



## European Child Guarantee prioritises children in alternative care

But a stronger commitment to end institutionalisation of children in the EU is required

**The European Expert Group on the Transition from Institutional to Community-Based Care (EEG)** is a coalition representing children and their families, people with disabilities and their families, homeless people, people experiencing mental health problems, service providers, public authorities and UN organisations. The EEG members come together because we believe that the segregation and institutionalisation of all people must end.

Both the EU and its Member States are bound by the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and all EU Member States are bound by the United Nations Convention on the Rights of the Child (CRC). To uphold the right to live independently and be included in the community, children have the right to grow up in a family.

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We welcome the adoption of the [Council Recommendation establishing the European Child Guarantee](#) that brings positive measures to lift children out of poverty and social exclusion. This is especially important considering that, even before the COVID-19 pandemic, 1 in 4 children in the EU were living at risk of poverty. Disadvantaged children, including children with disabilities, children outside family care and at risk of losing parental care, homeless children and children of ethnic or migrant background, children living in precarious family situations deserve an adequate and targeted support. The European Child Guarantee must aim to break the cycle of disadvantage for those children.

Years of research show that institutions inflict long-term harm to children's development. Children growing up in institutions tend to lag behind in their emotional development; many tend to have poor cognitive performance and lower than average IQs. In addition, children in these settings are at higher risk of abuse or neglect. Despite this extensive evidence **there are still an estimated 345,000 children living in institutions in the EU today<sup>1</sup>**.

As a matter of clarification, 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 their lives and over decisions that affect them;
- The institution's requirements take precedence over a child's individual needs<sup>2</sup>.

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<sup>1</sup> [Speech by Commissioner Dalli "Towards Inclusion 2020: What is the vision of the future of deinstitutionalisation and role of EU?" | European Commission \(europa.eu\)](#)

<sup>2</sup> Further information can be found in [Guidelines-new.indd \(wordpress.com\)](#) and [eeg-di-report-2020-1.pdf \(wordpress.com\)](#)



While the EEG recognizes that the Child Guarantee will prioritise children in alternative (especially institutional) care as one of the target groups of the Recommendation and that it envisages to promote quality of family and community based care, the EEG would have preferred a stronger commitment through the Child Guarantee to end the institutionalisation of children across the EU.

In 2012, the European Expert Group developed **the Common European Guidelines on the Transition from Institutional to Community-based Care** aimed at guiding practitioners in implementing and supporting a sustained transition from institutional care to family-based and community-based alternatives for children, persons with disabilities, persons with mental health problems and older persons in Europe<sup>3</sup>. These guidelines attempt to clarify terminology related to institutional care.

Unfortunately, different interpretations of some of the key terms remain. Despite having the issue of deinstitutionalisation high on the agenda of EU policies as well as EU funding for nearly 10 years<sup>4</sup>, the newly published European Child Guarantee states in

**Recital 24** that:

*With the aim of the de-institutionalisation of children, quality community-based or family-based care should be promoted. Placing children in institutional care should be done only when it is in the best interests of the child, taking into account the child's overall situation and considering the child's individual needs.*

And in

**Article 10d:**

*"(d) take into account the best interests of the child as well as the child's overall situation and individual needs when placing children into institutional or foster care; ensure the transition of children from institutional or foster care to quality community-based or family-based care and support their independent living and social integration".*

In accordance with the 'Suitability' principle of the **UN Guidelines for the Alternative Care of Children**<sup>5</sup>, the care setting in which children are placed needs to be one that protects and promotes the child's full and harmonious development and is suitable for the child's individual needs. The most natural environment for a child's healthy development is in a family. Therefore, placement in alternative family-based care, such as with extended family members (kinship care) or with non-related families (foster care) is the preferred option.

The Guidelines further stress that countries should move away from placing children in institutions: *"where large residential care facilities (institutions) remain, alternatives should be developed in the*

<sup>3</sup> [Guidelines-new.indd \(wordpress.com\)](http://Guidelines-new.indd (wordpress.com))

<sup>4</sup> See: [https://ec.europa.eu/regional\\_policy/en/policy/themes/social-inclusion/desinstit/](https://ec.europa.eu/regional_policy/en/policy/themes/social-inclusion/desinstit/). See also the "Špidla Report" available at: [https://deinstitutionalisationdotcom.files.wordpress.com/2017/11/report-fo-the-ad-hoc\\_2009.pdf](https://deinstitutionalisationdotcom.files.wordpress.com/2017/11/report-fo-the-ad-hoc_2009.pdf) and [Union of equality: Strategy for the rights of persons with disabilities 2021-2030 - Employment, Social Affairs & Inclusion - European Commission \(europa.eu\)](https://ec.europa.eu/social/main?/en/policies/employment-social-affairs-and-inclusion/strategy-eu-2021-2030)

<sup>5</sup> [Guidelines for the Alternative Care of Children : \(un.org\)](https://www.un.org/development/desa/children/)



*context of an overall deinstitutionalisation strategy, with precise goals and objectives, which will allow for their progressive elimination*<sup>6</sup>.

The **UN Convention on the Rights of Persons with Disabilities (CRPD)**, which has been ratified by the European Union and all Member States, recognizes that the best interests of the child are a primary consideration in all decisions affecting them (Article 7(2)), requires States to protect the right to family life (Article 23) and to ensure all children have the right to be included in the community (Article 19). According to the General Comment No. 5, on Article 19 of the Convention, “[f]or children, the core of the right to be included in the community entails a right to grow up in a family.” Full implementation of the CRPD is especially important, considering that children with disabilities are overly represented in institutional care, largely due to the lack of family support services and outdated beliefs that they are better cared for in institutions.

Recital 24 seeks to restrict the circumstances in which children could be placed in institutional care by reflecting the elements which form the basis of the suitability principle. However, by failing to frame it within the deinstitutionalisation strategy and Child Guarantee Action Plans **leaves space to Member States to institutionalise children with no end in sight, under the argument that it is for their best interest and that the child's individual needs were considered**.

**Both recital 24 and Article 10d in the Child Guarantee constitute a limitation in an otherwise progressive and ambitious instrument.**

Moreover, the current text of Article 10d is an attestation of the difficulties which arise when there is no unified definition of key terminology in this area as well as a lack of consensus of which different types of alternative care for children are acceptable. The term ‘alternative care’ is broad enough to include all forms of care for children.

Specifically on foster care and family-based care, it is important to underline that family-based care includes foster care. Therefore, asking for the transition from foster care to family-based care is actually asking for the same thing with different words<sup>7</sup>. It is necessary to ensure that, when implementing the Child Guarantee, Member States will observe the difference between “institutional care” and “foster care”. Furthermore, the current wording is not in line with the Common provisions regulation<sup>8</sup> and the enabling conditions 4.3 for ERDF and EFS+ that states that *“A national strategic policy framework for social inclusion and poverty reduction is in place that includes: Measures for the shift from institutional to community-based care”*.

In order to avoid similar situations as this one, it is important to work on **common European definitions** on alternative care for children and to agree on a clear set of indicators which can be used to measure progress in the de-institutionalisation strategies of Member States. The EEG offers its expertise to be a part of this process to ensure that no child is placed in institutional care.

**Contact:** [coordinator@deinstitutionalisation.com](mailto:coordinator@deinstitutionalisation.com)

<sup>6</sup> Ibid, p. 5.

<sup>7</sup> You can find the precise definition of alternative care for children here:

<https://www.unicef.org/eca/definitions>.

<sup>8</sup> EUR-Lex - 52018PC0375 - EN - EUR-Lex (europa.eu)





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The Reaction has been also endorsed by the following organisations, partners of the EU Alliance for Investing in Children:



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