

## **OPENING DOORS FOR EUROPE'S CHILDREN**



## **MAINTAIN, STRENGTHEN, EXPAND –**

How the EU can support the transition from institutional to family- and community-based care in the next Multiannual Financial Framework

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## Acknowledgements

This publication is produced by the Opening Doors for Europe's Children, a pan-European campaign that aims to support national efforts to develop child protection systems that strengthen families and ensure high-quality family- and community-based alternative care for children. We achieve this by leveraging EU funding and policy and building capacity in civil society. The campaign wishes to acknowledge contributions of five international organisations and civil society across 16 European countries in preparing this document.

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Photo on the cover: Nicolai's family were lucky to escape with their lives when a fire destroyed their home. His mother, Aliona, was already struggling to raise her three sons alone and so Nicolai and his siblings were at risk of being sent to live in an orphanage. CCF Moldova, national coordinator of the Opening Doors campaign in Moldova, gave Nicolai and his family the support they needed to stay together while their house was repaired. Today they are thriving. Aliona has a secure job and Nicolai and his brothers are doing well at school.

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DISCLAIMER: All reasonable efforts have been made by the campaign partners and national coordinators to verify the data provided. However, given the limited resources, we cannot guarantee the absolute factual nature of all the content provided. The contents of the following sections are the opinions of national coordinators of the campaign and do not necessarily reflect the opinion of some or all of the campaign partners.

Where possible, we have tried to provide a rounded picture of the use of EU structural funds across the campaign geography. Unfortunately, we are unable to cover all countries of the campaign or obtain a complete and up-to-date set of the facts, and present only a snapshot of how funds are used as seen by our national coordinators. Acting as they do, in a watchdog role, this forum is used to present their independent view of civil society to a wider audience in order to broaden the scope of those engaged in the debate and provide an alternative perspective.

To this end, the international partners and national coordinators accept no liability in any further use or interpretation of the information supplied in the following sections.



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## FOREWORD

Hundreds of thousands of children are still growing up in institutional care in Europe today. This includes children with disabilities, children in the child protection system, migrant, unaccompanied and separated children. Children cannot develop their full potential when they are deprived of love and care. Institutions are ill-equipped to provide care that focuses on the individual needs of the child. Even though institutions are often funded by public money – intended for the public good – they can have damaging consequences not only for the children themselves but also for families and society as a whole.

Over the last decade, European Union (EU) money and influence have catalysed positive reforms in the child protection and welfare systems both inside and outside the EU, supporting the transition from institutional to family- and community-based care. This publication brings evidence from the ground on how EU funds<sup>1</sup> have been used in the current Multiannual Financial Framework (MFF) and recommendations for the next funding programmes beyond 2020.

Regulations governing how European Structural and Investment Funds (ESIF) are spent in EU member states have been particularly helpful. This report provides ample evidence of why positive elements such as the ex-ante conditionalities and the European Code of Conduct on Partnership (ECCP) should be maintained in the future EU budget and expanded to other funding programmes. However, it also raises some valid concerns about how regulations have been implemented in practice, making the case for strengthening existing regulations through rigorous monitoring and more meaningful participation of civil society.

The next MFF offers a real opportunity to build on lessons learnt and deliver on existing EU promises. The recent high-level political commitment to a European Pillar of Social Rights recognises that economic growth must never be at the expense of social progress. Transformation of welfare and protection services away from institutions towards more individualised and community-based support is coherent with the EU's human rights obligations, including the UN Convention on Persons with Disabilities whose articles 19 and 23 explicitly refer to quality alternative care for children with disabilities.

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<sup>1</sup> European Structural and Investment Funds, Instrument of Pre-accession Assistance, European Neighbourhood Instrument, Asylum, Migration and Integration Fund.

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THE EU HAS  
COMMITMENT  
AND MEANS TO  
GIVE MILLIONS OF  
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BY CHAMPIONING  
THE TRANSITION  
FROM INSTITUTIONAL  
TO FAMILY AND  
COMMUNITY-BASED  
CARE

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CHILDREN SHOULD BE GROWING UP WHERE THEY BELONG: IN LOVING FAMILIES, SUPPORTING COMMUNITIES, INCLUSIVE AND PROSPEROUS SOCIETIES.

It reflects a broader trend in welfare reform towards the ‘enabling state’, as articulated in the European Commission’s Social Investment Package and accompanying Recommendation on Investing in Children, adopted in February 2013. Finally, these reforms are aligned with the EU’s and Member States’ commitment to the Sustainable Development Agenda 2030 and its Sustainable Development Goals.

Investing EU funding in child protection and welfare reforms offers a clear example of EU added value. It enables EU member states (and beneficiary countries in the enlargement or neighbourhood region) to reform their systems in line with common values and objectives, such as respect for human rights and social inclusion. It supports reforms in welfare and services that can be sustained through national budgets after the EU-funded interventions have expired.

The Opening Doors for Europe’s Children campaign unites five international partners and 16 national coordinators around a common mission of ending institutional care and strengthening families. We recognise that EU funding and policy influence has a significant impact on national efforts to develop child protection systems that support families and ensure high-quality family- and community-based alternative care for children. Together, we believe that, with the right focus and tools in place, the next MFF can make a significant difference to the lives of children and families in Europe. In the long-term, it can contribute to building more inclusive and prosperous societies.

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## EXECUTIVE SUMMARY

European Structural and Investment Funds (ESIF) 2014—2020, along with policy innovations by the European Union, have paved the way in several Member States to make progress in reforming the child protection systems towards strengthening families and ensuring alternative family- and community-based care for children. However, not all EU Member States have benefited equally from the initiatives and many countries outside the EU did not get the opportunity to transform their child protection systems through EU funding instruments.

Across Europe, thousands of our youngest and most vulnerable citizens live hidden from the world in institutions for children, against their needs and wishes, and contrary to international law. Decades of research<sup>2,3</sup> prove that growing up in institutions has detrimental psychological, emotional and physical implications, such as attachment disorders, cognitive and developmental delays, and a lack of social and life skills leading to multiple disadvantages during adulthood. The purpose of the child protection system’s reform is much broader than the closure of institutional facilities; its goal is to achieve a comprehensive transformation of the care system, changing the nature of service provision in a country. Systematically targeting institutional care provides a valuable entry point into understanding the nature, location, and mix of services needed in each national context in order to best support children and their families, and when separation is necessary, to provide suitable alternative care for those children.

WE CALL UPON THE EU TO MAINTAIN, STRENGTHEN AND EXPAND THE USE OF FUNDS SO THEY MAKE A GREATER IMPACT AND GO FURTHER TO ELIMINATE INSTITUTIONS FOR CHILDREN ACROSS EUROPE AND BEYOND

<sup>2</sup> OHCHR, Forgotten Europeans, Forgotten Rights – The Human Rights of Persons Placed in Institutions, 2011, p.6.

<sup>3</sup> K. Browne, The Risk of Harm to Young Children in Institutional Care, Save the Children, 2009, pp. 9–17.



Based on our analysis of the use of EU funds both within EU borders and across neighbourhood and pre-accession countries, we call upon the EU to maintain, strengthen and expand the use of funds so they make a greater impact and go further to eliminate institutions for children across Europe and beyond.

We call on the EU to:



**Maintain** the promotion of the transition from institutional to family- and community-based care through targeted investments via ESIF.



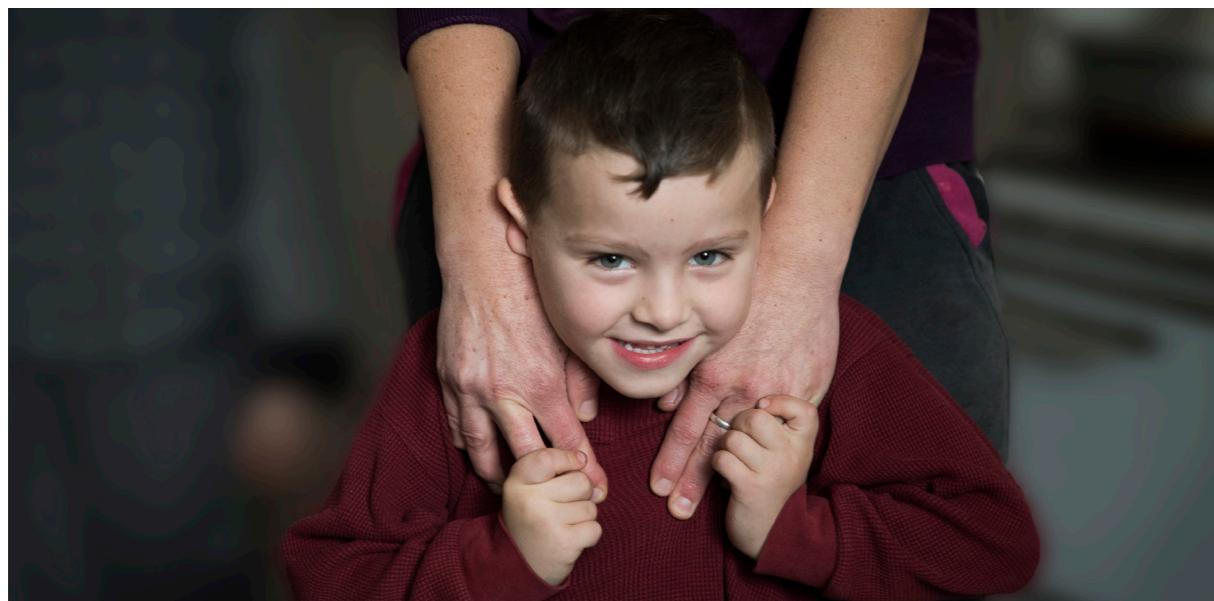
**Strengthen:**

- the existing ex-ante conditionality 9.1 of ESIF, which refers to deinstitutionalisation;
- the oversight of how EU funds are used for deinstitutionalisation to ensure they are in line with national strategies and action plans and lead to systemic changes;
- the implementation of the European Code of Conduct on Partnership (ECCP) through broader engagement of the EU and civil society.



**Expand:**

- the existing ex-ante conditionality 9.1 of ESIF, which refers to deinstitutionalisation, so that it applies to all EU Member States;
- the same principles of the European Social Fund (ESF) and European Regional Development Fund (ERDF) regulations to promote the transition from institutional to community-based care to all EU internal and external funding.



## PART 1

### WHAT IS INSTITUTIONAL CARE?

The United Nations (UN) Convention on the Rights of the Child (CRC) and the UN Convention on the Rights of Persons with Disabilities (CRPD) make clear the importance of a family for the appropriate development of each child, detailing the responsibility of States to ensure alternative care for all children deprived of a family environment. The relevant articles of the UNCRC on the alternative care of children have been elaborated in the UN Guidelines for the Alternative Care of Children.<sup>4</sup>

The purpose of the Guidelines is to support efforts to keep children in, or to return them to their family or, where this is not possible for any reason, to ensure that the most suitable form of alternative care is identified and provided for every child.

Based on the UN guidelines' categorisation of alternative care for children, 'institutions for children' are defined as 'large residential care facilities',<sup>5</sup> while residential care is defined as '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'.<sup>6</sup>

For the purposes of this paper: an institution for children is understood to be any residential setting where 'institutional culture' prevails. Institutional culture in terms of children can be defined as follows:

- Children are isolated from the wider community and obliged to live together;
- Children and their parents do not have sufficient control over children's lives and over decisions that affect them;
- The institution's requirements take precedence over a child's individual needs.

<sup>4</sup> UN Guidelines for the Alternative Care of Children, available at [http://www.unicef.org/protection/alternative\\_care\\_Guidelines-English.pdf](http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf)

<sup>5</sup> Ibid., p.5, 23.

<sup>6</sup> Ibid., p.6, IV.



IN TERMS OF CHILDREN, INSTITUTIONAL CULTURE IS DEFINED BY SEGREGATION, ISOLATION AND DISEMPOWERMENT.

This means that children placed in institutions cannot develop the kind of attachments crucial to healthy physical and emotional development.

### Size

In some cases, institutions are large facilities hosting up to hundreds of children. While size is sometimes seen as the main attribute of an institution, it is not the defining factor. Smaller settings are more likely to ensure individualised and needs-led services, but their small size does not mean they do not have an institutional culture.<sup>7</sup> Beyond the size, there are other factors to consider, such as the type of environment and the nature and quality of the care provided, which contribute to the institutional character of the setting.

To help understand what institutions for children are, it may be easier to consider the cultural characteristics that many such institutions have in common.

### Segregation

In institutions, children are separated from their families and community, which leads to a loss of their sense of identity. Long distances between the location of a child placement and their immediate families, as well as unaffordable transport costs compound the issue of segregation. Institutions for children do not encourage parents to visit, nor do they support the maintenance and strengthening of these relationships. The institutional environment itself is not a stimulating environment for building and strengthening the relations between child and parent. There is no space dedicated to visiting parents, such as a family room or overnight accommodation; there are no planned activities, and access is usually limited to visiting hours. Children living in institutions, especially children with disabilities, are often socially isolated from peers and wider local communities, since many institutions for children have their own schools and health centres on site.

### Impersonal and routine

Institutions for children are often impersonal; children are all treated the same, regardless of individual needs, and cultural or religious backgrounds. Staff may impose a rigid routine with little or no time for the individual attention that a child needs to thrive. Children are often placed in institutions for indefinite periods of time, and there is no effort to maintain ongoing relations with their biological parents or, where this is in the best interest of the child, to reintegrate the child into his or her family of origin.

<sup>7</sup> The European Expert Group on the Transition from Institutional to Community-based Care, Common European Guidelines on the Transition from Institutional to Community-based Care, p. 25, November 2012, available at <https://deinstitutionalisationdotcom.files.wordpress.com/2017/07/guidelines-final-english.pdf>

This means that the child has no opportunity to develop any attachment to a primary caregiver, or to experience the kind of stable relationship essential for the development of a child's emotional security and social conscience. Children's cognitive, social, and emotional development can be severely damaged by growing up in an institution. It is especially crucial for children under the age of three to develop and grow in a family environment.<sup>8,9</sup>

### Staff

Children usually experience a number of carers during the course of one day. In some cases, staff may be poorly trained or supervised and do not have enough time to provide the one-to-one time needed for high-quality, individualised care. Staff must maintain a professional distance, which can manifest as an unequal power relationship; this is very different from the relationship between parent and child.

### Disempowerment

Growing up should be about learning and becoming independent, but this is predominantly not the case in institutions for children. Children do not learn basic life skills or how to manage their own lives while they are placed in institutions, which means they are predominantly unprepared for life in the outside world. Children placed in institutions have little or no control over their own lives or over the decisions affecting their care or day-to-day existence.

According to internationally adopted requirements,<sup>10</sup> children without parental care should be cared for in settings that emulate family environments as closely as possible (family-like care). The very existence of institutions for children encourages families to place children into care, and so draws funding away from services that could support children living within families and communities. Yet, despite all the evidence to show that this should not happen, children across Europe – including children under three – continue to be placed in poor-quality institutions for children.<sup>11</sup>

<sup>8</sup> Opening Doors for Europe's Children Working Paper 'Deinstitutionalisation and quality alternative care for children in Europe – Lessons learned and the way forward', 2014, available at [http://www.openingdoors.eu/wp-content/uploads/2014/11/DI\\_Lessons\\_Learned\\_web\\_use.pdf](http://www.openingdoors.eu/wp-content/uploads/2014/11/DI_Lessons_Learned_web_use.pdf)

<sup>9</sup> OHCHR, The rights of Vulnerable Children under the Age of Three. Ending their Placement in Institutional Care.

<sup>10</sup> Resolution adopted by the UN General Assembly 64/142, Guidelines for the Alternative Care of Children, June 2009.

<sup>11</sup> UNICEF, At Home or in a Home? Formal Care and Adoption of Children in Eastern Europe and Central Asia, 2010, available at <https://www.unicef.org/protection/Web-Unicef-rapport-home-20110623v2.pdf>

THE VERY EXISTENCE OF INSTITUTIONS FOR CHILDREN ENCOURAGES FAMILIES TO PLACE CHILDREN INTO CARE, AND SO DRAWS FUNDING AWAY FROM SERVICES THAT COULD SUPPORT CHILDREN LIVING WITHIN FAMILIES AND COMMUNITIES



## PART 2

### WHAT DO WE MEAN BY DEINSTITUTIONALISATION AND CHILDCARE SYSTEM REFORM?

Deinstitutionalisation (DI) – also known as the transition from institutional to family and community-based care – should not be understood simply as the closure of institutions for children.

First and foremost, deinstitutionalisation requires a shift in society's attitudes so that more emphasis is placed on children's rights and quality of care. The deinstitutionalisation process entails systematically transforming the entire child protection system. This starts with providing services to assist and support families and parents, and ultimately, to ensure that separating a child from his/her family really is a last resort.<sup>12</sup> It includes providing access to various services such as education, health, and other components of the social safety net. The process of deinstitutionalisation is not a one-size-fits-all approach: it must be tailored to each country and each institution as it is closed. Deinstitutionalisation must be seen as a systematic effort that embraces the development of a wide range of services needed for children, families, and society to flourish.

If placement in alternative care is clearly in the best interests of the child, different options should be available depending on the child's situation, needs, and wishes, in line with the child's ability<sup>13</sup> to participate in the decision-making process. These may include kinship care (family-based care within the child's extended family); foster care; family-like placements; small group homes (SGHs); supervised independent living arrangements for children; adoption, etc.

Before closing institutions, various high-quality services and alternative care solutions need to be in place. Where in the best interests of the child, efforts should be made to reunite the child with his or her family,<sup>14</sup> and the family should be able to access the relevant services to help the child readjust to family life.

<sup>12</sup> UN Guidelines for the Alternative Care of Children, p. 7, art. 14, available at <http://www.sos-childrensvillages.org/getmedia/4972cb2e-62e1-4ae8-a0bc-b0e27fe3ea97/101203-UN-Guidelines-en-WEB.pdf>

<sup>13</sup> Cantwell, N.; Davidson, J.; Elsley, S.; Milligan, I.; Quinn, N. (2012). Moving Forward: Implementing the 'Guidelines for the Alternative Care of Children'. UK: Centre for Excellence for Looked After Children in Scotland., p. 22, available at [https://www.unicef.org/protection/files/Moving\\_Forward\\_Implementing\\_the\\_Guidelines\\_English.pdf](https://www.unicef.org/protection/files/Moving_Forward_Implementing_the_Guidelines_English.pdf)

<sup>14</sup> UN Guidelines for the Alternative Care of Children, p. 6, art. 3, available at <https://www.sos-childrensvillages.org/getmedia/4972cb2e-62e1-4ae8-a0bc-b0e27fe3ea97/101203-UN-Guidelines-en-WEB.pdf>



## PART 3

### WHAT ARE THE REASONS FOR CHILDREN ENTERING INSTITUTIONS ACROSS EUROPE?

#### **Poverty**

Poverty is one of the principle reasons for the institutionalisation of children across Europe. In 2016, Opening Doors national coordinators in Romania, Hungary, Bulgaria, Moldova, Latvia, and Serbia reported that poverty remains the main cause for separating children from their families. In Ukraine, Bosnia Herzegovina, and Hungary, the broad acceptance of institutions for children as a solution for parents living in poverty is a key factor affecting the increase in numbers of children living in institutions in these countries. For example, in Hungary, 36.1% of all children are living at risk of poverty and/or social exclusion and 30% of children have been separated from their families due to their financial circumstances.<sup>15</sup> In Ukraine, 81.4% of children in institutions have been placed there by their families, one of the main reasons being the family's extreme poverty.<sup>16</sup>

#### **Lack of preventative services and quality care alternatives**

Poverty, combined with a poor child protection system, can exacerbate the state's recourse to the institutionalisation of children. Children often end up in institutions due to unemployment and a lack of comprehensive and targeted support services for them and their families in their communities. In several campaign countries, such as Romania, Hungary, Poland or Ukraine, children enter institutions because there are no preventative services or because the services that do exist are insufficient or not widely available.

Many countries lack any quality alternatives to institutions for children. In Greece, for example, foster care is underdeveloped: only 32 children were placed in foster care there in 2014.<sup>17</sup> In such countries, where there are neither alternatives to institutions for children nor adequate preventative services in the community, the situation leads to a one-size-fits-all model which results in the placement of children in inappropriate institutions.

<sup>15</sup> Presentation of Dr. Zsuzsanna Gyorffy at the Child Rights Conference of the Ombudsman's Office, 16 November 2017, Budapest.

<sup>16</sup> The Illusion of Protection, National Audit of the Child Protection System, Hope and Homes for Children Ukraine, 2015, available at <http://www.openingdoors.eu/the-illusion-of-protection-national-audit-of-the-child-protection-system-in-ukraine/>

<sup>17</sup> [http://www.openingdoors.eu/wp-content/uploads/2016/08/Data\\_institutionalised\\_children\\_Greece.pdf](http://www.openingdoors.eu/wp-content/uploads/2016/08/Data_institutionalised_children_Greece.pdf)



**17**  
times more likely



CHILDREN WITH DISABILITIES ARE 17 TIMES MORE LIKELY THAN OTHER CHILDREN TO BE INSTITUTIONALISED.

## Disability

There is a disproportionate number of children with disabilities in institutions across Europe. According to UNICEF, across Eastern Europe and Central Asia, children with disabilities are almost 17 times more likely than other children to be institutionalised.<sup>18</sup> There is also strong evidence to suggest that children with minor or even no disability develop disabilities as a direct consequence of the damage inflicted by institutions for children.<sup>19</sup>

Even so, institutions are viewed as providing high-quality care due to presence of professional staff and medical treatments. In reality, institutionalisation rarely improves a child's quality of life and may in fact contribute to the deterioration of his or her condition (and in some cases, eventual death). Sadly, most children with disabilities who enter an institution in early childhood leave it only to be transferred to another institution or as the result of death.<sup>20</sup> In countries such as Serbia,<sup>21</sup> Greece,<sup>22</sup> and Bosnia Herzegovina<sup>23</sup> children are often placed in the same institutions as adults with disabilities.

Institutional care is also a consequence of the lack of inclusive and accessible mainstream services, such as childcare, rehabilitation services, education, and medical care. All across Europe, children with disabilities often experience discrimination and are placed in segregated, specialised school settings, including boarding-school settings, because local public schools do not accept children with disabilities or are not qualified to support their needs.<sup>24</sup> Inclusive education is a right for all and should be accessible to all children.<sup>25</sup>

## Migration

In 2015, approximately 1.2 million people applied for asylum in the EU Member States, of whom 30% were children. Of these, approximately 88,300 were unaccompanied children; four times as many as in 2014.

<sup>18</sup> Children under the age of three in formal care in Eastern Europe and Central Asia: a rights-based regional situation analysis', UNICEF 2012, p. 45.

<sup>19</sup> Shonkoff, J., et al., Early Childhood Adversity, Toxic Stress, and the Role of the Pediatrician: Translating Developmental Science Into Lifelong Health, American Academy of Paediatrics, 2011 (toxic stress) Browne, K., The risk of harm to young children in institutional care, Save the Children, 2009, p. 10.

<sup>20</sup> Children's rights to survival and development: ensuring access to treatment for children with hydrocephalus, Lumos, 2013, p. 3.

<sup>21</sup> <http://www.openingdoors.eu/wp-content/uploads/2016/12/serbia-1.12.pdf>

<sup>22</sup> <http://www.openingdoors.eu/wp-content/uploads/2016/12/greece-1.12.pdf>

<sup>23</sup> [http://www.openingdoors.eu/wp-content/uploads/2016/12/country-fiche-BiH-2016\\_20122016.pdf](http://www.openingdoors.eu/wp-content/uploads/2016/12/country-fiche-BiH-2016_20122016.pdf)

<sup>24</sup> Children and disability in transition in CEE/CIS and Baltic states', UNICEF 2005, p. 18.

<sup>25</sup> General Comment 4, Article 24, Right to Inclusive education UNCRPD Committee.

In 2016, although there was a decrease in the number of unaccompanied children registered in the EU, 63,300 children – mostly from Afghanistan and Syria – applied for asylum in the EU.<sup>26</sup> The UNCRC General Comment No.6 (2005) on the treatment of unaccompanied and separated children outside their country of origin and the UN Guidelines on Alternative Care for Children clearly state that children should not be discriminated against due to their migration status and that they should enjoy the same level of protection and care as those children deprived of parental care in the receiving states.

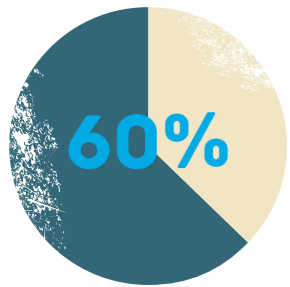
In campaign countries across Europe, however, the Opening Doors national coordinators report that the rights of unaccompanied migrant children are not protected and they are being placed in reception centres, detention centres, and in segregated residential care facilities where their protection is not guaranteed. Across Europe, children grow up in inappropriate reception centres and refugee camps for long periods, even though the adopted international legal instruments and standards mandate that such solutions are temporary until a long-term or permanent solution be identified. Due to inaccurate identification procedures, poor referral systems, and a lack of regard for the child's best interest, unaccompanied minors risk being registered as adults or being classified as 'accompanied' by unrelated adults, before being placed in detention. When they leave reception facilities, children are placed into segregated residential care settings, with no specific facility or measures to provide the quality of individualised care needed for child development. Sometimes, due to the limited number of shelters, children have to sleep on the streets, in unsafe and unhealthy conditions. Growing up in such conditions puts children at risk of exploitation, abuse and violence, and may cause them to fall outside the child protection system, which puts them at additional risk from illegal smuggling networks and potentially going missing altogether.<sup>27</sup>

This is why strengthening child protection systems that will allow migrant and refugee children to enjoy the same protection as all other children in the country is of utmost importance.

<sup>26</sup> <http://ec.europa.eu/eurostat/documents/2995521/8016696/3-11052017-AP-EN.pdf/30ca2206-0db9-4076-a681-e069a4bc5290>

<sup>27</sup> Annex to the EEG letter on the exclusion of groups of people in vulnerable situations in the context of migration and provision of service, European Expert Group on the Transition from Institutional to Community based care, available at [https://deinstitutionalisationdotcom.files.wordpress.com/2017/07/eeg\\_exclusion-and-migration\\_annex.pdf](https://deinstitutionalisationdotcom.files.wordpress.com/2017/07/eeg_exclusion-and-migration_annex.pdf)

STRENGTHENING CHILD PROTECTION SYSTEMS THAT WILL ALLOW MIGRANT AND REFUGEE CHILDREN TO ENJOY THE SAME PROTECTION AS ALL OTHER CHILDREN IN THE COUNTRY IS OF UTMOST IMPORTANCE



IN HUNGARY, BULGARIA, AND ROMANIA, 60% OF CHILDREN IN INSTITUTIONS ARE OF ROMANI ORIGIN.

### Ethnic origin

There are disproportionate numbers of Romani children in institutions across Europe, particularly in Central and Eastern Europe, compared to their share of the total population. In Hungary, Bulgaria, and Romania, for example, Romani people represent 10% of the total population, while up to 60% of children in institutions are of Romani origin.<sup>28</sup> The latest research from Hungary shows that Romani children make up over 80% of children in institutions.<sup>29</sup>

The European Commission Communication 'An EU Framework for National Roma Integration Strategies up to 2020'<sup>30</sup> and the 'European Council Recommendation on effective Roma integration measures in the Member States'<sup>31</sup> are the key EU policy documents setting out EU and Member States' actions to promote Roma inclusion. These documents highlight the worrying situation of many Roma children in the EU, not least their exposure to poor health, housing and nutrition, exclusion, discrimination, and racism. Lack of birth registration and identity documents remains a key barrier to accessing services, together with the failure to engage and retain Romani children at all levels of the education system – from early childcare to higher education.

An effective deinstitutionalisation strategy must, therefore, go hand-in-hand with an effective Roma inclusion strategy. It is critical that the broader Roma inclusion strategy embeds a strong child-centred approach that respects the child's right to full development as well as their right to retain their specific social and cultural identity. The intersectional approach towards Romani children is a crucial factor as there are intersecting forms of discrimination. Romani girls, for example, are particularly vulnerable as victims of human trafficking and prostitution.<sup>32</sup>

<sup>28</sup> Life Sentence: Romani Children in Institutional Care, a Report the European Roma Rights Centre, Bulgarian Helsinki Committee, Milan Šimečka Foundation and Osservazione, June 2011, available at <http://www.errc.org/reports-and-advocacy-submissions/life>.

<sup>29</sup> Romani children in State Care in Nógrád County (Hungary), October 2017, available at <http://www.errc.org/article/cause-of-action-romani-children-in-state-care-in-nograd-county-hungary/4604>

<sup>30</sup> European Commission Communication 'An EU Framework for National Roma Integration Strategies up to 2020', April 2011, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0173:FIN:EN:PDF>

<sup>31</sup> [http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32013H1224\(01\)](http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32013H1224(01))

<sup>32</sup> <http://www.errc.org/article/breaking-the-silence-trafficking-in-romani-communities/3846>

## PART 4

### THE COMMITMENT OF THE EUROPEAN UNION TOWARDS THE TRANSITION FROM INSTITUTIONAL TO FAMILY- AND COMMUNITY-BASED CARE

The EU has its own considerable body of policy and legislative commitments on the transition from institutional to family- and community-based care for all persons that are rooted in international human rights treaties including the UNCRC and the UNCRPD, which the EU and most of its Member States have ratified. The EU's role in delivering change for children left to languish in institutions cannot be understated, but the job is far from done. Deinstitutionalisation is a long-term process and significant investment is still needed. The role of the EU is crucial to make sure national governments follow through on their commitments to ensure that children grow up in inclusive societies, including the provision of care and financing the costs associated with the transition from institutional to family- and community-based care.

The UNCRC is globally the most ratified UN document, ratified also by all 28 EU Member States. CRC Articles state that: children should be protected from harm or abuse (Art.19); children have the right to be cared for by their parents (Art.7); parents have the primary responsibility for the upbringing of their child (Art.18); where necessary, parents should be supported in their care-giving role (Art.27); children should be separated from their parents only when it is in their best interest (Art.9), and that children deprived of a family environment are entitled to special protection and assistance provided by the State (Art.20).

The EU has ratified the UNCRPD, which upholds the equal right of all persons with disabilities to live in the community.<sup>33</sup> Art.23 of the CRPD provides a clear framework of reference concerning children and alternative care: 'States Parties shall, where the

<sup>33</sup> [http://www.un.org/disabilities/documents/convention/convention\\_accessible\\_pdf.pdf](http://www.un.org/disabilities/documents/convention/convention_accessible_pdf.pdf)

immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting'. The CRPD clarifies that: 'In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.'

The UN Guidelines on the Alternative Care for Children further clarify that 'States should develop and implement consistent and mutually reinforcing family-oriented policies designed to promote and strengthen parents' ability to care for their children.' According to the Guidelines, 'where large residential care facilities (institutions) remain, alternatives should be developed in the context of an overall deinstitutionalisation strategy, with precise goals and objectives, which will allow for their progressive elimination'.<sup>34</sup>

The EU has played a pivotal role in the transition from institutional to family- and community-based care during the funding period 2014–2020. With ground-breaking regulations for the European Structural and Investment Funds, the EU ensured that in 12 countries<sup>35</sup> where a need for deinstitutionalisation reform was identified, the use of EU funds has been encouraged in line with national poverty reduction strategies, including measures for the transition from institutional to community-based care. In addition, in the regulations of the European Social Fund (ESF) and the European Regional Development Fund (ERDF), it was stated that the transition from institutional to community-based care should be promoted. Neither the ESF nor ERDF allow for actions that contribute to segregation or social exclusion of people.<sup>36</sup>

As a response to the lack of engagement with civil society and to address concerns around misuse of funds, the EC introduced the European Code of Conduct on Partnership (ECCP).<sup>37</sup> The ECCP, which is directly enforceable in the Member States, established a common set of standards that aims to improve consultation and participation of civil society, stakeholders, and service users in the process of implementing the Structural Funds in Member States.

The EC Recommendation 'Investing in Children: Breaking the Cycle of Disadvantage'<sup>38</sup> calls upon EU Member States to 'Enhance family support and the quality of alternative care settings'.

<sup>34</sup> UN Guidelines for the Alternative Care of Children, paragraph 23.

<sup>35</sup> Bulgaria, Czech Republic, Estonia, Greece, Hungary, Lithuania, Latvia, Poland, Romania, Slovenia, Slovakia and Croatia.

<sup>36</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1304&from=en>, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1301&from=EN>

<sup>37</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2014.074.01.0001.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.074.01.0001.01.ENG)

<sup>38</sup> <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32013H0112>

The EC Staff Working Document 'Taking Stock of the 2013 Recommendation on Investing in Children: breaking the cycle of disadvantage' reaffirms the importance of family support in preventing in so far as possible children's removal from their family. Where alternative care is necessary, the focus should be on quality care and support, including during the transition to adulthood, as outlined in the UNCRC and the UN Guidelines for the Alternative Care of Children.

Principle 11 of the European Pillar of Social Rights<sup>39</sup> focuses on childcare and support to children and gives children from disadvantaged backgrounds (such as children in alternative care) the right to specific measures to enhance equal opportunities. The EC Working Document 'Explanatory Fiches on Each Principle' acknowledges that the provisions of the Pillar recognise the right for children to have access to comprehensive and integrated measures as set out in the 2013 Recommendation on Investing in Children. These measures should comprise, amongst others, access to family support and the promotion of family-based and community care.

The EC's 10 Principles for Integrated Child Protection Systems<sup>40</sup> emphasise that families should be supported in their role as primary caregiver (Principle 4) and that child protection systems should ensure adequate care in line with international standards including the UN Guidelines for the Alternative Care of Children (Principle 6).

The need for deinstitutionalisation reforms has also been recognised in the European Semester. More specifically, the inclusion in the 2016 Country Specific Recommendations (CSR) of a call 'to ensure the provision and accessibility of high quality public services, especially social services, at local level, inter alia by adopting and implementing the proposed local government reform' was a particularly positive step. The same is true of the CSR calling on Romania to 'improve access to integrated public services'.

In addition, the latest EC communication<sup>41</sup> on the protection of children in migration proposes that availability and accessibility of suitable and safe reception conditions for children in migration should be ensured. It also proposes that a range of care options, including family- and community-based care to protect

<sup>39</sup> [http://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles\\_en](http://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en)

<sup>40</sup> [http://ec.europa.eu/justice/fundamental-rights/files/rights\\_child/10\\_principles\\_for\\_integrated\\_child\\_protection\\_systems.pdf](http://ec.europa.eu/justice/fundamental-rights/files/rights_child/10_principles_for_integrated_child_protection_systems.pdf)

<sup>41</sup> European Commission Communication on the Protection of Children on Migration, available at: [http://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412\\_communication\\_on\\_the\\_protection\\_of\\_children\\_in\\_migration\\_en.pdf](http://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf)



THE EU HAS PLAYED A PIVOTAL ROLE IN THE TRANSITION FROM INSTITUTIONAL TO FAMILY- AND COMMUNITY-BASED CARE DURING THE FUNDING PERIOD 2014–2020.

unaccompanied migrant children, should be in place and that the UN Guidelines on the Alternative care for Children should be followed.

The latest toolkit on the use of EU funds for the integration of people with migrant backgrounds<sup>42</sup> provides that funds are not used for the segregation of children; that children are integrated into society through access to mainstream services, and specifically for unaccompanied children, that EU funds and specifically the Asylum Migration Integration Fund are used for the provision of family-based care.

Last but not least, the European Council Conclusions 'Enhancing Community-based Support and Care for Independent Living'<sup>43</sup> refer to the comprehensive strategies and the need for stronger investments to develop modern, high-quality, community-based services, and increase support.

The EU has also committed to implement the 2030 Agenda for Sustainable Development and the Sustainable Development Goals (SDGs) within the EU and in development cooperation with partner countries. Targets of SDG 1<sup>44</sup> (poverty) and SDG 10<sup>45</sup> (Reduce inequality) mention the development of national social protection systems that will support the most vulnerable and the social, economic, and political inclusion of all regardless of age, sex, origin, or disability.

SDG 1 relates to the elimination of poverty. As mentioned previously, poverty is one of the main underlying reasons for children being placed in institutions. Care reforms play a key role in ensuring that the most vulnerable families get access to basic services in the community and social protection/anti-poverty measures. For SDG 10, which aims to reduce inequality within and among countries, children from poor and vulnerable families, children with disabilities and children belonging to ethnic minorities are the most affected by institutionalisation – showing a clear pattern of discrimination. Institutions put children at increased risk of violence, abuse, and neglect (SDG 16.2). Children in institutions are also at increased risk of being trafficked and other forms of modern slavery (SDG 8.7). Institutionalisation has a devastating impact on children's health and wellbeing and is contrary to the objectives of SDG 3 (Good health and wellbeing). Finally, a lack of access to education is a key driver of institutionalisation, especially for children with disabilities. Institutions are not a solution: growing up in so-called 'residential schools' can significantly affect children's health, learning, and psychosocial wellbeing (SDG 4).

<sup>42</sup> [http://ec.europa.eu/regional\\_policy/sources/policy/themes/social-inclusion/integration-of-migrants/toolkit-integration-of-migrants.pdf](http://ec.europa.eu/regional_policy/sources/policy/themes/social-inclusion/integration-of-migrants/toolkit-integration-of-migrants.pdf)

<sup>43</sup> <http://data.consilium.europa.eu/doc/document/ST-15563-2017-INIT/en/pdf>

<sup>44</sup> <https://sustainabledevelopment.un.org/sdg1>

<sup>45</sup> <https://sustainabledevelopment.un.org/sdg10>

## PART 5

### THE IMPLEMENTATION OF THE EUROPEAN POLICIES AND FUNDING ON NATIONAL LEVEL<sup>45</sup>

This section aims to present a snapshot of the real implementation of EU funds towards deinstitutionalisation for children across EU Member States, as well as pre-accession countries and EU Neighbours. It complements and builds on the analysis conducted by Community Living for Europe: Structural Funds Watch (covering EU countries and not limited to institutions for children), to which several Opening Doors campaign countries have substantially contributed.

#### A. European Structural and Investment Funds (ESIF) regulations

##### I. ESIF REGULATIONS, IN RESPECT OF POSITIVE INCENTIVE AND NEGATIVE OBLIGATION

During the programming period 2014–2020, the ESF and the ERDF regulations promoted the transition from institutional to community-based care. In addition, Recital 19 of the ESF regulations clearly states that funds should not be used for any action that contributes to segregation or social exclusion.

##### TO WHAT EXTENT HAVE THE ESIF REGULATIONS INCREASED THE MOMENTUM OF CHANGE IN THE DEINSTITUTIONALISATION PROCESS?

Over the past decade, **Bulgaria**<sup>47</sup> has pushed on with a comprehensive transformation of its child protection system. Since 2009, there has been a massive decrease (more than 80%) in the number of children placed in institutional care: from 7587 children in 2009 to 979 children at the end of 2017.<sup>48</sup>

<sup>46</sup> In this report, we present data collected from our national coordinators across Europe.

<sup>47</sup> For more information, see <http://www.openingdoors.eu/wp-content/uploads/2018/02/country-fiche-Bulgaria-2017.pdf>

<sup>48</sup> It must be noted that the other type of institutions – those for children in conflict with the law and children with delinquent behaviour – were not included in the Vision and there are approximately 150–200 children living in five such institutions who are not considered 'institutionalised' in the official statistics, even though they are undoubtedly living in institutional care.



DURING THE PROGRAMMING PERIOD 2014–2020, THE ESF AND THE ERDF REGULATIONS PROMOTED THE TRANSITION FROM INSTITUTIONAL TO COMMUNITY-BASED CARE.

As of 2017, all specialised institutions for children with disabilities have been closed. The EU has played a crucial role in this transformation during current and the 2007–2013 funding period.

During the 2014–2020 funding period, more than €160 million from ESIF (ESF, ERDF, and European Agricultural Fund for Rural Development) has been allocated to support the 'Vision for Deinstitutionalisation of Children in Bulgaria and its Action Plan' via the Operational Programme 'Regions in Growth', the Operational Programme 'Human Resources Development' and the Operational Programme 'Science and Education for Smart Growth'.

Actions of the different Operational Programmes include: reconstruction and maintenance of buildings (e.g. small group homes); training and supervision of the specialists working in the newly established services; development of new services for children and families (medico-social services, community centres); foster-care development, and salaries of employees.

**Romania**<sup>49</sup> is a country that has benefited from the support of ESIF in both the funding period 2007–2013 and during this funding period. Importantly, the Romanian government announced in spring 2017 that more than €100 million from the ESF and the ERDF will be used for the closure of 50 old-type institutions and the development of preventative services. This is an important step as the development of prevention services ensures that children will no longer enter any form of care when they can be cared in their own families. According to the Romanian Government's declaration, this is only a pilot project and if it proves to be successful, another call will be issued and other institutions will be targeted for closure using EU funds.

In **Estonia**,<sup>50</sup> since 2017, with the help of ESF funds,<sup>51</sup> services to support guardianship families and adoptive parents have been developed and offered by different organisations. In total, €6 million has been allocated under ESF for care reforms including: counselling via internet or phone; individual psychological counselling; mentoring, and different forms of group counselling. In 2016–2017, PRIDE (Parent Resources for Information, Development and Education) pre-service training was accepted by the state as the main training for adoptive and foster families, it has been comprehensively updated and adapted to the Estonian context with the support of the ESF. The ESF programme is under the Operational Programme for Cohesion Policy Funding 2014–2020 measure 'Improving the quality of alternative care'.<sup>52</sup>

49 For more information, see <http://www.openingdoors.eu/wp-content/uploads/2018/02/country-fiche-Romania.pdf>

50 For more information, see <http://www.openingdoors.eu/wp-content/uploads/2018/02/country-fiche-Estonia-2017.pdf>

51 Operational Programme for Cohesion Policy Funding 2014–2020, measure 'Improving the quality of alternative care'.

52 [http://www.strukturifondid.ee/sites/default/files/2014-2020\\_0.pdf](http://www.strukturifondid.ee/sites/default/files/2014-2020_0.pdf)

In **Lithuania**,<sup>53</sup> €76 million of ESIF have been allocated during this funding period for the transition from institutional to community-based care. Of the €76 million, €38 million has been set aside for the development, piloting, and implementation of new social services and the remaining amount is to be used towards the development of infrastructure.

The first phase of implementation of the country's deinstitutionalisation plan, which has been prolonged for one year until 2019, includes:

1. Evaluation of individual needs of the residents in institutions participating in the reform;
2. Evaluation of motivation and competencies of the co-workers of institutions participating in the reform;
3. Development of the package of methodological documents describing new types of services;
4. Preparation of plans of individual needs of the residents of institutions participating in the reform;
5. Preparation of transition plans for institutions;
6. Plans of development of services and infrastructure in the regions;
7. Education of society;
8. Increase availability of community-based services by provision of new types of services (pilot models).

The second phase of implementation of the deinstitutionalisation plan includes:

1. Developing infrastructure of services in regions;
2. Provision of new forms of services to beneficiaries.

In May 2017, five calls for proposals financed by the ESF were launched to support deinstitutionalisation and strengthening of families in **Croatia**, in line with the Master Plan 2011–2018.<sup>54</sup> They include: support of the deinstitutionalisation process and transformation of 18 state institutions into homes for adults and children with disabilities; support of the process of deinstitutionalisation and prevention of institutionalisation of children and youth; improving access of vulnerable groups to the labour market in the tourism sector; support of social inclusion and employment of marginalised groups of people, and expansion of the social services network in the community.

In **Latvia**,<sup>55</sup> €91,651,238 million from ESF and ERDF (including 15% state/municipalities co-financing) has been prioritised for deinstitutionalisation reforms. To date, only projects under the ESF have started being implemented, mainly for actions related to the evaluation of individual needs, preparation of individual deinstitutionalisation plans, reorganisation plans for childcare

53 For more information, see <http://www.openingdoors.eu/wp-content/uploads/2018/02/country-fiche-Lithuania-2017.pdf>

54 For more information, see <http://www.openingdoors.eu/wp-content/uploads/2018/02/country-fiche-Croatia-2017-2.pdf>

55 For more information, see <http://www.openingdoors.eu/wp-content/uploads/2018/02/country-fiche-Latvia-2017.pdf>



AS OF 2017, ALL SPECIALISED INSTITUTIONS FOR CHILDREN WITH DISABILITIES HAVE BEEN CLOSED IN BULGARIA. THE EU HAS PLAYED A CRUCIAL ROLE IN THIS TRANSFORMATION.

institutions, development of regional deinstitutionalisation plans, communication, publicity action, and deinstitutionalisation management.

### European Structural and Investment funds to support the closure of 50 institutions in Romania

It is predicted that in 2018, approximately €100 million of ESIF will be spent on the closure of 50 institutions in Romania. These institutions, including institutions for children with disabilities, are located in seven out of the eight regions in Romania.

The call for closure projects will be launched on Priority Axis 4 – promoting social inclusion, combating poverty and discrimination; Investment priority 9iv – enhancing access to affordable, sustainable, and high-quality services, including healthcare and social services of general interest. It will pursue three main goals:

1. To support the deinstitutionalisation process, ensuring that family- and community-based services are in place as alternatives to institutions for children.
2. To finance projects directed at the concrete needs of children and young people, with realistic plans for closure of institutions and the development of prevention services, with infrastructure according to the identified requirements.
3. To ensure a complementary approach (Operational Program Human Capital, Regional Operational Program) and to avoid disparate and mono-sectorial measures that may be less effective if implemented without complementary measures.

According to the latest data<sup>56</sup> from the National Authority for the Protection of Children's Rights and Adoptions, there are 7,471 children currently living in 191 institutions in Romania. During the 2014–2020 EU funding period, with the National Strategy for the Protection and Promotion of Children's Rights, the Romanian Government will focus on the transition from institutional to community-based care, paying particular attention to the prevention of separation of children from families and ensuring high-quality care services for children.

As part of the deinstitutionalisation reforms in **Hungary**,<sup>57</sup> over 400 group homes have been established since 1997 (small group homes with 12 children), most of them in remote areas.

The decision on the placement of children is not based on a proper assessment of the children and their needs, the proximity of their biological family, or whether the facilities adequately serve the development of children. In many cases, the staff are not

<sup>56</sup> [http://www.mmuncii.ro/j33/images/buletin\\_statistic/copil\\_an2016.pdf](http://www.mmuncii.ro/j33/images/buletin_statistic/copil_an2016.pdf)

<sup>57</sup> For more information, see <http://www.openingdoors.eu/wp-content/uploads/2018/02/country-fiche-Hungary-2017.pdf>

sufficiently qualified, trained or supervised; staff members fluctuate and the burn-out rate is high. Children's complex needs cannot be met, which leads to them experiencing problems in school and everyday life. Given the low standard of care, children often run away. Violence and substance abuse are widespread.

Despite the challenges described above, the Hungarian Government continues to invest in the modernisation and restructuring of children's homes without any long-term strategy to deal with the necessary changes. In fact, Hungary has recently issued two calls for proposals for children's deinstitutionalisation under the Operational Programmes concerning the 'replacement of children's homes, resettlement of children's homes and modernisation of children's home'. More specifically, under the Human Resources Development Operational Programme and the Competitive Central Hungary Operational Programme an estimated total allocation of €18.7 million is available. The Compass Home for Children (EFOP-2.1.1-16-2016-00009) project involves increasing child protection services from 600 to 800 places. The first infrastructure development under this project is a 20-person special home for children that will consist of three housing units, for schooling boys with psychological problems; it is due to be completed in 2019.<sup>58</sup>

The aim of deinstitutionalisation in **Poland** is understood as reducing the numbers of children living in institutions rather than providing quality care for children. In the last five years, the number of small group homes<sup>59</sup> has tripled in Poland, as a result of the introduction of the new act on Family Support and the System of Foster Care, which ensures that institutions for children should not exceed 14 places. Many large institutions have been divided into smaller semi-autonomous units. However, this division did not change the quality of children's everyday life. In many places, between two and five new small group homes were built close to one another, which created care complexes similar to the previous large institutions, although in more modern and smaller buildings.

ESF and ERDF 2014–2020 resources are available in Poland with respect to social inclusion and poverty eradication. However, concerns have been raised that these resources tend to be used to support research and capacity-building projects rather than developing local resources, strengthening families, and reducing the need for institutional care.

In addition, and despite the situation described above, ESIF are still being used to support the construction of modern, well-equipped small group homes for up to 14 children without ensuring quality care for children. Furthermore, there is widespread opposition to projects aimed at the reintegration of children with families on the grounds that, in some cases, returning children to their families would be harmful so supporting long-term foster families is preferred.

<sup>58</sup> Crowther N, Quinn G, Hillen Moore A, 2017. Opening up communities, closing down institutions: Harnessing the European Structural and Investment Funds.

<sup>59</sup> In Poland, there are no separate statistical data related to Small Group Homes. Their numbers are included within the number of other childcare institutions.



IN 2017, APPROXIMATELY €100 MLN WERE ALLOCATED THROUGH THE EU STRUCTURAL FUNDS TO CLOSE 50 OLD-TYPE INSTITUTIONS FOR CHILDREN IN ROMANIA.



### Lessons learned

Although there are many positive examples of how ESIF have been spent in Member States for deinstitutionalisation reforms, it seems that for many, deinstitutionalisation meant splitting large residential facilities into smaller units, without any improvement to the quality of care.

### The way forward

It is important in the next funding period to maintain and strengthen both the positive incentives to invest in deinstitutionalisation and the prohibition from using ESIF for activities that contribute to segregation and social exclusion. In order to clarify and strengthen these provisions, the text of subsequent regulations should stipulate clearly that the development of institutions is among the activities that lead to segregation and social exclusion. It should also stipulate that funds should promote the transition from institutions to family- and community-based care. These provisions should apply to all EU funds, both internal and external, in order to ensure that human rights and social inclusion are fully upheld.

To promote quality reforms and fulfilment of the SDGs, the EU and the receiving countries need to ensure that all EU funds are used in line with strategies and action plans consistent with the obligations and commitments deriving from the CRC, the CRPD, and the UN Guidelines for the Alternative Care of Children. Even when alternatives to institutional care are in place, if funds are allocated to building new care settings, these homes should be built within the community, promoting family-like care and well-trained staff. Children in these facilities should be enrolled in the education system and supported until they reach adult age and beyond according to their individualised needs.

The EU must make full use of its political and financial capital to ensure that all its Member States move forward together in line with its own policies and international laws to progress the deinstitutionalisation agenda. In the EU's own policy, Recital 19 of the ESF regulations, states that funds should not be used for any action that contributes to segregation or social exclusion, which could be true of some of the examples given here. Article 19 of the CRPD obliges the EU not to finance arrangements where persons with disabilities are segregated from their communities. And the UN Guidelines for the Alternative Care of Children call for the progressive elimination of institutions for children.

## II. HAS THE EX-ANTE CONDITIONALITY 9.1 BEEN RESPECTED AT NATIONAL LEVEL?

The thematic ex-ante conditionalities have proved groundbreaking in enabling EU Member States to realise child protection reforms. Ex-ante conditionality 9.1 of the Common Provisions Regulation for ESIF requires that Member States with identified needs invest in the transition from institutional to community-based care in line with a strategic policy framework on poverty reduction that includes measures to support the shift to family- and community-based care when using ESIF for social inclusion, fighting poverty, and discrimination.

### POSITIVE EXAMPLES OF IMPLEMENTATION OF THE EX-ANTE CONDITIONALITY 9.1.

According to the Romanian National Strategy for the Promotion and Protection of Children's Rights, all old-type institutions in **Romania** must be closed and replaced with community care. This massive forward step was only made possible because the Government was able to approve the closure of 50 institutions using ESIF. The €100 million allocated for this purpose in Romania will be used in line with the National Strategy and the milestones that have been set.

### POSITIVE EXAMPLES BUT MORE EFFORTS NEEDED

In **Bulgaria**, the National Strategy 'Vision for deinstitutionalisation of children in Bulgaria' is a political document aiming at establishment of mechanisms and measures for prevention of institutionalisation. It stipulates that deinstitutionalisation is understood as substituting institutional care for children with care in a family or close to family environment in the community, which is not limited to taking children out of institutions. It is a process of preventing the placement of children in institutions, creating new opportunities for children and families to receive support in the community, which takes place at multiple levels.

There is an Action Plan to accompany the Vision, updated in October 2016 for the period 2016–2020. More than €160 million from ESIF – ESF, ERDF and EAFRD – has been allocated to support the 'Vision for De-institutionalisation of Children' in Bulgaria and its Action Plan. However, the National Network for Children, Opening Doors' national coordinator in Bulgaria is concerned that the Action Plan does not provide an integral framework for implementation of the 'Vision for Deinstitutionalisation'.<sup>60</sup>

<sup>60</sup> <http://www.openingdoors.eu/bulgaria-updates-its-action-plan-on-deinstitutionalisation/>

THE THEMATIC EX-ANTE CONDITIONALITIES HAVE PROVED GROUNDBREAKING IN ENABLING EU MEMBER STATES TO REALISE CHILD PROTECTION REFORMS

It outlines general developments in the system of child protection and focuses on improving the infrastructure rather than enhancing capacity of the professionals working in the system. In addition, the National Network for Children in Bulgaria recognises the lack of sufficient measures for cross-sectorial primary prevention of the separation of children and families. It acknowledges the lack of financial mechanism to ensure that the resources of existing institutions are ring-fenced to finance the new services for children and families, such as the ones replacing the Homes for Medico-Social Care for Children. The financial sustainability of foster care is also not guaranteed.

**Croatia** started the transformation of its care system in 2006 with the adoption of the National Plan of Activities for Children's Rights and Interests 2006–2012 and followed this up in 2011 with its Master Plan 2011–2018.<sup>61</sup> However, deinstitutionalisation reforms in Croatia have not seen significant progress due to the lack of sufficient funds to implement the Master Plan and due to lack of commitment from the state. EU funds that were previously allocated for implementing the Master Plan were not spent efficiently and so ceased during 2016. Although the latest investments are in line with the Master Plan 2011–2018, challenges still exist. Lack of consistent political will to fully and transparently transform the care system is one of them. There is also lack of understanding by the state providers about the development and provision of community-based services. This has been coupled with a shortage of specialised, trained staff to operate these services. State providers are also prejudiced against foster care, which prevents its development. Civil society in Croatia has expressed concerns about the inefficient use of EU funding to support deinstitutionalisation reforms.

In **Estonia**, activities funded by the ESF are directly guided by the country's Green Paper on Alternative Care targets and by planned activities to achieve these targets. Recently, also guided by the main strategic targets of this Green Paper, the Estonian Ministry of Social Affairs amended the Social Welfare Act to change the way that alternative care services are funded and managed. The Social Welfare Act draft came into force on 1 January 2018, giving many more responsibilities to the local authorities that will manage the EU-funded projects. This is something that has raised concerns in civil society as, without sufficient monitoring mechanisms in place, local authorities have a lot of freedom in the decision-making process.

In **Latvia**, since 2015, important regulations and plans have been adopted by the Latvian government to reform the childcare system and develop family- and community-based care solutions.

More specifically, the country's deinstitutionalisation strategy and action plan have set a projected target to decrease the number of children placed in long-term care institutions for longer than 3–6 months by 60% , and to reduce the number of children in institutions to 720 (about 1000 fewer than in 2012) by 2022. However, there is still insufficient understanding of how investments for deinstitutionalisation reforms should be prioritised at national, regional, and local levels and municipalities are not ready to reorganise and close childcare institutions. To date, the process of deinstitutionalisation in Latvia has been delayed several times and civil society is strongly advocating for a commitment to delivering the plans.

#### IMPLEMENTING BUT NOT MEETING THE STANDARDS

Although the EC has identified **Greece** as having a specific need for deinstitutionalisation reforms and ESIF have been allocated for these, the funds have not yet been released as there is no deinstitutionalisation strategy in place. Civil society is concerned about potential misuse of these funds to support already existing institutional care settings. Authorities may prioritise investment of funds in residential care settings that face difficulties maintaining their staff. More specifically, the Ministry of Justice approved a document declaring who is to be responsible for the evaluation and supervision of the National Strategy, even though such strategy is absent. Close monitoring and cooperation with civil society is needed to ensure that funds are invested to support the best interest of children.

In December 2017, €15 million from the national budget were allocated by the Greek government for the closure of an institution for children and adults with disabilities. However, funds were not directed towards deinstitutionalisation reforms, but have been distributed to children's institutions, without defining what kind of activities they were to support. Considering the fact there is no strategy or plan on deinstitutionalisation, there are concerns about the quality and the sustainability of any associated plans.

In **Poland**, the measures for the transition from institutional to family-based care included in the National Programme for the Prevention of Poverty and Social Exclusion 2020: New Dimension of Active Inclusion (NSPF), have not yet been implemented. The NSPF is not well known among civil society and service providers on the ground; there is no implementation plan for the programme; and it is unclear to civil society organisations whether the programme remains active.<sup>62</sup>

<sup>61</sup> 'Plan of deinstitutionalisation and transformation of social welfare homes and other legal bodies who are providing social services in the Republic of Croatia 2011-2016 (2018)'

<sup>62</sup> Crowther N, Quinn G, Hillen Moore A, 2017. Opening up communities, closing down institutions: Harnessing the European Structural and Investment Funds.



In addition, due to the fact that the Polish system of institutional care comes under the remit of several different ministries, there are no attempts to coordinate the deinstitutionalisation reform plans. Only the Ministry of Family, Labour and Social Policy has openly expressed its aim and support for deinstitutionalisation reforms.

In **Hungary**, there are no specific national or regional strategies for deinstitutionalisation of children nor are there measures in place to shift from institutional to family- and community-based care. The Hungarian Action Plan for social inclusion mentions neither the transition from institutional to community-based care nor the need for better preventive and gatekeeping efforts, reunification, and a care-leaver's programme. The Hungarian Government should ensure that ESIF are used in line with the country's Act XXXI of 1997 on the Protection of Children and Guardianship and for the transformation of the child protection system focusing on high-quality prevention, family strengthening and the provision of family- and community-based care for children. ESIF should not be used for renovating residential care settings or for placing children in alternative care in remote or isolated areas.



## Lessons learned

Several Member States have committed to the complete eradication of all forms of institutions for children over the next decade. According to the Structural Funds Watch report, to which several Opening Doors Campaign colleagues contributed, the shift from institutions for children to family- and community-based care is a direct 'consequence of the ex-ante conditionality 9.1'.<sup>63</sup>

In countries such as Bulgaria, Romania, and Latvia the ex-ante conditionality has been meaningfully applied. However, in cases such as Lithuania or Estonia, the link between the deinstitutionalisation strategy and the use of ESIF is not clear and the spending of EU funds is not well monitored. In the cases of Poland and Hungary, use of ESIF and the link with the country's strategy or action plan is not coherent. In Poland, measures for deinstitutionalisation reform are included in the country's poverty reduction policy framework, but these are not accompanied by an action plan and the structural funds are being used in an ad-hoc and non-coherent way. In Greece, in the absence of a strategy and a plan for deinstitutionalisation reforms, the allocated sources of the ESF have not yet been spent.

Among CSOs, there are concerns about the quality of projects that will be funded when the finances are made available and about missing the opportunity to transform Greece's child protection system.

## The way forward

Even though they are a relatively new concept, the thematic ex-ante conditionalities, as shown by the initial research by the Opening Doors' national coordinators and others, are promising initiatives by the EU for the transition from institutions for children to family- and community-based care. For this reason – and principally because they link expenditure of ESIF to broader policy and human rights reforms – we propose the ex-ante conditionalities be maintained in the next programming period.

Given the promising nature of the thematic ex-ante conditionalities, and the poor experience of countries like Hungary or Greece, we recommend they are strengthened through rigorous monitoring in both the regulatory and programming phase to ensure they are respected and that investments contribute to broader policy frameworks and their principles applied universally across all relevant EU funding instruments. The ex-ante conditionality 9.1. should expand and apply to all EU Member States as institutions for children are not confined to Central and Eastern Europe, but exist in Western and Southern countries too.

<sup>63</sup> Crowther N, Quinn G, Hillen Moore A, 2017. Opening up communities, closing down institutions: Harnessing the European Structural and Investment Funds.

### III. HAS THE ECCP BEEN HONOURED BY MEMBER STATES?

The European Code of Conduct on Partnership (ECCP) provides a framework for state and non-state actors to not only engage in the decision-making processes around preparing the Partnership Agreement and the Progress Reports, but also throughout the preparation and implementation of the Operational Programmes, including by promoting their participation in the ESIF Monitoring Committees. Underpinning this framework are values of gender equality and social inclusion, and co-operation at all levels of national governance to maximise the impact of the funds.<sup>64</sup>

National Network for Children (NNC), the Opening Doors national coordinator in **Bulgaria** is a member of the Monitoring Committee of the 'Human Resources Development' Operational Programme. The main successes of the NGOs participating in the Monitoring Committee include: contribution to texts related to deinstitutionalisation and other child rights issues in the Partnership Agreement; contribution to the Good Governance Operational Programme in relation to concrete commitments and funding for capacity-building of NGOs and civil society; contribution to the 'Human Rights Development' Operational Programme in terms of wording related to deinstitutionalisation; contribution to improving specific operations important to the work of member organisations of National Network for Children in Bulgaria, such as particular texts and opportunities for including NGOs.

A specific example concerns the area of foster care, where National Network for Children was included on a Consultative Expert Council. However, they noted that it is common for NGOs to be excluded as beneficiaries, as there are strict guidelines for commenting and providing feedback on large numbers of documents or operations, and there is little preliminary coordination, indicative programming or prioritising by subcommittees. This means that Ministries often prepare the project annual plan and present it for agreement only when there is a meeting of the Monitoring Committee.

In addition, during the implementation of the measures and activities under the Operational Programme, projects are allocated to inter-institutional structures (state agencies, directorates of the Ministries) for in-house assignment. This is a good reflection of the quality of these measures, especially in the context of capacity-building through training, supervision, and consultations. Last but not least, the NNC and the Coalition 2025 have lobbied a lot for the inclusion of NGOs in the Inter-ministerial group for deinstitutionalisation in Bulgaria, based on the ECCP. The NGO sector in Bulgaria were promised several times that they would be included in this group and expect a positive reply from the Government soon.

The **Romanian** Government set up Monitoring Committees for the implementation of ERDF and ESF funds, and in accordance with the methodology and functioning of committees, at least 40% of the members are representatives of civil society, academia, and social

partners of the government. Round tables, seminars, and workshops are organised to facilitate networking, communication, and monitoring of the programmes (implementation per se and monitoring of the results and of spending), as well as promotion of good practices and visits in the field. It is important to mention that the methodology guarantees the involvement of civil society in all stages of ESIF planning: consultations on producing the guide for applicants, assessment criteria, the Annual Implementation Report, on monitoring the performance scorecard, and on identifying potential problem areas.

In **Latvia**, the national coordinator of the Opening Doors Campaign, SOS Latvia, represents the Alternative Care Alliance in the Social Service Development Council by Ministry Welfare. One of the aims of the Council is to monitor the deinstitutionalisation reforms and the allocation of ESIF for these reforms.

#### IMPLEMENTING BUT NOT MEETING THE STANDARDS

The government in **Poland**,<sup>65</sup> on the other hand, centralises all competition for EU funds and it decides which organisations will get financial support. The CSOs were invited to take part in consultations of Partnership Agreement / Operational Programme, but the Consultations were formal, meetings were not democratic, inputs from CSOs were not taken into account, and the Government decided to continue with plans that had already been decided. With regards to Monitoring Committees of relevant Operational Programmes, CSOs with expertise in deinstitutionalisation were not invited to the committees. CSOs receive invitations for training courses but not for meetings.

According to Opening Doors' national coordinator in **Greece**, who participated in the "Opening up communities, closing down institutions: Harnessing the European Structural and Investment Funds" report,<sup>66</sup> the ESIF programming documents were planned at governmental level only; they and other organisations in their network had not been involved. The NGO attended two working groups after the adoption of the ESIF Operational Programmes. These working groups discussed the need to adopt strategies on, and implement measures for, the transition from institutional to community-based support and adopt legislative changes, in particular, regarding the oversight and monitoring of private sector residential centres. The NGO advised that the Greek Government has taken no action since the working group meetings.

In **Hungary**, only a limited number of civil society representatives – those loyal to the government – were consulted on the allocation of ERDF/ESF funding to identify needs or the main results to be achieved. The process of selecting NGOs participating in the Monitoring Committees is not transparent and information is not publicly available. The Opening Doors national coordinator in Hungary did not benefit from ESIF funds for technical assistance or capacity building.

<sup>65</sup> For more information, see <http://www.openingdoors.eu/wp-content/uploads/2018/02/country-fiche-Poland-2017.pdf>

<sup>66</sup> Crowther N, Quinn G, Hillen Moore A, 2017. Opening up communities, closing down institutions: Harnessing the European Structural and Investment Funds.

IN THE NEXT FUNDING PERIOD, THE IMPLEMENTATION OF THE ECCP SHOULD BE STRENGTHENED THROUGH BROADER ENGAGEMENT OF THE EU AND CIVIL SOCIETY



THE SPIRIT OF THE ECCP IS NOT ALWAYS HONOURED ACROSS THE EU AND THE PARTICIPATION OF CIVIL SOCIETY IS OFTEN SEEN AS TOKENISTIC.

<sup>64</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R1303>



### Lessons learned

Apart from a few positive examples, it seems that the spirit of the ECCP is not always honoured across the EU and the participation of civil society is often tokenistic. NGO consultation is taking place as a tick-box exercise, with information only being shared at the last minute. Often, the NGOs that participate are not representative of the whole sector, or not transparent about their involvement. Selection processes are often unclear, or information is limited to a close circle of civil society favoured by the government. In addition, the technical assistance or the capacity-building funds that should be available for the effective participation of civil society in the Monitoring Committees is not used.

### The way forward

In the next funding period, it is essential that the ECCP is maintained and at the same time strengthened by reinforcing it at national level with an ex-ante conditionality. This will ensure that, for the use of EU funds, specific measures are in place to secure the implementation of the ECCP and, therefore, the transparent and meaningful representation of stakeholders, including civil society and service users. Additionally, the EC's role in the Monitoring Committees should be strengthened for the same reasons.

## B. THE USE OF THE INSTRUMENT FOR PRE-ACCESSION II (IPA II)

The IPA II regulation was adopted in March 2014. IPA II puts strong emphasis on structural reforms as the basis for the accession process and sets a new framework for providing pre-accession assistance for the period 2014–2020. IPA II targets reforms within the framework of pre-defined sectors, which cover areas linked to the Enlargement Strategy (democracy and governance, rule of law, growth and competitiveness). Overall, and among other European Funding Instruments, IPA II is seen as one of the most important EU actions for supporting the 2030 Agenda and the Sustainable Development Goals. IPA II also takes account of the EU Global Strategy, which sets out the EU's core interests and principles for engaging in the wider world.<sup>67</sup>

<sup>67</sup> Evaluation of the Instrument for Pre-accession Assistance (IPA II), Draft Report – Volume 1 – January 2017, p.7. Particip, Ecorys, ECDPM, Fiscus, Itad and OPM.

In **Serbia**,<sup>68</sup> the allocation of funding at both national and EU levels is critical for deinstitutionalisation reforms to succeed. The domestic budget is primarily concerned with continuing the current system of institutional care for children. IPA II is unique in its capacity to cover the costs associated with the transition from institutional to family- and community-based care for children in Serbia. In 2013, through IPA II, funds totalling €1,450,642,97<sup>69</sup> were allocated to seven projects towards the deinstitutionalisation reform process. Although, realisation of these projects began in 2017, there is little information on how much of these funds are allocated for deinstitutionalisation reforms for children, since the deinstitutionalisation reform process includes both adults and children. There are concerns amongst CSOs that the funds will not be used in a sustainable manner, since the Government of Serbia has not yet published a deinstitutionalisation strategy and plan. Importantly, in the period 2015–2016, deinstitutionalisation was not prioritised by IPA II, which adds to civil society concerns about the sustainability of the deinstitutionalisation reforms. Programming of IPA II in 2017 is ongoing and civil society in Serbia is recommending the prioritisation of deinstitutionalisation in the next funding period. The general impression is that information on deinstitutionalisation in Serbia is not transparent, difficult to find, and some of it is inaccessible.

In **Bosnia Herzegovina**,<sup>70</sup> the EU has played an important role in eradicating institutions for children. In 2014, €1.5 million was granted under IPA II to support the transformation of care institutions<sup>71</sup> over the period 2014–2017. In December 2015, Bosnia Herzegovina received €1 million under IPA 2014 to support the transformation of care institutions over the period of three years following the date of conclusion of the Financing Agreement. Through IPA II, two new services have been developed: an emergency reception centre and a day centre for children at risk. Also with the support of IPA II, four institutions are in the process of closure and 98 professionals underwent training seminars. The services previously funded by IPA II are now funded by the domestic budget and have contributed to the strengthening of the country's child protection system. This commitment of the EU should continue through the 2018–2020 IPA II. Civil society recommends that investments for this funding period include the transformation process of other institutions for children, the strengthening of capacities of centres for social work and the development of infrastructure, e.g. alternative services such as small group homes.

<sup>68</sup> For more information, see <http://www.openingdoors.eu/wp-content/uploads/2018/02/country-fiche-Serbia-2017.pdf>

<sup>69</sup> Information from the Ministry of Labour, Employment, Veteran and Social Affairs, August 2017.

<sup>70</sup> For more information, see [http://www.openingdoors.eu/wp-content/uploads/2016/12/country-fiche-BiH-2016\\_20122016.pdf](http://www.openingdoors.eu/wp-content/uploads/2016/12/country-fiche-BiH-2016_20122016.pdf)

<sup>71</sup> [http://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/bosnia\\_and\\_herzegovina/ipa/2014/ipa2014\\_037662.08\\_bih\\_transformation\\_of\\_care\\_institutions.pdf](http://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/bosnia_and_herzegovina/ipa/2014/ipa2014_037662.08_bih_transformation_of_care_institutions.pdf)



### Lessons learned

Although IPA II funds have been allocated for deinstitutionalisation reforms in enlargement countries as described above, these funds have been allocated on an ad-hoc basis, without following a deinstitutionalisation strategy or an action plan. This is because a strategy is often missing at the national level or the development of a strategy is not a prerequisite for the allocation or spending of EU funds. In both cases, the sustainability of services developed by IPA II is not guaranteed and funds are spent on an ad-hoc basis with no consideration for how they will contribute to the strengthening of the national child protection system. This can be problematic because IPA II follows the same rules as EU Structural Funds, in that they support state authorities in carrying out structural reforms through financing developments of e.g. services over a limited period of time. They are not intended to support the development of new services indefinitely, so if no strategy is in place to guarantee the continuation of these services after the end of the use of EU funds, it will result in the unsustainable developments and, hence, inappropriate use of EU funds.

Another area of concern noted in this funding period, linked to the lack of a thorough needs analysis, is the lack of continuation of IPA II allocation for deinstitutionalisation reforms. In the case of Serbia, funds were allocated through IPA II 2013 but not allocated again. In the case of Bosnia Herzegovina, there is ongoing concern about the continuation in the allocation of IPA II, which is not guaranteed.

### The way forward

For the next funding period, IPA II should be prioritised for deinstitutionalisation reforms and in the regulations it should be ensured that funds are not used for the building, refurbishment or support of institutional care settings. Funds should be allocated and used in consultation with civil society and service users, ensuring that the Partnership Principle is also extended in these countries

In addition, there should be a prerequisite requirement for countries to develop national deinstitutionalisation strategies and action plans. This would ensure that EU funds are allocated in line with the country's needs and that the continuation of services is assured once the EU funding period comes to an end.

### C. THE IMPLEMENTATION OF THE EUROPEAN NEIGHBOURHOOD INSTRUMENT (ENI)

The ENI is the EU's main instrument for financing its neighbourhood region during the 2014–2020 financial period. The ENI aims to encourage democracy and human rights, sustainable development, and the transition towards a market economy in the EU's neighbouring partner countries. In particular, it supports political and economic reforms.

Disappointingly, the European Neighbourhood Instrument has not contributed to deinstitutionalisation reforms in the two Opening Doors countries, **Ukraine** and **Moldova**. We take this opportunity to reflect on the use of the previous instrument for the European Neighbourhood.

The first steps in deinstitutionalisation reform in Moldova were initiated through the Technical Aid to the Commonwealth of Independent States (TACIS) project 'Capacity Building in Social Policy Reform'<sup>72</sup> (December 2003–December 2006) implemented by the NGO Every Child and funded with €2.6 million by EC.

The three-year TACIS 1 project (2003–2006) prepared the ground and launched Moldova's residential care reform in May 2006, with backing from the country's president. Some difficult advocacy and lobbying work was required to get the president on side, but it was important to have his backing to create the community social assistance network and oppose residential care. The findings of the financial analysis of the expenditure on residential care of children, the negative effects on children of residential care based on assessments carried out in institutions, cost-efficiency of alternative care (i.e. foster care) and of the gatekeeping mechanism – all these project deliverables provided strong arguments to the president and the government to launch residential care reform in the country.

All legal frameworks regarding gatekeeping mechanisms, foster care, and family support services were developed within TACIS 1 (Foster Care Regulations and Minimum Standards, Gatekeeping Mechanisms, Family Support Regulations). The 18-month TACIS 2 was launched in parallel with TACIS 1 at the end of 2006. TACIS 2 aimed to build on the results of the TACIS 1 and had as key outcomes:

- the development and approval of the National Plan and Strategy for the Reform of the Residential Care System;
- development of the Master Plan for the transformation of residential institutions.<sup>73</sup>

<sup>72</sup> <http://ec.europa.eu/agriculture/rur/leader2/rural-en/euro/p8-1-6.pdf>

<sup>73</sup> For more information, see [http://www.ceecis.org/ccp/publications/Raport\\_Eng\\_PDF.pdf](http://www.ceecis.org/ccp/publications/Raport_Eng_PDF.pdf), pp. 34-35, pp. 46-47, point 4.8.3.

THE ENI IS THE EU'S MAIN INSTRUMENT FOR FINANCING ITS NEIGHBOURHOOD REGION DURING 2014–2020. IT AIMS TO ENCOURAGE DEMOCRACY AND HUMAN RIGHTS, POLITICAL AND ECONOMIC REFORMS

In **Ukraine**<sup>74</sup>, according to the latest data, there are almost 100,000 children growing up in institutional care, mostly due to poverty and lack of support services in the community. At the same time, there is a commitment from both civil society and the government to proceed to deinstitutionalisation reforms for children. In August 2017, the Cabinet of Ministers of Ukraine (national government) adopted the Decree on Approval of a National Strategy on Reform of institutional Care System for 2017–2026.

In **Moldova**, the government committed to continuing deinstitutionalisation reforms through adopting the 2014–2020 Child Protection Strategy (approved in May 2014) and its Action Plan (approved in May 2016). The strategy sets out the objective to continue the reforms by ensuring a family environment for all children including through closing institutions for school-aged children; gradually banning the institutionalisation of children below three years of age; and ensuring children with disabilities are not left out of the process.

### Lessons learned

The ENI has not contributed to deinstitutionalisation reforms during this funding period. However, similar instruments successfully supported deinstitutionalisation reforms in the past.

### The way forward

The EU can bring a tremendous added value to national efforts to reform child protection and care systems in neighbour countries. As presented, the need is real as thousands of children remain in institutions. In addition, national governments and civil society have taken important steps towards ending institutional care for children by adopting deinstitutionalisation strategies and action plans that will allow the realisation of important child protection reforms. In order for these strategies and plans to be implemented, it is crucial for Ukraine and Moldova to receive funds through the ENI, which could cover the transit costs from the institutional care system to the family- and community-based care system.

In the next funding period, ENI should be prioritised for the strengthening of child protection systems and should follow the same rules as the ESF and ERDF that effectively prohibit its use for any actions that contribute to the segregation of children and for building, supporting or renovating institutions. Investments should be also aligned with a strategy that will ensure the sustainability of investments. It is an opportunity for the EU to invest in its neighbouring countries, ensuring that children will grow up in socially inclusive societies.

<sup>74</sup> For more information, see <http://www.openingdoors.eu/wp-content/uploads/2018/02/country-fiche-Ukraine-2017.pdf>

The Asylum, Migration and Integration Fund (AMIF) was set up for the period 2014–20, with a total of €3.137 billion for seven years. It promotes the efficient management of migration flows and the implementation, strengthening, and development of a common approach to asylum and immigration.

The AMIF is used in **Austria**<sup>75</sup> for a broad range of services with a special focus on language acquisition and education, preparation for workplace integration and general orientation. However, services that focus on families as a whole or that support parents more broadly (e.g. participating in the education of their children, health promotion, nationwide early intervention services) are still rare.

One of the most urgent problems for unaccompanied minors coming of age and families leaving institutional care in Austria is access to affordable housing, particularly in the urban areas. Additional services that provide living spaces, combined with ambulant support services and gender-sensible approach are needed to support their education, integration to the labour market and general orientation in the new environment.

In January 2018, there were approximately 3,270 unaccompanied and separated migrant children<sup>76</sup> in **Greece** and only 1,083 of them (33%) were placed in shelters for unaccompanied children. The rest of the children were on the waiting lists, placed in police departments, reception centres, 'safe zones' at refugee camps or temporary accommodation sites. Greece relies heavily on civil society for the protection of unaccompanied and separated migrant and refugee children. In 2016, €294.5 million of funds available under Greece's AMIF and €214.7 million of funds from Internal Security Fund (ISF) national programmes were allocated to support the establishment and operation of reception places for unaccompanied minors and other vulnerable groups, which were amongst the programmes' priorities.<sup>77</sup> Under the AMIF national programme, funding was also allocated to support the establishment of a guardianship system as well as access to education, in particular for children. Although the EU has allocated vast amounts of money through AMIF and the fund for humanitarian aid for the protection of people in migration, and of children in particular, it seems that the funds do not cover the needs since thousands of children are still not protected and they grow up in dangerous for their development conditions. In addition, it is of worry, that none of these actions funded by AMIF or humanitarian aid funding have been allocated towards the strengthening of the country's mainstream child protection system.

<sup>75</sup> For more information, see <http://www.openingdoors.eu/wp-content/uploads/2018/02/country-fiche-Austria-2017.pdf>

<sup>76</sup> <http://data2.unhcr.org/ar/documents/download/61808>

<sup>77</sup> [http://www.infomie.net/IMG/pdf/20161116\\_background\\_paper\\_funding\\_children\\_in\\_migration\\_19748\\_1\\_.pdf](http://www.infomie.net/IMG/pdf/20161116_background_paper_funding_children_in_migration_19748_1_.pdf)

AMIF IS A CRUCIAL INSTRUMENT FOR THE SUPPORT OF CHILDREN IN MIGRATION WITHIN THE NATIONAL CHILD PROTECTION SYSTEMS IN EU MEMBER STATES



These investments were made on an ad-hoc basis with no plan in place to ensure the sustainability of investments. In reality, these investments create parallel systems, focusing only on migrant children.

In 2016, there were 6,447 migrant children registered in **Bulgaria** of whom 2,768 were unaccompanied and separated children. Lack of safe and appropriate accommodation for unaccompanied children remains one of the biggest gaps in Bulgarian child protection system and requires urgent solution. Almost all unaccompanied and separated children live in reception and registration centres for refugees that cannot provide adequate care or ensure safety of children. In addition, children who arrive in Bulgaria, with or without parents, are often placed in immigration detention, in contravention of the UNCRC. The child protection system does not have capacity to meet the needs of the growing number of unaccompanied and separated children in Bulgaria based on Best Interest Assessment and Best Interest Determination procedures for the migrant, asylum-seeking and refugee children. Those unaccompanied and separated children who do not seek protection or are denied of it have no access to health care or education. Their legal guardians or legal representatives cannot be appointed because children do not have identity documents and according to Bulgarian law, a legal representative can be only appointed to a child who seeks international protection or has been granted such protection.

During the funding period 2014–2020, over €20 million has been allocated to Bulgaria under Asylum, Migration and Integration Fund (AMIF). According to the latest report from the Ministry of Interior<sup>78</sup> in 2014-2017, key projects under AMIF targeted reconstruction of the reception centres, prime adaptation of the asylum-seekers, legal counseling, daily activities for children and women and voluntary return to the countries of origin. During recent years and as described in previous sections of this report, European Structural and Investment Funds in Bulgaria have been used towards strengthening of the national child protection system. It is crucial that allocations of AMIF are aligned with the rest of EU funds and that they are not spent on the ad hoc projects that only support children in migration in the short term. It is essential to ensure that for both current and the next funding periods, EU funds in Bulgaria are used towards sustainable reforms that will support all children within strengthened national child protection system.

<sup>78</sup> AMIF Interim Evaluation Report, available at [http://www.mvr.bg/docs/librariesprovider51/default-document-library/interim-evaluation-report-amif2017.pdf?sfvrsn=d169b8ba\\_0](http://www.mvr.bg/docs/librariesprovider51/default-document-library/interim-evaluation-report-amif2017.pdf?sfvrsn=d169b8ba_0)

## Lessons learned

AMIF is a crucial instrument for the support of children in migration in EU Member States. More specifically, and according to the Commission communication on the protection of children in migration and the latest toolkit on the use of EU funds, it should be ensured that AMIF, along with structural funds and other funds, are used to support children with their integration through access to education, mainstream services, and access to family-based care. However, according to information received from the Opening Doors national coordinators, although AMIF has supported many children in migration, this support has not been streamlined with the national child protection systems. In addition, investments were not made in line with plans that would guarantee the projects' sustainability after the end of the funding period and hence support children for a long period of time. Last but not least, in addition to outlining how funding is used, it should be stipulated that AMIF is actually used. For example, the Hungarian Government recently announced<sup>79</sup> that they are stopping all AMIF funding for 2019, which NGOs providing integration support are reliant on. This will have serious consequences on children's lives.

## The way forward

In the next funding period, it is important that ESIF regulations promoting the transition from institutional care to community-based care and prohibiting funds from being used for the segregation of people, should also be included in the AMIF regulations. Also, while particular challenges faced by migrant and refugee children should be addressed, such as limited or no command of the local language; prolonged periods out of school; insufficient family or community support; access to fewer socio-economic resources, and a lack of identifying documents, Member States should ensure that AMIF supports the strengthening of the national child protection systems and that parallel systems are not developed which focus on children in migration.<sup>80</sup>

Last but not least, as the Partnership Principle was not respected in Member States, in the next funding period it should be strengthened and should ensure that a range of social partners are involved through meaningful, transparent, documented, and regular consultation.<sup>81</sup>

<sup>79</sup> Belügyi Alapok, 'Tájékoztató pályázati kiírások visszavonásáról – 2018.01.24.', available at <http://bit.ly/2CzR1Nv> (in Hungarian) and quoted in latest AIDA Hungary report, available at <http://www.asylumineurope.org/reports/country/hungary>

<sup>80</sup> In line with European Commission Recommendation on Investing in Children: 'Breaking the Cycle of Disadvantage', 20 February 2013, which recommends Member States to 'Maintain an appropriate balance between universal policies, aimed at promoting the well-being of all children, and targeted approaches, aimed at supporting the most disadvantaged': Let children be children, SOS, Eurochild, 2017, available at [http://www.sos-childrensvillages.org/getmedia/32eeb951-d731-48ae-86fb-96b9aff63f3e/Let-Children-be-Children\\_Case-studies-refugee-programmes.pdf](http://www.sos-childrensvillages.org/getmedia/32eeb951-d731-48ae-86fb-96b9aff63f3e/Let-Children-be-Children_Case-studies-refugee-programmes.pdf)

<sup>81</sup> For more information, consult Follow the money, ECRE, UNHCR, 2018, available at <http://www.ecre.org/follow-the-money-a-critical-analysis-of-the-implementation-of-the-eu-asylum-migration-integration-fund-amif/>

LACK OF SAFE AND APPROPRIATE ACCOMMODATION FOR THE UNACCOMPANIED CHILDREN REMAINS ONE OF THE BIGGEST CHALLENGES FOR THE CHILD PROTECTION SYSTEM IN BULGARIA





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## PART 6

### CONCLUSION AND RECOMMENDATIONS TO THE EUROPEAN UNION FOR THE NEXT MULTIANNUAL FINANCIAL FRAMEWORK

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This is a unique moment for the EU to champion deinstitutionalisation as a human rights issue. The EU has the opportunity and means to give millions of children within and beyond its borders the chance to access a better life, no longer confined to institutions, but growing up with the love and support of families and communities, included equally in society.

Through the EU's leadership and funds, crucial steps have been taken to reform child protection systems across Member States to better protect the rights of one of the most vulnerable groups of children. For example, in countries such as Romania, Bulgaria or Latvia, EU funds are being spent in line with deinstitutionalisation strategies that focus on strengthening of their child protection systems, which hopefully can be sustained after the end of the funding period. However, in countries such as Serbia and Hungary, deinstitutionalisation reforms have been funded in an ad-hoc manner and sustainability is not guaranteed.

Our experience across 16 European countries (12 Member States, two enlargement and two neighbourhood countries) has demonstrated that more needs to be done to achieve the end of institutions for children.

The provision of the ex-ante conditionality should be extended to all EU Member States, in order to ensure that EU funds will be used in line with strategies and plans that will lead to sustainable reforms. This, in turn, will bring long-term results for children, families and societies as a whole.

In addition, it is crucial to ensure that internal and external EU funds are following the same principles as ESIF regulations, prohibiting the use of funds for the segregation of people and promoting prioritisation of the transition from institutional to community-based care. All EU funds, both internal and external, should be used in line with the UNCRC and the UNCRPD and

should fund deinstitutionalisation strategies and action plans that are person centred and rights based, and that focus on the social inclusion of children and their families.

Member States should ensure that the allocation of funds is being consulted and monitored along the funding cycle together with the CSOs in order to guarantee sustainability of practices and projects. The pivotal role of the EU towards children's deinstitutionalisation and the transformation of child protection systems should be maintained and strengthened in the next funding period.

For the next MFF, we are calling on the EU to:



**Maintain** the promotion of the transition from institutional to family- and community-based care through targeted investments via the European Structural and Investment Funds.



**Strengthen:**

- the existing ex-ante conditionality 9.1 of the Structural and Investment Funds, which refers to deinstitutionalisation;
- the oversight of how EU funds are used for deinstitutionalisation to ensure they are in line with national strategies and action plans and lead to systemic changes;
- the implementation of the European Code of Conduct on Partnership through broader engagement of the EU and civil society.



**Expand:**

- the existing ex-ante conditionality 9.1 of ESIF, which refers to deinstitutionalisation, so that it applies to all EU Member States;
- the same principles of the European Social Fund and European Regional Development Fund regulations to promote the transition from institutional to community-based care to all EU internal and external funding.

Specifically:

**1. Maintain the promotion of the transition from institutional to community-based care through targeted investments via ESIF.**

- A. During the funding period 2014–2020, the ESF and ERDF regulations promoted the transition from institutional to community-based care and stated that funds should not support any action that contributes to segregation or to social exclusion<sup>82,83</sup>.

<sup>82</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1304&from=en>

<sup>83</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1301&from=EN>

In the next funding period, this commitment must continue and be further strengthened, by making deinstitutionalisation an investment priority of the relevant ESIF instruments under the thematic objective of promoting social inclusion and combating poverty and discrimination. Specifically, it should be clearly spelled out that EU funds must not be invested in segregation or social exclusion, such as in residential care settings with institution-like features.

- B. In the 2014–2020 period, at least 20% of the total ESF resources in each Member State was allocated to the thematic objective 'promoting social inclusion, combating poverty and any discrimination'. During the 2014–2020 budget period, countries have actually used 25% of the ESF for this objective. This clearly shows the need for investment of EU funds for social inclusion and poverty reduction. The minimum benchmark should be increased to 30%.
- C. The increased 30% should be used across all investment priorities: active inclusion with a view to improve employability; socio-economic integration of marginalised groups; combating all forms of discrimination and promoting equal opportunities, and enhancing access to affordable, sustainable, and high-quality services. During this funding period, it has been noted that allocated spending under this objective has mainly addressed unemployment and the active inclusion of people in the labour market. Although we fully recognise that access to employment is a crucial step for tackling poverty and social exclusion, access to affordable, sustainable and quality services is also crucial and goes hand-in-hand with the poverty reduction and social inclusion targets. Investments in prevention measures are crucial for this. Furthermore, investments to fight discrimination as well as investments related to socio-economic integration of marginalised communities can support families significantly, in particular families at risk of separation.
- D. During the 2014–2020 funding period, the ESF was distributed to all Member States according to their GDP. In the next funding period, ESF should be allocated not only on the basis of GDP per capita, but also according to indicators showing the need for social inclusion and social investment. To this end, the EU should make use of available indicators, such as the Social Scoreboard for the European Pillar of Social Rights,<sup>84</sup> to identify gaps and needs for investment in social inclusion measures and to make use of the annual monitoring cycle provided by the European Semester process.

<sup>84</sup> <https://composite-indicators.jrc.ec.europa.eu/social-scoreboard/>





EU FUNDS SHOULD BE INVESTED IN SUSTAINABLE REFORMS AT NATIONAL LEVEL BENEFITTING ALL CHILDREN IN THE SHORT AND THE LONG TERM, AND COVERING TARGETED SERVICES FOR CHILDREN AND FAMILIES AT RISK, IN LINE WITH DE-INSTITUTIONALISATION STRATEGIES AND ACTION PLANS.

## 2. Strengthen :

### 2.1. Strengthen the existing ex-ante conditionality 9.1 of ESIF – which refers to deinstitutionalisation

The ex-ante conditionality 9.1 of the Common Provision Regulations of ESIF, when applied for deinstitutionalisation reforms, has been useful in ensuring sustainability of investments by engaging EU Member States to link spending to an overarching policy national strategic framework for poverty reduction that will include measures for deinstitutionalisation. In the next funding period, this ex-ante conditionality must be maintained and strengthened by taking into account the following:

- A. The transition from institutional to community-based care is not only an issue related to poverty. In the next MFF, ex-ante conditionality 9.1 should be updated to require an overarching poverty reduction and social inclusion strategy. This strategy should also incorporate the national strategy and action plan for deinstitutionalisation.
- B. The ex-ante conditionality 9.1 has played a crucial role during this funding period to make sure that funds are used in line with a deinstitutionalisation policy framework. However, the ex-ante conditionalities have been seen as a one-off exercise and box-ticking exercise as the EC only examines up to a certain date whether a Member State has fulfilled the ex-ante conditionalities. This doesn't ensure that policy frameworks are properly implemented, nor that funding will be used accordingly. The EC needs to have a regular update on data and policy development. For the next funding period, the ex-ante conditionalities must be monitored not only in the programming phase, but also during the implementation period. We recommend monitoring of the fulfilment and actual implementation of this ex-ante conditionality to take place through the annual European Semester cycle. In addition, the results of the monitoring procedure can be presented during the Annual Inclusive Growth Conference.

### 2.2. Strengthen the review of how EU funds are used for deinstitutionalisation to ensure they are in line with national strategies and action plans and lead to systemic changes

EU funds should be invested in sustainable reforms at national level benefitting all children in the short and the long term, and covering targeted services for children and families at risk, in line with deinstitutionalisation strategies and action plans. By doing so, they trigger systemic changes and improve the effectiveness of EU spending which brings added value to the EU.

- A. EU and Member States should ensure that EU funds are used to support national deinstitutionalisation strategies and action plans that are aligned with: the Charter of Fundamental

Rights and international human rights norms; the UNCRC; the UNCRPD; the UN Guidelines for the Alternative Care of Children; the EC Recommendation 'Investing in Children: Breaking the Cycle of Disadvantage' and the European Pillar of Social Rights. In the development of deinstitutionalisation strategies and action plans, civil society and service users should be meaningfully consulted.

- B. The EC should encourage civil society to develop coalitions at national level in order to effectively monitor the use of EU funds and the implementation of reforms, also beyond the official Monitoring Committees of the Operational Programmes.
- C. The EU should encourage Member States to ring-fence domestic budgets to ensure that the child protection system and new services continue to be sufficiently maintained by domestic means after the EU-funded intervention has ended.

### 2.3. Strengthen the implementation of the ECCP<sup>85</sup> through broader engagement of the EU and civil society

The ECCP was a breakthrough in the 2014–2020 funding period. However, civil society and service users are still not consulted systematically and meaningfully on the use of ESIF.

- A. EU and Member States should ensure fair representation and active and meaningful participation and involvement of CSOs and service users during programming, implementation, monitoring and evaluation of EU funding programmes.
- B. EU should encourage Member States to make full use of Article 17 of the ECCP and the possibility to use technical assistance to build the capacity of NGOs so that they can 'effectively participate in the preparation, implementation, monitoring and evaluation of programmes'. This can be done through workshops, training sessions, supporting networking structures, and by covering the costs for various meetings.
- C. The new ESIF Regulations should introduce ECCP as an ex-ante conditionality to ensure its effective implementation. Failure of Member States to respect the ECCP should be sanctioned by payment suspensions as provided for in the guidance related to the EU Charter of Fundamental Rights<sup>86</sup> and ESIF.
- D. The EC should ensure that Monitoring Committees operate in a transparent and meaningful way. CSOs should be equally represented and be considered as equal stakeholders with voting rights, and the advisory role of the EC should be strengthened and expanded.

<sup>85</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2014.074.01.0001.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.074.01.0001.01.ENG)

<sup>86</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016XC0723\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016XC0723(01))

THE PIVOTAL ROLE OF THE EU TOWARDS CHILDREN'S DE-INSTITUTIONALISATION AND THE TRANSFORMATION OF CHILD PROTECTION SYSTEMS SHOULD BE MAINTAINED, STRENGTHENED AND EXPANDED IN THE NEXT FUNDING PERIOD

- E. The new ESIF Regulations should establish an efficient complaints system in all EU Member States. As recommended by the European Ombudsman: ‘the Commission should launch an online platform where civil society, particularly small organisations which do not easily come into contact with the Commission, could report abuses of funds and Charter violations and submit complaints and shadow reports on complaint-handling mechanisms and Member States’ compliance with the ECCP.’

### 3. Expand:

#### 3.1. Expand the existing ex-ante conditionality 9.1 of ESIF – which refers to deinstitutionalisation – to all EU Member States

- A. Institutional care is wrongly perceived to be confined to eastern European countries while is, in fact, a pan-European problem, with many children growing up in institutions also in countries such as France, Belgium or Germany<sup>87,88</sup>. During the funding period 2014–2020, only 12 countries were identified by the EC as countries with a need for deinstitutionalisation reforms. In the next funding period the requirement to set up policy frameworks promoting the transition from institutional care to community-based care should no longer be limited to countries with identified needs, but to all EU Member States.

#### 3.2. Expand the same principles of the ESF and ERDF regulations to promote the transition from institutional to community-based care to all EU internal and external funding

- A. The same principles and criteria established by the EU for the ESIF regulations – which effectively prohibit the use of EU funds for the maintenance of existing orphanages or other institutions or the construction of new ones, and which identify the transition from institutional to family and community-based care as an investment priority – should be transposed to all EU funding streams. In particular, the EDF, the AMIF, the European Fund for Strategic Investments (EFSI) as well as external instruments such as the European Instrument for Democracy and Human Rights (EIDHR), Development Cooperation Instrument (DCI), the IPA, the ENI, EU humanitarian aid, and the loans provided by the European Investment Bank all need such a similar logic

<sup>87</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22245&LangID=E>

<sup>88</sup> <http://www.openingdoors.eu/wp-content/uploads/2018/02/country-fiche-Belgium-2017.pdf>

- B. An equivalent policy measure that embodies the philosophies of the thematic ex ante conditionality 9.1, ensuring that a policy framework for deinstitutionalisation is in place, should be transposed to all EU funding streams. This will prevent the use of EU funds on an ad-hoc basis, and promote the overall coherence and sustainability of the child protection and care system reform.
- C. All EU funds for children in migration should be used for strengthening child protection systems that will allow migrant and refugee children to enjoy the same protection as all other children in the country. Specifically, in the case of unaccompanied or separated children, the provision of quality family and community-based care should be guaranteed.<sup>89</sup> Funds should not finance parallel child protection systems specifically for migrant and refugee children, but should be used to strengthen and to increase the capacity of the existing system so all children can access the same services regardless of status.

<sup>89</sup> Opening Doors Position Paper to the EU for the next MFF, available at [http://www.openingdoors.eu/wp-content/uploads/2017/10/OD\\_EE\\_Position\\_12102017.pdf](http://www.openingdoors.eu/wp-content/uploads/2017/10/OD_EE_Position_12102017.pdf)





## LIST OF ACRONYMS

AMIF	Asylum, Migration and Integration Fund
CSO	Civil society organisation
CSR	Country Specific Recommendations
DCI	Development Cooperation Instrument
DI	Deinstitutionalisation
EARFD	European Agricultural Fund for Rural Development
EC	European Commission
ECCP	European Code of Conduct on Partnership
EDF	European Development Fund
EFSI	European Fund for Strategic Investments
EIDHR	European Instrument for Democracy and Human Rights
ENI	European Neighbourhood Instrument
ENPI	European Neighbourhood and Partnership Instrument
ERDF	European Regional Development Fund
ESF	European Social Fund
ESIF	European Structural and Investment Funds
EU	European Union
GDP	Gross domestic product
HAF	Humanitarian Aid Fund
IPA	Instrument of Pre-accession Assistance
ISF	Internal Security Fund
MFF	Multiannual financial framework
MS	Member State
NGO	Non-governmental organisation
NSPF	National Strategic Policy Framework on Poverty Reduction
OHCHR	The Office of the United Nations High Commissioner for Human Rights (commonly known as the Office of the High Commissioner for Human Rights)
SDG	Sustainable Development Goal
SGH	Small Group Home
TACIS	Technical Aid to the Commonwealth of Independent States
UN	United Nations
UNCRC	The United Nations Convention on the Rights of the Child
UNCRPD	The United Nations Convention on the Rights of Persons with Disabilities

Across Europe, hundreds of thousands of children languish in institutional care. The consequences are devastating for children, destroy families and deliver a heavy cost to society in the long term.

Our goal is to improve the quality of life of children and young people in, at risk of entering, or leaving care, for a more equitable, prosperous Europe in the future. We achieve this by strengthening families and communities and promoting the transition from institutional to family- and community-based care, also known as deinstitutionalisation.

To accelerate this process, we build the capacity of national organisations to leverage existing EU policy recommendations, coordination tools and funding programmes to advocate for change at national level.

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