



Protecting Children. Providing Solutions.

29 June 2015

Lumos response to Consultation on the EU Neighbourhood Policy

About Lumos

Lumos is an international NGOⁱ, founded by author J.K. Rowling, working to end the institutionalisation of children around the world by transforming education, health and social care systems for children and their families and helping children move from institutions to family-based care. We are a founding member of the European Expert Group on the Transition from Institutional to Community-based Care. Lumos also sits on the Leaders' Council of the Washington-Based Global Alliance for Children, a coalition of US government departments, the World Bank, the Canadian government and major foundations

Institutionalisation of children

Across the world an estimated eight million children live in large residential institutions that cannot meet their needs. One million of these children are in the European regionⁱⁱ. Globally more than 80% are not orphans, but are institutionalised primarily due to poverty. In Europe this figure rises to over 95%. Eighty years of research has demonstrated the harm caused to children by institutionalisation.ⁱⁱⁱ These studies highlight issues for children in relation to their ability to form secure attachments conducive to healthy development, due to a lack of emotional and physical contact and a lack of stimulation and interaction in institutional environments. This inability of the institutional environment to meet individual needs can lead to specific developmental delays and challenging behaviours.^{iv} Recent research into Early Brain Development (EBD) demonstrates that institutionalisation has a severe impact on EBD and that this impact is even greater than the impact of child abuse.^v For more information, please, check [Lumos Factsheet: How institutions are harmful to children](#)^{vi}.

Moreover institutions, whilst producing poor outcomes for children, are extremely expensive to run. Consistently evidence shows that for most children, supporting them to live in a caring family environment costs much less than an institutional placement. Cambodia and Moldova for example, family support costs 10% of an institutional placement. In Haiti, this figure is approximately 25%.

Deinstitutionalisation as a human right

The EU Charter of Fundamental Rights of the European Union sets out the right to live independently for people with disabilities (Article 26) and older people (Article 25), and the need to act in the best interests of the child in all actions relating to children (Article 24).

The United Nations Convention on the Rights of Persons with Disabilities (UN CRPD), to which the EU is a party, requires that persons with disabilities have the right to live in the community (Article 19), are protected from any form of torture or cruel, inhuman or degrading

treatment or punishment (Article 15) and exploitation, violence and abuse (Article 16). Such treatment is a common occurrence in long-stay residential institutions across Europe. As regards children with disabilities, Article 23(1) of the UN CRPD provides that they have equal rights with respect to family life, and Article 23(5) states that where the immediate family is unable to care for them, State Parties shall “undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.”

In addition, the United Nations Convention on the Rights of the Child (UN CRC) sets out clearly a range of rights that, taken together, should ensure that children develop to their full potential and then can, as adults, live independently in the community. This includes the right to know and be cared for by their parents (Article 7) and to be protected from abuse and neglect (Article 19).

Ceasing EU funding for institutional care

One of Lumos’ key objectives has been to influence the European Structural Funds to divert money away from the maintenance or renovation of existing institutions or the construction of new ones, and towards the development of community based services that make it possible for vulnerable children to live in their families, included in their communities, giving them the opportunity to develop to their full potential. This has been achieved with the introduction of an ex-ante conditionality on social inclusion (9: 9.1.) in the Regulation 1303/2013. The Investment priorities under this ex-ante conditionality include “...the transition from institutional to community-based services”. The adoption of the Regulation effectively prohibits the use of European Structural and Investment (ESI) Funds for the maintenance or renovation of existing, and the construction of new, large residential institutional settings. It also encourages Member States that have not yet made the transition, to prioritise programmes that support the transition to community-based services.

This change in regulations is a landmark decision that will have positive repercussions for millions of Europe’s most vulnerable and excluded citizens and the European Commission is to be congratulated on this groundbreaking achievement, which is also now beginning to influence other major funders, such as the US government.

It is our position that in the interest of achieving **policy coherence** the same criteria should be applied to other important funding sources worldwide, with connected goals and priorities, including EU development and cooperation, Neighbourhood and Pre-accession funding as well as Humanitarian Aid and the loans provided by the European Investment Bank. If the European Commission has accepted that institutions are harmful to children and as a consequence has significantly altered its funding and policy priorities for children inside the European Union, it follows that wherever the Commission has policy and funding influence, the same logic should apply. The evidence is clear: children are harmed by institutionalisation; they only thrive in a family environment, irrespective of where they live. You can find more information on this in our latest publication [In Our Lifetime: The Role of Donors in Ending the Institutionalisation of Children](http://wearelumos.org/sites/default/files/In%20Our%20Lifetime.pdf).¹ This issue is particularly pertinent within many parts of the

¹ <http://wearelumos.org/sites/default/files/In%20Our%20Lifetime.pdf>

Neighbourhood region where large scale institutionalization of children is a lasting legacy of the communist state-run care systems.

JOINT CONSULTATION PAPER: Towards a new European Neighbourhood Policy

2. Focus

Do you agree with the proposed areas of focus? If not, what alternative or additional priorities would you propose?

The proposed areas of focus are very relevant. What, from our perspective, is lacking in them is a stronger focus on children's rights and child protection. Given the number of institutions for children in the Neighbourhood countries and the harm which they cause to child development, it is important that the transition from institutional to community-based care is included as a specific area of focus (or clearly mentioned under a larger focus area of child protection) linking to inclusive education programmes and anti-trafficking measures.

Transition from institutional to family and community-based care

Ukraine:

According to official statistics, Ukraine had 94,000 children living in residential care institutions across the country in 2012 (not including prisons or hospitals).^{vii} Conditions in many were appalling and it was not uncommon to find institutions where children with disabilities were dying from malnutrition-related illnesses. The Ukrainian local authorities were working with Lumos and other NGOs towards the development of local plans for deinstitutionalisation.

- There are considerable concerns that reconstruction funds might be used to rebuild institutions or build new ones to respond to the needs of children separated, orphaned, disabled or psychologically affected because of war. Reconstruction funds must be directed to ensure services are developed in schools, hospitals and other community resources to meet the needs of affected children.
- The annual cost to run these poor quality institutions in Ukraine is more than 400 million Euro.
- Ukraine is receiving bailout funding from the international community. Significant sums are being spent on maintaining these institutions, which continue to severely harm children.
- Conditionalities attached to bailout funding could considerably help the longer-term development agenda for Ukraine, particularly if they are linked to planning a humanitarian response that prioritises family and community based responses to child protection, separated and vulnerable children.

Moldova

According to a report prepared for UNICEF and the Ministry of Education, in 2007 there were 11,544 children living in 67 residential institutions in Moldova.^{viii} In 2007, the Moldovan

Government approved the National Strategy and Action Plan regarding the reform of residential child care system for 2007-2012, aiming to reduce the number of children living in institutions and to ensure their right to a family environment.^{ix} In 2013, the Ministry of Labour, Social Protection and Family, Ministry of Education and Ministry of Health conducted a strategic review of the child protection system in Moldova, which showed that there were still 3,909 children living in 43 residential institutions and re-asserted the need to continue the reform of the residential child care system.^x The review ascertained the need to address the following issues: deinstitutionalisation of young children and children with disabilities, development of family support and family substitute services, early intervention. In 2014 the Moldovan Government approved the Child Protection Strategy for 2014-2020,^{xi} with the aim to ensure necessary conditions for children to be raised and educated in a family environment, prevent and fight violence, neglect and exploitation of children, and ensure child's development through balanced professional life and family commitments.

The above examples demonstrate that even countries with challenging circumstances in the region have recognised the risks, imposed on children's child protection and wellbeing by living in an institution, and the advantages of the family and community-based care and have advanced with their deinstitutionalisation reforms. Ensuring that the best interest of the child is addressed in all the policies is inevitably linked to the process of transition from institutional to family and community-based care.

Therefore, we strongly recommend that starting and/or completing the process of transition from institutional to family and community-based care is included as an area of focus in the EU Neighbourhood Policy.

Inclusive education

Evidence shows that the most disadvantaged and vulnerable children benefit most from inclusive education programmes, especially in the early years. Exclusion starts very early in life. A holistic vision of education is imperative. Comprehensive early childhood care and education programmes improve children's well-being, prepare them for primary school and give them a better chance of succeeding once they are in school. An inclusive system benefits all learners without any discrimination towards any individual or group. As such, inclusive education is the main vehicle towards social inclusion.

Moldova

In 2011, the Moldovan Government approved the Programme for the Development of Inclusive Education in the Republic of Moldova for 2011-2020^{xii} as the fundamental policy document on inclusive education. As a result of the implementation of inclusive education policies and practices at the level of education system, the number of children with disabilities included in mainstream schools has increased, as follows: 1,253 children with special educational needs (SEN) in mainstream schools and 3,148 children with SEN in segregated residential special schools in 2010-2011, compared to 7,660 children with SEN in mainstream schools and 1,538 children with SEN in special schools in 2014-2015.^{xiii} Nevertheless, the following challenges need to be addressed in order to ensure extended and qualitative inclusive education practices in Moldova: further development of the legal framework, development of highly specialised education support services for children with the most complex needs, capacity building of teaching staff, assurance of adequate adjustments in school infrastructure to secure inclusion of all children with special educational needs, development of inclusive education at preschool level.

It is important that inclusive education is included as a priority under the larger framework of the transition from institutional to community-based care.

Anti-trafficking of children

There is a strong connection between trafficking and institutionalisation of children which manifests itself in two ways: institutionalised children are at high risk of becoming victims of trafficking and often when child victims are recovered from traffickers they are placed (back) in institutions by the responsible authorities. This creates a vicious circle for trafficked children and additional risks to their peers in institutions. This response also effectively penalises the child for their victimisation and does not provide solutions that address the problems or protect children. Children in institutions are highly vulnerable to being trafficked,^{xiv} and studies also show an increased risk for children from residential care backgrounds being involved in trafficking.^{xv} Research demonstrates an increased risk of all forms of child abuse for disabled children and higher risk for children with intellectual disabilities of sexual violence^{xvi}; many of these children are placed in residential facilities creating further vulnerability to trafficking. There is a higher prevalence of children going missing from residential care^{xvii} and limited responses to tackling this problem effectively^{xviii}; the significant relationship between missing children and trafficking^{xix} means that many missing children are likely to be the victims of trafficking and other forms of exploitation. In addition, the specific institutions where trafficked children are placed are often known to the traffickers, who will target them there. Often, trafficked and smuggled children are placed in detention centres, together with adults, with extremely poor conditions and where the risk of abuse and harm is considerably higher than in traditional institutional care.^{xx} The nexus of children fleeing conflict, systems for 'processing' migrants and asylum-seekers, and trafficking in children needs further exploration and specific responses that are led by child protection experts, rather than being solely a matter for the judiciary.

Therefore, it is important that the link between institutionalisation and trafficking is addressed and relevant child-centred protection measures are put in place.

- **Which priorities do partners see in terms of their relations with the EU? Which sector or policy areas would they like to develop further?**

Social inclusion and respect of human rights is an area which could be priorities further.

The mechanisms used in the EU to ensure that children's rights are respected should be multiplied in the Neighbourhood countries, including the rights of children in institutional care.

This could be achieved by making sure that the same principles which apply to other EU funding (such as the ESIF) are transferred to Neighbourhood funding as well as to the condition for provisions of loans by the European Investment Bank and the European Bank for Reconstruction and Development. This would deliver coherence of the policy and its mechanisms, especially when it comes to human rights.

The Neighbourhood countries could learn from the experience of using the European Structural and Investments Funds in some EU Member States for the process of transition from institutional to family and community-based care. The [Common European Guidelines on](#)

[the Transition from Institutional to Community-based Care^{xxi}](#) and the [Toolkit on the Use of European Union Funds for the Transition from Institutional to Community-based Care^{xxii}](#) are very useful documents which provide guidance in this respect.

Social inclusion is linked to the development of a wide range of social services supporting families to keep their children, including children with disabilities, as this turns out to be a challenge in many of the countries in the region.

- **Does the ENP currently have the right tools to address the priorities on which you consider it should focus? How could sectoral dialogues contribute?**

The ENP has enough tools to address respect for children's rights and child protection.

These can be addressed in Action Plans with specific action points, including the creation of a strategy and an action plan on the transition from institutional to family and community-based care.

They could be further promoted through the *Sectoral Cooperation* and the dialogues, linked to it, via sharing good practice, discussing the challenges and providing advice on how to overcome them based on the experience of countries who has gone through successful child protection and deinstitutionalisation reforms.

Finally, the ENP Progress Reports could entail a special section on this, marking the latest developments and giving recommendations for future actions.

- **If not, what new tools could be helpful to deepen cooperation in these sectors?**

A similar mechanism to the European Code on conduct on Partnership in the framework of the European Structural and Investment Funds could be introduced for the funding programmes and instruments under the Neighbourhood Policy. This would make the involvement of the civil society in their design, implementation and monitoring obligatory and will contribute to transparent processes which address the key needs in the region. It is particularly important that projects related to children, including those with disabilities and living in institutions involve these beneficiaries and their families in project design and implementation.

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

ⁱⁱ This is the European Region as defined by the UN, including all CEE/CIS countries

ⁱⁱⁱ Bowlby J (1951). Maternal care and mental health. Geneva, World Health Organisation.;

Matějček Z, Langmeier J (1964). Psychická deprivace v dětství [Mental deprivation in childhood]. Prague, Avicenum.;

^{iv} Op.cit. and Mulheir, G., "Deinstitutionalisation – A Human Rights Priority for Children with Disabilities". The Equal Rights Review: 119–121, 2012;

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

^{vi} <http://wearelumos.org/sites/default/files/Lumos%20factsheet%20-The%20harm%20caused%20the%20children%20through%20institutions.pdf>

^{vii} UNICEF, Country Office Annual Report 2013 for: Ukraine, CEE/CIS. http://www.unicef.org/about/annualreport/files/Ukraine_COAR_2013.pdf

^{viii} Cited in: Evans, P. 'Implementation of the National Strategy and Action Plan for the reform of the residential childcare system in Moldova 2007–2012. Evaluation report'. http://www.unicef.org/moldova/ro/12007_19498.html (available in English and Romanian)

^{ix} <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=324556> (available in Romanian)

^x The strategic review was conducted with Lumos' support. <http://www.moldova.wearelumos.org/node/183> (available in Romanian)

^{xi} <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=353459> (available in Romanian)

^{xii} <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=339343> (available in Romanian)

^{xiii} National Bureau of Statistics of the Republic of Moldova. <http://www.statistica.md/newsview.php?!=ro&idc=168&id=4598> (available in Romanian)

^{xiv} Kane, J., 'Child Trafficking – The People Involved: A synthesis of findings from Albania, Moldova, Romania and Ukraine' International Labour Organisation, 2005

^{xv} International Organisation for Migration, Protecting Vulnerable Children in Moldova, 2007

^{xvi} UNICEF, Survey on child abuse in residential care institutions in Romania, 2000. For a similar study in Serbia, see Mental Disability Rights International, Torment not Treatment: Serbia's Segregation and Abuse of Children and Adults with disabilities, 2007.; CEOP Thematic Assessment, Out of Mind, Out of Sight – Breaking down the barriers to understanding child sexual exploitation, 2011.; Stuart M., and Baines C., "Progress on safeguards for children living away from home – A review of actions since the People Like Us report", JRF, 2004.

^{xvii} EC, Missing Children in the European Union – Mapping, Data Collection and Statistics, 2013 http://ec.europa.eu/justice/fundamental-rights/files/missing_children_study_2013_en.pdf

^{xviii} Information collected by FRANET. Hungary, Hungarian Central Statistical Office (2013): Yearbook of welfare and statistics, 2011 (Szociális Statisztikai Évkönyv), Budapest, KSH, table 5.24. See also: Hungary, Commissioner for Fundamental Rights (2012) Report No. AJB-2731/2012, p. 2., available in Hungarian at: www.ajbh.hu/documents/10180/143247/201202731.rtf/06c12e69-536a-4b7a-a09b-b3847334ee18.

Hungary, Commissioner for Fundamental Rights (2012) Report No. AJB 1140/2012, p. 8, available in Hungarian at: <https://www.ajbh.hu/documents/10180/143994/201201140.rtf/7add4e8-1df1-4c31-a31f-ddb399d59d29>.

Survey available at: <http://sosparentsabusesfrance.wordpress.com/2014/03/02/sondage-sur-les-fugues-des-enfants-places/>

^{xix} Ibid; See also: House of Commons, Home Affairs Committee (2009) The Trade in Human Beings: Human Trafficking in the UK Sixth Report of Session 2008–09, Volume 1 London: House of Commons

^{xx} The recent example of the death of an adult in a Greek migrant detention centre demonstrated the often deplorable conditions in these centres, as well as highlighted the fact that the country is insufficiently prepared to deal with the needs of highly vulnerable and traumatised children being trafficked from conflict zones. For more information,

see: <http://www.tovima.gr/society/article/?aid=668780>

^{xxi} <http://deinstitutionalisationguide.eu/wp-content/uploads/Common-European-Guidelines-on-the-Transition-from-Institutional-to-Community-based-Care-English.pdf>

^{xxii} <http://deinstitutionalisationguide.eu/wp-content/uploads/Toolkit-on-the-Use-of-European-Union-Funds-for-the-Transition-from-Institutional-to-Community-based-Care-English.pdf>