153.

⁴⁶⁸ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fifth Periodic Report of States Parties due in 2011: Sweden, CRC/C/SWE/5, 5 May 2014, par. 150-153.

⁴⁶⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fifth Periodic Report of States Parties due in 2011: Sweden, CRC/C/SWE/5, 5 May 2014, par. 232-233.

Box 7: Children's Needs in Focus (*Barns behov i centrum, BBIC*) – Child-centred care planning and review in Sweden

In the late 1990s, the National Board of Health and Welfare launched an initiative to assess the effectiveness of case management for children and the ways in which children's views were heard and taken into account in cases involving alternative care and placement outside the family, including voluntary and enforced placement. As a result, the project Children's Needs in Focus (*Barns behov i centrum, BBIC*) was piloted in 1999 in seven municipalities. The project aimed to harmonise and standardise the assessment, planning, decision taking, and review of cases of children who were placed in alternative care. A concept for working with children and families at risk was developed, including a structure for management and documentation to systematize the process from initial referral and assessment until a decision for placement of the child is taken and providing for periodic reviews of the child's situation and that of her or his family of origin.⁴⁷⁰ Overall, the objective is to "strengthen the position of the child in the social childcare system".⁴⁷¹

As part of the pilot phase a model to review the placement of a child in foster care or institutional care was developed that involved multi-stakeholder meetings with the child under the leadership of an independent chairperson. The objective of these meetings is to assess the child's situation, listen to the child's views and take decisions on adjustment if and as needed:

"In the review meetings, the child, the social worker and important people from the child's network meet together. The meeting is led by an independent chairperson. The basis of the meetings includes documentation prepared, using the forms for planning and reviewing that are being tested within the BBIC project. These forms include: care plans, placement information, treatment plans, review of arrangements, assessment and action records, consultation papers for children, parents and caregivers, record from the review meeting, school consultation documentation and physician's consultation documentation. The goal is to build a team with the assignment to work together for the benefit of the child."⁴⁷²

An evaluation of the review meetings involving children revealed that the participation of an independent chairperson was perceived as positive by the children and social workers participating in the meetings as well as by the independent chairpersons themselves. The independent chairperson is tasked to lead the meeting and discussion of the case assessment and also to focus on the child and her or his interests to ensure that the rights of the child are safeguarded.⁴⁷³ The evaluation concluded that,

"although certain deficiencies were observed, our conclusion is that, through BBIC, the framework and scope that is created for the child's participation and involvement in planning and decision making provides the preconditions to strengthen the position of the child in accordance with the aims of the Social Services Act and the CRC. Through this method, every child is guaranteed to be involved in assessments of the care every sixth month. The child is

⁴⁷⁰ Edebalk, Per Gunnar, *Children Looked After and Their Right to Participation in Accordance with the UN Convention on the Rights of the Child, Article 12*, Paper presented at Childhoods 2005 in Oslo, July 2005, Lunds Universitetet, Socialhögskolan, Working-paper serien 2006:1, Lund, 2005, accessed from <http://www.childcentre.info/projects/institutions/dbaFile12713.pdf> on 15 May 2015, p. 3.

⁴⁷¹ Ministry of Health and Social Affairs, *National Action Plan for Safeguarding Children from Sexual Exploitation*, Stockholm, 2007, accessed from www.sweden.gov.se/content/1/c6/11/01/73/5681ba8f.pdf on 15 May 2015, p. 16.

⁴⁷² Edebalk, Per Gunnar, *Children Looked After and Their Right to Participation in Accordance with the UN Convention on the Rights of the Child, Article 12*, Paper presented at Childhoods 2005 in Oslo, July 2005, Lunds Universitetet, Socialhögskolan, Working-paper serien 2006:1, Lund, 2005, accessed from <http://www.childcentre.info/projects/institutions/dbaFile12713.pdf> on 15 May 2015, pp. 4-5.

⁴⁷³ Edebalk, Per Gunnar, *Children Looked After and Their Right to Participation in Accordance with the UN Convention on the Rights of the Child, Article 12*, Paper presented at Childhoods 2005 in Oslo, July 2005, Lunds Universitetet, Socialhögskolan, Working-paper serien 2006:1, Lund, 2005, accessed from <http://www.childcentre.info/projects/institutions/dbaFile12713.pdf> on 15 May 2015, p. 14, 18, 19.

consulted, has the opportunity to express her or his views and, if all goes well, participate and also exercise some influence in important planning and decision making processes that affect them. The interviewed children have not levelled particularly hard criticism at the actual working method itself but rather the people applying it. Children's knowledge, experiences and way of thinking and acting present adults with the opportunity to learn a great deal from the meeting with children."⁴⁷⁴

The National Board of Health and Welfare (*Socialstyrelsen*) commissioned an evaluation of the BBIC model.⁴⁷⁵ In light of the positive outcomes and development, the system is now in place in most municipalities.⁴⁷⁶

By 2014, the Swedish government has extended the BBIC Programme as a knowledge support that contributes to a needs-focused, systematic method with a common terminology, for a structured documentation and data collection for follow-up on an aggregated level. The programme aims to provide social services with a structure for investigating the children's needs and to plan and monitor the agreed-upon actions and services according to the pre-established targets. Children are thus monitored in alternative placement, including in residential institutions and in foster care. The focus of this planning and monitoring framework is the individual child and her or his needs. The BBIC programme is expected to contribute to the harmonisation of local services, guiding them in adopting a holistic approach with the child at the centre. In light of the process by which this programme has been piloted, evaluated and mainstreamed, it is expected to contribute to evidence-informed and knowledge-based social services throughout the country. The National Board of Health and Welfare operates the programme in cooperation with county councils and municipalities, and with the financial support from the central government. By 2014, the programme has been introduced in almost all Swedish municipalities.⁴⁷⁷

⁴⁷⁴ Edebalk, Per Gunnar, *Children Looked After and Their Right to Participation in Accordance with the UN Convention on the Rights of the Child, Article 12*, Paper presented at Childhoods 2005 in Oslo, July 2005, Lunds Universitetet, Socialhögskolan, Working-paper serien 2006:1, Lund, 2005, accessed from <http://www.childcentre.info/projects/institutions/dbaFile12713.pdf> on 15 May 2015, p. 20.

⁴⁷⁵ Edebalk, Per Gunnar, *Children Looked After and Their Right to Participation in Accordance with the UN Convention on the Rights of the Child, Article 12*, Paper presented at Childhoods 2005 in Oslo, July 2005, Lunds Universitetet, Socialhögskolan, Working-paper serien 2006:1, Lund, 2005, accessed from <http://www.childcentre.info/projects/institutions/dbaFile12713.pdf> on 15 May 2015, p. 5.

⁴⁷⁶ Ministry of Health and Social Affairs, *National Action Plan for Safeguarding Children from Sexual Exploitation*, Stockholm, 2007, accessed from www.sweden.gov.se/content/1/c6/11/01/73/5681ba8f.pdf on 15 May 2015, p. 16.

⁴⁷⁷ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fifth Periodic Report of States Parties due in 2011: Sweden, CRC/C/SWE/5, 5 May 2014, par. 213-214.

Promoting the well-being, empowerment and development of children in alternative care

A truly holistic approach to alternative care and placement requires that the care planning process gives due consideration to all the rights and needs of the child. In addition to fundamental human rights and principles, such as the safety and health of a child, holistic approaches need to consider the child as a person within her or his social, cultural and developmental context. Many aspects of the social and cultural life of a child may however not be clearly regulated by legal provisions or policy plans. Their realisation depends then strongly on the commitment of caregivers and staff and the opportunities for children in care to access the right type of support. This includes access to sports, recreation and leisure time activities, testing out the child's skills and talents and promoting their further development, learning life skills, maintaining or building new social networks with peers, adults and special support persons, and ensuring continuity of schooling or vocational training. While access to these type of activities and support is essential for the child's well-being, empowerment and development, it also helps girls and boys in their transition into adulthood and independent life.

In **Denmark**, one of the general objectives of the Consolidation Act on Social Services is a holistic and broad perspective on the rights of the child, which shall be reflected in service provision supporting children's personal development (§46). The Act affords that the purpose of assisting children and young persons with special needs is to provide such children and young persons with the same opportunities for personal development, health and an independent adult life as other children and young persons. The support shall be provided to secure the best interests of the child or young person and shall be designed to

- (i) ensure continuity in childhood and youth and a safe environment of care offering close and stable relations to adults, for instance by supporting the child's or young person's family relations and other networks;
- (ii) secure the child's or young person's opportunities for personal development and acquisition of skills to build social relations and networks;
- (iii) support the child's or young person's schooling and chances of completing an education;
- (iv) promote the health and welfare of the child or young person; and
- (v) prepare the child or young person for an independent adult life.

The support shall be provided at an early stage and on a continuous basis so that any problems encountered may as far as possible be remedied in the home or the immediate environment. On the basis of a case-by-case assessment, the support must be adapted to the specific situation of the individual child or young person and his/her family. The support shall be based on the child's or young person's own resources, and the views of the child or young person shall always be taken into account, and proper importance shall be attributed to such views in accordance with the age and maturity of the child or young person in question. Where possible, the difficulties of the child or young person shall be resolved in consultation and cooperation with his/her family. Where this is not possible, the background,

purpose and constituent features of the specific measure taken shall be explained to the custodial parent as well as to the child or young person.⁴⁷⁸

The **Danish** Care Placement Reform aimed to improve the attention given to school enrolment and continuity of schooling of children in alternative care. To this end, it has become obligatory that the case assessments and the development of the individual care plan for a child must consider the child's school situation. In order to prevent disruptions in education due to the placement, the child's schooling has to be taken into account in decisions about the location of placement and the child's schooling and care placement are planned in a timely manner and in conjunction (Act No. 1442 of 22 December 2004, Care Placement Reform).⁴⁷⁹

In **Estonia**, hobby schools offer after-school education for children who wish to pursue certain hobbies. Children in alternative care are supported in accessing hobby schools on the same terms and conditions as other children, with a view to promoting their development, including of skills, talents and other evolving capacities. Hobby schools provide a structured framework for activities that follow a study curriculum or activity programme and require regular attendance by the children. The hobby schools offer activities in sports, music and arts, general culture, technology and nature. In the academic year 2012/2013, there were 527 hobby schools in Estonia and surveys revealed that almost 90 percent of the children in the age group between 10 and 15 years participate in hobby education. The choice of a specific field is influenced by the child's interests (71%), pleasant company (25%), the possibility to spend time with friends (16%) and the desire to learn or improve certain skills (25%).⁴⁸⁰

In 2012, the Government of **Latvia**, approved an Action Plan to guide the implementation of the Guidelines of the National Family Policy 2011-2017 during the first term (2012-2014). The action plan includes measures that aim to facilitate and prepare children who are ageing out of family-based alternative care for an independent life. In order to support the transition into adulthood, the action plan provides for education of professionals and foster carers on how to communicate and work with and for children in alternative care. The Yearly National Programme for Improving the Condition of Children and the Family has supported municipalities financially in establishing youth houses where children and youth from orphanages have opportunities to acquire independent life skills. Youth houses are apartment-type facilities where children who have attained 15 years of age live and are supported in their transition into adulthood and an independent life. Thus far, ten youth houses have been established with cofounding from the state and six youth houses have been established by municipality funding.⁴⁸¹

In the **Russian Federation**, children who are orphans enjoy special entitlements in accessing support, in particular to enable them to remain in education and proceed with secondary and

⁴⁷⁸ CBSS Data Survey, April 2015, Response from Denmark.

⁴⁷⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Fourth period report of States parties due in 2008, Denmark, CRC/C/DNK/4, 22 January 2010, par. 363-365.

⁴⁸⁰ CBSS Data Survey, April 2015, Response from Estonia.

⁴⁸¹ National Programme for Improving the Condition of Children and the Family. Information provided by the Ministry of Welfare, Latvia, April 2015.

tertiary education, to use public transportation and to participate in sports and cultural activities. The support entails the following:

- A priority for admission to pre-school educational institutions;
- Free meals at general schools;
- Free preparation to enter universities and colleges;
- Free second intermediate vocational education;
- Social welfare for the whole period of studying in a secondary or higher education institution on an internal basis;
- An annual grant to buy course books and writing instruments;
- Comfortable housing from the Special Accommodation Fund (on a one-off basis, if an orphan is lack of housing) according to the procedure established by the regional legislation;
- Free entrance to cultural and sports establishments;
- Free medicine provision on prescription;
- Free medical service and treatment;
- A free pass to urban transit services.⁴⁸²

These elements of support are important to support the integration of children deprived of parental care in the social and educational spheres.

Prohibition of corporal punishment

Under international human rights law, States are obliged to protect children from all forms of violence, including physical and non-physical punishment and other forms of cruel and degrading treatment (CRC Articles 19, 28(2) and 37(a)). The prohibition applies to all contexts, including the home, at school, at the workplace, in day care and alternative care settings. Children in care are among the particularly vulnerable groups in society. They include children who have been exposed to violence and abuse before, who are young or have different types of disabilities. Considering the harmful impact of violence on a child's development, effective protection from corporal punishment is a key principle of quality care.⁴⁸³

The prohibition of corporal punishment of children was reiterated by the Treaty Bodies for the International Covenant on Civil and Political Rights, the International Covenant on Social, Political and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Elimination of All Forms of Discrimination Against Women.⁴⁸⁴

⁴⁸² *Family Placement of Orphan Children and Children Left Without Parental Care in the Russian Federation: Legal basis and regional experience*, undated, pp. 3-4.

⁴⁸³ Global Initiative to End All Corporal Punishment Against Children, *Ending Legalised Violence Against Children, Prohibiting and eliminating corporal punishment in all alternative care and day care settings*, October 2012, p. 3. See: United Nations Committee on the Rights of the Child, General Comment No. 8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, 2006, par. 11.

⁴⁸⁴ Global Initiative to End All Corporal Punishment Against Children, *Ending Legalised Violence Against Children, Prohibiting and eliminating corporal punishment in all alternative care and day care settings*, October 2012, p. 11.

The UN Convention on the Rights of Persons with Disabilities reaffirms this right specifically for persons with disabilities. It obliges states to ensure that persons with disabilities are not subjected to torture or cruel, inhuman or degrading treatment or punishment (Article 15). Article 16 affords protection from violence, exploitation and abuse, and Article 17 provides for the respect for the physical integrity.

For the European context, the European Convention on Human Rights provides for the right to freedom from torture or inhuman or degrading treatment or punishment (Article 3). The European Court of Human Rights has interpreted this provision to imply a prohibition of corporal punishment of children.⁴⁸⁵

The Committee on the Rights of the Child underlines that corporal punishment of children is degrading. In addition to physical punishment, there are also non-physical forms of punishment that are cruel and degrading. They include punishment that belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child. Punishing children with isolation, denying food, sleep, shelter or social contacts are other forms of cruel and degrading treatment that are not compatible with the principles and rights afforded under international human rights law.⁴⁸⁶ In its General Comment No. 8 (2006), the Committee on the Rights of the Child states that there is no ambiguity in the prohibition of violence against children. The wording 'all forms of physical or mental violence' does not leave room for any level of legalized violence against children. The General Comment provides also for a definition of corporal punishment (see Glossary in the Annex).⁴⁸⁷

Children are at risk of corporal punishment in the home as well as in alternative care settings, in school and elsewhere. Measures to end corporal punishment of children start with a comprehensive legal prohibition in all settings. In order to promote the full and comprehensive implementation of these laws in practice, states need to develop a concerted set of measures that inform and sensitise the population, change attitudes and offer training on positive discipline for parents, caregivers and professionals working with and for children. In addition, there is need for proactive action to support the reform process. This includes special measures to reach and protect the particularly vulnerable or marginalised groups, including children in alternative care.⁴⁸⁸

The UN Guidelines on Alternative Care reiterate the prohibition of corporal punishment of children. They call upon states to prevent and prohibit corporal punishment in public and private forms of alternative care and ensure that they are punishable by law.⁴⁸⁹ The Council

⁴⁸⁵ Council of Europe, *Eliminating Corporal Punishment: A human rights imperative for Europe's children*, 2nd Edition, Strasbourg, Council of Europe Publishing, 2007. Global Initiative to End All Corporal Punishment Against Children, *Ending Legalised Violence Against Children, Prohibiting and eliminating corporal punishment in all alternative care and day care settings*, October 2012, p. 13.

⁴⁸⁶ Global Initiative to End All Corporal Punishment Against Children, *Ending Legalised Violence Against Children, Prohibiting and eliminating corporal punishment in all alternative care and day care settings*, October 2012, p. 3. See: United Nations Committee on the Rights of the Child, General Comment No. 8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, 2006, par. 11.

⁴⁸⁷ United Nations Committee on the Rights of the Child, General Comment No. 8 (2006): The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, 2006, par. 18.

⁴⁸⁸ United Nations Committee on the Rights of the Child, General Comment No. 13 (2011), Article 19: The right of the child to freedom from all forms of violence, 2011, par. 60, 72(g). Global Initiative to End All Corporal Punishment Against Children, *Ending Legalised Violence Against Children, Prohibiting and eliminating corporal punishment in all alternative care and day care settings*, October 2012, p. 10.

⁴⁸⁹ United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434) 64/142, 24 February 2010, par. 93.

of Europe recommendations on the rights of children living in residential institutions (2005) also prohibit the corporal punishment of children in residential institutions.⁴⁹⁰

The Global Initiative to End All Corporal Punishment Against Children noted that little research has been conducted into the use of corporal punishment in foster care, residential institutions and day care for children. The majority of studies and reports are investigating the prevalence of violence or abuse more generally. Some groups of children are however considered to be particularly at risk of corporal punishment. The Global Initiative noted that children with disabilities are at a higher risk of experiencing severe corporal punishment, especially in large-scale residential institutions. Due to their disabilities, it may be difficult for them to report incidents of violence. Young children are vulnerable to physical punishment because of their perceived low social status and their difficulties in reporting by themselves. In addition, children from minority groups, including linguistic, ethnic and other minorities, and children of different sexual orientations and gender identity, may be more likely to experience corporal punishment than others, including specifically in an institutional context. Corporal punishment does also have a gender dimension, as girls and boys may be exposed to different types or frequencies of punishment.⁴⁹¹

In the **Baltic Sea Region**, all states except **Lithuania** and the **Russian Federation**, have prohibited corporal punishment in the home, in day care, in alternative care and in schools.⁴⁹²

In **Denmark**, corporal punishment in the home has been prohibited since 1997. While the use of corporal punishment by parents is decreasing, the National Council for Children recommended that awareness could still be enhanced.⁴⁹³

⁴⁹⁰ Council of Europe, Committee of Ministers, Recommendation Rec(2005)5 of the Committee of Ministers to member states on the rights of children living in residential institutions, adopted by the Committee of Ministers on 16 March 2005.

⁴⁹¹ Global Initiative to End All Corporal Punishment Against Children, *Ending Legalised Violence Against Children, Prohibiting and eliminating corporal punishment in all alternative care and day care settings*, October 2012, p. 5. See also: Pinheiro, P.S., World Report on Violence against Children, United Nations, 2006. EveryChild, Family Matters: A study of institutional childcare in Central and Eastern Europe and the Former Soviet Union, 2005.

⁴⁹² **Denmark**: Act No. 416 of 10 June 1997 concerning custody and contact (Section 2(2)). Act on Parental Responsibility 2007, Article 2(2). Danish Order No. 276 Concerning the Promotion of Order in the Schools. Global Initiative to End All Corporal Punishment of Children, *Denmark, Country Report*, 2013, p. 2. **Estonia**: Child Welfare Act 2014, Article 24. The Act will enter into force on 1 January 2016. Child Protection Act 1992. Primary and Secondary Schools Act 2010, Article 44 and 58. Global Initiative to End All Corporal Punishment of Children, *Corporal Punishment of Children in Estonia, Report prepared by the Global Initiative to End All Corporal Punishment of Children*, November 2014. **Iceland**: Child Protection Act, Articles 1, 82 and 99. Global Initiative to End All Corporal Punishment of Children, *Iceland, Country Report*, 2012, p. 2. **Finland**: Child Custody and Right of Access Act 1983, Article 1.3. Child Welfare Act 2007. Act on Primary Schools 1957 and the Act on Comprehensive Schools 1985. Global Initiative to End All Corporal Punishment of Children, *Finland, Country Report*, 2013, p. 2. **Germany**: Civil Code Section 1631. Global Initiative to End All Corporal Punishment of Children, *Corporal Punishment of Children in Germany, Report prepared by the Global Initiative to End All Corporal Punishment of Children*, February 2014, p. 1. **Latvia**: Law on Protection of the Rights of the Child, 1998, Articles 9(2), 24(4), 39(1). Global Initiative to End All Corporal Punishment of Children, *Corporal Punishment of Children in Latvia*, 2014, pp. 2-3. **Lithuania**: Law on the Fundamentals of Protection of the Rights of the Child 1996, Article 49.1. Global Initiative to End All Corporal Punishment of Children, *Corporal Punishment of Children in Lithuania*, 2014, pp. 2-3. **Norway**: The Parent and Child Act 1981, Article 30. Parent and Child Act 1981 as amended in 1987 and 2010. Kindergarten Act 2005, Sections 2.9 and 3.7 of the Education Act 1998. Cited in: Global Initiative to End All Corporal Punishment of Children, *Corporal Punishment of Children in Norway*, 2014, pp. 2-3. **Poland**: Article 2 of the Law of 10 June 2010 amending the Act on Counteracting Family Violence and Other Acts amended the Family Code 1964 by inserting a new Article 96¹ which prohibits all corporal punishment in childrearing. Article 40 of the Constitution 1997. Act of 7 September 1991 on the Education System. Cited in: Global Initiative to End All Corporal Punishment of Children, *Poland Country Report*, 2013, pp. 2-3. **Sweden**: Parenthood and Guardianship Code Article 6.1. Article 5 of the Instrument of Government 2012, Article 13 of the Act Prohibiting Discrimination and Other Degrading Treatment of Children and School Students 2006. The Education Act 2010 Chapter 5 and 6. See: Global Initiative to End All Corporal Punishment of Children, *Corporal Punishment of Children in Sweden*, 2014, pp. 1-2. **Russian Federation**: Global Initiative to End All Corporal Punishment of Children, *Corporal Punishment of Children in the Russian Federation*, 2014, pp. 2-3.

⁴⁹³ National Council for Children, *Report to the UN Committee on the Rights of the Child, Supplementary Report to Denmark's 4th Periodic Report*, May 2009, accessed from <http://www.boerneradet.dk/files/Brd.dk%20Filbibliotek/PDF%20FILER/EKSTERNE%20RAPPORTER/BRD%204.%20Suppl>.

In **Estonia**, a comprehensive prohibition of corporal punishment was introduced by the Child Welfare Act adopted in November 2014, which will enter into force in January 2016.

In **Iceland**, the Child Protection Act includes penal sanctions for certain contraventions. Article 99, for instance, stipulates fines or imprisonment for up to three years for anyone who subjects a child to mental or physical punishment.⁴⁹⁴

In **Lithuania**, the Law on the Fundamentals of Protection of the Rights of the Child 1996 states in Article 49.1 that “Parents and other legal representatives of the child may appropriately, according to their judgment, discipline the child, for avoiding to carry out his duties and for disciplinary infractions, with the exception of physical and mental torture, other cruel behaviour and the humiliation of the child’s honour and dignity.” Although various provisions in the same Law, in the Civil and Criminal Codes, the Code of Administrative Offences, the Law on Protection against Domestic Violence and the Constitution prohibit violence and abuse of children, these are not interpreted to amount to a prohibition of corporal punishment in childrearing. The Government of **Lithuania** has taken repeated initiatives to introduce a legal ban of corporal punishment of children. The respective bills were however rejected in Parliament in 2010 and 2013. A new Child Protection Bill is currently being discussed that shall replace the Law on the Fundamentals of Protection of the Rights of the Child and include a prohibition of corporal punishment.⁴⁹⁵ In the absence of a legal ban of corporal punishment, the attitudes, tolerance and practice of using corporal punishment in childrearing are high, as demonstrated by research (see Box 8).**Errore. L'origine riferimento non è stata trovata.**

In the **Russian Federation**, the law does not explicitly prohibit corporal punishment in the home. The Family Code 1995 protects the human dignity of children and protects children from abuse by their parents (Articles 54, 56 and 69). The Code affords that parents have a right and a duty to educate their children and that parents must care for their children’s “health, physical, mental, spiritual and moral development” (Article 63). The methods of parenting should not include neglectful, cruel or degrading treatment, abuse or exploitation of children (Article 65). The Criminal Code 1996 punishes intentional harm to health, including in less serious forms (Articles 111-115). It punishes also “beating or other violent acts which cause physical pain” (Article 116). The Ministry of Justice considers these provisions collectively to amount to a de facto prohibition of corporal punishment of children in the home and in alternative care. As there are however no explicit prohibitions of all forms of physical punishment in child rearing, including in laws relevant for child rights, guardianship and parental responsibility, there remains a margin for interpretation.⁴⁹⁶

[%20Rapp.%20til%20FN%20-%202009%20-%20UKversion.pdf](#) on 15 May 2015, p. 21. National Council for Children, *Report to the UN Committee on the Rights of the Child, Supplementary Report to Denmark’s 3rd Periodic Report*, January 2005, accessed from http://www.crin.org/docs/resources/treaties/crc.40/Denmark_brd_ngo_report.pdf on 15 May 2015, pp. 23-24.

⁴⁹⁴ The Icelandic Human Rights Centre, Save the Children Iceland and Icelandic Committee for UNICEF, *Report to the UN Committee on the Rights of the Child, Supplementary report to Iceland’s 3rd periodic report*, December 2010, p. 18.

⁴⁹⁵ Global Initiative to End All Corporal Punishment of Children, *Corporal Punishment of Children in Lithuania*, 2014, pp. 2-3.

⁴⁹⁶ Global Initiative to End All Corporal Punishment of Children, *Corporal Punishment of Children in the Russian Federation*, 2014, pp. 2-3.

Screening of professionals working with and for children in alternative care

In working environments where professionals or volunteers are in direct contact with children, the screening of their criminal records is a basic prevention measure to ensure that applicants, staff and other persons with a history of abuse and violence are rejected as applicants or removed from working with and for children. Legal regulations that enable employers to request the criminal record of applicants and staff for screening purposes are important for public and private sector employers and service providers.⁴⁹⁷

In **Denmark**, the Act on Obtainment of Criminal Record Disclosures in the Employment of Staff (2005) provides for the possibility of screening the criminal record of persons who apply for a position where they will be in contact with children. According to the Act, public authorities, and selected private associations, have to request the 'child certificate' from applicants for positions that involve direct contact with children younger than 15 years.⁴⁹⁸ Within half a year from the entry into force of the Act in 2007, 450,000 child certificates had been requested and among these, 59 certificates had been positive.⁴⁹⁹

The child certificate provides information on previous convictions for the criminal offences of incest, sexual intercourse or other sexual relations with children under 15 years of age; dissemination or possession of child pornography; and indecent exposure to children under the age of 15.⁵⁰⁰ Despite the important reform that the Act brought about, it has been criticised for registering only convictions that relate to sexual offences against children an adult has committed in the context of her or his employment or voluntary work. Sexual offences committed by persons in a private context would not be registered by the screening, which constitutes a serious limitation to the effectiveness of this measure.⁵⁰¹

In **Iceland**, the Child Protection Act regulates the screening of professionals working with and for children (Article 36). Persons who have committed sexual offences against children cannot be employed by the child welfare authorities, by children's homes or other institutions operated by public or private bodies. The possibility to screen the police records of applicants refers to employment in all areas regulated by the Child Welfare Act as well as employment

⁴⁹⁷ United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434) 64/142, 24 February 2010, par. 113.

⁴⁹⁸ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2008: Denmark, CRC/C/DNK/4, 22 January 2010, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.DNK.4.doc> on 15 May 2015, par. 686.

⁴⁹⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2008: Denmark, CRC/C/DNK/4, 22 January 2010, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.DNK.4.doc> on 15 May 2015, par. 687.

⁵⁰⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 12(1) of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Office of the High Commissioner for Human Rights, Geneva, Initial Reports of States Parties due in 2004, CRC/C/OPSC/DNK/1, 30 November 2005, accessed from <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/453/05/PDF/G0545305.pdf?OpenElement> on 15 May 2015, par. 138.

⁵⁰¹ Save the Children Denmark, *Supplementary NGO Report, Denmark's First Report, Implantation of the Optional Protocol 25th May 2000 to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, March 2006, accessed from http://www.crin.org/docs/Denmark_SCD_NGO_Report.doc on 15 May 2015, p. 11.

in kindergartens, schools, summer camps, sport and leisure time activities, and in centres or institutions where children stay for shorter or longer periods.⁵⁰²

In **Finland**, the Act on checking the criminal background of persons working with children (504/2002) aims to “protect the personal integrity of minors and promote their personal security”. The Act obliges employers to check the criminal record of a person before that person’s appointment or employment is confirmed. It applies to a wide range of sectors in which persons get in contact with children, including in the context of professional employment, civil service, and private social and health services. The obligation to check criminal records applies however only to employment that lasts more than three months within the same year (Section 2).

In **Sweden**, a new law entered into force in 2013 that provides for the registration of persons who work with children. The law obliges any person to provide an extract from the criminal records register when the person is offered a position in the public administration at the national or county level or locally within municipalities, a company or an organization that will involve direct and regular contact with children.⁵⁰³

Screening of criminal records is essential not only for professionals working with and for children; it is equally important for caregivers who are prospective adoptive parents or foster parents, as well as volunteers working with children as guardians, sports and leisure time and other activities.

Reporting obligations of professionals and officials working with and for children

Throughout the Baltic Sea Region, states have enacted legal regulations that encourage and oblige professionals working with and for children to report incidents of violence, abuse, exploitation or neglect of a child as well as children at risks. In many countries, reporting obligations extend also to the general public.⁵⁰⁴ These reports and notifications to the police,

⁵⁰² United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 12(1) of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Office of the High Commissioner for Human Rights, Geneva, Initial Reports of States Parties due in 2004, Iceland, CRC/C/OPSA/ISL/1, 15 July 2005, accessed from [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/6892618128716357c12570bc006efaf8?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/6892618128716357c12570bc006efaf8?OpenDocument) on 15 May 2015, par. 47.

⁵⁰³ Sweden, Act (2013:852) to register and control of persons who work with children, 2013, accessed from http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-2013852-om-registerkont_sfs-2013-852/?bet=2013:852 on 20 May 2015.

⁵⁰⁴ European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Provisions on professionals’ legal obligation to report cases of child abuse, neglect and violence*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/reporting-1> on 15 July 2015. European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Specific legal obligations for civilians to report cases of child abuse, neglect and violence*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/reporting2> on 15 July 2015. A comprehensive report on FRA’s research is planned for publication in early 2016. **Denmark**, the Consolidation Act on Social Services includes provisions on the duty to notify under Chapter 27, Sections 153-155. **Finland**: Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 15 May 2015, par. 239. **Latvia**: Protection of the Rights of the Child Law, Article 73. **Lithuania**: Human Rights Monitoring Group et al., *Rights of the Child in Lithuania, NGO Report for the UN Committee on the Rights of the Child on the 3rd and 4th periodic reports by the Government of Lithuania*, 62nd-63rd Pre-sessional Working Group, 8-12 October 2012, August 2012, pp. 5-6. **Norway**: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 12(1) of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Denmark,

to child protection or social services are important to alert the authorities of children at risk, to initiate investigations into the child's situation and the family if and as appropriate. When the investigations find that the notifications were justified, the child protection and social services will consider child protection and support measures for the family and, as a measure of last resort, the possibility of removing the child from the family for placement in alternative care.

In **Denmark, Estonia, Lithuania, Poland, and Sweden**, the reporting obligations afforded under the national laws apply to all professionals who are directly involved and in contact with children in their work. In **Finland and Latvia**, on the other side, the reporting obligations concern only specific professional groups such as social workers or teachers. In **Denmark, Estonia, Finland, Latvia, Lithuania and Sweden**, reporting obligations extend by law to any person to the effect that civilians are obliged to report cases of violence, exploitation, abuse or neglect of children to the competent authorities. In **Germany**, reporting obligations have not been as clearly stipulated by law.⁵⁰⁵

In **Denmark**, the Consolidation Act on Social Services includes provisions on the duty to notify under Chapter 27. In general, every person in **Denmark** "who learns or becomes aware that a child or young person under the age of 18 is being neglected or abused by her or his parents or other persons involved in her or his upbringing, or is living under conditions endangering her or his health or development, shall notify the municipal authorities" (Section 154). Municipal authorities are held to respond to such notifications within six days the latest (Section 155). The duty of notification does, however, not extend to situations beyond the upbringing or living conditions of a child. The Act further tasks the Minister of the Interior and Social Affairs to lay down rules by order that regulate the duty of various professional groups to notify municipal services in cases in which children are suspected to be in need of child protection services (Section 153).

The Committee on the Rights of the Child noted in 2006 that there may not yet be sufficient awareness among professionals working with and for children and the general public about these reporting obligations and that delays in the response to such reports by the social welfare authorities may occur due to limited resources and a generally high caseload.⁵⁰⁶ In

CRC/C/OPSC/DNK/CO/1, 17 October 2006, par. 24. See also: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 12(1) of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Office of the High Commissioner for Human Rights, Geneva, Initial Reports of States Parties due in 2004, CRC/C/OPSC/DNK/1, 30 November 2005, par. 100. **Sweden**: Regeringskansliet (Government Offices of Sweden), *Sweden's Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, 2009, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.OPSC.SWE.1.doc> on 15 May 2015, par. 115. Social Services Act, Chapter 14, Section 1.

⁵⁰⁵ European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Provisions on professionals' legal obligation to report cases of child abuse, neglect and violence*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/reporting-1> on 15 July 2015. European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Specific legal obligations for civilians to report cases of child abuse, neglect and violence*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/reporting2> on 15 July 2015. A comprehensive report on FRA's research is planned for publication in early 2016.

⁵⁰⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 12(1) of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Denmark, CRC/C/OPSC/DNK/CO/1, 17 October 2006, par. 24. See also: United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 12(1) of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Office of the High Commissioner for Human Rights, Geneva, Initial Reports of States Parties due in 2004, CRC/C/OPSC/DNK/1, 30 November 2005, par. 100.

response to these observations, the Government of Denmark has strengthened the rules on the duty to notify and the municipalities' handling of the notifications, in particular by investing in awareness raising campaigns and setting up a national registry of notifications to the municipalities in order to assess and monitor the situation.⁵⁰⁷

In **Norway**, the child welfare policy encourages and obliges professionals to report to the child welfare services when children are exposed to violence, abuse or neglect and when there are suspicions or severe risks. This policy has gradually led to an increase of reports and cases registered by the child welfare system. The increasing number of reports has also triggered a higher caseload for the child welfare services. The number of investigations rose proportionately, as the child welfare services are obliged to investigate all notifications they receive that are considered reasonable. At the same time, the rising number of investigations did however not lead to an equally rising number of decisions to provide child welfare services. The data suggest that a steady proportion of the investigations turned out to be superfluous. While receiving and investigating notifications is mandatory for the child welfare services, other services, such as school psychology, are entitled to decline cases due to their caseload or other priorities. In light of these dynamics, researchers from the Nordic countries question whether the decision who should receive child welfare measures should rest with the child welfare services only or if inter-disciplinary cooperation models and shared roles and responsibilities could not be more conducive to tightening up the safety net for children and families.⁵⁰⁸

Between 2001 and 2007, an increasing workload of the local child protection committees has been noted also in **Iceland**. It is attributed to the growing awareness of child rights and protection issues among the general public as well as relevant reporting obligations and the improved capacity of local child protection committees to register cases.⁵⁰⁹ Since 2002, the Child Protection Act obliges every person to report to child protection committees when they suspect that “a child is living in unacceptable circumstances of upbringing, is subject to harassment or violence or is placing his/her health and development at risk.” The obligation to report child protection cases takes precedence over provisions regulating official or professional secrecy. (Article 16). These obligations extend to the general public, the police as well as professionals working with and for children.⁵¹⁰ The Child Protection Act provides for penalties when the duty to notify child protection committees is not respected or when false or misleading information is provided deliberately. In either case, the Act foresees imprisonment for up to two years (Article 96).⁵¹¹

⁵⁰⁷ Information provided by the National Board of Social Services, Denmark, 18 May 2015.

⁵⁰⁸ Backe-Hansen, E., et al., Out of Home Care in Norway and Sweden – Similar and Different, *Psychosocial Intervention*, Elsevier, 22(2013) 193-202, pp. 194-195.

⁵⁰⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Iceland's Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc> on 15 May 2015, par. 128.

⁵¹⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Iceland's Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc> on 15 May 2015, par. 131.

⁵¹¹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 12(1) of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Office of the High Commissioner for Human Rights, Geneva, Initial Reports of States Parties due in 2004, Iceland, CRC/C/OPSA/ISL/1, 15 July 2005, accessed from [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/6892618128716357c12570bc006efaf8?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/6892618128716357c12570bc006efaf8?Opendocument) on 15 May 2015, par. 22.

When national laws for mandatory reporting are adopted, it is important to roll-out the new provisions in a coordinated way involving the different disciplines involved, providing information, training and awareness raising. **Iceland** has made good experience with its national action programme against domestic violence and abuse that was developed in cooperation by different ministries. The programme for the period 2006-2011 provided for screening of police records of persons applying for a job where they will be in contact with children; for the development of guidelines to be used by professionals on how to report suspected abuse of children; and for the production of awareness raising material for professionals and the general public regarding their obligation to report cases of suspected violence against children to the authorities. The measures target different groups of professionals working with and for children, in particular professionals working in different types of institutions such as pre-schools and schools, health care centres and child welfare authorities. Information and training on the issue of abuse and violence against children is to be included into the standard curricula for relevant professional sectors and should be addressed in in-service training as well.⁵¹²

In **Finland**, the Child Welfare Act (417/2007) obliges professionals in the sectors of social affairs, health, education and youth work to report to the child welfare authority when they have noticed that a child has experienced violence or sexual abuse in her or his living environment. The child welfare authority is obliged to follow up to such reports and to look into the case and assess the child's need for assistance and protection. When the child welfare authority has a reason to suspect that the child is a victim of violence, they have to report the case to the police. In cases of 'minor violence' against a child, the child welfare authority are entitled to decide if it is in the best interests of the child when the case is reported to the police and, if that is not the case, the authority can refrain from reporting the case.⁵¹³

The procedures of responding to cases of violence against children and related legal reporting obligations are explained in a guide developed by the National Research and Development Centre for Welfare and Health in 2003: "Examining Sexual Abuse and Violence against Children: Recommendations of the Expert Group for the Professionals of Social Welfare and Health Care". The Government of **Finland** reported in 2008 that the guide "has clarified the notification procedure, specified the distribution of responsibility between the authorities, and remarkably increased the number of notifications made to the police on incidents of sexual abuse."⁵¹⁴

In **Latvia**, the Protection of the Rights of the Child Law obliges all citizens to protect the safety of their own and other children (Article 73, Paragraph one). When there are suspicions or

⁵¹² Ministry of Social Affairs and Social Security, *Plan of Action to Deal with Domestic and Sexual Violence*, Translation from the Icelandic: „Aðgerðaáætlun vegna ofbeldis á heimilum og kynferðislegs ofbeldis“, September 2006, accessed from http://www.felagsmalaraduneyti.is/media/acrobat-enskar/sidur/Plan_of_Action_to_deal_with_Domestic_and_Sexual_Violence.pdf on 15 May 2015, pp. 7-10. United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Iceland's Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc> on 15 May 2015, par. 129.

⁵¹³ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 15 May 2015, par. 239.

⁵¹⁴ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 15 May 2015, par. 241.

signs of any form of abuse of a child, criminal offences or threats against a child or a violation of the rights of a child, each citizen is obliged to promptly inform (on the same day) the police, the orphans' court or another institution responsible for the protection of children. Professionals in the health care sector, education, social services and the police, as well as elected State and local government officials, are obliged to follow up to any reports that they may receive. When they fail to follow-up by informing relevant institutions, they shall be held liable as prescribed by law (Section 73, Paragraph two).

In a review of the national legal framework concerning violence against children, the Ministry of Welfare (which succeeded the Ministry of Children and Family Affairs in 2009) noted however that the awareness of the law and its application in practice can still be strengthened, including within the general public. The liability for not reporting acts of violence against a child applies only to severe criminal offences.⁵¹⁵

In **Lithuania**, the number of reports on physical, emotional and sexual abuse against children in institutional care increased in 2009 and 2010 and included also cases of peer violence. Children leaving institutions were struggling to integrate in the communities and transit into an independent life. There were reports that some children were recruited into criminal gangs, into sexual exploitation or human trafficking upon leaving care institutions. The Human Rights Monitoring Group of Lithuania reported that police officers were aware of cases where the staff in residential care institutions were reluctant to report incidents or risks of violence and the presence of prostitution networks recruiting from the institutions. The reluctance was mainly due to a fear of the staff to lose their jobs or harming the reputation of the institution.⁵¹⁶

In **Sweden**, certain authorities and professionals working with and for children have an obligation to report cases to the social services when they have a reason to assume that a child is at risk and in need of protection. The duty to report applies to authorities working with and for children and professionals employed by such authorities, including professionals in the education system (schools, pre-school, school childcare), in public and private institutions, professionals in social services, police and the health system.⁵¹⁷ The reporting obligation is regulated under the Social Services Act Chapter 14, Section 1 and it applies to all children on the Swedish territory.⁵¹⁸

Complaints procedures and reporting mechanisms

Reporting procedures and complaint mechanisms for children are in place throughout the Baltic Sea Region in different forms and set-ups. They include complaints mechanisms within

⁵¹⁵ United Nations Study on Violence against Children, *Response to Questionnaire Received from the Government of the Republic of Latvia*, undated, pp. 14-15.

⁵¹⁶ Human Rights Monitoring Group et al., *Rights of the Child in Lithuania, NGO Report for the UN Committee on the Rights of the Child on the 3rd and 4th periodic reports by the Government of Lithuania*, 62nd-63rd Pre-sessional Working Group, 8-12 October 2012, August 2012, pp. 5-6.

⁵¹⁷ Regeringskansliet (Government Offices of Sweden), *Sweden's Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, 2009, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.OPSC.SWE.1.doc> on 15 May 2015, par. 115.

⁵¹⁸ Socialstyrelsen och UNICEF Sverige, *Kan det vara människohandel? Kortfattad information för myndigheter med flera som kan komma i kontakt med barn som utsatts för människohandel*, (National Board of Health and Welfare and UNICEF Sweden, *Could It Be Trafficking in Persons? Brief information for authorities and others who may get in contact with children who have been subject to trafficking in human beings*), Stockholm, 2008, accessed from <http://www.unicef.se/assets/kan-det-vara-manniskohandel.pdf> on 15 May 2015, p. 20.

the structure of the child protection and social welfare authorities, such as appeals boards, complaints procedures within care institutions, helplines operated by public and private agencies, as well as independent reporting and complaints mechanisms operated by national human rights structures and Ombuds offices for children.

The existing opportunities for children to report, to seek advice and to claim their rights differ in their accessibility and their effectiveness in safeguarding children and their interests in alternative care settings. Critical factors for children are first of all the knowledge and awareness of their right to complain and where to do so, as well as easy accessibility of complaints mechanisms for children. In addition, complaints mechanisms need to gain and maintain the trust of children. To this end, it is essential that they offer safeguards and ensure privacy if and as appropriate as well as effective and prompt follow-up with viable remedies and solutions that are meaningful for children and help improve their situation, safety and well-being.

In **Denmark** and **Germany**, the national law provides specifically for the rights of children in alternative care to issue complaints, including against the staff of residential institutions. In other countries, general provisions that entitle children to report infringements and violations of their rights apply also to children in alternative care.⁵¹⁹

In **Denmark**, the Care Placement Reform introduced the explicit right for a child in alternative care to file a complaint against the choice of placement or changes to placement. Appeals are handed in to the National Social Appeals Board. The right to appeal applies to children as of the age of 12 years old and the holder of parental responsibility. Decisions on care and treatment, education, access and contact with the birth family and social networks can be appealed to the Social Appeals Board. In these cases, the right to appeal applies to children as of 15 years old or the holder of parental responsibility. The local authority has to involve the child or young person in all steps of processing the complaint and to take into account the views of the child or young person in accordance with her or his age and maturity. The different age limits and different institutional responsibilities for closely related matters of alternative care and placement might be confusing to understand and might hamper access to the appeals procedure.⁵²⁰

The appeals boards also have the authority to investigate cases upon their own initiative with the overall objective to safeguard the rights of the child, and they are entitled to order a local council to take action. This is possible when the local authority has not complied with its obligations to conduct investigations of a case, including the interviews with the child concerned, when a care plan has not been developed or revised as required, and when the local authority has failed to visit and talk to the child in placement at least once a year. When a local authority fails to take decisions or implement required measures to the necessary extent, the appeals boards are further entitled to take decisions themselves or to order the

⁵¹⁹ European Union Agency for Fundamental Rights, *Mapping Child Protection Systems in the EU, Provisions on the right of the child placed in alternative care to issue complaints*, 2014, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection/complaints-child> on 15 July 2015. A comprehensive report on FRA's research is planned for publication in early 2016.

⁵²⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Fourth period report of States parties due in 2008, Denmark, CRC/C/DNK/4, 22 January 2010, par. 161-163. Information provided by the National Board of Social Services, Denmark, 18 May 2015.

local authority to take a decision.⁵²¹

In **Iceland**, the Child Protection Appeals Board receives appeals against decisions taken by child protection authorities. Its functions are regulated under the Child Protection Act No. 80/2002, Section IX. Article 51 gives the Board the mandate to re-assess the legal aspects of a case as well as the related evidence. Appeals can be handed in by the parties to a child protection case against a decision taken by a child protection committee, within a period of maximum four weeks after the committee's ruling. The Board is held to take a decision within a period of maximum three months from receipt of the appeal.

In **Norway**, the Child Welfare Service can provide assistance to a child only with the consent of the parents, except in cases of severe neglect and abuse. The Committee on the Rights of the Child expressed concern about this provision, since it can lead to situations in which children in need of assistance are discouraged from approaching the child welfare services on their own initiative and may be deprived of relevant services.⁵²² The Committee "recommends that children are given the right to address child welfare services independently of their parents' consent if informing the parents would obstruct the possibility to provide assistance to the child".⁵²³ The Ombudsman for Children noted that this situation may also create uncertainty among staff of child welfare services as to how to respond to children who are contacting them and to which degree they might engage in dialogue with the children without the parents' involvement and consent. The Ombudsman recommended that child welfare services should be made more easily accessible for children, including by communicating to children the possibility to contact them directly, with or without parental consent.⁵²⁴

In **Finland**, children can report or talk about cases of violence in the school, where a school nurse, a school social worker or a psychologist is available for children. A child can also directly contact the social services or the police. In addition, reports can be made to the child guidance and family counselling centres, the child welfare authority, mental health offices, Victim Support Finland and the Rape Crisis Centre.⁵²⁵

In 2011, the Committee on the Rights of the Child noted with concern that there was insufficient supervision and monitoring of alternative care facilities in **Finland**. It noted that the complaints mechanisms for children without parental care were not effective, including specifically for children in institutions. Children in institutions were not always integrated into

⁵²¹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Fourth period report of States parties due in 2008, Denmark, CRC/C/DNK/4, 22 January 2010, par. 164-167.

⁵²² United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Norway, CRC/C/NOR/CO/4, 29 January 2010, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.NOR.CO.4.pdf> on 15 May 2015, par. 32.

⁵²³ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Norway, CRC/C/NOR/CO/4, 29 January 2010, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.NOR.CO.4.pdf> on 15 May 2015, par. 33.

⁵²⁴ The Ombudsman for Children, *Supplementary Report to the UN Committee on the Rights of the Child*, Oslo, 2009, accessed from http://www.barneombudet.no/sfiles/48/24/1/file/supplementary-report-to-the-un_english.pdf on 15 May 2015, pp. 8, 13.

⁵²⁵ Government of Finland, *Fourth Periodic Report of the Government of Finland on the Implementation of the UN Convention on the Rights of the Child*, July 2008, accessed from http://www2.ohchr.org/english/bodies/crc/docs/Finland_4thPeriodicReport.pdf on 15 May 2015, par. 240.

mainstream education and might miss out on the necessary mental health services. In addition, the Committee noted a lack of support for biological families while children are placed in care and insufficient attention to the objective of promoting the family reintegration wherever this was in the best interests of the child.⁵²⁶

Helplines

Throughout the region, various national helplines are in place where children can call to talk about problems they are struggling with, to report abuse and other incidents and to seek advice. The helplines include general helplines for children, helplines specialised on certain themes or target groups and reporting lines for children at independent human rights structures. The European Commission decided in 2007, that each Member State has to reserve the number 116000 for a hotline for missing and sexually exploited children.⁵²⁷

In **Finland**, a toll-free national helpline “Child and Youth Phone” is in place.⁵²⁸ The NGO Mannerheim League of Welfare is operating a national helpline for children (0800-120400).⁵²⁹ The NGO Victim Support Finland is operating a hotline in Finnish and English language (0203-16116) for victims and witnesses of crime.⁵³⁰ In addition, the inter-cultural women’s association ‘Monika’ operates a country-wide emergency telephone hotline that is available 24 hours per day and through which volunteers offer help and assistance specifically for immigrant women and children.⁵³¹

In **Denmark**, the helpline for children “*Børne Telefonen*” (Children’s Telephone) has been operational in association with Child Helpline International since 1987. It provides counselling for children and refers children to service providers. The helpline can be reached through a phone number and through its website, including in a chat forum. Staff are on duty between 11.00 hrs and 23.00 hrs, including on weekends and holidays.⁵³² The organisation Child Helpline International and its member organisations noted that it is important to expand the reach of the existing helpline in order to reach more children, including marginalised children, and to respond to the high demand from children who call the helpline. To this end, financial

⁵²⁶ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: Finland, CRC/C/FIN/CO/4, 3 August 2011, par. 33-34.

⁵²⁷ Orama, Kristina, Maija Mustaniemi-Laakso and Martin Sheinin, *Thematic Study on Child Trafficking: Finland*, European Union Agency for Fundamental Rights, undated, accessed from <http://fra.europa.eu/fraWebsite/attachments/Child-trafficking-09-country-fi.pdf> on 15 May 2015, p. 58

⁵²⁸ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Finland, CRC/C/15/Add.272, 20 October 2005, accessed from [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.15.Add.272.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.15.Add.272.En?OpenDocument) on 15 May 2015, par. 32.

⁵²⁹ Orama, Kristina, Maija Mustaniemi-Laakso and Martin Sheinin, *Thematic Study on Child Trafficking: Finland*, European Union Agency for Fundamental Rights, undated, accessed from <http://fra.europa.eu/fraWebsite/attachments/Child-trafficking-09-country-fi.pdf> on 15 May 2015, p. 58

⁵³⁰ Orama, Kristina, Maija Mustaniemi-Laakso and Martin Sheinin, *Thematic Study on Child Trafficking: Finland*, European Union Agency for Fundamental Rights, undated, accessed from <http://fra.europa.eu/fraWebsite/attachments/Child-trafficking-09-country-fi.pdf> on 15 May 2015, p. 58

⁵³¹ United Nations Committee on the Elimination of Discrimination against Women, Consideration of Reports Submitted by States Parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Sixth periodic report of States parties, Finland, CEDAW/C/FIN/6, 8 November 2007, accessed from <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/596/50/PDF/N0759650.pdf?OpenElement> on 15 May 2015, par. 86.

⁵³² Information provided by the National Board of Social Services, Denmark, 18 May 2015. See also: *BørneTelefonen* (Children’s Telephone), *Presset på BørneTelefonen har aldrig været større* (*The pressure on the Children’s Telephone has never been higher*), 20 January 2014, accessed from http://www.bornsvilkar.dk/NewsArchive/2014/01/Presset-paa-bornetelefonen.aspx#_VbC-Y7OqpBc on 15 May 2015. Child Helpline International and Member Helplines, *Recommendations to the UN Committee on the Rights of the Child, 43rd Session, Denmark*, May 2006, accessed from http://www.crin.org/docs/Denmark_CHI_NGO_report.doc on 15 May 2015.

support from the Government was sought as well as the allocation of a three digit toll-free telephone number. In addition, the organisations called upon the Government of Denmark to “facilitate the collaboration of the helpline with other child-focused NGOs and state authorities, such as the police, health and social welfare systems, to enhance its intervention and follow-up model”.⁵³³

The Ministry of Social Affairs of **Estonia** operates the Child Helpline that children and adults can contact by phone or online in order to get advice about issues and situations concerning children.⁵³⁴

In **Germany**, the “*Nummer gegen Kummer*” (“Line against Sorrow”) Association coordinates a nationwide network for the free, anonymous child and youth telephone hotlines (0800-1110333) as well as internet advice and a telephone hotline for parents. In addition, the online advice project of the Federal Conference for Child Guidance Counselling (Bke) offers individual advice, individual chats, fora and scheduled group chats on the internet nationwide for children and parents. All 16 Federal Länder support the project financially. The Information Centre Child Abuse/Child Neglect (IzKK) at the German Youth Institute is active as an interface between research, practice and policy nationwide. This important networking instrument is promoted on an ongoing basis by the Federal Government.⁵³⁵

The **Icelandic** Red Cross is operating a helpline for adults and children, which is operated by volunteers and staff of the Red Cross, 24 hours a day.⁵³⁶ The phone line is a member of the international organisation Child Helpline International.

In **Latvia**, the Children’s Hotline is supported by the State Inspectorate and has been operational since 1 February 2006. It offers anonymous advice and counselling for children free of charge and receives reports of violence against children or risks. The hotline employees forward these reports to the State Inspectorate, the police or other responsible authorities. The Children’s Hotline is funded primarily by the state. The hotline is operational 24 hours, seven days a week. In addition, the Latvian Ombudsman’s Office also operates a free telephone hotline for children.⁵³⁷

⁵³³ Child Helpline International and Member Helplines, *Recommendations to the UN Committee on the Rights of the Child*, 43rd Session, Denmark, May 2006, accessed from http://www.crin.org/docs/Denmark_CHI_NGO_report.doc on 15 May 2015.

⁵³⁴ The Ombudsman for Children, *Child Protection System in Estonia*, 14 July 2014.

⁵³⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2009, Germany, CRC/C/DEU/3-4, 11 September 2012, par. 169.

⁵³⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 12, Paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Iceland, CRC/C/OPSC/ISL/CO/1, 21 June 2006, accessed from <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/427/56/PDF/G0642756.pdf?OpenElement> on 15 May 2015, par. 20.

⁵³⁷ United Nations Human Rights Council, Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Najat M’jid Maalla, Mission to Latvia, A/HRC/12/23/Add.1, 13 July 2009, par. 56. Information provided by the Ministry of Welfare, Latvia, April 2015.

In **Poland**, the Nobody's Children Foundation has been tasked by the state to operate the "Support line for children". The toll-free support line for children (116 111) is active country-wide. It has been advertised through information and awareness raising campaigns.⁵³⁸

The **Swedish** Children's Helpline is operated for children who experience violence, abuse or neglect at home.⁵³⁹

Considering the high number of helplines that are operational in **CBSS Member States**, it could be worthwhile exploring to which extent their services could be integrated and coordinated. In light of the reportedly high demand, the specific needs and requests from children and the overall budgetary constraints, a stronger integration and coordination could be important for offering continuity, quality services, referral and follow-up.

National human rights structures and Ombuds offices for Children

National human rights structures are in place in all Member States of the Council of the Baltic Sea States. They include Ombuds offices for Children, Chancellors of Justice and Parliamentary Ombudsmen, and national councils or institutes for human rights. The mandates and accessibility for children differ however significantly. Independent monitoring bodies, Ombuds offices for children or general Ombuds offices with a special child rights division are in place in **Denmark, Estonia, Finland, Iceland, Latvia, Norway, Poland, the Russian Federation and Sweden**. They promote children's rights in their countries through their monitoring function, including by conducting research, consultations with children, inspections and public education. **Germany** is in the process of establishing an independent monitoring body of the Convention on the Rights of the Child, which is based in the German Institute for Human Rights and becomes operational in 2015.⁵⁴⁰ Only few countries have established Ombuds offices that are equipped with a mandate to receive and investigate individual complaints from children. In **Denmark** and **Estonia**, special child rights divisions have been established in the offices of the Parliamentary Ombudsman and the Chancellor of Justice, respectively. In **Latvia**, the Ombudsman for Children receives individual complaints from children.

In **Denmark**, the Parliamentary Ombudsman, the Danish Institute for Human Rights and the National Council for Children are the principal human rights structures that monitor the implementation of human rights standards in the country.

Established in 1987, the **Danish** Institute for Human Rights (*Institut for Menneskerettigheder*) is an independent institution and has been accredited by the International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC)

⁵³⁸ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 80.

⁵³⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations Sweden, CRC/C/SWE/CO/4, 12 June 2009, Advanced Unedited Version, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-SWE-CO-4.pdf> on 15 May 2015, par. 38.

⁵⁴⁰ Information provided by the Ministry for Family, Senior Citizens, Women and Youth, Germany, 7 July 2015.

to qualify as a national human rights institution according to the so-called Paris Principles.⁵⁴¹ The Danish Institute for Human Rights has a monitoring role with regard to the human rights of children and relevant safeguards in Denmark.

The National Council for Children (*Børnerådet*) is an independent body for children's rights that is administratively linked to the Ministry of Family and Consumer Affairs. The National Council was established initially as a pilot project in 1994, and was later on transformed into a permanent institution by the Act No. 453 of 10 June 1997 on the Rule of Law and Administration in Social Areas (Section 88). Details relating to its mandate and functions are regulated under the Executive Order No. 2 of 5 January 1998 issued by the Ministry of Social Affairs. The Council is funded by the Government on an annual basis.⁵⁴²

The National Council for Children is mandated to safeguard and promote the rights of children in **Denmark**.⁵⁴³ To this end, it is heard by public authorities in relation to processes of legal and policy reform affecting children; it provides technical advice to Parliament, ministers and national authorities on issues affecting children; it makes proposals and launches initiatives into specific thematic issues, including in relation to relevant national laws, policies, and practice. The mandate of the National Council for Children comprises also matters that are directly relevant for family support, childrearing and alternative care. The National Council shall "follow and render visible development in the conditions of children's upbringing, and moreover identify matters in legislation and administrative practice where children's needs and rights are not met sufficiently or are directly ignored or which are inappropriate in the light of the safeguarding of a good childhood and adolescence" (Act No. 453, Section 6 (1-4)).

In 2011, the Committee on the Rights of the Child recommended that the mandate of the Council be amended to fulfil the role of an Ombudsman for Children and to act as an independent mechanism to monitor the implementation of the Convention. The National Council for Children had also recommended that children should have better access to complaints mechanisms as too few children were making use of the existing structures. Although the **Danish** Parliamentary Ombudsman receives complaints by or for children, this institution was considered not easily visible and accessible for children as a specialised Ombudsman for Children would.⁵⁴⁴ In 2012, this gap was addressed with the establishment of a special Children's Section within the Office of the Parliamentary Ombudsman of Denmark. This measure was part of an overall initiative to bring children's rights stronger into the focus.⁵⁴⁵

⁵⁴¹ The Danish Institute for Human Rights, *Parallel Report July 2010 to the UN Committee on the Rights of the Child on the 4th Periodic Report by the Government of Denmark on the Implementation of the Rights of the Child*, Copenhagen, July 2010, p. 3. See also: United Nations General Assembly, Principles Relating to the Status of National Institutions (The Paris Principles), General Assembly Resolution A/RES/48/134, 20 December 1993, accessed from <http://www2.ohchr.org/english/law/parisprinciples.htm> on 15 May 2015.

⁵⁴² The National Council for Children, *The National Council for Children – sets out to promote children's interests and rights*, undated, accessed from <http://www.boerneraadet.dk/english> on 15 May 2015.

⁵⁴³ The National Council for Children, *The National Council for Children – sets out to promote children's interests and rights*, undated, accessed from <http://www.boerneraadet.dk/english> on 15 May 2015.

⁵⁴⁴ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: Denmark, CRC/C/DNK/CO/4, 7 April 2011, par. 18-20. National Council for Children, *Report to the UN Committee on the Rights of the Child, Supplementary Report to Denmark's 4th Periodic Report*, May 2009, accessed from <http://www.boerneraadet.dk/files/Brd.dk%20Filbibliotek/PDF%20FILER/EKSTERNE%20RAPPORTER/BRD%204.%20Suppl.%20Rapp.%20til%20FN%20-%202009%20-%20UKversion.pdf> on 15 May 2015, p. 8.

⁵⁴⁵ Information provided by the National Board of Social Services, Denmark, 18 May 2015.

The Committee on the Rights of the Child welcomed the proposal to establish an independent children's council in Greenland that would be based on the Paris Principles. It recommended to provide for a parallel institution also in the Faroe Islands.⁵⁴⁶

In 2011, the Government of **Estonia** established an Ombudsman for Children. In 2012, the Ombudsman's Office launched an initiative to monitor the rights of the child in relation to childcare and parenting. The monitoring exercise was carried out in cooperation with the Ministry of Social Affairs. The objective was to assess the awareness within the society of issues related to the rights of the child, to analyse attitudes and difficulties in childrearing and parenting, and gathering the views and opinions on these matters of both children and parents.⁵⁴⁷

In **Estonia**, the Legal Chancellor is mandated to supervise the activities of state agencies, to guarantee the constitutional rights and freedoms. As an independent official, the Legal Chancellor is responsible for monitoring that national and local laws are conform with the Constitution (Legal Chancellor Act (RT I 1999, 29, 406). The Legal Chancellor is mandated to receive reports from citizens that request the Chancellor's action to supervise the activities of the state and guarantee constitutional rights and freedoms (Article 19, Legal Chancellor Act). The Legal Chancellor has the right to appoint special advisers, including advisers to work specifically in the area of the rights of children.⁵⁴⁸

In **Germany**, the German Institute for Human Rights qualifies as a national human rights structure in line with the Paris Principles. It was established as an independent body associated administratively under the Ministry of Families, Social Affairs, Senior Citizens and Youth. It monitors human rights in the country, including specifically the human rights of children, conducts research and analyses and promotes human rights information, education.⁵⁴⁹

As in previous reviews, the Committee on the Rights of the Child expressed in 2014 its concern about the absence of an independent monitoring mechanism specialised on children's rights, especially as a comprehensive monitoring mechanism would be essential to monitor the implementation of the Convention on the Rights of the Child at federal, Länder and community levels. The Committee recommended therefore that the mandate of the German Institute for Human Rights be amended to monitor the implementation of the Convention at all levels of the federal state and to receive and investigate individual complaints about violations of children's rights.⁵⁵⁰

⁵⁴⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: Denmark, CRC/C/DNK/CO/4, 7 April 2011, par. 18-20.

⁵⁴⁷ European Union, European Platform for Investing in Children, *Estonia: reforming the child protection system and providing more support to those who are in need*, February 2014.

⁵⁴⁸ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Initial Reports of States Parties due in 1993, Addendum, Estonia, CRC/C/8/Add.45, 11 July 2002, par. 10.

⁵⁴⁹ German Institute for Human Rights, *Frequently Asked Questions*, 2015, accessed from <http://www.institut-fuer-menschenrechte.de/en/about-us/faqs/> on 15 May 2015. See also: United Nations General Assembly, 48/134, National institutions for the promotion and protection of human rights, A/RES/48/134, 20 December 1993, accessed from <http://www.un.org/documents/ga/res/48/a48r134.htm> on 15 May 2015.

⁵⁵⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: Germany, CRC/C/DEU/CO/3-4, 14 February 2014, par. 12, 17-18.

In response to these recommendations, **Germany** is in the process of establishing an independent monitoring body of the Convention on the Rights of the Child. Located in the German Institute for Human Rights, the National CRC Monitoring Body becomes operational in 2015 and promotes the implementation of the CRC in Germany. The monitoring body is mandated to carry out scientific studies, to visit childcare institutions and facilities and to convene regular meetings with child rights organisations and advocates as well as child- and youth-led organisations. It advises politicians, policy makers, courts and other officials at the federal and Länder level on child rights matters and the Convention. The mandate of the National CRC Monitoring Body comprises further to educate the public about children's rights, to issue statements and recommendations concerning political, administrative and judicial decisions and to call for compliance with the CRC wherever necessary. The National CRC Monitoring Body is however not authorised to investigate individual complaints or to provide legal advice in individual cases and does therefore not comply with the functions of an Ombudsman.⁵⁵¹

In 2005, the **Latvian** State Inspectorate for the Protection of Children's Rights (SIPCR) was established under the Ministry of Children and Family Affairs, which was succeeded in 2009 by the Ministry of Welfare. The State Inspectorate acts as a supervisory body and monitors compliance with the Law Regulating the Protection of Children's Rights and other relevant national laws concerning the rights of the child. It disseminates information to the public about child rights in **Latvia**, analyses the situation of child rights in the country and develops recommendations for improvements and reform, including specifically for municipal institutions. As a supervisory body, the State Inspectorate for the Protection of Children's Rights is entitled to control the operation of any national or municipal institution, of non-governmental organisations or other individual or legal entities involved in activities that aim at the protection of children's rights. To this end, the State Inspectorate is entitled to request and receive information from the relevant institutions, organisations, and persons. The State Inspectorate receives and investigates complaints about situations where the rights of children are being infringed upon. In response to such complaints or upon its own initiative, the State Inspectorate has a mandate to investigate situations, including with the help of police officers where required. It is responsible for monitoring the orphan's courts and it takes measures for supporting foster families.⁵⁵²

In addition, the Ombudsman's Office was established by the Ombudsman Law, which was adopted in 2006 and entered into force on 1 January 2007. The Ombudsman's Office is a successor of the State Human Rights Office.⁵⁵³ As the previous State Human Rights Offices, also the Ombudsman's Offices qualifies as a national institution for the protection and promotion of human rights according to the Paris Principles.⁵⁵⁴ The mandate of the Ombudsman's Office is to ensure the implementation of human rights and the principle of

⁵⁵¹ Information provided by the Ministry for Family, Senior Citizens, Women and Youth, Germany, 7 July 2015.

⁵⁵² United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Combined third to fifth periodic reports of States parties due in 2009, Latvia, CRC/C/LVA/3-5, 21 November 2014, par. 23-24.

⁵⁵³ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Combined third to fifth periodic reports of States parties due in 2009, Latvia, CRC/C/LVA/3-5, 21 November 2014, par. 15. See also the website of the Ombudsman's Office accessed at <http://www.tiesibsargs.lv> on 15 June 2015.

⁵⁵⁴ See: United Nations General Assembly, 48/134, National institutions for the promotion and protection of human rights, A/RES/48/134, 20 December 1993, accessed from <http://www.un.org/documents/ga/res/48/a48r134.htm> on 15 May 2015.

good governance in Latvia. It monitors and promotes equal treatment and the prevention of discrimination and identifies gaps or shortcomings in the national law and its application. In addition, the Ombudsman's Office is responsible for strengthening public awareness and understanding of human rights and how to protect and claim these rights, including specifically the human rights of children. The Ombudsman's mandate enables the office to receive and investigate individual complaints and applications. The Office provides opinions and issues recommendations for preventing human rights violations and for state authorities to ensure the lawfulness and efficiency of their functioning in line with the principles of good governance. The Ombuds office is entitled to investigate situations and proceedings following a complaint or upon its own initiative, and to lodge a constitutional complaint with the Constitutional Court if necessary. The Ombudsman therefore has the right to visit and inspect institutions, including closed institutions, at any time and without a special permit. The Ombudsman is also entitled to hear the opinion of a child without the presence of her or his parents, guardians, employees of educational or care institutions if the child so wishes.⁵⁵⁵

By June 2013, the Ombudsman's Office had 42 employees, five of whom were specialised on children's rights. The Children's Rights Division was created as a special unit in the Ombudsman's Office. The Ombudsman's Office is a member of the European Network of Ombudspersons for Children.⁵⁵⁶

The **Icelandic** Ombudsman for Children was established according to the Ombudsman for Children Act No. 83/1994. The position is appointed by the Prime Minister for a period of five years and mandated to improve the situation of children in Iceland and to safeguard children's interests, needs and rights.⁵⁵⁷

"The Office of the Ombudsman shall endeavour to secure that the rights, needs and interests of children are fully taken into account, equally by public and private entities, in all areas of society and to respond if they are violated against. The Ombudsman shall *inter alia* be the children's advocate, raise strategic discussions about matters concerning children, give indications and put forth proposals for the improvement of legislative, regulatory and administrative provisions directly concerning children, and be instrumental in raising public awareness of legislation concerning children. However, the office of the Ombudsman shall not take up cases of individual children, but shall inform those who approach them with such cases about their rights and how they may be fulfilled."⁵⁵⁸

⁵⁵⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Combined third to fifth periodic reports of States parties due in 2009, Latvia, CRC/C/LVA/3-5, 21 November 2014, par. 32-38.

⁵⁵⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Combined third to fifth periodic reports of States parties due in 2009, Latvia, CRC/C/LVA/3-5, 21 November 2014, par. 32-38.

⁵⁵⁷ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Iceland's Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc> on 15 May 2015, par. 25. See also: The Ombudsman for Children, *General Information*, accessed from http://www.barn.is/adalsida/english/general_information/ on 15 May 2015.

⁵⁵⁸ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Iceland's Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc> on 15 May 2015, par. 25.

The Ombudsman for Children is “independent and not subject to instructions from the authorities”.⁵⁵⁹ Conclusions issued by the Ombudsman for Children are not legally binding on the authorities, institutions, individuals or other parties that they refer to. Nonetheless, “those concerned are (...) expected to heed the observations, recommendations and proposals made by the Ombudsman for Children (...)”.⁵⁶⁰

The Parliamentary Ombudsman (*The Althing Ombudsman*) is elected by Parliament for a period of four years. Its mandate is regulated by the Act No. 85/1997 on the Althing Ombudsman. The institution of the Ombudsman is independent from other public bodies: “In his work the Ombudsman is independent and takes orders from nobody, Althing included.”⁵⁶¹

The Ombudsman is authorised to “monitor the administration of the State and local authorities and safeguard the rights of the citizens vis-à-vis the authorities”.⁵⁶² This mandate extends also to private bodies who operate with a public mandate.⁵⁶³ The Parliamentary Ombudsman is entitled to receive and investigate individual complaints from persons who think that their rights have been violated by bodies of the public administration.⁵⁶⁴ In cases where an appeal to a superior administrative body as, for instance, a Ministry is possible, this process has to be pursued first, and as long as a decision on the appeal is pending, the Ombudsman cannot take up an investigation into an individual complaint.⁵⁶⁵ It is further part of the Parliamentary Ombudsman’s mandate to initiate investigations into issues on her or his own initiative. The Ombudsman’s Office reviews national legislation to ensure it is in line with the Constitution of Iceland and with international standards that Iceland has ratified.⁵⁶⁶

Complaints to the Parliamentary Ombudsman have to be submitted in written form. Special forms are available, including on the office’s website, and the Ombudsman’s Office staff is prepared to help individuals filling in the form if required.⁵⁶⁷ The Parliamentary Ombudsman’s mandate does, however, not cover the proceedings of Parliament or of courts of law, decisions taken by authorities that according to the law have to be referred a court, and disputes between individuals.⁵⁶⁸ As a complaints mechanism for children, the Parliamentary Ombudsman remains therefore difficult to access for children, including due to the provision

⁵⁵⁹ The Ombudsman for Children, *General Information*, accessed from http://www.barn.is/adalsida/english/general_information/ on 15 May 2015.

⁵⁶⁰ The Ombudsman for Children, *General Information*, accessed from http://www.barn.is/adalsida/english/general_information/ on 15 May 2015.

⁵⁶¹ The Althing Ombudsman, Information in English, accessed from <http://www.umbodsmaduralthingis.is/english.asp> on 15 May 2015.

⁵⁶² The Althing Ombudsman, Information in English, accessed from <http://www.umbodsmaduralthingis.is/english.asp> on 15 May 2015.

⁵⁶³ The Althing Ombudsman, Information in English, accessed from <http://www.umbodsmaduralthingis.is/english.asp> on 15 May 2015.

⁵⁶⁴ United Nations Human Rights Committee, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Fourth Periodic Report, Iceland, CCPR/C/ISL/2004/4, 28 June 2004, accessed from [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/b4a8bd2714b5ae25c1256f0f004b188c?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/b4a8bd2714b5ae25c1256f0f004b188c?Opendocument) on 15 May 2015, par. 39.

⁵⁶⁵ United Nations Human Rights Committee, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Fourth Periodic Report, Iceland, CCPR/C/ISL/2004/4, 28 June 2004, accessed from [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/b4a8bd2714b5ae25c1256f0f004b188c?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/b4a8bd2714b5ae25c1256f0f004b188c?Opendocument) on 15 May 2015, par. 39.

⁵⁶⁶ United Nations Human Rights Committee, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Fourth Periodic Report, Iceland, CCPR/C/ISL/2004/4, 28 June 2004, accessed from [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/b4a8bd2714b5ae25c1256f0f004b188c?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/b4a8bd2714b5ae25c1256f0f004b188c?Opendocument) on 15 May 2015, par. 39.

⁵⁶⁷ The Althing Ombudsman, Information in English, accessed from <http://www.umbodsmaduralthingis.is/english.asp> on 15 May 2015.

⁵⁶⁸ The Althing Ombudsman, Information in English, accessed from <http://www.umbodsmaduralthingis.is/english.asp> on 15 May 2015.

that administrative redress has to be sought first, which is a timely procedure especially for children in need to be heard and assisted promptly.

Finland, Norway and Sweden have a similar structure in place as in Iceland, with parallel institutions of Parliamentary Ombuds offices, Chancellor of Justice and Ombuds offices specifically for children.

The **Norwegian** Ombudsman for Children was established in 1981 through the Act No. 5 of 6 March 1981 relating to the Ombudsman for Children. An agreement between the Ombudsman and the Ministry of Children and Equality affirms the independence of the Ombudsman for Children.⁵⁶⁹ The Ombudsman states that although it is “administratively under the jurisdiction of the Ministry for Children and Family Affairs, neither the Norwegian Parliament nor the Government have the power to instruct the Ombudsman.”⁵⁷⁰

The Ombudsman for Children is appointed by the Cabinet and is in office for a maximum of two four-year periods. The Office is mandated to monitor the compliance of legislation and administration in **Norway** with the UN Convention on the Rights of the Child.⁵⁷¹ It further promotes children's interests and how these are respected by public and private authorities and investigates the conditions under which children grow up. The Ombudsman has the power to investigate, criticise and publicise matters important to improve the welfare of children and youth in Norway.⁵⁷² The Committee on the Rights of the Child recommended that the Ombudsman's mandate be extended receive individual complaints from children, which would provide an opportunity for the Ombudsman to “(...) provide immediate assistance to children if needed and could have served as an instrument to diagnose main problem areas of child rights violations.”⁵⁷³

The Ombudsman for Children also emphasises the need for a complaint mechanism for children and the importance that children can claim their rights. The lack of cases concerning children, which are being handled by existing complaints procedures may be an indication that public complaint mechanisms are in practice inaccessible for children.⁵⁷⁴

In **Poland**, an Ombudsman for Children's Rights was established in 2000 (Act of 6 January 2000 on the Ombudsman for Children). The Ombudsman is mandated to request state authorities, organisations or institutions to take measures related to children's rights which fall within their scope of competence. The Ombudsman is authorised to investigate without

⁵⁶⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2008: Norway, CRC/C/NOR/4, 11 May 2009, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.NOR.4.doc> on 15 May 2015, par. 37.

⁵⁷⁰ Barneombudet (The Ombudsman for Children), About the Ombudsman for Children, History, accessed from http://www.barneombudet.no/english/about_the_/ on 15 May 2015.

⁵⁷¹ The Ombudsman for Children, *Submission to the Universal Periodic Review of Norway, 6th UPR Session, November / December 2009*, Submitted 20 April 2009, accessed from <http://www.barneombudet.no/sfiles/80/73/1/file/norwegian-ombudsman-for-children-upr-submission-norway.doc.pdf> on 15 May 2015, no page numbers.

⁵⁷² Barneombudet (The Ombudsman for Children), About the Ombudsman for Children, History, accessed from http://www.barneombudet.no/english/about_the_/ on 15 May 2015.

⁵⁷³ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations: Norway, CRC/C/NOR/CO/4, 29 January 2010, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.NOR.CO.4.pdf> on 15 May 2015, par. 13.

⁵⁷⁴ The Ombudsman for Children, *Supplementary Report to the UN Committee on the Rights of the Child*, Oslo, 2009, accessed from http://www.barneombudet.no/sfiles/48/24/1/file/supplementary-report-to-the-un_english.pdf on 15 May 2015, p. 8.

prior notice children-related cases, demand from public governmental bodies, organisations or institutions to provide information, and to act as a legal representative before courts.⁵⁷⁵ The authorities, organisations or institutions who receive a request from the Ombudsman are required to assist and cooperate with the Ombudsman's Office according to her or his request.⁵⁷⁶

The Ombudsman for Children's Rights promotes the protection of children's rights, in particular the right to life, health and education, the right to be brought up in a family environment and the right to decent social conditions. The Ombudsman's mandate concerns all children in **Poland**, while special attention is given to children with disabilities. The Ombudsman is taking actions to ensure the comprehensive and harmonious development of children with due respect for their dignity and individuality (Article 3 of the Law on the Ombudsman for Children's Rights). The Ombudsman for Children's Rights is an independent constitutional control authority. The Ombudsman is appointed by the Sejm for a five-year term. The Ombudsman is bound by the provisions of the Constitution of the Republic of Poland, the Convention on the Rights of the Child and the Law on the Ombudsman for Children's Rights, including in particular the principle of the best interests of the child, the principle of equality, the concern about the protection of the rights of each child, the principle of respect for responsibilities, rights and obligations of both parents in relation to the upbringing of the child.⁵⁷⁷

The Ombudsman's activities target all public authorities, local governments, government bodies and non-governmental organisations. They may be addressed by him with a request for explanations and information, access to files and documents, including those containing personal data, intervention in the interest of the child within the scope of competences. The Ombudsman is not empowered to take a legislative initiative, but may request the competent authorities to take relevant measures or to issue or amend other legal acts.⁵⁷⁸

In the **Russian Federation**, the institute of the Commissioner for Children's Rights was established by law in 2009. The Commissioner is directly linked to the Office of the President of the Russian Federation and is financed and supported by the Social Forum. The Commissioner is represented throughout the country, with initial representations in 18 regions at the moment of establishment and a growing number of representations in the constituent entities. The mandate of the Commissioner authorises the Office of the Commissioner at the federal level and within the constituent entities to conduct inspections of children's homes and boarding schools. The Commissioners for Children's Rights within the constituent entities are further tasked to monitor the situation of children placed in alternative care and the quality of care they receive, including children placed in specialized institutions.⁵⁷⁹

⁵⁷⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 19.

⁵⁷⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 71.

⁵⁷⁷ Information provided by the Ministry of Labour and Social Policy, Poland, April 2015.

⁵⁷⁸ Information provided by the Ministry of Labour and Social Policy, Poland, April 2015.

⁵⁷⁹ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Fourth and fifth periodic reports of States parties due in 2011, Russian Federation, CRC/C/RUS/4-5, 27

The **Swedish** Children's Ombudsman was established in 1993 by the Children's Ombudsman's Act.⁵⁸⁰ The Office was established as a governmental body mandated to represent the interests of the Government and children alike. The position of the Ombudsman is appointed by the Government. Critique of this double mandate points to the concern that it can lead to situations of ambiguity and conflicts of interest.⁵⁸¹ The Children's Ombudsman does therefore not qualify as an independent institution for human rights – or child rights respectively – as recommended by the Paris Principles relating to the status of national institutions⁵⁸² and by the Committee on the Rights of the Child⁵⁸³.

As public authority, the Ombudsman is tasked to promote the implementation of the Convention on the Rights of the Child at all levels of the public administration, i.e. municipalities, county councils, and national government authorities. It is considered the 'driving force' for CRC implementation in Sweden and partakes in the public debate and raises awareness on children's rights.⁵⁸⁴ The Ombudsman is tasked to monitor compliance of national laws and statutes with the CRC and how government authorities at central, county and municipality levels implement the CRC. The monitoring role is, however, limited to review, assessment, dialogue and reporting.⁵⁸⁵ The Ombudsman's Office does not receive individual complaints from children. The Committee on the Rights of the Child recommends that the Ombudsperson's mandate should be extended to include investigations of individual complaints, the annual report of the Ombudsperson should be debated in Parliament, and it should consider to open local representations of the Ombudsman's Office at county-level.⁵⁸⁶

August 2012, par. 42, 91, 132. Presidential Decree No. 986 of 1 September 2009. Federal Act No. 177 of 23 July 2010 on Amendments to Articles 26 and 28 of the Federal Act on the Social Forum.

⁵⁸⁰ Committee on the Rights of the Child, Written Replies by the Government of Sweden to the List of Issues (CRC/C/SWE/Q/4) Prepared by the Committee on the Rights of the Child in Connection with the Consideration of the Fourth Periodic Report of Sweden (CRC/C/SWE/4), Fifty-first Session, 25 May – 12 June 2009, CRC/C/SWE/Q/4/Add.1, 24 April 2009, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.SWE.Q.4.Add.1.pdf> on 15 May 2015, p. 7. See: Ministry of Health and Social Affairs, The Children's Ombudsman Act, SFS 1993:335, Issued on 13 May 1993 up to and including Swedish Code of Statutes 2002:337, accessed from <http://www.barnombudsmannen.se/adfinity.aspx?pageid=86> on 15 May 2015.

⁵⁸¹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2007: Sweden, CRC/C/SWE/4, 28 January 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.SWE.4.doc> on 15 May 2015, par. 6, 11.

⁵⁸² United Nations General Assembly, Principles Relating to the Status of National Institutions (The Paris Principles), General Assembly Resolution A/RES/48/134, 20 December 1993, accessed from <http://www2.ohchr.org/english/law/parisprinciples.htm> on 15 May 2015.

⁵⁸³ United Nations Committee on the Rights of the Child, The Role of Independent National Human Rights Institutions in the Protection and Promotion of the Rights of the Child, General Comment No. 2 (2002), Office of the High Commissioner for Human Rights, Geneva, CRC/GC/2002/2, 15 November 2002, accessed from [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CRC.GC.2002.2.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CRC.GC.2002.2.En?OpenDocument) on 15 May 2015. Cited in: United Nations Committee on the Rights of the Child, General Measures of Implementation for the Convention on the Rights of the Child, General Comment No. 5 (2003), Office of the High Commissioner for Human Rights, Geneva, CRC/GC/2003/5, 3 October 2003, accessed from [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/3bba808e47bf25a8c1256db400308b9e?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/3bba808e47bf25a8c1256db400308b9e?Opendocument) on 15 May 2015, par. 65.

⁵⁸⁴ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2007: Sweden, CRC/C/SWE/4, 28 January 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.SWE.4.doc> on 15 May 2015, par. 6, 11.

⁵⁸⁵ United Nations Committee on the Rights of the Child, Written Replies by the Government of Sweden to the List of Issues (CRC/C/SWE/Q/4) Prepared by the Committee on the Rights of the Child in Connection with the Consideration of the Fourth Periodic Report of Sweden (CRC/C/SWE/4), Office of the High Commissioner for Human Rights, Geneva, CRC/C/SWE/Q/4/Add.1, 24 April 2009, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.SWE.Q.4.Add.1.pdf> on 15 May 2015, p. 7.

⁵⁸⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations Sweden, CRC/C/SWE/CO/4, 12 June 2009, Advanced Unedited Version, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-SWE-CO-4.pdf> on 15 May 2015, par. 15-16.

Official institutions such as administrative authorities, municipalities and county councils are held to respond to the Ombudsman's inquiries regarding children's rights and to provide information about their measures and activities and in which ways they contribute to CRC implementation.⁵⁸⁷

As in other Nordic and Baltic States, the Children's Ombudsman is not the only institution in charge of monitoring CRC implementation. Other Government institutions have fulfilled monitoring tasks in this area though none of them was in a position to conduct independent monitoring: The **Swedish** National Audit Office is "... one of the instruments of parliamentary oversight. Its mandate is to examine government activities so as to contribute to the sound use of resources and efficient government administration."⁵⁸⁸ In response to findings from the **Swedish** National Audit Office's analysis of "strategic CRC work" in 2004, the Swedish Government commissioned the **Swedish** Agency for Public Management to assess the institutional framework in place for CRC implementation, coordination and recommendations for improvement.⁵⁸⁹

The Parliamentary Ombudsman of **Sweden** is mandated to respond to complaints from the general public.⁵⁹⁰ A complaint can be made by any person who feels that he or she, or a third person, has been treated wrongly by an authority, a state or municipal servant. In order to file a complaint with the Parliamentary Ombudsman, it is not necessary to be a Swedish citizen or to have reached a certain age in order to submit a complaint.⁵⁹¹

Children and young people consulted by the **Swedish** NGO Children's Rights Convention Network would like to see a Children's Ombudsman's Office in place at local level in cities, to spread information about children's rights, to increase accessibility for children, and to be closer to the children and establish direct contact by visiting schools.⁵⁹² The children and young people also stated that children often feel that they do not know where to turn to for advice or that adults and officials do not take their concerns seriously. They therefore call for

⁵⁸⁷ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2007: Sweden, CRC/C/SWE/4, 28 January 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.SWE.4.doc> on 15 May 2015, par. 11.

⁵⁸⁸ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2007: Sweden, CRC/C/SWE/4, 28 January 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.SWE.4.doc> on 15 May 2015, par. 9. See: Swedish National Audit Office, *Barnkonventionen i praktiken (The Convention on the Rights of the Child in Practice)*, RIR 2004:30, 2004.

⁵⁸⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2007: Sweden, CRC/C/SWE/4, 28 January 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.SWE.4.doc> on 15 May 2015, par. 7.

⁵⁹⁰ Riksdagens Ombudsmän – JO, Handläggning av anmälningar (The Parliamentary Ombudsmen, Handling Complaints), 12 February 2010, accessed from

www.jo.se/Page.aspx?MenuId=40&MainmenuId=12&ObjectClass=DynamX_Documents&Language=sv on 7 November 2014.

⁵⁹¹ Riksdagens Ombudsmän – JO, Handläggning av anmälningar (The Parliamentary Ombudsmen, Handling Complaints), 12 February 2010, accessed from

www.jo.se/Page.aspx?MenuId=40&MainmenuId=12&ObjectClass=DynamX_Documents&Language=sv on 15 May 2015, accessed on 7 September 2010.

⁵⁹² Children's Rights Convention Network, *Supplementary Report by Children, Young People and Adults in Sweden to the UN Committee on the Rights of the Child: Comments to the Government of Sweden's Fourth Periodic Report from the Swedish NGO Children's Rights Convention Network*, 25 June 2008, accessed from www.crin.org/resources/infoDetail.asp?ID=20372&flag=legal on 15 May 2015, p. 7.

an easily accessible reporting mechanism where children can turn to for information, advice and counselling.⁵⁹³

Monitoring, evaluation and inspection of alternative care

The UN Guidelines for the Alternative Care of Children recommend that an effective monitoring mechanism of alternative care for children should be in place. The UN Guidelines provide that “agencies, facilities and professionals involved in care provision should be accountable to a specific public authority, which should ensure, amongst other things frequent inspection comprising both scheduled and unannounced visits, involving discussion with and observation of the staff and children”. The Guidelines elaborate on the functions of a monitoring mechanism, which should, among others “recommend relevant policies to appropriate authorities with the aim of improving the treatment of children deprived of parental care”.⁵⁹⁴

Monitoring and evaluation, including inspections and auditing, are important components of national policies for alternative care and strategies for deinstitutionalisation. Mechanisms and procedures for monitoring and evaluation, indicators and frameworks as well as institutional responsibilities need to be clearly defined in order to ensure that monitoring and evaluation are effectively contributing to the planning, implementation and periodic review of services. A public debate on the outcomes of monitoring and evaluation can enhance transparency and accountability and enable control of service provision. Monitoring and evaluation will be more successful when they are conducted on the basis of consultative processes with all relevant professionals and officials involved and service users, namely children, parents and other caregivers.

The European Expert Group on the Transition from Institutional to Community-based Care recommends that monitoring and evaluation programmes include a diversity of mechanisms such as regulatory mechanisms for the accreditation, licensing and certification of institutions and staff; inspection of placements and institutions guided by quality standards; performance measurement and indicators; complaints mechanisms and reporting procedures, including independent monitoring by Ombuds Offices for Children or comparable institutions.⁵⁹⁵

Monitoring and evaluation shall be guided by international and national quality standards and be oriented strongly at the individual outcomes for the person in care and to which extent the wishes, preferences and needs of each boy or girl are effectively taken into account in practice.⁵⁹⁶

⁵⁹³ Children’s Rights Convention Network, *Supplementary Report by Children, Young People and Adults in Sweden to the UN Committee on the Rights of the Child: Comments to the Government of Sweden’s Fourth Periodic Report from the Swedish NGO Children’s Rights Convention Network*, 25 June 2008, available at: www.crin.org/resources/infoDetail.asp?ID=20372&flag=legal, p. 10.

⁵⁹⁴ United Nations General Assembly, *Guidelines for the Alternative Care of Children*, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434) 64/142, 24 February 2010, par. 128–130.

⁵⁹⁵ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe*, Brussels, November 2012, pp. 143-144.

⁵⁹⁶ European Expert Group on the Transition from Institutional to Community-based Care, *Common European Guidelines on the Transition from Institutional to Community-based Care, Guidance on implementing and supporting a sustained transition*

When the Council of Europe reviewed the status of implementation of the 2005 recommendations on the rights of children living in residential institutions, the findings revealed that monitoring systems are in place in most of the member States of the Council of Europe. These monitoring systems were however ambiguous in some cases, especially when administrative responsibilities were not clearly separated from the monitoring functions and when children as service users were not effectively included in the monitoring exercises.⁵⁹⁷ These findings can still to some extent be reiterated for the CBSS region as monitoring practices and systems vary from country to country and in some cases even within countries.

Under the **Danish** Social Services Act, the local authorities are responsible for providing supervision of all children living in their districts, including children in alternative care (Section 146). Within three months after a care measure has been initiated for a child, a young person or prospective parents, the local authority has to assess the situation in order to determine whether the care plan should be revised or whether a specific measure should be changed. After this initial assessment, the local authority must conduct further assessments at least once a year. As part of the inspection process, the local authority has to ensure that the inspection staff talk to the child or young person in care at least once a year upon the supervision visit to the place of care.⁵⁹⁸

The **Danish** Care Placement Reform (Act No. 1442 of 22 December 2004) provides that the local authorities have to ensure that a representative of the local authority visits each child who is placed in alternative care within the district and talk to each child, as a minimum on one occasion each year.⁵⁹⁹ The National Council for Children recommends that children be visited more frequently and that more efforts are made by the representatives of local authorities to speak to the child whose situation they are to monitor. A study by the Danish National Centre for Social Research (SFI) had shown in 2004 that in 19 percent of the visits, the representatives of the local authorities rarely or never speak to the child.⁶⁰⁰

In 2014, the Government of **Denmark** introduced a reform of the oversight and supervision systems for social institutions, including residential care institutions and foster families for children. The reform aims to strengthen the quality of the supervision and introduces a whistle-blower function for employees and children placed in care.⁶⁰¹

In **Estonia**, the Child Protection Act (Article 38) regulates the monitoring in the alternative

from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe, Brussels, November 2012, pp. 143-144.

⁵⁹⁷ Gudbrandsson, Bragi, *Rights of Children in Institutions, Report on the implementation of the Council of Europe Recommendation Rec(2005)5 on the rights of children living in residential institutions*, Council of Europe, 2008, p. 3.

⁵⁹⁸ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Fourth period report of States parties due in 2008, Denmark, CRC/C/DNK/4, 22 January 2010, par. 255-257.

⁵⁹⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fourth Periodic Report of States Parties due in 2008: Denmark, CRC/C/DNK/4, 22 January 2010, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.DNK.4.doc> on 15 May 2015, par. 94.

⁶⁰⁰ Egelund, Tine, Anne-Dorthe Hestbæk and Dines Andersen, *Små børn anbragt uden for hjemmet. En forløbsundersøgelse af anbragte børn født i 1995*, SFI – The Danish National Centre for Social Research, Copenhagen, 2004. Cited in: National Council for Children, *Report to the UN Committee on the Rights of the Child, Supplementary Report to Denmark's 4th Periodic Report*, May 2009, accessed from <http://www.boerneraadet.dk/files/Brd.dk%20Filbibliotek/PDF%20FILER/EKSTERNE%20RAPPORTER/BRD%204.%20Suppl.%20Rapp.%20til%20FN%20-%202009%20-%20UKversion.pdf> on 15 May 2015, p. 20.

⁶⁰¹ Information provided by the National Board of Social Services, Denmark, 18 May 2015.

care sector. The main responsibility to monitor substitute homes rests with the County Government, while the Social Insurance Board is responsible for monitoring family based placements.⁶⁰² Estonia is planning to support the implementation of the AudTrain method.

In **Finland**, the local municipal authority that has placed a child in alternative care is responsible for ensuring that the placement is in line with the Child Welfare Act and that the child receives the services and support measures required. In addition to the local level monitoring, the Regional State Administrative Agency is monitoring the activities of the placement location (Section 79 of the Child Welfare Act).⁶⁰³

In **Germany**, the federal Government is in the process of evaluating the implementation and impact of the 2012 Child Protection Law. The Law regulates key measures of family support, childcare and protection and aims to strengthen prevention, early intervention and response in these areas. The evaluation findings will be reported to the Parliament by the end of 2015 and are expected to continue guiding the further implementation of the law, including in the area of alternative care.⁶⁰⁴

In **Iceland**, the Government Agency for Child Protection is responsible for instructing, guiding and monitoring the child protection committees at the local level. It also supervises and monitors institutions and homes for children and youth, and assists child protection committees in identifying suitable foster parents. The monitoring function extends beyond the local child protection committees and covers also the work of institutions that offer treatment and shelter for children as well as foster care. The Government Agency monitors the quality of services provided in alternative care as well as financial auditing of institutions. For this purpose, the Government Agency and its partners inspect each institution that offers shelter and treatment for children eight times per year. During these visits, the inspecting team holds meetings with children to listen and gather the children's views on the place and the services available to them.⁶⁰⁵

The Government Agency for Child Protection is responsible for the financial and professional monitoring of state-run treatment homes. The Government Agency performs oversight of foster care homes and it liaises with and supports the municipalities to ensure that necessary remedies are made available. The Government Agency has committed to organize the control of service and placement contracts and to ensure that the homes operate according

⁶⁰² Information provided by the Ministry of Social Affairs, Estonia, 29 April 2015. See also key findings available on the FRA website: European Union Agency for Fundamental Rights, *Mapping child protection systems in the EU*, accessed from <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection> on 10 July 2015. A comprehensive report on FRA's research is planned for publication in early 2016. Estonia National Audit Office, Organisation of Child Welfare in Municipalities, Towns and Cities, Report of the National Audit Office to the Riigikogu, Tallinn, 2013, p.31, accessed from <http://www.riigikontroll.ee/tabid/168/amid/557/ItemId/664/language/en-US/Default.aspx> on 20 May 2015.

⁶⁰³ Council of Europe, *Child and Youth Participation in Finland, A Council of Europe policy review, Building a Europe for and with Children*, 2011, pp. 84-86.

⁶⁰⁴ Information provided by the Ministry for Family, Senior Citizens, Women and Youth, Germany, 7 July 2015.

⁶⁰⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Iceland's Third Periodic Report, Government of Iceland, Ministry of Justice and Ecclesiastical Affairs, June 2008, accessed from <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC-C-ISL-3-4.doc> on 15 May 2015, par. 85-86. Barnaverndarstofa (Government Agency for Child Protection), Government Agency for Child Protection, accessed from <http://www.bvs.is/?ser=10> on 15 May 2015.

to quality standards of care, a recognized level of professionalism and other essential requirements.⁶⁰⁶

The Government Agency for Child Protection and other specialised inspection bodies pay inspection visits to each treatment home in the country eight times a year. These visits aim to advise and inform the treatment home staff and to perform surveillance and inspection tasks. The inspectors check all the activities of the homes and make an assessment of the well-being of individual children. They engage in discussions with the responsible staff and with the children, hear their views, concerns and recommendations.⁶⁰⁷

Law reform in 2007 (Act No. 26/2007) authorised the Prime Minister to establish a committee for the examination of institutions and treatment homes for children. The committee was established the same year and took up its activities.⁶⁰⁸

The Committee on the Rights of the Child commended upon these initiatives. It noted that comprehensive monitoring and evaluation of childcare and family support services should include consideration for the well-being and development of children who leave placements in order to return to their families or because they age out of care. The Committee recommended that this aspect be strengthened in the monitoring activities in **Iceland**. It would be important to study the integration and success rate of children leaving alternative care settings, which should also include recommendations regarding the measures to be taken to ensure their social and economic integration.⁶⁰⁹ This recommendation is highly relevant for other countries in the Baltic Sea Region as well.

In **Latvia**, the orphan's court is responsible to ensure that the living conditions of children placed in foster families are regularly checked. If the regular checks reveal that the child is not cared for in an appropriate way, the orphan's court shall look for another foster family or guardian for the child. If it is not possible to identify an alternative family-based placement, the child should be provided with another type of safe environment, for instance in a residential institution.⁶¹⁰

In **Poland**, the Supreme Audit Office (NIK) is the leading audit body of the state and reports directly to the Parliament. The NIK is mandated to control all state authorities, institutions and enterprises. The auditing controls whether these actors fulfil their duties towards citizens in an effective and financially efficient manner. When shortcomings are identified, NIK is held to develop recommendations on how to redress these. Audit initiatives can be launched upon the request of the Parliament or the President of the Republic of Poland, the President of the

⁶⁰⁶ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth reports of States parties due in 2009, Iceland, CRC/C/ISL/3-4, 29 November 2010, par. 83-84.

⁶⁰⁷ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth reports of States parties due in 2009, Iceland, CRC/C/ISL/3-4, 29 November 2010, par. 83-84.

⁶⁰⁸ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth reports of States parties due in 2009, Iceland, CRC/C/ISL/3-4, 29 November 2010, par. 86-88.

⁶⁰⁹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding observations: Iceland, CRC/C/ISL/CO/3-4, 23 January 2012, par. 32-33.

⁶¹⁰ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Combined third to fifth periodic reports of States parties due in 2009, Latvia, CRC/C/LVA/3-5, 21 November 2014, par. 327-329.

Council of Ministers or upon its own initiative. With regard to the rights of the child, the NIK has conducted audits of different aspects and branches of the education system and penal institutions, as well as the functioning of educational and care facilities providing alternative care for children and adoption and care facilities (2006-2007 and 2008-2010 respectively).⁶¹¹

The Ombudsman for Children in **Poland** conducted an inspection of the situation of children in education and care facilities at psychiatric hospitals. The inspection focused specifically on the medical records of the children. In 2007, the Ombudsman for Children presented the following results to the Minister of Labour and Social Policy:

“The analysis was performed by the Office of the Commissioner for Children’s Rights and covered the period from 2004 to 2006. The data collected from all provinces indicated that, inter alia, the practice of placing pupils of education and care facilities in psychiatric hospitals was misused. As a result, in compliance with the recommendations of the Minister of Labour and Social Policy of 30 August 2007, directors of all 24/7 education and care facilities are obliged to inform the social policy departments of governor’s offices about each and every case of placing a child in a psychiatric hospital. The provided information should contain: the age of the child, the date of placing the child in the psychiatric hospital, the duration of the stay, grounds for the decision to place the child in the psychiatric hospital, data concerning the statements of the parents/legal caretakers of expressing consent to the referring of the child to the psychiatric hospital or the relevant court decision or the consent to placement in a psychiatric hospital expressed by pupils over 16 years of age. Moreover, persons responsible for the supervision over education and care facilities were obliged to thoroughly verify the medical records of the children who were directed to a psychiatric hospital at least once and pay special attention to the manner of drafting medical documentation of the children staying at the facilities, as well as to organise training for the directors of the facilities in mental health of children and youth with the participation of a psychiatrist, a clinical psychologist and lawyer, as well as to organise training in the scope of the provisions of the Act of 19 August 1994 on the Protection of Mental Health.”⁶¹²

With regard to the **Russian Federation**, the Committee on the Rights of the Child noted that children in alternative care did not yet benefit from periodic review and inspection of placements in residential institutions and in foster families. Mechanisms for the independent inspection of alternative care institutions and placements need to be still developed. The Committee recommended that supervision of children in care be strengthened and that an independent inspection mechanism be developed by the state in cooperation with civil society.⁶¹³

With regard to **Sweden**, the Committee on the Rights of the Child noted in 2009 that the supervision and monitoring of alternative care facilities, including homes and residential

⁶¹¹ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 57-65.

⁶¹² United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Third and fourth periodic reports of States parties due in 2008, Poland, CRC/C/POL/3-4, 15 December 2014, par. 482-487.

⁶¹³ United Nations Committee on the Rights of the Child, Considerations of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: Russian Federation, CRC/C/RUS/CO/3, 23 November 2005, par. 44-45.

institutions operated by private service providers, was not yet carried out to a sufficient degree and would benefit from further investments.⁶¹⁴

In 2010, new legal provisions were adopted that aimed to strengthen the supervision of the social services. As a result, the supervision function was transferred from the county administrative boards to the National Board of Health and Welfare. Subsequently, the government decided however to establish a new national agency, the Health and Social Care Inspectorate (IVO). This new Inspectorate took over all supervisory functions from the National Board of Health and Welfare in June 2013. While the National Board develops also guidelines, regulations and practice examples, the Inspectorate is a separate and independent agency that performs audits, is responsible for inspections, issuing different types of licenses for service providers, including private service providers. The Inspectorate is also processing the complaints handed in by children, parents or other family members or neighbours. The objective is to generally strengthen the supervision and inspection function throughout Sweden.⁶¹⁵

⁶¹⁴ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Concluding Observations of the Committee on the Rights of the Child: Sweden, CRC/C/SWE/CO/4, 26 June 2009, par. 36-37.

⁶¹⁵ United Nations Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Office of the High Commissioner for Human Rights, Geneva, Fifth Periodic Report of States Parties due in 2011: Sweden, CRC/C/SWE/5, 5 May 2014, par. 230-231. Health and Social Care Inspectorate, *About the Health and Social Care Inspectorate*, 26 September 2013, accessed from <http://www.ivo.se/om-ivo/other-languages/english/> on 15 June 2015. Information provided by the National Board of Health and Welfare, Sweden, May 2015.

7) Conclusions and recommendations

The conclusions and proposals are organised in four main clusters in order to follow the structure of the regional study and the key priority themes selected by the Expert Group for Cooperation on Children at Risk: a) general structural matters related to the way that public administrations are operating in order to implement national policies for family support, child protection and alternative care; b) the prevention of family separation; c) the transition from institutional to community-based care; and d) measures for safeguarding children in care.

Key proposals

a) General structural proposals

- Increased inter-disciplinary cooperation
- Strengthened social workforce
- Consistent implementation and equity of care in decentralised administrations
- Accountability for quality standards in public-private partnership
- Children and caregivers as partners in service delivery

b) Theme 1: Preventing family separation

- Proactive and preventive approaches in family support
- Continuity of care for mobile families
- Promoting sustainable solutions for children and families who are clients of social services

c) Theme 2: Promoting deinstitutionalisation

- Development of national strategies for deinstitutionalisation and national standards of care
- Increased number of foster homes providing quality care

d) Theme 3: Safeguarding children in care

- Development and roll-out of individual care plans
- Enhance documentation to make processes more transparent
- Protect children from violence in any form and any context
- Develop holistic approaches to promote the development, opportunities and inclusion of children in alternative care
- Child-focused inspections, monitoring, auditing and evaluation of care

Proposals

General structural proposals

In the recent years, the social service sector and child rights field have increasingly embarked on a process of consolidating issue-based interventions into more systemic approaches with a view to delivering better coordinated and integrated services for children and families at risk. The trend towards systemic approaches has been promoted in relation to systems for child protection, alternative care, juvenile justice, asylum reception, social protection, education and health. Experience and evidence have shown that these systems need to be connected effectively in law, policy and practice in order to yield sustainable results. Effective connections between the systems are indispensable in order to strengthen proactive and innovative measures and to promote a positive dynamic of change through a continuum of services for prevention, protection and empowerment.

Systemic approaches install certain safeguards to ensure that national laws and policies are translated into practice and have a positive impact on the lives of children and caregivers. While the countries in the Baltic Sea Region have strong laws and policies in place, they are challenged to ensure their effective application in practice. Evidence deriving from policy analysis and research reveals significant challenges within public administrations and the way they operate that pose obstacles to implementation. These structural challenges have a direct bearing on family support, child protection and alternative care. Understanding and addressing these structural challenges constitutes therefore a precondition for the provision of quality services for children and families and a sensible investment for achieving sustainable results and progress over time.

The Baltic Sea States Regional Report on Family Support and Alternative Care identified the following priority areas where interventions are expected to redress structural obstacles and facilitate the implementation process:

1) Institutionalised inter-disciplinary cooperation

Effective cross-sectoral and inter-disciplinary cooperation and coordination is instrumental for achieving integrated and holistic approaches in service delivery. The aspiration is to combine the broad spectrum of services required to prevent family breakdown and support families at risk, including financial assistance, social welfare and social protection, promoting work-life-balance for working parents, early childhood education and care programmes, parenting skills training and support, home visiting programmes, supervision of families at risk, child protection in the home, including for children and caretakers with special needs, and support for migrating parents. Key sectors and professions working with and for children need to be actively involved with social services, such as school administrations and teachers, paediatricians, health care services, hospitals and forensic doctors, and law enforcement.

The Children's House model, which is in place in several countries of the region has been evaluated as a successful model for the cooperation of different agencies and disciplines under the same roof. The model can be used even more proactively for the cooperation with

family support services, for the prevention of child abuse or follow-up support when abuse has happened.

When services are designed and provided through institutionalised mechanisms for inter-disciplinary and cross-sectoral cooperation, their preventive capacity can be significantly enhanced. Such cooperation mechanisms need to be in place at the central, regional and local levels of the public administration and involve state and non-state actors.

- ***The development of integrated and holistic approaches in service provision must be promoted through policy planning across relevant ministries and departments***
- ***Services in social welfare, family support, child protection and alternative care must be consolidated into integrated service provision models at the local level***
- ***At all levels, there is a need for awareness raising, sensitisation and training for the promotion of multi-disciplinary approaches in leadership and service culture***
- ***Inter-disciplinary and multi-stakeholder teams must be strengthened at the local level with clearly defined leadership (where appropriate), cooperation plans and budgets and with the responsibility to ensure continuity of multi-disciplinary service provision to individual children or families***

2) Individualised services that are rights-based and needs-oriented

While family support services have been developed on the basis of international standards, service providers are struggling to provide individualised services that apply these universal standards in a way that is tailor-made to the needs of each specific child and caregiver. In addition to early intervention and response, effective follow-up is critical to substantiate the impact of services in the medium and longer term. Investments made in family support are more likely to be effective and cost-efficient when service providers succeed to ensure continuity from the identification of children and families at risk through to achieving a sustainable solution.

- ***Individualised services must be provided that are equipped to safeguard the rights of the child by delivering services tailor-made to the specific needs of each child and family***
- ***Follow-up services and monitoring of each child and family is necessary to ensure durable solutions and sustainable results in prevention, protection and empowerment***

3) Progress towards social inclusion and non-discrimination: Enhanced cultural sensitivity in family support, child protection and alternative care

The right to non-discrimination is rooted in regional and international standards and safeguarded under the national law of all CBSS Member States. Trends and patterns of placement in alternative care reveal, however, that children belonging to minority groups and

children with an immigration background are disproportionately represented in alternative care in some of the Member States. Social services for families with children are targeted often primarily at the mainstream population and are not yet fully prepared to adjust to the cultural and linguistic diversity of the population. The impact of social services can be significantly enhanced when more attention is given to cultural sensitivity, cultural mediation, interpretation and, generally, the promotion of social inclusion across all population groups. As schools are important partners for promoting social inclusion, services for family support, child protection and alternative care need to engage in strategic partnerships with schools to support children at risk, during placement and through follow-up measures.

- ***Social services must be prepared to target minority population groups and families with an immigration background, being sensitive to their specific needs***
- ***Social workers who are engaged in family support, child protection and alternative care should represent all population groups with relevant linguistic, cultural and religious backgrounds***
- ***Cultural and linguistic continuity for children in placement is important to safeguard the child's identity rights, to ensure quality care and facilitate family reunification wherever this is in the best interests of the child***
- ***Building strategic partnerships with school administrations and teachers and training them to support children at risk is necessary to make social services for family support, child protection and alternative care more successful, efficient and sustainable***

4) Strengthened workforce in family support, child protection and alternative care

Social workers are struggling with a high caseload, complex cases, limited resources, high pressure and demand, challenging working situations and limited access to supervision, coaching or mentoring. The social status and payment of social workers is not always in line with the critical role they hold for societies, considering the importance of social work for the safety and development of children and the younger generations, for promoting social inclusion and cohesion, fostering equitable societies and assisting persons in need. In consequence, many countries notice a high fluctuation among social workers.

Stability in service provision, the generation of an experienced workforce and sustaining institutional memories are however all essential for making social services effective. Evidence suggests that the continuity of the relations between the child, the caregivers and the case manager has a positive impact on the results achieved through service delivery. Retaining talent and sustaining and strengthening high-quality social services with qualified, motivated and dedicated staff that enjoy excellent working conditions, is therefore an important investment for the continued social and human development of the region. States need to strengthen the role of social workers as agents of change, including by strengthening their leadership in inter-disciplinary networks, where appropriate, and their capacity to provide quality services for prevention, protection and empowerment that are informed by evidence and professional knowledge.

- *The competence, capacity and resilience of service providers in the social sector can be significantly enhanced when social workers and other relevant professions have access to high quality guidance, technical assistance, supervision, coaching and mentoring*
- *The impact of social services can be significantly enhanced by strengthening the role and training of social workers as leaders for joined-up approaches, in inter-disciplinary and multi-stakeholder networks and coordination mechanisms, where appropriate, and ensuring continuity of the case manager supporting children and caregivers*
- *States should invest in the development and continued improvement of social services, methods and tools for family support, child protection and alternative care that are informed by evidence, knowledge and professional experience*
- *In light of the high responsibilities that social workers bear, public administrations need to invest in innovative approaches that reduce the caseload on social workers while enhancing the job attractiveness and promoting more stability in social service staff*

5) Promote consistent implementation and equity of care in decentralised administrations

In decentralised or federal administrations, the competence for the implementation of social services, child protection and family support lies commonly with the local authorities. While decentralisation holds opportunities for adapting services to the needs and emerging trends at the local level, it also creates challenges for the scope and quality of implementation at the local level. The devolution of competences bears risks of inconsistencies in quality and accessibility of services from municipality to municipality. Particularly the small municipalities are challenged to provide the broad spectrum of services required to prevent family breakdown and separation. Some countries have good experience with reducing the number of municipalities, promoting the cooperation of municipalities for service provision and introducing the development of local plans guiding the implementation of quality services in the communities. More effective information exchange, coordination and monitoring across the different levels of the public administration are essential for ensuring equity of care regardless of the place of residence of the child and the family.

- *Strengthen the communication between the central, regional and local levels of the public administration in both directions. This must involve the development of binding quality standards, making available technical advice and guidance from the central level, equitable budget allocation to the local levels with earmarks – if and as applicable – for family support, child protection and alternative care and opportunities for front-line staff to communicate their recommendations to the policy makers and public officials at the regional and central levels*
- *Strengthen monitoring and accountability of service provision at the local level, including with indicators measuring impact, processes and outcomes for children and caregivers and capturing physical, mental and social key factors*

- ***Local authorities, social services and other relevant bodies should be encouraged and supported to develop, test and evaluate innovative solutions in family support, child protection and alternative care and those that have yielded positive results should be communicated and promoted through a national dialogue for change***

6) Accountability for quality standards in public-private partnership

Public authorities rely strongly on the cooperation with private partners for service delivery in the fields of family support, child protection and alternative care. The monitoring of the service quality delivered by private partners is however not yet regulated consistently. In consequence, the quality of services differs from provider to provider. While many service providers deliver high quality services for children and caretakers, others perform poorly and infringe upon the fundamental rights of children and parents. More supervision, monitoring and auditing are therefore essential to enhance the quality of service delivery and to hold public and private partners accountable.

- ***Ensure effective safeguards and quality controls are in place in public-private partnership, including licensing, monitoring of quality standards for processes, outcomes and impact***
- ***Establish independent mechanisms for the monitoring and auditing of public-private partnerships and ensure that the findings have a bearing on the licensing and operation of private service providers while holding public bodies accountable for their oversight role***
- ***Conduct process and outcome evaluations of service provision and ensure that evaluation findings inform subsequent reforms***

7) Children and caregivers as partners in service delivery

Traditionally, children were perceived as dependent members of families characterised by their perceived vulnerability, immaturity and need of protection. The UN Convention on the Rights of the Child promotes however an understanding of boys and girls as rights holders and citizens. When children and caregivers are considered as partners in family support services, the service providers need to give them space, to listen and hear what they say and take their views into account. Considering children and caregivers as partners means also to understand their individual situations and needs and to support them in building resilience, solving problems, ensuring a safe environment and realising the maximum possible standards of well-being, health and development. Foster carers should be considered partners in the alternative care team, which implies an obligation to follow education programmes and receive regular supervision. Children should be trained on their rights, relevant procedures and safeguards as clients of social services and during placement in order to acquire knowledge and confidence to act as a partner in the alternative care team.

In order to progress towards this paradigm shift, policy reforms in the fields of family support, child protection and alternative care need to understand and influence the attitudes and

perceptions prevalent throughout society, among public officials and service providers. Awareness raising is required to sensitise professionals and officials working with and for children and caretakers to an understanding of children as rights holders and citizens. Sensitisation is also needed on the evolving notion of 'family' and new, emerging forms in how families are composed, how the composition may evolve over time, including through changing gender roles and labour market participation.

- ***Foster an approach in social service provision – through training, sensitisation, tools and methods – that respects children and caregivers as competent to co-determine the type of support they need, while maintaining a professional approach to uphold universal rights and standards***
- ***Engage children and caregivers as partners in service design and provision, to ensure that services are tailor-made to the individual situation and needs of the service user***

Theme 1: Preventing family separation

The family has a high standing in all CBSS Member States. Many states have enshrined into their national constitutions the protection of the family unit as a fundamental obligation of the state. Others have enacted legislation that commits the state to supporting families to live in safety and socio-economic stability and to thrive.

Different approaches to social welfare, family support and child protection services are in place in the region, each offering opportunities and challenges. Some countries have made important steps towards the integration of family support and child protection services. Other countries are providing family support mainly in the form of financial assistance. Despite the differences, all countries are still on their way towards an effective model of integrated social services.

Evidence shows that the weak consolidation of services may result in a disconnect between family support and child protection services. Service providers working with families can however be well-positioned to identify children at risk and cases of child abuse early and refer them to support and protection. Policy makers and practitioners therefore need to guarantee that children's rights and needs are duly considered in family services.

1) Proactive and preventive approaches in family support

Experience shows, that a proactive approach with a priority on prevention delivers better outcomes for children and caretakers and reduces strain on the social sector. Proactive and preventive approaches in family support therefore need to complement the responses that aim to remediate the difficulties that families are struggling with. It is also important to provide low-threshold services starting as early as during pregnancy and accompanying the families through the early childhood and kindergarten years. Psycho-social education of parents at risk has yielded positive results for preventing family separation and supporting the child's development. Identifying existing resources, strengths and sources of resilience within the

family and their social environment is essential to make family support services assets-based, cost-effective and sustainable.

- ***Availability and accessibility of social services for children and families need to be strengthened, including by providing services accessible at a low threshold, making them known and encouraging their use***
- ***Early interventions and support from inter-disciplinary teams must be available for families from pregnancy and childbirth through early childhood, including support from birth hospital staff, midwives, day care staff, and social workers visiting families with small children in the home***
- ***Children must be enabled to contact social services and seek advice and counselling independently***
- ***Assets-based services that mobilise the resources and resilience of children and caregivers within their social networks are important***
- ***Social services must connect effectively to local networks of care and protection, including by placing social workers or psychologists specialised on the prevention of child abuse and neglect in schools, in police stations and hospitals***
- ***Effective follow-up for secondary and tertiary prevention must be ensured when abuse has happened or is suspected, including through police units specialised on child abuse and by involving qualified forensic doctors***
- ***Active measures and effective approaches are necessary to support parents with problems of alcohol, drug or substance abuse and to provide effective treatment for their rehabilitation as caregivers***
- ***Children shall not be removed from the family home for reasons of poverty or other matters that can be prevented or alleviated by targeted family support***
- ***Removal decisions should be taken or authorised by a court of law or other competent bodies on the basis of national law and with transparent documentation and motivation of the decision***
- ***Whenever it is in the best interests of the child, services must be delivered with a view to prevent family separation and to support the process towards sustainable reunification after placement***

2) Continuity of care for mobile families

When children, caregivers or entire families are moving, the cooperation between the authorities in the place of origin, transit and destination is vital for ensuring continuity of care. Effective cooperation and communication between the local authorities involved and between the service providers and the service users is critical to ensure that services are delivered timely and without interruptions. Effective cooperation is also a precondition for the cost-effective operation of social services, as the knowledge from previous locations can be transferred as assessments do not need to be repeated. It is particularly important to avoid that one local authority relinquishes its responsibility before another takes over. Where cooperation and handover of cases is weak or absent, transfers and mobility might put children and families at risk of falling through the gaps in service provision. While many

countries are struggling to ensure continuity of care for families moving within the country, the mobility across borders is creating additional challenges that call for effective transnational cooperation between service providers in countries of origin and destination.

- ***Strengthen the continuity in child protection and support for mobile families by ensuring effective communication and cooperation between local authorities and service providers, between the local and central levels of the public administration, and across borders, including by assigning the relevant mandate to central authorities where they are not yet in place***
- ***Develop data protection regulations specifically for the context of monitoring families at risk in the context of migration and mobility***

3) Promoting sustainable solutions for children and families who are clients of social services

Supporting families and preventing their separation requires integrated services that ensure timely and tailor-made support for children and parents combined with an overarching perspective for the medium and longer term planning of services and follow-up. The service provision can be better planned and coordinated when it has clearly established long-term objectives, aiming at the identification and implementation of a sustainable solution for the child and the family.

- ***Identify realistic and sustainable solutions for children and families who are clients of social services, in close consultation with the child and the caregivers concerned, relevant service providers and professionals***
- ***Promote the implementation of the sustainable solution through integrated and coordinated services for family support, child protection and alternative care***

Theme 2: Promoting deinstitutionalisation

Most Member States of the Council of Baltic Sea States have achieved progress in reducing the number of large-scale residential institutions. Large institutions for children are gradually being replaced with family-like care facilities or small scale family homes. Some countries have enshrined the priority of family-based care into their national legislation or policies. Others do not take a clear stand on the preferred type of placement for children deprived of parental care. National strategies for deinstitutionalization are not common in the region as only a few countries have developed them in the past or present and institutionalisation remains a common practice, particularly for children with special needs, such as children with disabilities and children with mental health problems.

Evidence demonstrates that the placement in large-scale residential institutions results in poorer outcomes for children during childhood and in their adult lives. The negative impact has been measured with regard to a lower quality of life and emotional well-being as well as higher risks of social exclusion. Placement in institutional care is particularly risky for very young children as it can negatively affect their brain development and cause lifelong damage.

Promoting deinstitutionalization therefore constitutes a sensible and powerful investment into the development of children deprived of parental care. It generates positive outcomes with a strong potential for transgenerational change.

1) Development of national strategies for deinstitutionalisation and standards of care

Few countries have developed a national strategy for deinstitutionalisation or distinct policy documents setting out national standards of care. The development of national minimum standards of care can be useful to guarantee a more comprehensive package of services and safeguards for children. As a unified document for policy and practice, national standards of care are well placed to promote important principles of quality care such as continuity of care and permanency, equity in care and a holistic and rights-based approach. National standards of care promote the child's right to protection and development and include safeguards such as easily accessible and independent complaints and reporting mechanisms, quality monitoring and supervision. Within comprehensive national strategies for alternative care, standards of care must be promoted in a systematic way towards the objective of progressive transition from institutional to family-like and family-based care. In this context, it is worthwhile to define the process and pace of the transition by identifying quality standards for residential institutions in each country and context. The key principle guiding decisions on placement remains invariably the best interests of the child.

- Countries depending still strongly on institutional care for children should develop national strategies for deinstitutionalisation in order to prioritise family-like and family-based care and provide the relevant structures and incentives to this end**
- The progressive deinstitutionalisation needs to be coordinated with measures to ensure quality care in all types of placements, large-scale residential institutions, family-like or family-based placements, while gradually advancing with the steady transition towards family-based care**
- National standards of care should be developed where they are not yet in place in order to define a binding guidance document for family support, child protection and alternative care, in line with international standards**
- National standards of care should be developed in consultation with all relevant actors involved, including front-line staff, children and caregivers, public and private service providers**
- States should actively implement national standards of care and strategies for deinstitutionalisation through appropriate measures, including comprehensive frameworks for monitoring and evaluation, and with the active involvement of all relevant public and private partners and communities**

2) Increased number of foster homes providing quality care

Although there is a general trend to prioritise family-based care over institutional care in national law and policies, many countries are still struggling to ensure that a sufficient number of foster homes are available to offer quality care for children. Ensuring quality foster care for children with special needs is a particular challenge, such as children with physical disabilities, mental health issues, children demonstrating difficult behaviour, and children belonging to minority groups or migrant and asylum seeking children who are unaccompanied. The process for stepping up the number of placements in foster families needs to go hand in hand with efforts to increase the quality standards in foster care and the support available to foster carers. Remuneration or payment of foster carers should be appropriate – if and as applicable – and should not result in undue financial gain.

- ***Systematic, ongoing and mandatory training and supervision for foster carers is necessary to ensure they are skilled, competent and prepared to provide quality care for children***
- ***Services for support, counselling, supervision and mentoring of foster carers is needed, which should be available and accessible on a continuous basis***
- ***A pool of licensed and qualified foster carers must be in place who are available to receive children for temporary or longer-term placements, including on short notice***
- ***Associations of foster carers should operate at the regional and/or national levels to offer information, support and advice to foster families while also representing their voices in the dialogue with public authorities and policy makers***
- ***Regional and national fora for the dialogue between foster children and carers, service providers and policy makers should be institutionalised to inspire the reform process in policy and practice towards the continuous improvement of foster care***

Theme 3: Safeguarding children in alternative care

Safeguarding children in alternative care requires a comprehensive set of measures for the prevention of all forms of violence and effective responses when acts of violence have taken place. The basic premise for safeguarding children is their effective protection from all forms of violence, exploitation, abuse and neglect, including corporal punishment, in the home, in alternative care and in any other context. Many children in care have been removed from their birth families because of imminent risks to their safety, well-being and development. In placement, it is therefore particularly important to ensure that children are protected from further harm or risks and that they are supported in the development of their evolving capacities, skills, resources and resilience. Safeguarding children in the home and in alternative care is not only an obligation of states under the UN Convention on the Rights of the Child and other international standards, it also constitutes a sensible and powerful investment for the development of the younger generations, their transition into adulthood and independent life, and a fundamental contribution to a safe and secure region.

1) Development and roll-out of individual care plans

Care planning involves a circular and multi-step process of assessments, decision-making, implementation and review. This process informs the development and roll-out of an individual care plan for the child and should include safeguards to ensure that the care plan is tailor-made to the person, in line with her or his best interests, preferences and special needs. The care plan determines which kind of services are required and helps planning the involvement of services from different disciplines, the timing and funding of service provision, as well as monitoring and evaluation of targets reached. It is important that the child is at the centre of the care planning process, that the child, caregivers and other key person's around the child participate actively and that they are supported to do so.

- ***Provide for effective and comprehensive methods for care planning, including relevant assessments and periodic review, rooted in national law***
- ***Ensure that care planning is done with the active participation of the child at the centre, involves the caregivers and relatives as well as all relevant service providers and professionals***
- ***Promote holistic approaches in care planning to safeguard all the rights of the child and address the child's individual needs, with a view to promoting the best interests of the child, the right to be heard, the right to non-discrimination, and the right of the child to fully develop her or his personal resources and potentials***
- ***Ensure that general principles of quality care are duly respected in care planning, such as continuity and equity of care, the continuity and permanency of placement and caregivers, contact with birth parents and family, geographic proximity of placement, identifying a durable solution with a longer-term perspective, and promoting family reintegration wherever this is in the best interests of the child***
- ***Care planning should not stop short when the child turns 18 years old but provide for after care supporting the child's transition into adulthood and independence***
- ***Legal and administrative obstacles to the adoption of foster children by foster carers should be removed wherever this is in the best interests of the child***

2) Documentation to make processes more transparent

Evidence suggests that clear regulations for the documentation of social assessments and procedures can help to advance the quality of service provision. Documentation is a precondition for making procedures and assessments more transparent. It is therefore an important method for promoting the application of national and international standards in practice, including with regard to the best interests of the child and the child's right to be heard. A step-by-step documentation on how the views of a child have been heard and taken into account, for instance, makes the process leading up to a decision traceable and comprehensible. In the case of best interests assessments, a detailed documentation helps to clarify which assessments have been made, what information guided the decision and how much weight has been given to the different facts and views. The latter is particularly

important when some facts and views appear to be in conflict. The resulting transparency offers safeguards for the child and caretakers concerned as well as the responsible officials and professionals involved in the decision making process. Granting the child, caretakers, supervisors, inspectors and other authorised professionals or officials access to the documentation is a precondition for enabling them to be informed about the process and to seek legal remedies when procedures and safeguards were not duly respected.

- ***Public administrations should develop or promote the use of standardised methods and tools for the documentation of case assessments, care planning and case management, with a view to making service provision transparent while limiting the administrative demands on social workers to the extent possible***
- ***Each key step in service provision, case assessments, care planning and case management should be documented***
- ***Children and caregivers need to be informed about the case documentation and their rights to access and should receive support in accessing and understanding the content and implications of the case documentation***
- ***Case documentation should be shared within inter-disciplinary and multi-stakeholder cooperation mechanisms, while safeguarding rights to confidentiality, data protection and privacy, if and as applicable***

3) Promote the right of children to be heard and to have their views taken into account, as clients of social services and in alternative care

Hearing the views of the child and taking them into account is essential for enabling children to contribute to developing appropriate services and for staying safe in care. Meaningful opportunities for children to express their views and have them taken into account have a strongly empowering effect as they promote children's development and protection. The principle of participation is not only an element of basic democracy, it is also an imperative in for societies that value children as subjects of rights and citizens. Children who are encouraged to express their views and who are listened to are less vulnerable to abuse. It is necessary for children to seek, receive and impart information and to access opportunities to participate in key decision-making processes. Reporting and complaints mechanisms that are child-sensitive and easily accessible to children play a key role in safeguarding children and their right to be heard. Inspection, monitoring, auditing and evaluation offer additional opportunities for children to express their views, to contribute to their own protection and well-being and to share their recommendations for promoting change.

- ***The child's role as an active participant in the promotion, protection and monitoring of her or his rights needs to be promoted in all contexts, including specifically for children as client of social services, during placement and in follow-up services***
- ***The views of the child must be heard and taken into account in decision making processes and in care planning, and this requires information in a language that the child understands, a documentation of the views of the child, how these have been heard and taken into account, and legislating for the child's consent***

to certain decisions to be sought, including mandatory consent on particularly serious matters

- *Opportunities for children to be heard as clients of social services and in placement should be institutionalised so that children can express their views freely and effectively participate in all matters affecting them*
- *Professionals working with and for children in key positions need to be trained on interviewing techniques and communication with children, including with very young children and children with special needs*
- *Child-sensitive reporting mechanisms and complaints procedures need to be established that are known, trusted and accessible for children*
- *Children have to be informed about their rights and entitlements and relevant procedures concerning them, as clients of social services and in placement*
- *Children need to be informed and encouraged to use these mechanisms and to build confidence in their own capacity to judge about the quality of services and to formulate recommendations for improvement*
- *Reports and complaints filed by children have to be promptly followed up and must result in appropriate action to address the issues raised by children*
- *The reports and complaints filed by children need to be analysed periodically and the results should be communicated to policy makers with a view to informing policy reform respectively*
- *Systematic and periodic monitoring, inspection and evaluation of social services and their impact on children and caregivers needs to be ensured, including during placement in alternative care*
- *It is important to foster the dialogue between children in care, caregivers, service providers, care staff, policy makers and officials at all levels*

4) Develop holistic approaches to promote the development, opportunities and inclusion of children in alternative care

A truly holistic approach to safeguarding children in alternative care requires that the care planning process gives due consideration to all the rights and needs of the child. In addition to fundamental human rights and principles, such as the safety and health of a child, holistic approaches need to consider the child as a person within her or his social, cultural and developmental context. Many aspects of the social and cultural life of a child may however not be clearly regulated by legal provisions or policy plans. Their realisation depends then strongly on the commitment of caregivers and staff and the opportunities for children in care to access the right type of support. This includes access to sports, recreation and leisure time activities, testing out the child's skills and talents and promoting their further development, learning life skills, maintaining or building new social networks with peers, adults and special support persons, and ensuring continuity of schooling or vocational training.

- *Develop life projects for children in care as transparent individual care plans developed with a holistic and longer-term perspective, in cooperation and consultation with the child and the caregivers*

- ***Enable children who are clients of social services and children in care to access life skills training, sports, recreational and leisure time activities, play and hobbies, cultural and social activities according to their choices***

5) Protect children from violence in any form and any context

In working environments where professionals or volunteers are in direct contact with children, the screening of their criminal records is a basic prevention measure to ensure that persons with a history of abuse and violence are rejected as applicants or removed from working with and for children. Legal regulations that enable employers to request the criminal record of applicants, staff and volunteers for screening purposes are important for public and private sector employers.

Protecting children from all forms of violence, abuse, exploitation and neglect is a basic safeguard for any alternative care setting. A fundamental precondition is the prohibition of all forms of corporal punishment of children in all contexts, including the home, at school, at the workplace, in day care and alternative care settings. Considering that children in care are among the particularly vulnerable groups in society and considering further the harmful impact of violence on a child's development, effective protection from corporal punishment is a fundamental principle of quality care. Ensuring stable relationships in care can significantly contribute to the child's protection from violence, abuse and neglect and help the child feeling safe.

When an incident of violence happens or is suspected, legal regulations throughout the Baltic Sea Region encourage and oblige professionals working with and for children to report to the police, to child protection or social services. In many countries, reporting obligations are extended also to the general public. These reports and notifications are important to initiate investigations into the child's situation and to provide services if and as appropriate.

- ***Children must be protected from all forms of corporal punishment in the home, in institutions, in foster care and any other setting, by adopting legal bans where they are not yet in place and promote their effective roll-out and implementation***
- ***Professionals and volunteers working with and for children need to be screened with a view to preventing persons with a criminal record of offences against children from entering professions or voluntary positions where they are in direct contact with children***
- ***Reporting obligations should be strengthened for officials and professionals working with and for children who identify cases or suspicions of child abuse, violence or neglect***
- ***It is essential that quality care is provided to children who have been exposed to violence, exploitation or abuse in any form; specialised treatment for child victims needs to be integrated into the services provided in the home and in***

placement, including by providing appropriate shelters, trained staff and cooperation with specialised law enforcement units and Children's Houses

6) Inspection, monitoring, auditing and evaluation of care

Inspections, monitoring, auditing and evaluation are key to ensuring that national standards of care are being implemented effectively for each boy and girl in care. They need to be carried out in a way that is child-focused and oriented at the rights of children in care while giving due regard to the views of the children concerned and their specific needs. Inspections, monitoring and evaluations need to be conducted within the public administration and within service providing agencies and organisations as well as independently. Innovative approaches might test out child-led methods of inspection, monitoring and evaluation.

- ***Inspections, monitoring, auditing and evaluation should be carried out within the structures of the public administration and service providers as well as independently, in close consultation with the children and caregivers concerned***
- ***Inspections, monitoring, auditing and evaluation should be holistic and rights-based and combine indicators concerning the infrastructure of care, objective measures of the quality of care, accommodation and food as well as subjective measures concerning the safety, well-being and development of children and the quality of their relations to their families, peers, caretakers, staff, social workers and other relevant relations***
- ***Indicators for inspections, monitoring, auditing and evaluation should derive from international standards and the respective national law and policies and measure structures, processes, outcomes and impact on children and caregivers, as well as progress achieved over time***
- ***The findings from inspections, monitoring, auditing and evaluations should feed back into policy making and advocacy to promote the continuous reform process towards higher standards of care, engaging all relevant actors in a national dialogue for the continued development***

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9) Annex

Acronyms

CBSS	Council of the Baltic Sea States
CRC	UN Convention on the Rights of the Child
CRPD	UN Convention on the Rights of Persons with Disabilities
ECEC	Early Childhood Education and Care
EC	European Commission
EU	European Union
FICE	Fédération Internationale des Communautés Educatives (International Federation of Educative Communities)
HCCH	The Hague Conference on Private International Law
IFCO	International Foster Care Organisation
ILO	International Labour Organisation
ISS	International Social Service
NGO	Non-governmental Organisation
OECD	Organisation for Economic Cooperation and Development
UN	United Nations
UNICEF	United Nations Children's Fund
OHCHR	United Nations Office of the High Commissioner for Human Rights

Glossary

Alternative care

'Alternative care' refers to care arrangements provided to children deprived of parental care. It includes family-based and family-like care as well as institutional or residential care. The UN Guidelines on the Alternative Care for Children distinguish informal and formal care arrangements. Informal care includes "any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or friends (informal kinship care) or by others in their individual capacity, at the initiative of the child, his/her parents or other person without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body". Formal care refers to "all care provided in a family environment which has been ordered by a competent administrative body or judicial authority, and all care provided in a residential environment, including in private facilities, whether or not as a result of administrative or judicial measures".⁶¹⁶

Alternative care may take the form of:

- (i) *Informal care*: any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or friends (informal kinship care) or by others in their individual capacity, at the initiative of the child, his/her parents or other person without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body;
- (ii) *Formal care*: all care provided in a family environment, which has been ordered by a competent administrative body or judicial authority, and all care provided in a residential environment, including in private facilities, whether or not as a result of administrative or judicial measures.⁶¹⁷

Kinship care: family-based care within the child's extended family or with close friends of the family known to the child, whether formal or informal in nature.⁶¹⁸

Foster care: situations where children are placed by a competent authority for the purpose of alternative care in the domestic environment of a family other than the children's own family that has been selected, qualified, approved and supervised for providing such care.⁶¹⁹

Residential care: care provided in any non-family-based group setting, such as places of safety for emergency care, transit centres in emergency situations, and all other short- and long-term residential care facilities, including group homes.⁶²⁰

⁶¹⁶ United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434)] 64/142, 24 February 2010, par. 29.

⁶¹⁷ United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434)] 64/142, 24 February 2010, par. 29.

⁶¹⁸ United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434)] 64/142, 24 February 2010, par. 29.

⁶¹⁹ United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434)] 64/142, 24 February 2010, par. 29.

⁶²⁰ United Nations General Assembly, Guidelines for the Alternative Care of Children, Resolution adopted by the General Assembly on the report of the Third Committee (A/64/434)] 64/142, 24 February 2010, par. 29.

Child

A child is any person under the age of 18 years old, as provided under Article 1 of the UN Convention on the Rights of the Child.

Child protection

Child protection refers to the protection of children from all forms of violence, abuse, exploitation, neglect or maltreatment, as afforded under Article 19 of the UN Convention on the Rights of the Child.

Child rights

Child rights refers to the human rights of the child as afforded under the UN Convention on the Rights of the Child and its Optional Protocols.

Corporal punishment

In its General Comment No. 8 (2006), the Committee on the Rights of the child defines 'corporal' or 'physical' punishment as "any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting ("smacking", "slapping", "spanking") children, with the hand or with an implement - a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children's mouths out with soap or forcing them to swallow hot spices). In the view of the Committee, corporal punishment is invariably degrading. In addition, there are other non-physical forms of punishment that are also cruel and degrading and thus incompatible with the Convention. These include, for example, punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child."⁶²¹

The Committee notes that "[c]orporal punishment and other cruel or degrading forms of punishment of children take place in many settings, including within the home and family, in all forms of alternative care, schools and other educational institutions and justice systems - both as a sentence of the courts and as a punishment within penal and other institutions - in situations of child labour, and in the community."⁶²²

Maternity Leave (or pregnancy leave)

Employment-protected leave of absence for employed women at around the time of childbirth, or adoption in some countries. The ILO convention on maternity leave stipulates the period of leave to be at least 14 weeks. In most countries beneficiaries may combine pre- with post-birth leave; in some countries a short period of pre-birth leave is compulsory as is

⁶²¹ United Nations Committee on the Rights of the Child, General Comment No. 8 (2006), The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia), CRC/C/GC/8, 2 March 2007, par. 11.

⁶²² United Nations Committee on the Rights of the Child, General Comment No. 8 (2006), The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia), CRC/C/GC/8, 2 March 2007, par. 12.

a 6 to 10 week leave period following birth.⁶²³

Paternity Leave

Employment-protected leave of absence for employed fathers at the time of childbirth. Paternity leave is not stipulated by international convention. In general, periods of paternity leave are much shorter than for maternity leave. Because of the short period of absence, workers on paternity leave often continue to receive full wage payments. In some countries, father specific leave entitlement is part of the parental leave scheme, rather than established as a separate right.⁶²⁴

Parental Leave

Employment-protected leave of absence for employed parents, which is often supplementary to specific maternity and paternity leave periods (as above), and usually, but not in all countries, follow the period of maternity leave. Entitlement to the parental leave period is either for each parent or for the family, but entitlement to public income support is often family-based, so that in general only one parent claims such income support at any one time.⁶²⁵

Persons with disabilities

The UN Convention on the Rights of Persons with Disabilities defines ‘persons with disabilities’ as including “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”⁶²⁶

⁶²³ Organisation for Economic Cooperation and Development, *Key characteristics of parental leave systems*, OECD - Social Policy Division - Directorate of Employment, Labour and Social Affairs, OECD Family Database, 1 May 2015, p. 1.

⁶²⁴ Organisation for Economic Cooperation and Development, *Key characteristics of parental leave systems*, OECD - Social Policy Division - Directorate of Employment, Labour and Social Affairs, OECD Family Database, 1 May 2015, p. 1.

⁶²⁵ Organisation for Economic Cooperation and Development, *Key characteristics of parental leave systems*, OECD - Social Policy Division - Directorate of Employment, Labour and Social Affairs, OECD Family Database, 1 May 2015, p. 1.

⁶²⁶ United Nations Convention on the Rights of Persons with Disabilities, Article 1.

Key standards and indicators guiding the literature review

These key standards derive from international and European standards, guidelines and recommendations on the human rights of the child, childcare and protection, social services for families and children, and alternative care (see box 2 in the methodology chapter). They have been structured according to the three key themes of the Baltic Sea Regional Study on Family Support and Alternative Care, which have been identified by the CBSS Expert Group for Cooperation on Children at Risk.

1. Identifying effective interventions to prevent children from being separated from their families by highlighting examples of good practices and services that “works”

1.1. Effective models and programmes to promote families’ ability to care for children

- Present and discuss examples of policies and programmes for strengthening and supporting parents and families, including parental leave, social protection and cash grants, monitoring of families and home visits, day care, encouraging the equal involvement of both parents, support to single parents, supporting contact to both parents, addressing parental issues such as parenting skills, parents’ mental health, domestic violence or substance abuse. (UN Guidelines par. 9, 33-38; Rec(2005)5-1.2, Council of Europe Guidelines on child-friendly health care par. 33; Rec(2011)12 III.A.2, A.3, IV.A)
- “Child-friendly health care” includes the notion of “family-friendly”, facilitating bonding between new-born babies and their mother/parents, facilitating contacts between the child and her or his family and preventing the separation of the child from her or his family unless it is in the best interest of the child. (Council of Europe Guidelines on child-friendly health care par. 21).
- Social services for children and families should ensure the protection of children from all forms of neglect, abuse, violence and exploitation by preventive measures as well as through appropriate and effective interventions. These should aim for the preservation of family strength and unity, especially in families facing difficulties. (Rec(2011)12 III.C.1)
- Situations of child abuse and neglect require supportive and comprehensive services with the aim to avoid family separation for him or for her. Maintaining the family unity should not, however, be an aim in itself. In the best interests of the child and her or his protection, alternative placement is sometimes necessary. Moreover, when the parents are involved in the sexual abuse or exploitation of the child, the intervention procedures shall include the possibility of removing the alleged perpetrator from the family home. (Rec(2011)12 III.C.2)
- **Social service delivery for children and families** for protecting vulnerable children should, *inter alia*, **adhere to the following principles:**
 - Prevention and early intervention;
 - Child-focused partnership with parents;
 - Careful assessment of the individual child’s needs with regard to protective

factors (including strength) as well as risk factors in the child's social environment;

- Prevention of re-victimisation of the child. (Rec(2011)12 III.C.4)

1.2. Assessing the multi-sectorial/disciplinary cooperation and its effectiveness in providing family support (subsumed to the above)

- **Multi-disciplinary decision-making:** The right of the child to be placed only to meet needs that have been established as imperative on the basis of a multi-disciplinary assessment. ; (UN Guidelines par. 57; Rec(2005)5-2.1)
- (Institutionalised) mechanisms for multi-sectoral / inter-disciplinary cooperation concerning family support at the central level (ministries, departments, agencies)
- (Institutionalised) mechanisms for multi-sectoral / inter-disciplinary cooperation concerning family support at the regional level (if and as applicable)
- (Institutionalised) mechanisms for multi-sectoral / inter-disciplinary cooperation concerning family support at the local level
- Added value of these mechanisms with regard to effective family support
- Children and families with complex and multiple needs should benefit from **co-ordinated services by professionals cooperating across different sectors** including education, health and social services, and law enforcement agencies. The competencies and responsibilities of each service should be made visible and clarified to beneficiaries. The need for facilitation (case management) should be considered. (Rec(2011)12 V.E.1)
- A **common assessment framework and interagency protocols** should be established for different professions and agencies working with or for children, especially children at risk. While implementing a multidisciplinary approach, professional rules on confidentiality should be respected. (Rec(2011)12 V.E.2)
- **'Continuum of care'**: The importance of good coordination and continuity of care based on an integrated and multi-disciplinary approach, sometimes referred to as "continuum of care", should not be underestimated. This extends across the traditional boundaries of primary, secondary and tertiary health care organisations, involving health, education, social care and justice systems whether in the public, private or voluntary sectors. (Council of Europe Guidelines on child-friendly health care par. 19)

1.3. Identifying the availability of knowledge-based and relevant social services

- **Training for professionals working with alternative care**
 - Training on the **rights of children without parental care** and the specific vulnerability of children in particularly difficult situations such as emergency placement or placement outside the area of habitual residence (UN Guidelines par. 115)
 - **Training** on dealing appropriately with **challenging behaviour**, including conflict resolution techniques and means to prevent acts of harm or self-harm

- (UN Guidelines par. 116)
- **Training** to prepare carers to respond to **children with special needs** such as those living with HIV/AIDS or other chronic physical or mental illness and children with physical or mental disabilities (UN Guidelines par. 117)
 - Cultural, social, gender and religious **sensitization** (UN Guidelines par. 115)
 - Training in applying **participatory methods of working with children and families** to ensure they are heard and taken seriously. This includes training in **communicating with children** at all ages and stages of development, as well as with children in situations of particular vulnerability. Staff working directly with children should be competent in building and maintaining trusting relationships with them based on mutual respect, confidentiality and friendliness. (Rec(2011)12 V.F.3)
 - **Inter-disciplinary training models and programmes** for professionals working or dealing with children and families. Target groups should include teachers, judges, social workers, nurses and medical practitioners. (R(98)8 par. 15)
 - **Conditions of work**, including remuneration, for professionals working with and for children in alternative care, such as social workers, care givers and others should be such to maximize motivation, job satisfaction and continuity (UN Guidelines par. 114, Rec(2005)5-3.5)
 - **A workforce committed to multi-disciplinary collaboration, innovation, learning and improvement** (Council of Europe Guidelines on child-friendly health care par. 39.ii).
 - **Adequate resource allocation** to favour the implementation of these provisions (UN Guidelines par. 115)
 - Professionals should benefit from **individual and/or group supervision** to enhance their competence and support. (Rec(2011)12 V.F.5)
 - **Access to mentoring** for social workers and other professionals working with and for children, especially in handling complex cases.
 - **Integration of a culture of learning and improvement into service delivery.** Each agency should have a similar approach to the choice of evidence-based interventions, priority setting, maintaining staff competence, working in teams and continuous quality improvement. (Council of Europe Guidelines on child-friendly health services par. 53)

2. Ensuring the transition from institutional care to family based care by building necessary support systems and securing the quality of care

2.1. Identifying opportunities for family-based alternative care including return to biological family, placement of children in foster care and through adoption

General on deinstitutionalisation, decision-making and preference to family-based care

- **Comprehensive strategy for deinstitutionalisation** with precise goals and objectives, which will allow for the progressive elimination of residential care facilities. To this end, states should establish care standards to ensure the quality and conditions that are conducive to the child's development, such as individualised and small-group care, and should evaluate existing facilities against these standards. Decisions regarding the establishment of, or permission to establish, new residential care facilities, whether public or private, should take full account of this deinstitutionalisation objective and strategy. (UN Guidelines par. 23)
- **Decision-making on alternative care** in the best interests of the child should take place through a judicial, administrative or other adequate and recognised procedure, with legal safeguards, including, where appropriate, level representation on behalf of children in any legal proceedings. It should be based on rigorous assessment, planning and review, through established structures and mechanisms, and should be carried out on a case-by-case basis, by suitably qualified professionals in a multidisciplinary team, wherever possible. It should involve full consultation at all stages with the child, according to his/her evolving capacities, and with his/her parents or legal guardians. To this end, all concerned should be provided with the necessary information on which to base their opinion. States should make every effort to provide adequate resources and channels for the training and recognition of the professionals responsible for determining the best form of care so as to facilitate compliance with these provisions. (UN Guidelines par. 57).
- **Non-discrimination in decision-making:** The decision taken about the placement of a child and the placement itself should not be subject to discrimination on the basis of gender, race, colour, social, ethnic or national origin, expressed opinions, language, property, religion, disability, birth or any other status of the child and/or her or his parents. (Rec(2005)5-1.6)
- **Funding and budget allocation** to alternative care by the state and private partners
- **Costs per child in alternative care** with breakdown by type of alternative care

Return to biological family

- **Geographic proximity:** Maintain the child in alternative care as close as possible to his/her habitual place of residence (UN Guidelines par. 11; Rec(2005)5-3.1)
- **Review of placement:** The placement should not be longer than necessary and should be subject to periodic review with regard to the child's best interests that

should be the primary consideration during her or his placement; the parents should be supported as much as possible with a view to harmoniously reintegrating the child in the family and society. (Rec(2005)5-1.4)

- **Contact:** Regular and appropriate contact between the child and his/her family specifically for the purpose of reintegration should be developed, supported and monitored by the competent body. (UN Guidelines par. 51; Rec(2005)5-2.2, Rec(2005)5-3.1)
- **Preparation for family reintegration:** In order to prepare and support the child and the family for his/her possible return to the family, his/her situation should be assessed by a duly designated individual or team with access to multidisciplinary advice in consultation with the different actors involved (the child, the family, the alternative caregiver), so as to decide whether the reintegration of the child in the family is possible and in the best interests of the child, which steps this would involve and under whose supervision. (UN Guidelines par. 49)
- **Contract on reintegration:** The aims of the reintegration and the family's and alternative caregiver's principal tasks in this respect should be set out in writing and agreed on by all concerned. (UN Guidelines par. 50)
- **Follow-up support:** Once decided, the reintegration of the child in his/her family should be designed as a gradual and supervised process, accompanied by follow-up and support measures that take account of the child's age, needs and evolving capacities, as well as the cause of the separation. (UN Guidelines par. 52)

Foster care

- **Matching:** System in place to assess and match the needs of the child with the abilities and resources of potential foster carers and to prepare all for the placement (UN Guidelines par. 118)
- A **pool of accredited foster carers** is identified in each location who can provide children with care and protection while maintaining ties to family, community and cultural group (UN Guidelines par. 119)
- **Support:** Special preparation, support and counselling for foster carers at regular intervals, before, during and after the placement (UN Guidelines par. 120)
- **Voices of carers are heard and influence policy development**, including through associations of foster carers (UN Guidelines par. 121, 122)

Adoption

- **National adoption**
 - **Screening** of prospective adoptive parents
 - **Preparation and training** of prospective adoptive parents
 - **Matching** of the child and the abilities and resources of the prospective adoptive parents
 - **Follow-up support and monitoring** of the situation post-adoption

- **Inter-country adoption into and from the country**
 - Ratification of the 1993 Hague Convention
 - Central authority
 - Private agencies for inter-country adoption
 - Prohibition of private adoption
 - For State Parties to the 1993 Hague Convention: Regulation of adoption from non-State Parties
 - Screening of prospective adoptive parents
 - Preparation and training of prospective adoptive parents
 - Matching
 - Follow-up support and monitoring
 - Formal approval of inter-country adoption and procedure for granting nationality to the adopted child

2.2. Identifying specialized family-based alternative care options for children with special needs, in emergency situations and in other extraordinary situations

- **Training of social workers and professionals working in the alternative care sector**
 - **Training** on the rights of children without parental care and the specific vulnerability of **children in particularly difficult situations** such as emergency placement or placement outside the area of habitual residence (UN Guidelines par. 115)
 - **Training** to prepare carers to respond to **children with special needs** such as those living with HIV/AIDS or other chronic physical or mental illness and children with physical or mental disabilities (UN Guidelines par. 117)
- **Right to play and leisure activities, including for children with special needs:** Carers should ensure that the right of every child, including children with disabilities, living with or affected by HIV/AIDS or having any other special needs, to develop through play and leisure activities is respected and that opportunities for such activities are created within and outside the care setting. (UN Guidelines par. 86)
- **Babies and young children:** The specific safety, health, nutritional, developmental and other needs of babies and young children, including those with special needs, should be catered for in all care settings, including ensuring their ongoing attachment to a specific carer. (UN Guidelines par. 87)
- **Contact with the children and others in the local community** should be encouraged and facilitated. (UN Guidelines par. 86)

3. Safeguarding children's rights in alternative care by encouraging child participation and by preventing abuse, neglect, exploitation and violence

3.1. Assessing children's involvement in institutional and family based care including children's access to a complaint mechanism

Children's involvement in care

- Right to participation as
 - *Consultative participation*, recognising that children have expertise and perspectives which need to inform and affect adult decision-making;
 - *Collaborative participation*, offering children the opportunity to be actively involved at any stage of decision-making, initiatives, projects or services;
 - *Child-led participation*, facilitating the initiative of children and their own advocacy in relation to the various activities and services established to meet their needs. (Rec(2011)12 III.B.3)
- **Right to participate in decision-making processes** concerning the child and the living conditions in the institution (Rec(2005)5-2.12) and in families
- Right to be supported to express their views and to be listened to. (Rec(2011)12 III.B.4.c, d)
- **Right to be informed in a child-sensitive way about**
 - Children's rights and the rules of the residential institutions. (Rec(2005)5-2.13)
 - Rights to access social services, about services available as well as about the possible consequences of alternative course of action. (Rec(2011)12 III.B.4.a)
- **Children's involvement in the development of an individual care plan:** An individual care plan should be drawn up, which is based on both, the development of the child's capacities and abilities and respect for her or his autonomy, as well as on maintaining contacts with the outside world (and preparation for living outside the institution in the future). (Rec(2005)5-3.4)
- **Child's involvement in periodic review of care arrangements:** States should ensure the right of any child who has been placed in temporary care to regular and thorough review – preferably at least every three months – of the appropriateness of his/her care and treatment, taking into account, notably, his/her personal development and any changing needs, developments in his/her family environment, and the adequacy and necessity of the current placement in these circumstances. The review should be carried out by duly qualified and authorised persons, and should fully involve the child and all relevant persons in the child's life. (UN Guidelines par. 67; Rec(2005)5-1.7)
- Take into account the **specific language and cultural needs of children** when ensuring participation in family and social life. (R(98)8 par. 19)
- Take into account the **specific needs of children with disabilities** when ensuring participation in family and social life. (R(98)8 par. 20)
- **Designating legal responsibility for the child:** A designated individual or competent administrative body should be vested with the legal right and responsibility to make day-to-day decisions in the best interests of the child, in place of the parents

and in full consultation with the child. States should ensure that a mechanism is in place for designating such an individual or entity. (UN Guidelines par. 101)

- **Accountability of designated person or entity:** Such legal responsibility should be attributed by the competent authorities and be supervised directly by them or through formally accredited entities, including non-governmental organisations. Accountability for the actions of the individual or entity concerned should lie with the designated body. (UN Guidelines par. 102)
- **Qualification of designated person:** Persons exercising such legal responsibility should be reputable individuals with relevant knowledge of children's issues, an ability to work directly with children and an understanding of any special and cultural needs of the children to be entrusted to them. They should receive appropriate training and professional support in this regard. They should be in a position to make independent and impartial decisions that are in the best interests of the children concerned and that promote and safeguard each child's welfare. (UN Guidelines par. 103)
- **Role and responsibility of designated person or entity** (UN Guidelines par. 104):
 - Ensuring that the rights of the child are protected and, in particular, that the child has appropriate care, accommodation, health-care provision, developmental opportunities, psychosocial support, education and language support;
 - Ensuring that the child has access to legal and other representation where necessary, consulting with the child so that the child's views are taken into account by decision-making authorities, and advising and keeping the child informed of his/her rights;
 - Contributing to the identification of a stable solution in the best interests of the child;
 - Providing a link between the child and various organisations that may provide services to the child;
 - Assisting the child in family tracing;
 - Ensuring that, if repatriation or family reunification is carried out, it is done in the best interests of the child;
 - Helping the child to keep in touch with his/her family, when appropriate.
- **Representation at court:** States should ensure that any child who has been placed in alternative care by a properly constituted court, tribunal, or administrative or other competent body, as well as his/her parents or others with parental responsibility, are given the opportunity to make representations on the placement decision before a court, are informed of their rights to make such representations and are assisted in doing so. (UN Guidelines par. 66)
- Structures and procedures to ensure that **children's voices are heard and taken into account effectively for policy making and review processes** and for (public) debate and dialogue between children, families, professionals and policy makers at different levels.

Access to reporting and complaint mechanisms

- **Person of trust:** Children in care should be offered access to a person of trust in whom they may confide in total confidentiality. This person should be designated by

the competent authority with the agreement of the child concerned. The child should be informed that legal or ethical standards may require breaching confidentiality under certain circumstances. (UN Guidelines par. 98; Rec(2005)5-2.6)

- **Complaint mechanism:** Children in care should have access to a known, effective and impartial mechanism whereby they can notify complaints or concerns regarding their treatment or conditions of placement. Such mechanisms should include initial consultation, feedback, implementation and further consultation. Young people with previous care experience should be involved in this process, due weight being given to their opinions. This process should be conducted by competent persons trained to work with children and young people. (UN Guidelines par. 99, Rec(2005)5-2.14)
- Access to an **independent reporting and complaint mechanism** such as an Ombuds offices for Children (*see also 'monitoring' below*)
- **Inspection** of care arrangements involving discussion with and observation of the children (UN Guidelines par. 128)

3.2. Identifying mechanisms to prevent violence against children in alternative care and initiatives for adolescents to acquire necessary life skills

Prevention of violence against children in alternative care

- **Prohibition of inhuman or degrading treatment:**
 - Right to non-violent upbringing, including the protection against corporal punishment (in families and in institutions). (Rec(2005)5-2.8)
 - All disciplinary measures and behaviour constituting torture, cruel, inhuman or degrading treatment, including closed or solitary confinement or any other forms of physical or psychological violence that are likely to compromise the physical or mental health of the child, must be strictly prohibited in conformity with international human rights law. States must take all necessary measures to prevent such practices and ensure that they are punishable by law. Restriction of contact with members of the child's family and other persons of special importance to the child should never be used as a sanction. (UN Guidelines par. 96; Rec(2005)5-2.8).
- **Effective protection from abuse:** States must ensure through their competent authorities that accommodation provided to children in alternative care, and their supervision in such placements, enable them to be effectively protected against abuse. Particular attention needs to be paid to the age, maturity and degree of vulnerability of each child in determining his/her living arrangements. Measures aimed at protecting children in care should be in conformity with the law and should not involve unreasonable constraints on their liberty and conduct in comparison with children of similar age in their community. (UN Guidelines par. 92)
- **Protection from exploitation:** All alternative care settings should provide adequate protection to children from abduction, trafficking, sale and all other forms of exploitation. Any consequent constraints on their liberty and conduct should be no more than are strictly necessary to ensure their effective protection from such acts. (UN Guidelines par. 93).

- **Reporting obligations** of professionals working with and for children in alternative care, including social workers, staff in residential settings, teachers, others (UN Guidelines par. 107)
- **Reporting mechanisms** for children at risk of or exposed to violence
- **Follow-up to reports** received by the competent authority
- **Screening of professionals** working with and for children in alternative care prior to recruitment (UN Guidelines par. 113)

Development of evolving capacities and life skills

- **Life skills training:**
 - Access to life skills training for children in alternative care settings
 - Access to life skills training for children in families at risk of separation
 - Access to life skills training for children after family reunification
 - Type, form and quality of training offered and accessible for target group
- Access to **quality education and vocational training**(Rec(2005)5-2.10)
- Access to **child-friendly health services** and priority to the mental and physical health of the child (Rec(2005)5-3.3)
- Right to **equal opportunities** (Rec(2005)5-2.9)
- Right to be prepared for **active and responsible citizenship** through play, sport, cultural activity, informal education and increasing responsibilities (Rec(2005)5-2.101)
- Social inclusion to ensure equity, equal opportunities and positive outcomes for all children, including children from vulnerable groups. Overcoming stigmatisation of certain groups of children who experience social prejudice by supporting a positive self-image and self-respect. Avoidance of dependency on services by encouraging the autonomy and activity of children and families. (Rec(2011)12 III.A.3.c, d, e; V.D.1)

3.3. Assessing methodologies to monitor children rights in alternative care and identifying good practices securing the best interest of children in care

Monitoring of children's rights in alternative care

- **Accountability:** Agencies, facilities and professionals involved in care provision should be accountable to a specific public authority, which should ensure, inter alia, frequent inspections comprising both scheduled and unannounced visits, involving discussion with and observation of the staff and the children (UN Guidelines par. 128)
- Inspection functions should include, to the extent possible and appropriate, a component of training and capacity building for care providers (UN Guidelines par. 129)
- **Independent monitoring:** States should be encouraged to ensure that an independent monitoring mechanism is in place, with due consideration for the

principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles⁶²⁷)(UN Guidelines par. 130)

- The independent monitoring mechanism should be easily accessible for children, parents and those responsible for children without parental care. (UN Guidelines par. 130)
- The functions of the independent monitoring mechanism should include (UN Guidelines par. 130):
 - Consulting in conditions of privacy with children in all forms of alternative care
 - Visiting care settings
 - Undertaking investigations into any alleged situation of violation of children's rights in care settings, upon complaint or on its own initiative
 - Recommending relevant policies
 - Submitting proposals and observations concerning draft legislation
 - Contributing independently to the reporting process to the CRC Committee
- **Evaluation:** Quality standards in social services should be established reflecting policy and practice to ensure the implementation of this recommendation. All social service providers for children and families should be accredited and registered with the competent authorities on the basis of national legislation and regulations. Based on these, an efficient monitoring and evaluation system should be implemented. This should include the following:
 - Regular internal evaluation of social services based on strict and transparent rules and criteria;
 - Independent external evaluation, including the involvement of children and parents in the process of evaluation of social services and making the findings publicly available;
 - To ensure that civil society, in particular organisations, institutions and bodies which aim to promote and protect the rights of the child, can participate fully in the monitoring process. (Rec(2011)12 V.J)

Good practice in securing the best interests of children in care

- **Best interests determination:** Relevant laws and procedures for the assessment and determination of the best interests of the child and periodic review (UN Guidelines par. 6, 7)
- **The right to be heard:** Hearing the views of the child in all relevant procedures and decisions, in accordance with the age and maturity of the child (UN Guidelines par. 6, 7; Rec(2005)5-1.7; Rec(2011)12 III.B.1-6)
- Hearing the views of the child on a daily basis in the care arrangements (UN Guidelines par. 6)
- **Information:** Providing the child with information in a language that he or she understands (UN Guidelines par. 6)
- **Non-discrimination,** including prohibition and response to discrimination and

⁶²⁷ United Nations General Assembly, 48/134, National institutions for the promotion and protection of human rights, A/RES/48/134, 20 December 1993, accessed from <http://www.un.org/documents/ga/res/48/a48r134.htm> on 15 May 2015.

prevention of discrimination (including matters related to data disaggregation by ethnicity and other factors) (UN Guidelines par. 6, 10; Rec(2005)5-1.6)

- **Individual case-by-case approach** in case management (UN Guidelines par. 6)
- **Holistic perspective** of the person with due consideration to the child's family and background (national, ethnic, cultural, religious, social and gender), safety and well-being, evolving capacities and development (UN Guidelines par. 6, 7, 10)
- **Care planning process is transparent**, with a view towards a life project and a durable solution, with periodic review, with the child at the centre and with the involvement of all relevant sectors and professionals