



CDDH-MIG(2019)R7
05/11/2019

COMITÉ DIRECTEUR POUR LES DROITS DE L'HOMME
(CDDH)

**GROUPE DE RÉDACTION SUR LES DROITS DE L'HOMME ET LA MIGRATION
(CDDH-MIG)**

RAPPORT

7^e réunion
23 – 24 octobre 2019

Point 1 : Ouverture de la réunion et adoption de l'ordre du jour

1. Le Groupe de rédaction du CDDH sur les droits de l'homme et la migration (CDDH-MIG) a tenu sa 7^e réunion à Strasbourg, du 23 au 24 octobre 2019, sous la présidence de M. Morten RUUD (Norvège). La liste des participants figure à l'Annexe I.
2. Le Président ouvre la réunion et souhaite la bienvenue aux participants. L'ordre du jour, tel qu'adopté, figure à l'Annexe II.

Point 2 : Développements récents dans le domaine – Tour de table

3. Le Président et le Secrétariat donnent un bref aperçu des développements au sein du Conseil de l'Europe qui sont pertinents pour les travaux du CDDH-MIG. Les membres et les observateurs du Groupe informent également des initiatives et des développements récents de leur côté.

Point 3 : Groupe de discussion sur le placement en famille des enfants non-accompagnés et séparés

4. Le Groupe tient une discussion avec Mme Liedewij DE RUIJTER DE WILDT représentant « *NIDOS* », Mme Miriana GIRALDI représentant le « *Centre for Excellence for Children's Care and Protection (CELCIS)* » et Mme Michela COSTA représentant « *Hope and Homes for Children* ». Les présentations des intervenantes figurent à l'Annexe III.
5. Tout en couvrant divers contextes nationaux et régionaux en matière de placement d'enfants en famille d'accueil, les intervenantes ont souligné les points centraux, suivants :
 - a) un placement en famille d'accueil efficace des enfants séparés et non accompagnés peut avoir des avantages manifestes non seulement au niveau individuel, mais également sociétal (tels que la baisse des troubles de stress post-traumatique et des disparitions ou de meilleures perspectives d'intégration ainsi qu'une réduction globale des coûts) ;
 - b) de manière générale, le placement d'enfants dans des familles d'accueil a une incidence positive sur leur capacité de gérer les défis particuliers auxquels ils sont confrontés ;
 - c) la majorité des enfants séparés et non-accompagnés est toujours placée dans des établissements institutionnels en Europe et, bien que de graves problèmes subsistent, des options prometteuses pour désinstitutionnaliser le placement apparaissent dans ce domaine ;
 - d) le recrutement de familles d'accueil reste un défi transfrontière et la transmission de pratiques efficaces à cet égard doit être encouragée ;
 - e) la qualité du placement individuel doit être mûrement réfléchie et contrôlée, en tenant compte des besoins et de la situation de chaque enfant, y compris les besoins et les contextes religieux, ethniques et culturels ;
 - d) le temps nécessaire à une transition de l'institutionnalisation vers d'autres structures d'accueil pourrait s'avérer long, tout en évitant la mise en place de systèmes parallèles et incohérents ;
 - f) la formation des familles d'accueil et des professionnels sur le terrain est essentielle pour une mise en œuvre efficace ;
 - g) l'égalité d'accès devrait être garantie, en accordant aux enfants issus de la migration la même protection qu'aux autres enfants ;
 - h) la primauté du statut de l'enfant et la protection de l'intérêt supérieur de l'enfant doivent s'appuyer sur tout le travail effectué dans la région ;

- i) il est nécessaire de veiller à l'intégration des mécanismes de protection de l'enfance et à la collaboration entre les autorités chargées de la migration et de la protection de l'enfance ;
- j) la tutelle effective est au cœur de toutes les dispositions prises en faveur des mineurs non-accompagnés et séparés ;
- k) il n'y a pas de système de placement identique pour tous, car les mesures doivent être adaptées à chaque État membre. Toutefois, certains principes et approches universels peuvent favoriser la mise en œuvre d'un système efficace de placement en famille d'accueil.
- l) les ressources appropriées seraient nécessaires pour couvrir les frais de mise en place qui peuvent être conséquents, même si à long terme, des économies sont prévisibles.

6. Toutes les intervenantes saluent le fait que les travaux du CDDH portent désormais sur ce sujet et notent que cela pourrait apporter une contribution utile dans un domaine qui nécessitait davantage d'attention, de partage de connaissances et de prise de conscience.

Point 4 : Projet de programme de travail en 2020 et discussions sur des thèmes clés

7. Le Groupe décide de préparer document sur le placement en famille d'accueil d'enfants non accompagnés et séparés, décrivant brièvement les normes juridiques internationales pertinentes et les principales modalités pratiques pour en garantir une mise en œuvre efficace. Soulignant la nécessité de relever les défis pratiques existants, le Groupe adopte un avant-projet de table des matières qui figure à l'Annexe IV et charge le Secrétariat de se conformer au plan de travail approuvé tel qu'il figure à l'Annexe V. La première version complète du projet de document sera envoyée pour commentaires écrits le 28 janvier 2020, accompagnée d'une invitation à partager les bonnes pratiques et/ou les défis/propositions pratiques susceptibles d'enrichir le texte. Il est convenu que le document ne devrait pas, de préférence, contenir plus de 30 pages.

Point 5 : Discussions sur les éventuels travaux futurs sur les alternatives à la rétention dans le contexte des migrations

8. Le Groupe décide de se concentrer principalement sur l'achèvement de ses travaux sur le placement en famille d'accueil avant d'envisager d'autres travaux portant sur les alternatives à la rétention dans le contexte des migrations et/ou d'autres sujets relatifs à la migration et aux droits de l'homme. Cependant, le groupe rappelle sa volonté d'explorer les autres travaux prévus dès qu'il aura atteint sa priorité actuelle. Le Groupe se félicite des diverses activités du Conseil de l'Europe fondées sur les travaux existants du CDDH en matière d'alternatives à la rétention dans le contexte des migrations, notamment un cours HELP en ligne qui devrait être finalisé d'ici la fin de l'année.

Point 6 : Adoption du rapport de réunion

9. Le Groupe adopte le projet de rapport de réunion.

Point 7 : Questions diverses

10. Il est prévu, à titre préliminaire, que la prochaine réunion du CDDH-MIG se tiendra du 31 mars au 2 avril 2020 à Strasbourg.

* * *

ANNEXE I

Liste des participants

MEMBER STATES / ETATS MEMBRES

ARMENIA / ARMÉNIE (*excusé*)

BELGIUM / BELGIQUE

Mr Geert VERBAUWHEDE, Advisor, FPS Interior, General Directorate Immigration Office, Direction Control Interior – Identification and Removals Section

BULGARIA / BULGARIE (*excusé*)

CZECH REPUBLIC / REPUBLIQUE TCHÈQUE

Mr Petr KONŮPKA, Deputy Government Agent of the Czech Republic before the European Court of Human Rights, Ministry of Justice

FINLAND / FINLANDE

Ms Katja KUUPPELOMÄKI, Legal Officer, Ministry for Foreign Affairs, Unit for Human Rights Courts and Conventions

GREECE / GRÈCE

Ms Sofia KASTRANTA, Deputy Legal Counselor, Special Legal Department, Ministry of Foreign Affairs

ICELAND / ISLANDE

Ms Lilja RÓS PÁLSDÓTTIR, Lawyer, Directorate of Immigration

ITALY / ITALIE

Ms Maria Laura AVERSANO, Co-Agent of the Italian Government at the Ministry of Foreign Affairs

LATVIA / LETTONIE

Mr Vilnis VITOLINS, Under-Secretary of State, Director of the Legal Department of Ministry of the Interior, Riga

NORWAY / NORVÈGE

Mr Morten RUUD (*Chairperson of CDDH-MIG / Président du CDDH-MIG*), Special Adviser Ministry of Justice and Public Security, Legislation Department

POLAND / POLOGNE

Mr Dawid GROCHOWSKI, Counsellor to the Minister, Ministry of Interior and Administration, Department of Migration Analysis and Policy

SPAIN / ESPAGNE

Ms Consuelo CASTRO REY, Senior Head State Attorney, State Attorney's Office

SWITZERLAND / SUISSE

Ms Cordelia EHRICH, Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ, Domaine de direction droit public, Unité Protection internationale des droits de l'homme

TURKEY / TURQUIE

Ms Gamze GÜL ÇAKIR KILIÇ, Conseiller juridique, Direction Générale de l'Administration d'Immigration, Ministère de l'Intérieur

OBSERVERS / OBSERVATEURS**CONFERENCE OF INGOS OF THE COUNCIL OF EUROPE / CONFÉRENCE DES ONG DU CONSEIL DE L'EUROPE**

Ms Martine SCHMELCK, Médecins du Monde

UNHCR / HCR

Mr Roland-Francois WEIL, UNHCR Representative to the European Institutions in Strasbourg

INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) / COMITÉ INTERNATIONAL DE LA CROIX-ROUGE (CICR)

Ms Alice BLOOMFIELD, Migration Advisor, ICRC, Paris

COUNCIL OF BARS AND LAW SOCIETIES OF EUROPE / CONSEIL DES BARREAUX EUROPÉENS (CCBE)

Ms Noemi ALARCÓN, vice-présidente du Comité Migration du CCBE

PANEL

Ms Michela COSTA, Head of Global Advocacy for “Hope and Homes”, Bruxelles

Ms Liedewij DE RUIJTER DE WILDT, Manager of European Projects for NIDOS, Utrecht

Ms Miriana GIRALDI, International Associate, CELCIS, Centre for Excellence for Children’s Care and Protection, Glasgow

COUNCIL OF EUROPE / CONSEIL DE L'EUROPE**Ad hoc Committee for the Rights of the Child / Comité ad hoc pour les droits de l'enfant (CAHENF)**

Mrs Arda HOXHA, Head of Sector at the State Agency for the Rights and Protection of the Child (Albania)

EUROPEAN COMMITTEE ON LEGAL CO-OPERATION / COMITÉ EUROPÉEN DE COOPÉRATION JURIDIQUE (CDCJ)

Mr Simon TONELLI, Head of the legal co-operation Division / Chef de la Division de la coopération juridique

Mr Philippe KRANTZ, Legal Officer

PARLIAMENTARY ASSEMBLY / ASSEMBLEE PARLEMENTAIRE

Ms Olga KOSTENKO, Commission des migrations, des réfugiés et des personnes déplacées

SECRETARIAT**DG I – Human Rights and Rule of Law / Droits de l'homme et Etat de droit Council of Europe / Conseil de l'Europe**

Ms Lilja GRETARSDOTTIR, Deputy Head of the Division Independent Human Rights Bodies / Chef adjoint de la Division Institutions indépendantes des droits de l'homme,

Ms Corinne GAVRILOVIC, Assistant/Assistante, Human Rights Intergovernmental Cooperation Division / Division de la coopération intergouvernementale en matière de droits de l'Homme

Ms Katharina EBNER, Project Manager, Division Independent Human Rights Bodies / Division Institutions indépendantes des droits de l'homme

Ms Paola PETRUCCO, Trainee, Division Independent Human Rights Bodies / Division Institutions indépendantes des droits de l'homme

INTERPRETERS/ INTERPRÈTES

M. Rémy JAIN
Mme Corinne McGEORGE
M. Didier JUNGLING

ANNEXE II

Ordre du jour (tel qu'adopté)

	POINT 1 : OUVERTURE DE LA RÉUNION ET ADOPTION DE L'ORDRE DU JOUR
CDDH-MIG(2019)OJ2	Projet d'ordre du jour
CDDH-MIG(2019)OJ2Annoté	Projet d'ordre du jour annoté
CDDH-MIG(2019)R6	Rapport de la 6 ^e réunion du CDDH-MIG (26–28 mars 2019)
CDDH-MIG(2019)10	Extrait du mandat donné par le Comité des Ministres au CDDH concernant les travaux du CDDH-MIG et extrait pertinents du dernier rapport de réunion du CDDH.
	POINT 2 : DÉVELOPPEMENTS RÉCENTS DANS LE DOMAINE – TOUR DE TABLE
	POINT 3 : GROUPE DE DISCUSSION SUR LE PLACEMENT EN FAMILLE DES ENFANTS NON-ACCOMPAGNÉS ET SÉPARÉS
	POINT 4 : PROJET DE PROGRAMME DE TRAVAIL EN 2020 ET DISCUSSIONS SUR DES THÈMES CLÉS
CDDH(2019)11	Projet de programme de travail du CDDH-MIG en 2020
CDDH(2019)12	Document de travail : travaux existant en matière de placement en famille et pistes à explorer
CDDH(2019)13	Éventuels thèmes pour les travaux futurs
CDDH(2019)14	Compilation d'informations pertinentes sur le placement en famille
	POINT 5 : DISCUSSIONS SUR LES ÉVENTUELS TRAVAUX FUTURS SUR LES ALTERNATIVES A LA RÉTENTION DANS LE CONTEXTE DES MIGRATIONS
CDDH(2019)15	Compilation d'informations pertinentes sur les alternatives à la rétention dans le contexte des migrations
	POINT 6 : ADOPTION DU RAPPORT DE RÉUNION
	POINT 7 : QUESTIONS DIVERSES

ANNEXE III

Présentations des intervenantes

Mme Liedewij DE RUIJTER DE WILDT
Manager of European Projects for NIDOS, Utrecht

What is this presentation about?

- * Quick introduction to Nidos
 - * Needs of unaccompanied and separated children
 - * Overview of work done on developing family based care for this target group
 - * Introduction to family based care for this target group in the Netherlands
-

Facts and figures Nidos

- * National guardianship institution for unaccompanied and separated children
 - * Existing in its current form since 2001 (predecessors since 80's)
 - * 20 regional offices and 450 employees
 - * 4000 children (2500-12.000 in the past)
 - * Professional guardians (education in social work)
 - * Responsible and accountable (mandated by law)
 - * Own methodology and continuous training
 - * Responsible for reception of approximately 75% of them
-

Guardianship Nidos

Centralised, professional, mandated, specialised

- * Start and finish
 - * Institutional, and inter-agency cooperation (immigration, reception, return)
 - * Separate responsibilities
 - * Assignment is well-being and best interest of the child
 - * Role in reception
 - * Legal responsibility, but not the legal representative
-

Specific elements important in guidance of unaccompanied children

- * Cultural differences
- * Vulnerability
- * Safety risks
- * Psychological problems
- * Resilience
- * Promotion of interests

Specific elements important in reception of unaccompanied children

- * Family over institutional
- * The smaller the better
- * Immediate education
- * Stimulate independency
- * It is their house
- * Busy schedules

Challenges

- * Child-friendliness of larger reception
- * Youth care vs. specialized care (f.e. rules, food)
- * Transit to 18
- * Capacity management

Reception and Living in Families RLF-project (2013-2015)

Outcomes:

- * Insufficient knowledge on how to increase quality and quantity of family care for this target group
- * Good practices not reaching beyond the local level where they are developed
- * Financial and organizational structures that do not support development of alternative family care explicitly

All countries that provide family-based care reported a need to develop training for social workers, reception professionals or – sometimes – guardians who have the responsibility for counseling host families that take care of unaccompanied children

FINDINGS

- * General consensus:
family based care is better for most unaccompanied and separated children
- * However, most of them live in institutional care
- * Scattered practise in 12 countries
- * Structured system in place in 4 countries
- * Family based care not available in 14 countries

FINDINGS

Scattered practise:

- | | |
|------------------|---------------|
| * Austria | Italy |
| * <u>Belgium</u> | Luxemburg |
| * <u>Denmark</u> | <u>Norway</u> |
| * <u>Finland</u> | Portugal |
| * France | Spain |
| * Germany | Switzerland |

FINDINGS

System in place:

- * Ireland
- * Sweden
- * The Netherlands
- * UK

FINDINGS

Family based care not available:

- | | |
|-------------------------|-----------|
| * Bulgaria | Latvia |
| * Croatia | Lithuania |
| * Cyprus | Malta |
| * <u>Czech Republic</u> | Poland |
| * Estonia | Romania |
| * Greece | Slovakia |
| * Hungary | Slovenia |

FINDINGS

- * Use of both traditional foster care and kinship care
- * Use of both indigenous families and families with the same background as the children

FINDINGS

- * There is an interest and a need to develop special training for both foster carers and the professionals working with them
- * There is an ambition and a need to develop tools for those who have the responsibility for counselling foster families

STEPS FORWARD: NEEDS

- * Coordinated development of capacities
- * Both on a local, national and European level
- * A one-fits-all foster care system will not work
- * Setting up a system that fits specific Member States is the key

STEPS FORWARD: RECOMMENDATIONS

- * Create a system of family-based care for unaccompanied and separated children
- * Develop tools and training for foster carers and the professionals working with them
- * Support and monitor the system
- * Stimulate improvement of the system
- * Stimulate research on the effects of family-based care

Alternative Family Care ALFACA-project (2015-2017)

- * Co-funded by the European Commission, Nidos with partners from Germany, Czech Republic, Denmark and Austria
- * Development of a training for professionals working with host families that take care of unaccompanied and separated children
- * Different modules : general knowledge on working with this target group, recruitment, screening, matching and guidance of the host families
- * The ALFACA e-learning, ALFACA manual, extra literature and tools are available at: <https://engi.eu/projects/alfaca/>

ALFACA II-project (2018-2019)

- * Co-funded by the European Commission
- * Implementation of the ALFACA training with partners in Belgium, Greece, Italy, Cyprus and Croatia
- * Extra training in Finland, Slovenia, Northern-Ireland, Spain and Latvia
- * More information: <https://engi.eu/projects/alfaca-ii/>

PROFUCE-project (2018-2019)

- * Co-funded by the European Commission
- * Capacity building and awareness raising to promote and provide family-based care for unaccompanied and separated children at regional and national level in Italy, Greece and Bulgaria
- * Nidos involved as expert offering training on how to further implement family-based care in these countries
- * <https://profuce.eu/>

Fostering Across Borders FAB-project (2018-2019)

- * Co-funded by the European Commission and led by IOM
- * Support, improvement and promotion of family-based care for unaccompanied and separated children in Austria, Belgium, Greece, Luxemburg, Poland and the UK
- * <https://eea.iom.int/fostering-across-borders>

Family-based care within Nidos I

- * Organised apart from the national foster care system in the Netherlands (by Nidos)
- * Unaccompanied children simply need safe and suitable reception (generally spoken no personal development problems)
- * Unaccompanied children are often strong youngsters looking for safety and perspective (apart from exceptions)

Family based care within Nidos II

- * Nidos in-house developed
- * Dedicated team for recruitment, screening, matching and support of the families
- * Around 2500 families, 60% of them relatives of the children
- * Use of families of the same or a similar background : relatives as well as foster families
- * Challenges: new nationalities, older children
- * Long run before operational; afterwards better and cheaper

European Guardianship Network

- * Platform to facilitate the exchange of information and experience on effective guardianship
- * firmer establishment of professional guardianship in national systems in the EU
- * www.egnetwork.eu

Contact details

www.engi.eu
www.egnetwork.eu
www.nidos.nl

Liedewij de Ruijter de Wildt
 manager European project department Nidos
l.deruijterdewildt@nidos.nl
 +31 6 22194569

Mme Miriana GIRALDI
International Associate, CELCIS, Centre for Excellence for Children's Care and Protection, Glasgow

building brighter futures
#CELCISTweets



Policy and legal framework

UN Convention on the Rights of the Child, art. 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

www.celcis.org

building brighter futures
#CELCISTweets



Policy and legal framework

UN CRC, key principles:



www.celcis.org

building brighter futures
#CELCISTweets



Policy and legal framework

The UN Guidelines for the Alternative Care of Children (2009):

(53) In order to meet the specific psychoemotional, social and other needs of each child without parental care, States should [...] provide for adequate alternative care options, with priority to family- and community-based solutions.



Policy and legal framework

UN Guidelines, Key principles:

- Principle of necessity
- Principle of suitability
- Guidelines also cover care provision for children outside their habitual country of residence



Policy and legal framework

- A rights-based approach to care to underpin any work
- Primacy of the status of the child is central: children must be treated as children, even if they cross borders



Policy and Practice

- Understanding that all children need a response based on their own individual needs, circumstances and wishes
- Continuum of care and support needed -
– e.g. education, health, leisure
- Alternative care as part of a broader range of support





Guardianship

- Professional, voluntary
- Support in navigating legal proceedings
- Can help children understand their rights, and what care and protection services they can access
- Advocacy support
- Inclusion, trust, belonging

www.celcis.org

building brighter futures
#CELCISTweets



Family-based alternative care

- Working within a National child protection system
- Availability of services
- Equity of access
- Range of options to be available in practice
 - Kinship care, foster care with local families, or with families with similar background as the children
 - Family-like care can be preferred option for some children

www.celcis.org

building brighter futures
#CELCISTweets



Family-based alternative care

- Care placement must be based on needs, wishes and circumstances of each individual child
- Quality of the placement must be assured:
 - Rigorous process of selection and training of foster carers against agreed standards and criteria
 - Careful matching of children and carers
 - On-going review, support, and guidance
 - Children to be fully involved, and well informed throughout all steps of the process

www.celcis.org

building brighter futures
#CELCISTweets



Guidance

- Can support awareness raising, training
- Maximising available trainings, practices, models available
- Implementation: how can we ensure successful outcomes?
 - Understanding what we are asking, of whom
 - Working in an integrated manner: engaging across Ministries/ departments/ services
 - Who will drive the change: investing in the right people
 - Policy-practice feedback loop

www.celcis.org

building brighter futures
#CELCISTweets

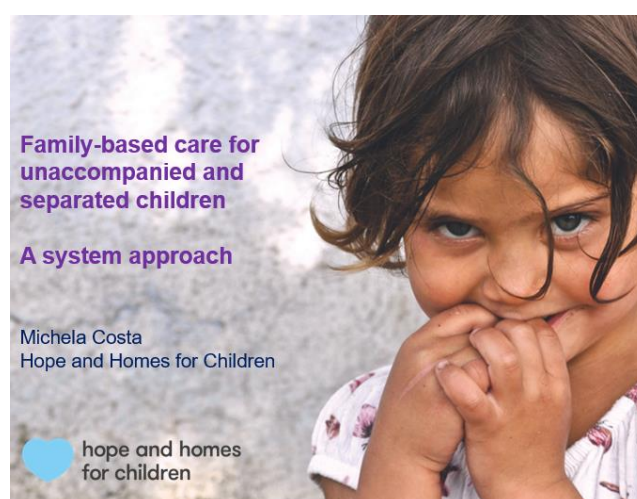
Mme Michela COSTA

Head of Global Advocacy for “Hope and Homes”, Bruxelles

This presentation will draw on our European and global experience about reforming national systems of care for children, within the larger context of child protection systems. In particular, it will focus on the preconditions and pillars that can help us achieve structural reform.

At HHC, we advocate for a **comprehensive approach to child protection reform**, that looks at the entire spectrum of services that support children and families. We work with governments, professionals, civil society, funders, children and families to move towards rights-based system that serve the individual needs, wishes and circumstances of every child.

A fundamental point of departure – very relevant for today’s meeting - is that **a child is a child** and has fundamental rights and need irrespective of his or her socio-economic background, ethnicity, nationality or migration status.



Hope and Homes for Children is an international non-governmental organisation at the forefront of a growing movement to eliminate orphanages globally.

Our mission is to be the catalyst for the global elimination of institutional care of children. We have 25 years of experience in supporting the design of robust child protection systems, effective in **preventing children's separation from their families and providing family-based and family-like alternative care.**

HHC works across five Regions: Latin America and the Caribbean, Central and Southern Europe, Eastern Europe and CIS, East and Southern Africa, and Asia.

In addition to our programmatic interventions, we are active in advocacy to influence legislation, policy and practices that affect children's lives. At regional and global level, our key targets include the EU and the UN system.

HHC was one of the initiators of the **Opening Doors for Europe's Children campaign**, which run over the last 7 years across 16 EU MS, pre-accession and neighbor countries to support EU and national policies, legislations & funding that strengthen families and end institutional care.

“
DECADES OF RESEARCH PROVE THAT
GROWING UP IN INSTITUTIONS HAS
DETRIMENTAL PSYCHOLOGICAL,
EMOTIONAL AND PHYSICAL IMPLICATIONS
INCLUDING ATTACHMENT DISORDERS,
COGNITIVE AND DEVELOPMENTAL DELAYS,
AND A LACK OF SOCIAL AND LIFE SKILLS
LEADING TO MULTIPLE DISADVANTAGED
DURING ADULTHOOD
”

A critical component of our approach is to advocate for ending the practice of institutionalisation of children.

Due to its 'one size fits all' approach, institutional care does not offer the range of options needed to respond to the individual needs, circumstances and the best interests of each individual child. Moreover, the very nature of institutional care exposes children to a **catalogue of abuses and violations.**

Evidence from many countries across the world demonstrates that institutions put children at increased risk of violence, abuse, and neglect – often by the staff, officials, peers, volunteers, and visitors responsible for their wellbeing. Documented abuse includes torture, beatings, isolation, both chemical and physical restraints, sexual assault, harassment, and humiliation. Even in institutions without harsh disciplinary regimes, children are often neglected or deprived of their liberty. Children in institutions are six times more likely to be victims of violence and trafficking than their peers raised in families.

Structural discrimination in the care system

Institutional care attracts children coming from situations of **poverty** or from families with a history of institutionalisation, marginalisation and discrimination.

Children with disabilities and children belonging to **ethnic minorities** are over represented in institutions.

The majority of **unaccompanied and separated children** are still placed in institutional reception facilities across Europe.

Traditionally the most marginalized groups – children in situation of poverty, CWD, children from ethnic minorities – have been overrepresented in institutions.

More recently, we witness a tendency to establish institutions for UASC (even in countries that have made progress towards family-based care for other groups).

This is not entirely a new trend – across the world, countries often see a proliferation of institutional reception facilities as a ‘rapid response’ in situation of real or perceived crises and emergencies

Unsuitable solutions for the most vulnerable children – utterly inadequate to respond to their specific needs

What is meant to be temporary becomes permanent, creating distortion in the child protection system at large.

Care reform – an ascending policy priority

105 closures using HHC model.

Romania - more than 100,000 children in institutions, now less than 9,000.

Rwanda - number of children in institutional care reduced by 30% in 4 years.

Over 100 large scale children's institutions have been closed – including institutions for children with disabilities - using our model and support. That's across a range of different socio-economic and political contexts proving that DI is possible for all children, wherever they are in the world.

When we first commenced working in Romania 20 years ago, a shocking 100,000 children were confined by the state orphanage system. It is now less than 9,000 and a range of alternative care services are in place.

In Rwanda, the number of children confined within institutional care has been reduced by 50% from 2012 to today.

Deinstitutionalisation is gaining momentum globally. Child protection reform is an ascending policy priority for national governments and international agencies.

There is broader understanding and increasing amounts of funding are being made available by multi-lateral organisations and aid agencies – including the European Union - to cover the costs of transitioning from an institutional to a family based child protection system.

Council of Europe

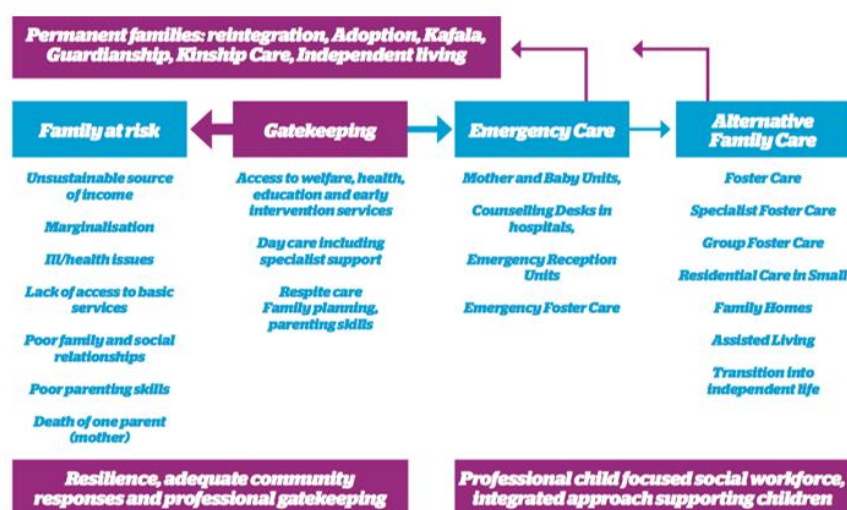
- [CoE Recommendation CM/rec\(2010\)2 on Deinstitutionalisation and community living of children with disabilities](#)
- [CoE Commissioner for human rights Issue Paper on “The right of people with disabilities to live independently and be included in the community” \(2012\)](#)
- o [Speech by Nils Muižnieks in 2014 on Deinstitutionalisation in the work of the CoE](#)

The CoE has already taken position on this issue, particularly with reference to deinstitutionalisation of children with disability.

The CoE is uniquely placed to lead on this agenda and expand the reflection to other groups of vulnerable children who may benefit from family-based care:

- Brings together a broad geography
- Countries of origin and destination of migration fluxes
- Human rights approach – towards a rights based child protection system

Momentum – GA Resolution on Children without Parental Care



Care reform is a complex and multi-faceted process – much broader than purely closing institutions: the goal is to achieve a comprehensive transformation and a radical shift in the culture of services, from a one-size-fits-all solution to comprehensive, rights-based systems based on the individual needs and best interest of every child and family.

One of the key learnings from our experience is that it is often not sufficient to encourage and support good practices – to achieve sustainable change, it is essential to take a holistic approach that tackles the root causes of family separation, actively incentivizes family and community-based care by creating an enabling environment and the rights set of services and support, and commits to the elimination of harmful forms of care for children.

UN Convention on the Rights of the Child (CRC)

- Preamble (role of the **family**)

- Art. 22 - children seeking refugee status and child refugees should **should be accorded the same protection** as children who are permanently or temporarily deprived of their family environment for any reason.

United Nations Convention on the Rights of the Child (20 November 1989)
The international framework

In the preamble of the Convention on the Rights of the Child (CRC) the following statement is included:

“ Recognising that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding.”

Article 22 of the CRC specifies that children seeking refugee status and child refugees should receive appropriate protection and humanitarian assistance in accessing their due rights. In cases when parents or family members cannot be traced, the child should be accorded the same protection as children who are permanently or temporarily deprived of their family environment for any reason.

General comment No.6 (2005) on the treatment of Unaccompanied and Separated children outside their country of origin

- Children should not be deprived of liberty
- Siblings should be kept together
- Family and kinship care should be encouraged
- The particular vulnerabilities of UASC, as well as the child's age and gender, should be taken into account.
- Children must be kept informed of the care arrangements being made for them and their opinions must be taken into consideration.

United Nations Committee on the Rights of the Child, general comment No.6 on the treatment of Unaccompanied and Separated children outside their country of origin.

It further states in paragraph 40 that when selecting accommodation options, “the particular vulnerabilities of such a child, not only having lost connection with his or her family environment, but further finding him or herself outside of his or her country of origin, as well as the child's age and gender, should be taken into account”.

UN Guidelines for the Alternative Care of Children (2009)

Principle of necessity – is care genuinely needed?

Principle of suitability – is the care setting appropriate to meet the individual needs of the child?

In determining appropriate care provision, the diversity and disparity of unaccompanied or separated children (such as ethnic and migratory background or cultural and religious diversity) should be taken into consideration on a case-by-case basis (article 142).

UN Guidelines spell out two fundamental principles of NECESSITY and SUITABILITY

- 1) Discourage unnecessary use of formal alternative care
- 2) Ensure care meets the minimum standards AND it meets the need of the child

Unaccompanied and Separated Children

- Underage
- Alone
- With a refugee/migratory background
- Unique background, values and experience
- Specific vulnerabilities (e.g. human trafficking, sexual abuse, etc.)

Specific set of circumstances of UASC:

- Unaccompanied children escaped to Europe without the guidance of their parents or guardians. The impact of the experiences – including the very reasons that led them to flee their countries and the challenges and traumas during the migration journey – can have a dramatic psychological impact. Yet, they are left to process all that by themselves.
- They experience a sense of loss for all what they left behind, plus anxiety over the new and unfamiliar system and surroundings. Finally, the stress is compound by the complex and lengthy asylum application procedures.
- They may develop feelings of mistrust and hypervigilance as natural coping mechanisms. Rebuilding trust is a process – a key element to take into account for all professional and carers that will be in touch with the children – from security personnel to child protection focal points, guardians and prospective foster families.

- At the same time, many UASC show remarkable resilience, which can be defined as 'patterns of positive adaptation in the context of significant risk or adversity'. It is important to recognize and value these coping strategies, looking at UASC not only as 'passive victims' but also 'active survivors'.

Durable solutions for unaccompanied and separated children

1. **Reunification** with parents or primary care givers (in country of origin/arrival/third country)
2. Placement with relatives (**kinship care**)
3. Placement in **foster care**
5. Supported (**semi**) **independent living**
4. **Adoption**

Range of options for UASC – looking for a durable solution (sustainable, meeting the child's rights and needs)

Reintegration with parents or guardians (in country of origin/in country of arrival/in another country)
Placement with parents or relatives (kinship care) (in the country of arrival, via Dublin III or the Family Reunification Directive)

need to register/monitor and support
Placement in foster care (discussion around ethnic families)
Supported independent living
Adoption

A last resort is adoption, in cases where there are no family members, family cannot be traced or where reunification is assessed not to be in the child's best interests. Research has shown that adoption can be a successful intervention which leads to a significant improvement in the child's development.

Benefits of family-based care options

- Opportunity to **form affectionate bonds** and receive care, support, stability and guidance
- Reduced **post-traumatic stress symptoms**
- Promote **contacts with the family of origin**
- Reduce **risk of disappearance**
- Sustainability & support for the **transition into adulthood**

Attachment

Research from the NL that "unaccompanied minors in reception families fare best and are most positive about their place in Dutch society.

Reduced post-traumatic stress

A study by Bronstein, Montgomery & Dobrowolski (2012) concerning the mental health of unaccompanied male Afghanistan children indicates that children in the host country growing up in semi-independent living arrangements show more post-traumatic stress symptoms than those living in foster care.

Contacts with family of origin

Contact (preferably on a regular basis) with the child's biological family. Dutch foster care states that it is important that the biological parents give the child 'emotional permission' to stay with the foster family. That makes it easier for the child to connect with this 'new' family. Mutual trust and respect between the biological family and the reception family supports the child in their adjustment to the reception family.

Characteristics for reception families

- Cultural sensitivity
- Language skills
- Migration background
- Interest to maintain contacts with biological family
- Relevant and age-related pedagogical and nurturing skills
- Religion
- Sustainability of placement

Structural challenges in expanding family-based care systems for UASC

- Unequal access to family-based care across Europe
- Disconnect between asylum and child protection systems
- Too lengthy procedures for family reunification
- Ad-hoc investments creating parallel systems with no plans for sustainability

Ingredients for systemic change

1. Political will
2. Data, evidence and know-how
3. Capable child protection and social workforce
4. Funding

Pillars of a comprehensive child care and protection system.

POLITICAL WILL

Work alongside government representatives and policy makers from across the political spectrum to ensure the interests of children are put first. Embed commitments into policy and legislation, and ensure they are

KNOW HOW

Demonstrate how children's lives can be transformed by eliminating recourse to institutions and supporting children into stable, loving families and family-like environments.

CAPACITY

Trainings to build the capacity of government and civil society to put the interests of children first.

FUNDING

- Strengthen links between asylum and child protection services
- Embed changes into broader child protection & care system reform
- Build on promising practices and know-how to develop structural solutions
- Strengthen the capacity of social and child protection workers, foster care families and guardians
- Establish funding mechanisms that incentivise the provision of family-based care

WHAT SHOULD BE DONE:

POLITICAL WILL

Children are children – uphold human rights standards, develop policies and regulations to develop integrated CP systems for all children. All services provided to unaccompanied children should be mainstreamed in the national child protection system; Child protection authorities should have a leading role in ensuring equity of care for all children lacking parental care; protection of children shouldn't be left solely to migration and law enforcement authorities.

Continue to advance the legal framework in all MS to ensure that it meets with evolving norms and best practice – without creating parallel systems of child protection.

Evidence and KNOW HOW

Establish benchmarks by collecting data on the number of unaccompanied children in receipt of various forms of foster care (or other placement types).

EU Asylum, Migration and Integration Fund (AMIF call 2019)

Projects focusing on the exchange of good practices and/or provision of the necessary training across the member states so as to support the implementation, expansion or improvement of **non-institutionalised care system for the migrant children** (such as family-based care, or foster care, or supervised independent housing arrangements, etc.)

Contact details:

<https://www.hopeandhomes.org>

Michela costa
Head of Global Advocacy
Hope and Homes for Children
michela.costa@hopeandhomes.org

This topic **does not aim to fund** actions involving:

- Institutionalised care systems
- Capacity-building for institutional care systems

ANNEXE IV

Le placement en famille des enfants non-accompagnés et séparés

Projet de table des matières

(tel qu'adopté par le CDDH-MIG lors de sa 7^e réunion, 23-24 octobre 2019)

1. INTRODUCTION

2. PRINCIPES JURIDIQUES

L'intérêt de l'enfant : une préoccupation majeure
Primauté du statut de l'enfant
Prise en charge et protection
Droit de l'enfant au respect de la vie familiale
Droit de l'enfant à la participation
Tutelle

3. PRINCIPES PRATIQUES

Intégration dans les systèmes d'accueil et de protection de l'enfance
Les besoins spécifiques de l'enfant
Nombre suffisant et adéquats de places et de services
Recrutement de familles d'accueil
Formation des, et soutien aux familles d'accueil
Suivi
Défis
Pratiques prometteuses
Transition

4. AVANTAGES

5. CONCLUSION

6. BIBLIOGRAPHIE

ANNEXE V**Projet de programme de travail du CDDH-MIG en 2020**

2020	
28 janvier 2020	1 ^e projet du document sur le placement en famille des enfants non-accompagnés et séparés est envoyé au Groupe de rédaction sur les droits de l'homme et la migration (CDDH-MIG)
18 février 2020	La convocation et l'ordre du jour de la 8 ^e réunion du CDDH-MIG sont envoyés
03 mars 2020	Date limite pour l'envoi par le CDDH-MIG de commentaires sur la 1 ^{ère} ébauche
17 mars 2020	Envoi de la compilation des commentaires écrits sur le 1 ^e projet et des autres documents pour la 8 ^e réunion du CDDH-MIG
31 mars – 02 avril 2020	8^e réunion du CDDH-MIG à Strasbourg
juin 2020	93 ^e réunion du Comité directeur pour les droits de l'homme (CDDH)
15 juillet 2020	Envoi au CDDH-MIG du 2 ^e projet du document sur le placement en famille des enfants non-accompagnés et séparés
01 septembre 2020	Envoi du projet de convocation et de l'ordre du jour de la 9 ^e réunion du CDDH-MIG
08 septembre 2020	Date limite pour l'envoi par le CDDH-MIG de commentaires sur le 2 ^e projet
29 septembre 2020	Envoi de la compilation des commentaires sur le 2 ^e projet et des autres documents de réunion
13 – 15 octobre 2020	9^e réunion du CDDH-MIG - le travail est finalisé
novembre 2020	94 ^e réunion du Comité directeur pour les droits de l'homme (CDDH)