



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

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

**DRAFTING GROUP ON MIGRATION AND HUMAN RIGHTS
(CDDH-MIG)**

REPORT

7th meeting
23 – 24 October 2019

Item 1: Opening of the meeting and adoption of the agenda

1. The CDDH Drafting Group on Migration and Human Rights (CDDH-MIG) held its 7th meeting in Strasbourg from 23 to 24 October 2019, with Mr Morten RUUD (Norway) in the Chair. The list of participants appears in Appendix I.
2. The Chair opened the meeting and welcomed all participants. The agenda as adopted appears in Appendix II.

Item 2: Recent developments in the field – *Tour de table*

3. The Chair and the Secretariat gave a brief overview of developments within the Council of Europe relevant to the work of the CDDH-MIG. Members and observers of the Group likewise informed of recent initiatives and developments on their side.

Item 3: Panel discussion on family-based care arrangements for unaccompanied and separated children

4. The Group held a Panel discussion with Ms Liedewij DE RUIJTER DE WILDT representing *NIDOS*, Ms Miriana GIRALDI representing the *Centre for Excellence for Children's Care and Protection (CELCIS)* and Ms Michela COSTA representing *Hope and Homes for Children*. The panelists' presentations appear in Appendix III.
5. While covering diverse national and regional contexts of family-based care for children, the panelists highlighted certain central themes, including:
 - a) effective family-based care for unaccompanied and separated children can have clear benefits not only for the individual in question but also at societal level (such as reduced post-traumatic stress disorders and decreased risk of disappearance, better integration prospects and overall savings of costs);
 - b) placing children in family-based care can positively affect their abilities to cope with the particular difficulties they face;
 - c) the majority of unaccompanied and separated children are still placed in institutional facilities across Europe and while serious challenges remain there may be promising opportunities to de-institutionalise care and protection in this area;
 - d) the recruitment of foster families remains a challenge across borders and the dissemination of effective practices in this regard could be promoted;
 - e) the quality of individual placement must be carefully designed and monitored, taking the individual needs and circumstances of each child into account;
 - f) training of foster carers and professionals in the field is significant for successful implementation;
 - g) equity of access should be ensured, with children in the context of migration accorded protection like other children;
 - h) the primacy of the status of the child and the protection of a child's best interests should underpin all work in the area;
 - i) ensuring mainstreaming of child protection mechanisms and collaboration between migration authorities and child protection is necessary;
 - j) effective guardianship is central to any arrangements made for unaccompanied and separated minors;
 - k) there is no "one-fits-all" foster care system as measures need to be tailored to each specific Member State. However, certain universal principles and approaches could likely support the implementation of an effective system of family-based care;

- l) appropriate funding would need to be secured as transitional costs may be considerable even if long-term savings are foreseen.

6. All panelists welcomed the fact that the CDDH is now working on this subject and noted that this could be a useful contribution to a field that needs greater attention, knowledge sharing and awareness.

Item 4: Draft work plan in 2020 and deliberations on key themes

7. The Group decided to develop a document on family-based care for unaccompanied and separated children, briefly setting out the relevant international legal standards and key practical considerations for effective implementation. Highlighting the need to address existing practical challenges, the Group adopted a preliminary draft table of contents that appears in Appendix IV and asked the Secretariat to proceed in line with the endorsed work plan as it appears in Appendix V. The first full draft of the document will be sent out for written comments on 28 January 2020, along with an invitation to the CDDH to share examples of practices and/or challenges/suggestions that might further enrich the text. It was agreed that the product should ideally not exceed 30 pages.

Item 5: Deliberations on potential future work on alternatives to immigration detention

8. The Group agreed to focus primarily on completing its work on family-based care before considering further work on alternatives to immigration detention and/or other topics relating to migration and human rights. However, the Group reiterated its willingness to explore further work upon completion of its current priority. The Group welcomed the diverse Council of Europe activities based on the existing CDDH-work on alternatives to detention in the context of migration, including an e-learning HELP-course to be finalised before the end of the year.

Item 6: Adoption of the meeting report

9. The Group adopted the meeting report.

Item 7: Other business

10. The next meeting of the CDDH-MIG is preliminarily scheduled to take place from 31 March to 2 April 2020 in Strasbourg.

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APPENDIX I

List of participants

MEMBER STATES / ETATS MEMBRES

ARMENIA / ARMÉNIE (*Apologised*)

BELGIUM / BELGIQUE

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

BULGARIA / BULGARIE (*Apologised*)

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, Committee on Migration, Refugees and Displaced Persons

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

APPENDIX II

Agenda (as adopted)

	ITEM 1: OPENING OF THE MEETING AND ADOPTION OF THE AGENDA
CDDH-MIG(2019)OJ2	Draft agenda
CDDH-MIG(2019)OJ2Annotated	Draft annotated agenda
CDDH-MIG(2019)R6	Report of the 6 th meeting of CDDH-MIG (26–28 March 2019)
CDDH-MIG(2019)10	Extracts of the terms of reference given by the Committee of Ministers to the CDDH regarding the work of the CDDH-MIG, and relevant extracts from the last CDDH meeting report
	ITEM 2: RECENT DEVELOPMENTS IN THE FIELD – <i>TOUR DE TABLE</i>
	ITEM 3: PANEL DISCUSSION ON FAMILY BASED CARE ARRANGEMENTS FOR UNACCOMPANIED AND SEPARATED CHILDREN
	ITEM 4: DRAFT WORK PLAN IN 2020 AND DELIBERATIONS ON KEY THEMES
CDDH-MIG(2019)11	Draft Work Plan for CDDH-MIG in 2020
CDDH-MIG(2019)12	Background Paper: Existing work on family-based care and ways forward
CDDH-MIG(2019)13	Potential themes for upcoming work
CDDH-MIG(2019)14	Compilation of relevant material on family-based care
	ITEM 5: DELIBERATIONS ON POTENTIAL FUTURE WORK ON ALTERNATIVES TO IMMIGRATION DETENTION
CDDH-MIG(2019)15	Compilation of relevant material on alternatives to immigration detention
	ITEM 6: ADOPTION OF THE MEETING REPORT
	ITEM 7: OTHER BUSINESS

APPENDIX III

Presentations of the panellists

Ms 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

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



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.



Policy and legal framework

UN CRC, key principles:





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.

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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

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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

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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

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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

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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

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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

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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

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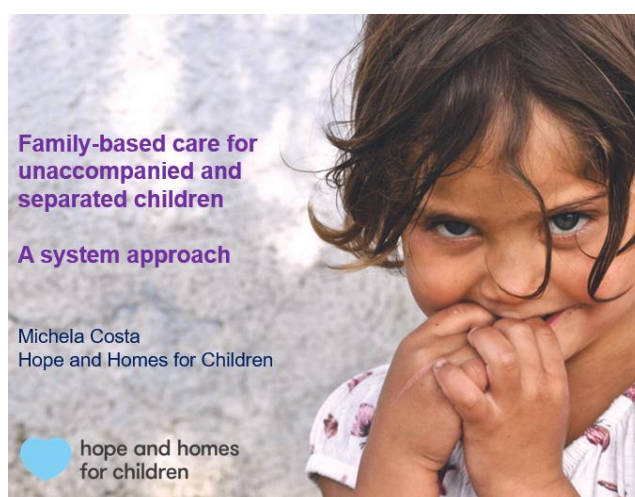
Ms Michela COSTA

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 needs 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

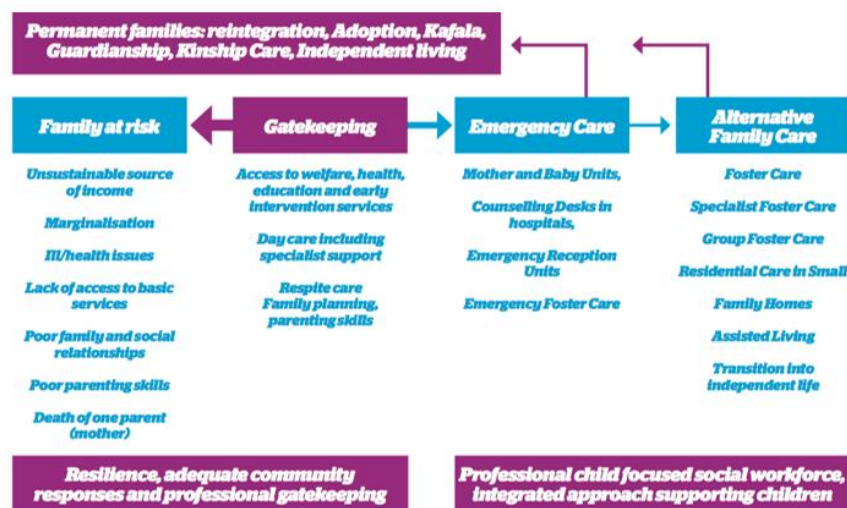
- [CoE Recommendation CM/rec\(2010\)2 on Deinstitutionalisation and community living of children with disabilities](#)
- [CoE Commissioner for human rights Issue Paper on “The right of people with disabilities to live independently and be included in the community”](#) (2012)
 - o Speech by Nils [Muižnieks](#)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

This topic does not aim to fund actions involving:

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

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APPENDIX IV

Alternative Family-Based Care for Unaccompanied and Separated Children

Draft Table of Contents

(as adopted by the CDDH-MIG at its 7th meeting, 23-24 October 2019)

1. INTRODUCTION

2. LEGAL FRAMEWORK

Best interests of the child: A primary consideration
Primacy of the status of the child
Provision of care and protection
Child's right to respect for family life
Child's right to participation
Guardianship

3. PRACTICAL CONSIDERATIONS

Integration with child care and protection systems
The specific needs of the child
Sufficient and suitable places and services
Recruitment of foster families
Training of and support to foster families
Monitoring
Challenges
Promising practices
Transition

4. ADVANTAGES

5. CONCLUSION

6. BIBLIOGRAPHY

APPENDIX V

Draft Work Plan for CDDH-MIG in 2020

2020	
28 January 2020	1 st Draft of product on family-based care for unaccompanied and separated children is sent out to the Steering Committee for Human Rights (CDDH) and the Drafting Group on Migration and Human Rights (CDDH-MIG)
18 February 2020	Convocation and Agenda of the 8 th CDDH-MIG meeting are sent out
03 March 2020	Deadline for CDDH-MIG to send written comments on the 1 st Draft
17 March 2020	Compilation of written comments on the 1 st Draft and other meeting materials for the 8 th Meeting of CDDH-MIG are sent out
31 March – 02 April 2020	8th Meeting of the CDDH-MIG in Strasbourg
June 2020	93 rd Meeting of the Steering Committee for Human Rights (CDDH)
15 July 2020	2 nd Draft of product on family-based care for unaccompanied and separated children is sent out
01 September 2020	Draft Convocation and Agenda for 9 th Meeting of the CDDH-MIG is sent out
08 September 2020	Deadline for CDDH-MIG to send comments on the 2 nd Draft
29 September 2020	Compilation of comments on the 2 nd Draft and other meeting materials are sent out
13 – 15 October 2020	9th Meeting of the CDDH-MIG: Work is finalised
November 2020	94 th Meeting of the Steering Committee for Human Rights (CDDH)