

POSITION PAPER ON THE FUNDING OF THE EUROPEAN UNION (EU) POST-2020

THE EUROPEAN EXPERT GROUP ON THE TRANSITION FROM INSTITUTIONAL TO COMMUNITY-BASED CARE

Setting the scene

With more than 1 million children, persons with disabilities, people with mental health problems, homeless and older people living in long stay residential institutions and segregated from society in Europe, more has to be done collectively for poverty reduction and social inclusion in the future Multi-annual Financial Framework (MFF) of the European Union (EU).¹ The European Expert Group on the Transition from Institutional to Community-based Care (EEG)² acknowledges the pivotal role that the EU has had in promoting deinstitutionalisation in some Member States and strongly encourages the EU to continue championing deinstitutionalisation in its internal funding policy as well as extending this leadership to its external policy and funding (i.e. EU external aid).

In the 2014-2020 MFF, the European Structural and Investment Funds (ESIF), through its Common Provision Regulations, introduced a breakthrough measure in the form of the ex ante conditionalities. In particular, the thematic ex ante conditionality 9.1. prioritised the implementation of a national strategic policy framework for poverty reduction aiming at the active inclusion of people. Activities aiming at reducing poverty included, among others, measures for the shift from institutional to community based care or in other words 'deinstitutionalisation'. The transition from institutional to community-based care was promoted in the European Social Fund (ESF) and European Regional Development Fund (ERDF) regulations, with the specification in the ESF preamble that no action should contribute to segregation or social exclusion of any group (recital 19).³

Continuing the promotion and the further investment in the deinstitutionalisation process is in line with political and human rights commitments taken by the EU and its Member States and will bring those agendas forward. The right to independent living and to be included in the community is enshrined in the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD), which was ratified by the EU and 27 of its Member States, whereas the right of every child to grow up in a family environment is set out in the United Nations Convention on the Rights of the Child (UN CRC), ratified by all EU Member States.

¹ For more information, see <https://deinstitutionalisation.com/eeg-publications/>.

² The EEG is a broad coalition of organisations representing people with care or support needs (including children, persons with disabilities, the homeless and people experiencing mental health problems) and their families, as well as service providers, public authorities and intergovernmental organisations. For more information see: <https://deinstitutionalisation.com/>.

³ For more information, see [ESF regulations](#) and [ERDF regulations](#).

The shift towards family and community-based services will also contribute to the delivery of the principles and rights under the [European Pillar of Social Rights \(Social Pillar\)](#) to effectively protect social rights, improve the quality of lives and promote the right to family-based care and independent living. Enhancing the investment in deinstitutionalisation will also contribute to the commitment that the EU and its Member States have taken to leave no-one behind through the Sustainable Development Goals (SDGs). The recently adopted EU [Council Conclusions on Enhancing Community-Based Support and Care for Independent Living](#) also show a strong commitment of the 28 EU Member States to direct funding towards the transition from institutional to innovative, person-centred family- and community-based support, health and housing services across Europe.

With the intent of continuing its fruitful collaboration with the European Commission and drawing on the expertise of a diverse membership, the EEG has prepared this position paper with specific recommendations which we hope will contribute to the debate on the post-2020 MFF and increase and extend the added value of EU funds in this area.

Investing in the transition to community-based care in the next MFF

The EEG [defines](#) 'institutions' as any residential care where residents are isolated from the community and/or compelled to live together, do not have sufficient control over their lives and decisions affecting them, and their individualised needs are overlooked or ignored. These types of residential institutions put adults and children at risk of human rights violations, isolate them from their families and communities and do not provide person-centred, high-quality care or support. Furthermore, [Article 19 of the UN CRPD](#) and [its General Comment](#) clarify that institutions de facto do not respect the right to independent living.

Although provisions promoting the shift from institutional to community-based care have been put in place through ESIF, there were limitations that posed a number of challenges in their scope, implementation and effectiveness.⁴ Moreover, since activities aiming at poverty reduction were prioritised only in ESIF, there have been concerns about the use of EU funding in other streams, that may have led to EU funds being invested in institutions (for instance [in the context of migration](#) or the refurbishment of institutions in the context of energy efficiency, information and communication technologies and transport). Problems with implementation and monitoring of ESIF investments as well as the potential use of other funding streams to maintain long-stay residential institutions should be addressed in the next funding period, in order to ensure that the EU is upholding its human rights obligations.

Improved EU investment has the potential to lead to substantial changes on the ground and provides an excellent example of how the **EU can bring real added value**. More robust investment in deinstitutionalisation can make a real difference in the lives of the most socially excluded in Europe, their families and society as a whole, as well as ensure that EU citizens and individuals are able to fully enjoy their human rights. Investment on accessible social services infrastructures, including affordable and accessible housing, are essential parts of a meaningful and successful deinstitutionalisation process.

⁴ For instance, in the current funding period, ESIF can be spent on the shift from institutional to community based care depending on the 'identified needs' of a given Member States. For the 2014-2020 MFF, the European Commission established that twelve EU Member States had 'identified needs' for deinstitutionalisation, resulting in no prioritisation to support the deinstitutionalisation process in other Member States.

Coherence between EU internal and external funding

While the shift from institutional to community-based care is a measure foreseen in internal EU funding streams, there is little prioritisation of deinstitutionalisation measures in the use of external funding.

Although EU aid has been used in an ad hoc way to support community-based services in some countries outside of the EU, concerns have been raised by the United Nations Committee on the Rights of Persons with Disabilities (UN CRPD Committee) in its [Concluding Observations to the EU](#). The UN CRPD Committee noted that “international development funding is used to create or renovate institutional settings for the placement of persons with disabilities, segregated special education schools and sheltered workshops, contrary to the principles and provisions of the [UN CRPD].”⁵

No EU funds should be invested in institutional care services anywhere in the world. In order to ensure better outcomes for everyone, to fulfil its human rights commitments and achieve policy coherence, it is essential for the EU to also apply the same principles in the framework of its external action. This is a key step towards realising the SDGs and ensuring that the 2030 agenda meets its promise to leave no one behind.

Taking this into account and considering commitments under the SDGs, the next MFF and related policy processes (i.e. EU-ACP relations framework, the European Consensus on Development) provide an ideal opportunity to address these concerns and uphold and invest in human rights. It is important to ensure greater coherence between internal and external funding, including by prioritising deinstitutionalisation in the next development fund and within the EU development agenda.

EEG Recommendations on the next MFF

The EU has played a crucial role during the 2014-2020 period by encouraging deinstitutionalisation reforms in EU Member States. This positive trend should continue post-2020 and be systematically expanded into its external funding. Considering the great potential that the EU has to change lives, support social inclusion and the transition from institutions to high-quality community-based services, we believe the EU can do even more during the next MFF.

Taking this into account, the EEG calls for:

- 1. Further investment in social inclusion in the next MFF, particularly through Cohesion Policy**, to facilitate the transition from institutional to community and family-based care and make the social, health and housing sector, as well as the education system and the labour market, more inclusive.

With regard to the next European Social Fund (ESF):

- The current minimum benchmark of 20% of ESF for the fight against social exclusion and poverty should be increased to at least 30% in the next MFF;
- At least 30% of the total future ESF resources in each Member State should be allocated to social inclusion, combating poverty and any discrimination, including measures for active inclusion (combating unemployment, employment support, access to services and income support), inclusion of people in vulnerable situations and with support needs, fighting discrimination, access to housing and other services.

⁵ Paragraphs 74 and 75 of the Concluding Observations to the EU.

2. Retaining and expanding the shift from institutional to community and family-based care as an investment priority in future ESIF regulations:

- a. Continue prioritising deinstitutionalisation and investment in community-based services to achieve full inclusion of people in vulnerable situations and with support needs;
- b. Retain and strengthen the horizontal principles on partnership and on equality and non discrimination, including accessibility for persons with disabilities;
- c. Retain, expand and strengthen the current thematic ex-ante conditionality 9.1 and the general conditionality 3 on disability in the future ESIF;
- d. In line with human rights obligations, prohibit the use of all EU funds (i.e. funds used in the context of migration, energy efficiency, growth, job creation etc.) for the construction, refurbishment and renovation of long-stay residential institutions;
- e. Link ex-ante conditionality 9.1. to a target for poverty reduction and social inclusion and ensure that measures for deinstitutionalisation reforms are included under national poverty reduction and social inclusion strategies;
- f. Apply ex-ante conditionality 9.1. to all EU Member States who are eligible and encourage all EU Member States to have measures in place to facilitate comprehensive and sustainable deinstitutionalisation reforms;
- g. Investments under all ESIF thematic objectives should be aligned to ex-ante conditionality 9.1;
- h. Funds should be allocated for training and technical support on the transition from institutional to family and community-based care for both European Commission staff and governments.

3. Ensuring proper allocation and spending of EU funds for deinstitutionalisation reforms at national level:

- a. Ensure that funds are allocated and spent in ways that fully comply with human rights obligations, particularly the UN CRPD, UN CRC and the Charter of Fundamental Rights of the EU (EU Charter), as well as fulfil the commitments under the SDGs and the Social Pillar;
- b. Ensure that structural reforms are reflected and aligned with comprehensive national strategies and action plans that will foresee the ring fencing of national budgets for the continuation and sustainability of projects funded by the EU, through consultation between the European Commission, the Member States, civil society organisations and service users;
- c. The European Commission should support Member States to ensure that strategy and actions are underpinned by a thorough needs analysis.

4. Ensuring that EU external funds are used for the transition to community- and family-based, rather than institutional, services and support:

- a. Champion the reform of care systems in the context of the EU-ACP relations framework, the European Consensus on Development and the Agenda 2030, promoting the transition from institutions to family and community-based care and support as a human rights priority;
- b. Develop criteria for deinstitutionalisation for all future EU development funding, to ensure that EU funds are used in a coherent manner, are not invested in institutions and that the transition to community-based services is prioritised;
- c. Provide training and technical support to European Commission staff and governments focused on the transition from institutional to family and community-based care.

5. Ensuring the proper use of EU funds through rigorous and efficient monitoring mechanisms:

- a. The use of all EU funds should be rigorously monitored, in order to ensure compliance with the EU Charter and international human rights standards, including the UN CRPD and UN CRC;
- b. Ex-ante conditionalities should be monitored both at regulatory and programming level;
- c. Specific instruments and independent mechanisms should be developed for the monitoring of EU funds, including compliance with ex ante conditionalities. Monitoring mechanisms should be composed of all relevant stakeholders, including representatives of the European Commission, civil society organisations and national monitoring mechanisms under [Article 33\(2\) of the UN CRPD](#);
- d. The process of participation in the Monitoring Committees should be transparent and accessible to civil society organisations;
- e. Information about all stages of ESIF use, including implementation, should be transparent and accessible to civil society organisations, service users and the general public;
- f. The advisory role of the European Commission in Monitoring Committees should be continued and strengthened.

6. Strengthening the Partnership Principle in the future ESIF:

- a. Introduce a new ex-ante conditionality to guarantee the efficient implementation of the European Code of Conduct on Partnership (ECCP), making sure that all its provisions are applied in practice, with the meaningful involvement of civil society organisations;
- b. Contrary to what stated in the current Common Provision Regulations,⁶ sanction Member States failing to respect the ECCP with payment suspensions as outlined in the [Guidance on ensuring the respect for the EU Charter when implementing the ESIF](#);
- c. Ensure that the process of preparing the Partnership Agreements and Operational Programmes is inclusive of all partners, including civil society organisations, and that they consulted during programming, implementation, monitoring and evaluation of the programmes;
- d. As recommended by the European Ombudsman, establish an efficient complaints mechanism in all Member States where everyone, including civil society organisations, is able to report violations, submit complaints and shadow reports on complaint-handling mechanisms and Member States' compliance with the European Code of Conduct on Partnership.⁷

7. Increasing the impact of the EU funding, increasing absorption capacity and supporting development of inclusive support:

- a. Reform and simplify, in compliance with human rights standards, the funding process to ensure that applying for funding is accessible to organisations which are essential for achieving the purpose of the funding (community services, family networks etc.), but which might struggle to meet the complex administrative requirements or qualification criteria.

⁶ See Article 5 in [Common Provision Regulations](#).

⁷ For more information, see the Decision of the European Ombudsman closing her own-initiative inquiry OI/8/2014/AN concerning the European Commission, available at: <https://www.ombudsman.europa.eu/en/cases/decision.faces/en/59836/html.bookmark>.



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