

Opening up communities, closing down institutions: Harnessing the European Structural and Investment Funds

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Community Living for Europe
Structural Funds Watch



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About Community Living for Europe: Structural Funds Watch

Community Living for Europe: Structural Funds Watch is an independent initiative that tracks how effectively the clear commitment of the European Structural and Investment Funds (ESIF) to support community living of children, persons with disabilities and older persons is being implemented.

The initiative is guided by a Steering Committee comprised of non-governmental organisations (NGOs), advocating for implementation of the ESIF regulations, including Lumos (Co-Chair), the Centre for Disability Law and Policy NUI Galway (Co-Chair), the European Expert Group on the Transition from Institutional to Community-based Care, the European Disability Forum, Age-Platform Europe and the European Foundation Centre. The EU Fundamental Rights Agency acts as an observer on the Steering Committee. What unites these groups is a shared commitment to ensure that the power of the European Union (EU) is used in accordance with underlying principles of human autonomy and social inclusion.

The initiative is based in the Centre for Disability Law and Policy at the National University of Ireland Galway and is financially supported by Lumos.



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Key terms used in this report

Family and community-based living

Regardless of age or disability, all children and adults are able to live in the community with choices equal to those of others, with individualised, accessible support and opportunities to participate fully in community life. All children are able to grow up in a family or family-like environment.

Independence

When used with reference to independent living or community-based living 'independence' means that all people with disabilities have the same freedom, choice, dignity and control over their lives as other citizens at home, work and in the community. It means that all children and adults can enjoy the right to practical assistance and access the support they need to participate in society and to live an ordinary life.

Institutional care

Institutional care is the provision of care within a residential setting where residents are compelled to live together within an 'institutional culture'. It segregates residents from the broader community and tends to be characterised by depersonalisation, rigidity of routine, block treatment, isolation and segregation from the wider community. The requirements of the institution take precedence over individual needs.¹

Community-based care

The term 'community-based care', refers to the spectrum of services that enable individuals to live in the community and, in the case of children, to grow up in a family or family-like environment. It encompasses mainstream services, such as housing, health care, education, employment, culture and leisure, which are accessible to everyone regardless of the nature of their impairment or the required level of support. It also refers to specialised services, such as personal assistance for persons with disabilities, respite care and others. In addition, the term includes family-based and family-like care for children, including substitute family care and preventative measures for early intervention and family support.²

1 European Expert Group on the Transition from Institutional to Community-based Care (November 2012) "The Common European Guidelines on the Transition from Institutional to Community-based Care" available: www.deinstitutionalisationguide.eu

2 Ibid

1. Executive Summary

1.1 Overview of findings

The ex-ante conditionality 9.1 has **driven billions of Euros towards reforming systems, shifting away from institutions to community-based living**. The ESIF have **catalysed a movement across the region** that has encouraged Member States to support communities that have previously been left behind.

Evidence highlights that Member States are adopting **strategies to shift away from institutional care** which are starting to be **translated into calls for proposals and funded projects backed by significant levels of spending**.

Some Member States, for example Bulgaria, have clearly embraced the case for change, with **ESIF providing much needed support for a domestically-driven agenda**. However, in others the quality of proposed measures, coupled with patterns of investment, suggest that change is being driven overwhelmingly by EU policy and ESIF funding, with **the transition to community-based living enjoying low support or prioritisation at the domestic level**.

While some Member States have made a commitment to end institutionalisation and are making progress towards community-based living, others appear more focused on **reorganising institutional care from large scale to smaller scale arrangements**. In particular, a number of Member States are permitting the development of 'group homes' with arbitrary caps of between 12 and 30 residents as replacements for large-scale institutions. In most cases, reducing the size of institutions and their greater proximity to urban centres is given as evidence of the transition to community-based living. However, **it is unclear what measures are being taken to ensure residents will enjoy their human rights on an equal basis with others**. In some instances, this movement from larger to smaller scale institutions is justified as a step in the long-term transition process from institutional to community-based living – however, **high levels of investment in these smaller scale models of institutional care will act as an obstacle to further reform and continue to deny people their rights**.

Targets and goals devised by Member States typically focus on the number of people to be 'transitioned' by a specified date, but few provide **quality of life measures by which to judge successful transition** to community-based living. Few Member States appear to have based measures on a comprehensive needs assessment – an area requiring significant development.

It is clear that some Member States need **further support and encouragement to develop a long-term vision and strategy** for reforming systems. It is not always clear where ESIF-supported initiatives fit within the overall plans for reform in the country, therefore it is challenging to assess their comprehensiveness and coherence without understanding, for example, what preventative efforts are planned, or communication activities are underway, to tackle negative and discriminatory attitudes in society.

Civil society has a crucial role to play, both as a source of intelligence and expertise, and as builders of the social capital required to make a success of community-based living. There are **encouraging examples of civil society engagement in the process**, such as active and meaningful involvement in monitoring committees. However, evidence suggests that **the extent of civil society involvement in the development, implementation and monitoring of the transition process varies considerably and, as a result, its potential has not been realised**. Though promising practices exist, many civil society organisations reported barriers to participation and exclusion from ESIF processes, such as high co-financing requirements and the absence of technical assistance from Member States.

Although challenges remain across the 12 Member States identified as having a need to transition to community-based care, the **transition process is far from complete across other Member States** not included in this list. The process for determining 'applicability' is not transparent, key sources of information about institutional care and community-based living are omitted from official guidance, and civil society is rarely involved in the process. Finally, **ex-ante conditionality 9.1 has provided impetus and support for meaningful reform in countries**, however it is **vital that the principles that underlie it are harmonised with other ESIF thematic areas and EU funding instruments**. Evidence highlights that EU funding in areas such as energy efficiency, ICT and transport is being used to support and maintain institutions, which goes against the spirit of the ex-ante conditionality.

1.2 Key recommendations

The European Commission, the European Parliament and the Council of the EU:

- Should ensure that the ex-ante conditionality 9.1 is **maintained and further expanded under the next programming period post-2020**.
- Should amend the language in ex-ante conditionality 9.1 to “measures for the shift from institutional care to family-based living for children and community-based living for adults”, rather than “measures for the shift from institutional to community-based care”. It should be clarified that measures involved in achieving this goal include: prevention of institutionalisation, the process of transition from institutional care to community-based living and the development of community-based services and support. **This would help focus action and resources on achieving overarching goals and away from the replication of institutional care on a smaller scale.**
- **Investments under all ESIF thematic objectives should be aligned to ex-ante conditionality 9.1.** Furthermore, it is crucial to ensure **coherence and consistency across all EU funding instruments so that they are not used to invest in institutional care** but prioritise the transition to family and community-based living.
- Should support Member States to **develop long-term strategies to support the transition from institutional to community-based living**, ensuring they include measures to prevent institutionalisation and the development of high quality community-based support systems throughout the life course.

The European Commission:

- Should ensure its official guidance for ESIF regulations **emphasises the importance of investing in human resources, social infrastructure and technology** to ensure the necessary conditions for family and community-based living. Input from the European Expert Group on the transition from institutional to community-based care should be incorporated into official guidance documents.
- Must support Member States **in undertaking a thorough needs analysis, to ensure that strategy and actions are underpinned by a clear understanding of the needs and rights ESIF are responding to.** This will help the European Commission **to better understand and assess the appropriateness and relevance of proposed measures** in Member States.
- Should ensure Member States **adopt measures of success that include a focus on improvements in quality of life, not only the number of people included in programmes.**
- **A formal role should be assigned at EU level for the ‘independent mechanism’ established under Article 33.2 of the UNCRPD in monitoring the use of ESIF in relation to community-based living.** Official European Commission guidance should recommend that Member States’ human rights bodies should be formally included in monitoring committees and processes. As the European Ombudsman has proposed, the Commission should launch an online platform where civil society can report abuses of funds, violations of the EU Charter on Fundamental Rights, and submit complaints and shadow reports.
- Should **provide regular capacity building and offer technical support** to country desk officers in the process of transition from institutional to community-based living.

With respect to the wider EU policy framework in which ESIF funding operates:

- The **EU Semester and the European Pillar on Social Rights should play an enhanced role** in advancing the transition from institutional to community-based living.
- The EU should **reform the European Semester process to ensure the planned ‘Social Scoreboard’ is applied**, establish a **rigorous monitoring system**, and ensure the **active involvement of civil society at all stages of implementation and monitoring.**
- Other EU funding instruments and programmes, such as **Horizon 2020, the European Fund for Strategic Investments and the Structural Reform Support Programme, should better support and align with ESIF’s goals** to transition to community-based living.

Member States:

- Would benefit from **further guidance and technical support in developing strategies and action plans** on the transition from institutional to family and community-based living in addition to **assistance in undertaking a thorough needs analysis**. Such analysis must look beyond the numbers of people residing in institutions and address the factors that drove separation, the state of current services in the community, what behaviour change is needed to tackle resistance, the capacity of Member States and civil society to plan, manage and achieve the transition to community-based living, and crucially, the ability to secure sustainable funding.
- **Monitoring mechanisms** must be strengthened to ensure that ESIF funding is not invested in institutional care and to **measure progress towards family and community-based living**.
- Should use their Technical Assistance budget for **capacity building for civil society to be able to play a meaningful role in the planning, implementation, monitoring and evaluation of ESIF Operational Programmes**. Action is needed to improve civil society's access to ESIF funding and avoid or mitigate excessive co-funding burdens.

Civil Society:

- **Organisations with expertise in the transition to family and community-based living should actively contribute to the process of determining an 'identified need'** to adopt measures on the transition from institutional to community-based care.
- Civil society should contribute to **all stages of the ESIF cycle including planning, implementation, monitoring and evaluation** in a transparent and structured way.

2. Introduction

2.1 The transition to community-based living in the European Union

Community living is a human right, recognised under European and international law, and covered by standards and policy frameworks, including the EU Charter of Fundamental Rights, the UN Convention on the Rights of the Child, the UN Convention on the Rights of Persons with Disabilities, the European Disability Strategy 2010-2020 and the EU Agenda for the Rights of the Child.³

The transition from institutional to family and community-based living among children and young people, including those with disabilities, adults with disabilities and older persons is also an engine, and a measure of progress, towards sustainable, inclusive growth and prosperity.⁴

Regarding children, evidence shows that a caring and protective family, immediate and extended, is central to a child's health, development, and protection.⁵ Poverty is the chief cause of children being separated from their families and placed in institutions.⁶

The UN Committee on the Rights of Persons with Disabilities noted that "policies and concrete plans of action for social inclusion of persons with disabilities, including through the promotion of their right to independent living, represent a cost-effective mechanism to ensure the enjoyment of rights, sustainable development and a reduction in poverty."⁷

Numerous European studies have strongly highlighted people's preference to remain living in their own homes in the community should they require care and support in old age.⁸ This aspiration is reflected in the European Pillar of Social Rights which states "Everyone has the right to affordable long-term care services of good quality, in particular home-care and community-based services."⁹ Further, where appropriate, home-based care for older persons has been shown to be more cost-effective: extending independence, enabling social connections to be maintained, being more easily combined with informal care and tending to have lower unit costs.¹⁰ Ageing societies across Europe demand that attitudes, practices and infrastructure concerning the care and support of older persons are modernised to enable older people to remain living in the community if those societies are to be sustainable, to meet the aspirations of people to stay living in their own homes and be capable of respecting human rights over the coming decades.¹¹

Despite the strong evidence base, and positive and pressing case for change, institutional care continues to constrain people's lives across the generations and in all corners of the EU, presenting a clear denial of fundamental rights.

It is estimated that more than one million children and adults live in institutions across Europe¹². However, this figure is an estimate as no universal definition of an 'institution' has been adopted, let alone applied at a country level when gathering

3 See end Annex for a list of relevant International and EU law, policy and standards.

4 See for example European Expert Group on the Transition from Institutional to Community Based Care (November 2012) Common European Guidelines on the Transition from Institutional to Community Based Care p50 "Better use of resources".

5 Corinna Csáky, "Keeping children out of harmful institutions: why we should be investing in family-based care" (Save the Children UK, 2009) p 3; see also Anne E. Berens and Charles A. Nelson, "The science of early adversity: is there a role for large institutions in the care of vulnerable children?" (2015) *The Lancet* 386(9991) pp388-398.

6 Better Care Network Secretariat "Global facts about orphanages" (Better Care Network, 2009) p 1; see also The University of Nottingham, "Child Abandonment and its Prevention in Europe" (2012) The European Commission's Daphne Programme, p11.

7 United Nations Committee on the Rights of Persons with Disabilities (2017) General Comment 5 on Article 19 of the UNCRPD - Living Independently and being included in the community.

8 For example, in the Special Eurobarometer survey of 2007, asked how they would prefer to be assisted with long-term care if the need arose, 45% of respondents said "in my own home by a relative", 24% said "in my own home by a professional care service", 12% said "in my own home by a hired carer" and 5% said "in the home of a close family member"; in total, 86% chose some form of home care and only 8% said "in a nursing home". Health and long-term care in the European Union (Special Eurobarometer 283), European Commission 2007 http://ec.europa.eu/public_opinion/archives/ebs/ebs_283_en.pdf.

9 European Commission: The European Social Pillar in 20 Principles https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en.

10 European Commission "Joint Report on Health Care and Long-Term Care Systems & Fiscal Sustainability Volume 1" Institutional Paper 037 (Luxembourg: Publications Office of the European Union, October 2016) ISSN 2443-8014 (online).

11 For example, see Brick, Yitzhak & Lowenstein, Ariela (eds.) (2011) "Ageing in Place", *Global Ageing – Issues and Action*, Vol. 7 No. 2; International Federation on Ageing. <https://www.ifa-fiv.org/wp-content/uploads/global-ageing/7.2/7.2.full.pdf>. & Adequate social protection for long-term care needs in an ageing society. Report jointly prepared by the Social Protection Committee and the European Commission (Luxembourg: Publications Office of the European Union, 2014).

12 Children and adults with disabilities (including people with mental health problems). It covers the EU and Turkey from Mansell, J., Knapp, M., Beadle-Brown, J. & Beecham, J. (2007) *Deinstitutionalisation and community living – outcomes and costs: report of a European Study*. Volume 2: Main Report. Canterbury: Tizard Centre, University of Kent (hereafter, "DECLOC Report").

13 UNICEF/OHCHR Europe: End placing children under three years in institutions: A call to action, p. 4

statistics. In some cases, inadequate counting systems are in place at a national level, which lead to significant variability and inaccuracy when trying to reach an overall estimate for the region. The World Health Organisation estimates the number of children under three in institutions across the EU at 22,000.¹³

A study undertaken on behalf of the European Commission of 28 European countries, published in 2007, “Deinstitutionalisation and community living – outcomes and costs: report of a European Study” estimated that at least 1.2 million people with disabilities were living in institutions in the region.¹⁴ Evidence indicates that in some parts of the EU, the number of people with disabilities placed in institutions has increased in recent years.¹⁵ While in 2011 only 1.7% of older persons aged 65–84 years lived in an institutional household (health care institutions or institutions for retired or elderly persons), among those aged 85 and over, the share was more than seven times as high, reaching 12.6%.¹⁶ Increasing life expectancy means that the EU population aged 80 and over is projected to rise from 5% to 12%, becoming comparable to those aged 0-19, by 2060.¹⁷ In 2015 around 61% of expenditure on Long Term Care for older persons by Member States was directed towards institutional care and around 39% towards home care.¹⁸

Institutional care is commonplace across all Member States, including Western European countries such as Belgium, Denmark, Germany, Spain, Italy, Portugal and the UK.¹⁹ Following a country visit, the UN Special Rapporteur on the Rights of Persons with Disabilities expressed serious concern about the high number of French people with disabilities living in residential institutions, including at least 300,000 in France itself and another 6,500 French citizens, including 1,500 children, in Belgium.²⁰ The proportions of older people over 85 in residential care are lower in Central and Eastern Europe than in Western Europe.²¹

In some Member States, despite good intentions, large-scale social care, psychiatric facilities and orphanages are being replaced by smaller facilities. Yet these smaller facilities often continue the institutional culture, such as obligatory sharing of living space, lack of control over day to day decisions, rigidity of routine and isolation and segregation from the wider community.

In other Member States, while most people live outside the walls of institutions, isolation and segregation from the wider community is nevertheless a common experience for many.²² This fact underlines the importance of placing at least as much attention on opening up communities as on closing down institutions. This must occur within the context of overall strategies for poverty reduction and active inclusion, through comprehensive community development, child protection reform, awareness raising and accessibility programmes.

The transition from institutional to community-based living is fundamentally about the journey of people. The ultimate measure of success will be whether existing and future generations have been supported in the journey to full inclusion in our societies.

14 Mansell, J., Knapp, M., Beadle-Brown, J., & Beecham, J., (2007) Deinstitutionalisation and community living – outcomes and costs: report of a European Study. Volume 2: Main Report. Canterbury: Tizard Centre, University of Kent (referred to as “the DECLOC report”). The countries covered were the then 27 EU Member States and Turkey. Although this figure dates from 2007, there have been no further major studies aimed at establishing the number of people with disabilities living in institutions in the EU since then.

15 Policy Department for Citizens Rights and Constitutional Affairs (October 2016) European Structural and Investment Funds and Persons with Disabilities in the European Union – study for the European Parliament Petitions Committee (ENIL) available: <https://publications.europa.eu/en/publication-detail/-/publication/402fe8d6-ab00-11e6-aab7-01aa75ed71a1/language-en>.

16 Eurostat (2011) Who are we and how do we live? http://ec.europa.eu/eurostat/statistics-explained/index.php/People_in_the_EU_-_who_are_we_and_how_do_we_live%3F

17 European Commission The 2015 Ageing Report – Economic and Budgetary Projections for the EU Member States 2013-60 Luxembourg: Publications Office of the European Union 2015, ISSN 1725-3217 (online)

18 European Commission “Joint Report on Health Care and Long-Term Care Systems & Fiscal Sustainability Volume 1” Institutional Paper 037, (Luxembourg: Publications Office of the European Union, October 2016) ISSN 2443-8014 (online) p 176

19 see Policy Department for Citizens Rights and Constitutional Affairs (October 2016) European Structural and Investment Funds and Persons with Disabilities in the European Union – study for the European Parliament Petitions Committee (ENIL) p 19; see also ENIL (2017) “Disability Watchdog: Wallonia to Invest Millions into Institutions for Disabled People” (07.06.2017, Brussels) available: <http://enil.eu/news/disability-watchdog-wallonia-to-invest-millions-into-institutions-for-disabled-people/>.

20 End of Mission Statement by the United Nations Special Rapporteur on the rights of persons with disabilities, Ms. Catalina Devandas-Aguilar, on her visit to France 13 October 2017 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22245&LangID=E>

21 Source: http://ec.europa.eu/eurostat/statistics-explained/index.php/File:CH06M02_PF15.png

22 see Eurostat “Disability Statistics” available: http://ec.europa.eu/eurostat/statistics-explained/index.php/Disability_statistics.

2.2 The pivotal role of the European Structural and Investment Funds in advancing the transition from institutional to community-based living

Ensuring that everyone enjoys the right to community living demands that proactive steps are taken to shift from outdated models of institutional care to family and community-based support. This includes measures to redirect funding to ensure that resources are invested in support for community-based living. As the UN Committee on the Rights of Persons with Disabilities clarified:

“States parties should ensure that public or private funds are not spent on maintaining, renovating, establishing, building existing and new institutions in any form of institutionalisation. Furthermore, States parties must ensure that private institutions are not established in the guise of “community living.”²³

The European Structural and Investment Funds (ESIF) and the regulations governing their use are playing a pivotal role in helping Member States to expedite and facilitate the transition from institutional to community-based living.

Adopted in December 2013, the regulatory framework governing the use of ESIF for the 2014-2020 period has been recognised as one of the most effective tools available through which to express European solidarity.²⁴ Taking a decisive step forward, the Regulations and accompanying Guidance Documents clearly embrace the view that the transition from institutional care to community-based living is a mandatory change process to ensure citizens’ rights are respected. Furthermore, it has been recognised that Member States need to have regulatory and policy frameworks in place at national level in order to maximise the impact of the ESIF and achieve the objectives of the funds.²⁵ For the first time, the Regulations introduced ‘ex-ante conditionalities’ designed to ensure that necessary institutional and strategic policy frameworks are in place before funding is released to the Member States.²⁶

Activities supporting the transition from institutional care to community-based living are programmed under Thematic Objective 9 of the ESIF with the aim of “promoting social inclusion, combatting poverty and any discrimination”. The condition attached to this objective (ex-ante conditionality 9.1) is that Member States must have in place and implement a “national strategic policy framework for poverty reduction, aiming at active inclusion” that “depending on identified needs, includes measures for the shift from institutional to community-based care”.²⁷ This need has been identified in 12 Member States: Bulgaria, Czech Republic, Estonia, Greece, Hungary, Lithuania, Latvia, Poland, Romania, Slovenia, Slovakia and Croatia.²⁸

Crucially, the European Commission Guidance on Ex-ante Conditionalities for the European Structural and Investment Funds states that “building or renovating long-stay residential institutions is excluded, regardless of their size”.²⁹ Furthermore, the guidance states that “the size of the institution cannot be used in isolation as a criterion to judge whether the supported infrastructure can be considered as community-based service or simply a scaled-down institution.” Instead, emphasis is placed on whether the proposed measures allow for “the possibility for independent living, inclusion in the community (including physical proximity of the location) and high-quality care.”

23 United Nations Committee on the Rights of Persons with Disabilities (2017) General Comment 5 on Article 19 of the UNCRPD - Living Independently and being included in the community.

24 Regulation (EU) No 1303/2013 “Common Provision Regulation”; Regulation (EU) No 1304/2013 “European Social Fund Regulation”; Regulation (EU) No 1301/2013 “European Regional Development Fund Regulation”. See annex for full reference.

25 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank, “Conclusions of the fifth report on economic, social and territorial cohesion: the future of cohesion policy” COM(2010)642 final of 9.11.2010

26 Article 19, Regulation (EU) No 1303/2013.

27 Annex XI, Part 1: Thematic ex ante conditionalities, Regulation (EU) No 1303/2013

28 see European Expert Group on the Transition from Institutional to Community Based Care “Toolkit on the use of European Union Funds for the Transition from institutional to community -based care” (Revised edition June 2014) p 22 available: www.deinstitutionalisationguide.eu. “Identified needs” is discussed in more detail toward the end of this report in section 2.6.

29 Draft Thematic guidance Fiche for Desk Officers Transition from Institutional to Community-Based Care (Deinstitutionalisation-DI) Version 2 – 27/01/2014 available: http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/guidance_deinstitutionalisation.pdf.

The change in regulations was a landmark decision and is making a positive impact on Europe's most socially excluded citizens. The EU is to be congratulated on this ground-breaking achievement, which is now beginning to influence other major funders around the world.

Evidence gathered by the Community Living for Europe: Structural Funds Watch initiative³⁰ (CLE:SFW) in 2016 and 2017 concerning fulfilment of the ex-ante conditionality 9.1 at Member State-level indicates that they are beginning to leverage positive change.

2.3 About this report

This report concerns the role of the European Structural and Investment Funds (ESIF) with respect to the transition from institutional to community-based living for children and young people, including those with disabilities, adults with disabilities and older persons in European Union Member States.

It contains examples, both positive and negative, that demonstrate how the Member States have implemented the ESIF regulations, how they are currently using or are planning to use the ESIF to support the transition to community-based living, and provides concrete recommendations for the current and next funding period post 2020.

2.4 Sources of information

This report is based on information and evidence provided by the CLE:SFW extensive network of EU and national level experts. They include local respondents from national and EU level NGOs; campaigners working in the area of children's rights, child and family support; disabled persons organisations, national human rights monitoring bodies and service providers; and national and local government.

The information gathered in this report includes the findings of a survey launched in 2016³¹ by CLE:SFW, which sought to gather information on the implementation of the ESIF regulations. In particular, the report collected information about Member State fulfilment of the ex-ante conditionality 9.1, the Partnership Principle³² and the planned or current use of ESIF supporting community and family-based living.³³ Questions were specifically framed from the relevant European Commission Regulations and Guidance. A second survey launched in 2017 gathered information on the implementation of the ex-ante conditionality 9.1 through concrete examples on a sample of seven Member States³⁴ that are using ESIF for the transition to community-based living, including details of financial allocation and expenditure. All survey respondents are from countries with an 'identified need' to use ESIF in support of the transition from institutional to community-based care.³⁵

National NGOs operating as umbrella organisations that work specifically on deinstitutionalisation (DI) were strategically targeted to respond to the surveys as were relevant persons in Managing Authorities and intermediary bodies responsible for managing and implementing DI projects. Background information was also gathered through contact with relevant European Commission Desk Officers in the Directorate-General for Employment, Social Affairs and Inclusion and the Directorate-General for Regional and Urban Policy, as well as through various events and meetings of EU level civil society and EU institutions throughout 2016 and 2017.

The information gathered intends to provide an insight into civil society and governmental experiences of the implementation of the ESIF regulations as well as the use or planned use of the ESIF for the transition. Common themes on issues and challenges experienced by different stakeholders have emerged that should inform discussions on the future ESIF framework with a view to consolidate and improve the significant potential of the ESIF.

30 <https://communitylivingforeurope.org>

31 <https://communitylivingforeurope.org/inputnow>

32 in particular the involvement of civil society in developing Partnership Agreements and Operational Programmes as well as their experience of monitoring through the ESIF monitoring committees.

33 Responses were received via paper and online survey as well as by phone interview from Bulgaria, Czech Republic, Estonia, Greece, Hungary, Lithuania, Romania, Poland and Slovakia.

34 Bulgaria, Poland, Czech Republic, Romania, Greece, Slovakia and Hungary.

35 The term "depending on identified needs" is explained in the Commission Guidance as drawing a distinction "between those Member States which have shifted to community-based care and those that have not yet done so."

3. The impact of the ex-ante conditionality 9.1

3.1 An overview of ex-ante conditionality 9.1

Key Regulations

- **Common Provision Regulation (EU) No 1303/2013**
- **European Social Fund Regulation (EU) No 1304/2013**
- **European Regional Development Fund Regulation (EU) No 1301/2013**

The ex-ante conditionality 9.1 must be applied to actions to reduce poverty and build 'active inclusion'. It is a precondition for funding across four investment priorities:

- **Active inclusion**, with a view to promoting equal opportunities and active participation, and improving employability (European Social Fund)
- **Enhancing access** to affordable, sustainable and high-quality services, including health care and social services of general interest (European Social Fund)
- **Investing in health and social infrastructure** which contributes to national, regional and local development, reducing inequalities in terms of health status, promoting social inclusion through improved access to social, cultural and recreational services and the transition from institutional to community-based services (European Regional Development Fund)
- **Providing support for physical, economic and social regeneration** of deprived communities in urban and rural areas (European Regional Development Fund)

In order to fulfil the conditionality, Member States must demonstrate that they have a national strategic policy framework for poverty reduction and active inclusion that:

- provides a sufficient evidence base to develop policies for poverty reduction and monitor developments;
- contains measures to support the poverty and social exclusive target defined in Member State National Reform Programmes;
- involves relevant stakeholders in combatting poverty;
- **includes measures for the shift from institutional to community-based care**, depending on the identified needs.

The regulation also requires that Member States provide support to relevant stakeholders, including civil society, for submitting project applications and for implementing and managing the selected projects.

Various guidance unpacks the ex-ante conditionalities with respect to the transition from institutional to community-based care, including European Commission Guidance on Ex-ante Conditionalities on the European Structural and Investment Funds Part I³⁶ and Part II³⁷ and the Draft Thematic Guidance Fiche for European Commission Desk Officers.³⁸ Relevant extracts from these pieces of guidance are referred to throughout the analysis in this chapter.

36 Internal Guidance on ex ante conditionalities for the European Structural and Investment Funds Version 2.0: August 2014, Part I, available: http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/eac_guidance_esif_part1_en.pdf

37 European Commission Guidance on ex ante conditionalities for the European Structural and Investment Funds Part II (13th February 2014) available: http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/eac_guidance_esif_part2_en.pdf

38 Draft Thematic guidance Fiche for Desk Officers Transition from Institutional to Community-Based Care (Deinstitutionalisation-DI) Version 2 – 27/01/2014 available: http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/guidance_deinstitutionalisation.pdf

3.2 The scale of EU investment in the transition from institutional to community-based care

A third of the EU budget - almost €351.8 billion - is allocated to Cohesion Policy,³⁹ the principle investment tool for delivering the Europe 2020 strategy for smart, sustainable and inclusive growth. Taking into account national contributions and other private investment, the expected total value of investment under Cohesion Policy for 2014-2020 is approximately €450 billion.⁴⁰

A total budget of €62.7 billion, of which EU funding is €44.5 billion and national funding is €18.2 billion, is available to support activities under Thematic Objective 9 “social inclusion” that includes the transition from institutional to community-based care.⁴¹

For the purposes of the transition, two funds are particularly relevant; the European Regional Development Fund (ERDF) and the European Social Fund (ESF). Supporting Thematic Objective 9 “social inclusion”, a total amount of €15.6 billion is available under the ERDF and €31.1 billion under the ESF.⁴² In December 2015, the Commission advised that “€4.5 billion ERDF investments planned in social infrastructure will include support targeting community-based social services for vulnerable groups (disabled, children, elderly, mental health patients).”⁴³

The amount of funding (EU and national) allocated in each Member State to support “the transition from institutional to community-based care”, or an aggregate of these allocations across the EU, is not available. The EU Agency for Fundamental Rights (FRA) found that;

“Operational programmes do not include the level of detail required to identify the exact allocation and distribution of funds to support the transition from institutional to community-based support.”⁴⁴

While Member State programming documents contain information on broader allocations to investment priorities covering several activities supporting social inclusion and poverty reduction, they do not disaggregate funding to specify allocations to the transition from institutional to community-based care. These broader figures do however, as found in the FRA report, “show that there are considerable financial resources for relevant activities.”⁴⁵ At the same time, the scale of funding is not a guarantee of the quality of measures planned or implemented. This fact reinforces the importance of the ex-ante conditionalities, the partnership principle and monitoring the implementation of the ESIF regulations and the use of funding. Emphasis should be on the quality of projects and their potential outcomes as measurable goals in an evidence based, comprehensive and sustainable plan toward community inclusion.

Nevertheless, this report is able to provide some indications as to the scale of funding available in some Member States' specifically for the transition to community-based care. Such information is drawn from several sources including ESIF programming and European Semester documents, but primarily from Member States ESIF websites, schedules of Calls for Proposals and approved projects, project information webpages, contact with Managing Authorities and implementing bodies, beneficiary organisations and project managers and through Governmental and civil society sector responses to the 2017 CLE:SFV survey.

39 Cohesion Policy is delivered through three of the five European Structural and Investment Funds namely the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund (The Cohesion Fund focuses on transport and the environment, applying to EU Member States which have a GDP lower than 90 % of the EU-27 average—Croatia not taken into account).

40 see http://ec.europa.eu/regional_policy/en/policy/what/investment-policy

41 see ESIF Open Data Portal <https://cohesiondata.ec.europa.eu/themes/9>

42 ibid

43 European Commission (2015), Investing in jobs and growth - maximising the contribution of European Structural and Investment Funds, COM (2015) 639 final.

44 European Union Agency for Fundamental Rights (2017) “From Institutions to Community Based Living – Part II: funding and budgeting” p 12, available: <http://fra.europa.eu/en/publication/2017/independent-living-funding>

45 ibid

Bulgaria: an estimated total amount of €236.4 million (EU and national funding) is allocated to projects supporting the transition from institutional to community-based care across the life course, including preventive measures, the development of social service standards and guidelines on the use of ESIF for social infrastructure.⁴⁶

Czech Republic: an estimated total of €151 million has been made available to support the transition to community-based care further to the “National Transformation of Social Services” plan.⁴⁷ This includes approximately €144 million under the Integrated Regional Operational Programme, co-funded by the European Regional Development Fund (ERDF) supporting the “deinstitutionalisation of social services for social inclusion”⁴⁸ and approximately €7.7 million under the Operational Programme Employment, co-funded by the European Social Fund (ESF) supporting the process of transforming residential services and to support community-based services resulting from the transformation.⁴⁹

Hungary: Under the Human Resources Development Operational Programme and the Competitive Central Hungary Operational Programme co-financed by the ERDF and ESF, an estimated total allocation of €277 million is available for the deinstitutionalisation of adults and children.⁵⁰ This total estimated allocation includes an overarching methodological coordination project with an estimated 2.5 billion forints (approx. €8 million) that provides the professional and methodological background on the deinstitutionalisation of adults for the whole country in line with Hungarian National law and policy.⁵¹

Romania: An estimated total of €285.86 million (EU and national funding) is available under the Regional Operational Programme, co-funded by the ERDF and the Operational Programme Human Capital, co-funded by the ESF to support the transition from institutional to community-based care of children, people with disabilities and older persons.⁵²

Slovakia: A total allocation of €230 million was planned to support the transition from institutional to community-based care in Slovakia. An estimated €30 million is allocated to Priority Axis 4, Specific Objective 4.2.1 “Support of transformation from institutional to community-based care” under the Operational Programme Human Resources, co-financed by the ESF, and €200 million was allocated to Priority Axis 2, Specific Objective 2.1.1 “Transition from institutional to community-based services for persons with disabilities and children at risk, and support of nurseries” under the Integrated Regional Operational Programme (IROP), co-financed by the ERDF. Civil society have advised that the allocation under the IROP has since been reduced from €200 million to €69 million and a separate amount of €70 million has been allocated to develop community-based services through the Integrated Territorial Investment approach.⁵³

Greece: At a 2016 roundtable event in Greece on the transition from institutional to family and community-based care,⁵⁴ a representative of the European Commission advised that “€235 million are available to promote independent living for children (foster care) and adults (apartments).”

46 see Republic of Bulgaria Ministry of Finance “Europe 2020: National Reform Programme” (May 2017, Bulgaria) Table 12 p 52 available: https://ec.europa.eu/info/2017-european-semester-national-reform-programmes-and-stability-convergence-programmes_en#bulgaria

47 see <http://www.trass.cz/>; for context see also Milan Šveřepa, Inclusion Europe – ‘Making significant progress, missing important opportunities. Status quo in Czechia and opportunities of the ESIF 2014-2020’ and Radek Rosenberger “CSS Stod – a specific example of the use of ESF” (European Parliament Disability Intergroup event “Using ESIF for Deinstitutionalisation: Comparing the Slovakia and Czech Experience”, 27th September 2016) presentations available: <https://goo.gl/C7wm1n>

48 Call 7 “Deinstitutionalisation of Social Services for Social Inclusion”, announced by the Ministry for Regional Development of the Czech Republic on 30 September 2015 available <http://www.strukturalni-fondy.cz/cs/Microsites/IROP/Vyzvy/Vyzva-c-7-Deinstitutionalizace-socialnich-sluzeb-za-ucelem-socialniho;>

Call 49 “Deinstitutionalisation of Social Services for Social Inclusion II” announced by the Ministry for Regional Development of the Czech Republic on 24 August 2016 available: <http://dotaceeu.cz/cs/Microsites/IROP/Vyzvy/Vyzva-c-49-Deinstitutionalizace-socialnich-sluzeb-za-ucelem-socialnih>

Call 77 on Deinstitutionalisation of Social Services for Social Inclusion III, announced by the Ministry for Regional Development of the Czech Republic on 27 September 2017 available: <http://dotaceeu.cz/cs/Microsites/IROP/Vyzvy/Vyzva-c-77-Deinstitutionalizace-socialnich-sluzeb-za-ucelem-socialnih>

49 Call 37 “Support for the process of transformation of residential services and support for community-based services created after the transformation”, announced by the Ministry of Labor and Social Affairs, project applications received between 1.11.2015 - 31.12.2015 available: <https://www.esfcr.cz/vyzva-037-opz> and

Call 66 “Support for the process of transformation of residential services and support for community-based services created after the transformation”, announced by the Ministry of Labor and Social Affairs, project applications received between 20.3.2017 - 31.5.2017 available: <https://www.esfcr.cz/vyzva-066-opz>

50 For adults in the Central Hungary region under the Competitive Central Hungary Operational Programme, 730 million forints (approx. 2.3 million EUR) is allocated and for all other regions under the Human Resources Development Operational Programme, co-funded by the ERDF a total allocation of 77.3 billion forints (approx. 248 million EUR) is allocated – Correspondence from ESIF project manager in Hungary on 18 August 2017. Copy on file with researcher. For children, under the Human Resources Development Operational Programme and the Competitive Central Hungary Operational Programme an estimated total allocation of €18.7 million EUR is available, see EFOP 2.1.1-16 “Resettlement of children’s homes, modernization of children’s homes, creation of missing children’s capacity” (approx. €14.7 million) available: <https://www.palyazat.gov.hu/efop-211-16-gyermekotthonok-kivltsa-gyermekotthonok-korszerstse-hinyz-gyermekotthoni-kapacitok-ltrehozsa> and VEKOP-6.3.1-16 “Resettlement of children’s homes, modernization of children’s homes, creation of missing child-friendly capacities” (approx. €4 million) available: <https://www.palyazat.gov.hu/plyzatkeres>

51 Correspondence from ESIF project manager in Hungary on 18 August 2017. Copy on file with researcher; Project ID: EFOP-1.9.1-VEKOP-15-2016-00001, beneficiary webpage: <http://fszk.hu/szakmai-tevenysegek/intezmenyi-ferohely-kivaltas/tars-projekt-efop-1-9-1/>.

52 see National Reform Programme (government of Romania) pp 57-58 available: <https://ec.europa.eu/info/sites/info/files/2017-european-semester-national-reform-programme-romania-en.pdf>

53 Slovakia joint civil society sector response to the 2017 CLE:SFV survey

54 European Expert Group on Transition from Institutional to Community-based Care “Roundtable on the transition from institutional to family and community-based care in Greece in cooperation with the Greek Ministry of Health and the Ministry of Social Security and Social Solidarity & the European Commission” (Athens, 18 May 2016)

3.3 An analysis of progress towards the ‘transition from institutional to community-based care’

Findings

- **The regulation has prompted Member States to develop and start to implement plans to transition to community-based living**

In the majority of the Member States surveyed, plans to shift away from large-scale forms of institutional care have been developed as a consequence of the ex-ante conditionality 9.1. Some Member States including Bulgaria and Romania have committed to eliminate all forms of institutional care and outlined a timescale through which to achieve this.

Bulgaria – proposed expenditure of ESIF outlined in the Deinstitutionalisation Action Plan 2016-2020

Bulgaria has set a target of 2025 to end the institutionalisation of children. The Action Plan 2016-2020 to implement the national strategy “Vision for deinstitutionalisation of children in Bulgaria” defines specific measures, responsibilities, deadlines, financial and organisational support and coordination mechanisms. The Action Plan outlines that EU Structural Funds (mainly the Operational Programme Development of Human Resources, the Operation Programme Regional Development and the Operational Programme Science and Education for Smart Growth) and national government funds will finance plans.

- **Measures are not always set in the context of a strategic vision or long-term plan and their influence on action and practice varies**

European Commission guidance

“Measures proposed should be part of a strategic vision on how the transition from institutional to community-based care will be implemented.”

Draft Thematic Guidance Fiche for Desk Officers on the Transition from Institutional to Community-Based Care

Only two civil society organisations representing children in Bulgaria and Romania that responded to the 2016 CLE:SFV survey felt that transition plans in their National Strategic Policy Framework on Poverty Reduction (NSPF) were underpinned by a strategic vision or stated goal for the closure of institutions.

Responding NGOs advised that there are specific strategies on the transition to community-based living in Bulgaria,⁵⁵ Lithuania⁵⁶ and Slovakia.⁵⁷ Hungary's strategy focuses only on persons with disabilities,⁵⁸ while plans for Romania⁵⁹ and the Czech Republic⁶⁰ only focus on children. In Poland, Estonia and Greece relevant measures included in the NSPFs are not currently framed within any specific strategies or plans concerning the transition to community-based care.

In some cases, such as in Hungary, the NSPF and associated action plans⁶¹ do not include any specific reference to the transition to community-based care, despite there being a specific standalone strategy for deinstitutionalisation of adults. In others, while the NSPF includes measures to transition, awareness of them is generally low, with other documents having greater influence on practice (for example, Poland – see below).

National NGOs in Lithuania and Bulgaria noted how national level targets and plans for the transition to community-based care were not always mirrored regionally or locally, where plans often do not exist or are of poor quality.

Hungary – there are no measures for the transition to community-based care in the Hungarian National Strategic Policy Framework or with respect to children

National NGOs in Hungary advised that the NSPF⁶² does not contain measures for the shift from institutional to community-based care and that there are no specific national or regional strategies for deinstitutionalisation in regard to children.⁶³ The Hungarian Action Plans⁶⁴ concerning the implementation of the NSPF do not mention the transition from institutional to community-based care. Hungary has been deemed to fulfil ex-ante 9.1 with respect to measures for the transition from institutional to community-based care by virtue of its "Strategy of the replacement of the large scale institutions providing nursing and caring for persons with disabilities with community-based settings (Deinstitutionalisation) 2011-2041".⁶⁵ While the European Expert Group on the transition from institutionalisation encourages the development of freestanding strategies and plans, the ex-ante regulations are clear that the overall measures should be included in the NSPF.

55 Council of Ministers: 2010 National Strategy "Vision for deinstitutionalisation of children in Bulgaria"

<http://sacp.government.bg/bg/evropejski-programi-i-proekti/proekt-detsvo-za-vsichki/nacionalna-strategiya-vizija-za-deinstitucionalizaciya-na-decata/>;

Council of Ministers: Action Plan for implementation of the National Strategy "Vision for Deinstitutionalisation of Children in Bulgaria 2016-2020" adopted October 2016 and Council of Ministers: "National Strategy for Long-Term Care" adopted by Decision № 2 on 7 January 2014 <http://www.strategy.bg/StrategicDocuments/View.aspx?lang=bg-BG&id=882>.

56 Ministry of Social Security and Labor of the Republic of Lithuania "Action Plan 2014-2020 for Transition from Institutional Care to Family and Community-based Services for People with Disabilities and Children left without Parental Care" (2014 February 14 No. A1-83, Vilnius) available: <https://www.etar.lt/portal/legalAct/c90d41f097de11e3bdd0a9c9ad8ce1bf> and "Strategic Guidelines on Deinstitutionalisation of Social Care Home for Children with Disabilities, Children left without Parental Care, Adult People with Disabilities" (2012 November 16 No. A1-517, Vilnius) available in EN: <https://www.e-tar.lt/portal/lt/legalAct/TAR.529536C2C2A8>.

57 Ministry of Labour, Social Affairs and Family of Slovakia "Strategy for the Deinstitutionalisation of the System of Social Services and Alternative Care in the Slovak Republic" (adopted November 2011) and "National action plan for the transition from institutional to community-based care in the social services system 2016-2020" see: <https://www.employment.gov.sk/sk/rodina-socialna-pomoc/socialne-sluzby/deinstitucionalizacia-socialnych-sluzieb.html>.

58 Government Resolution 1257/2011 "Strategy of the replacement of the large scale institutions providing nursing and caring for persons with disabilities with community-based settings (Deinstitutionalisation) 2011-2041" available in HU: <http://fszk.hu/wp-content/uploads/2015/06/Kormanyhatarozat-es-Strategia-a-fogyatekos-szemelyek-szamara-apolast-gondozast-nyujto-szocialis-intezmenyi-ferohelyek-kivaltasarol.pdf>.

59 Government Decision No 1113/2014 "The National Strategy for the Protection and Promotion of the Rights of the Child 2014-2020" see: http://www.copii.ro/comunicate_presa/strategia-nationala-pentru-protectia-si-promovarea-drepturilor-copilului-a-fost-publicata-in-monitorul-oficial

60 National strategy for the protection of children's rights (adopted 2012) available in CZ: <http://www.mpsv.cz/files/clanky/14309/NSOPD.pdf>.

61 "Hungarian National Social Inclusion Strategy – extreme poverty, child poverty, the Roma" 2011-2020, available in EN

<http://romagov.kormany.hu/download/5/58/20000/Strategy%20-%20HU%20-%20EN.PDF>;

Action plan 2012-2015, available: <http://romagov.kormany.hu/download/a/58/20000/Strategy%20Action%20Plan.pdf>;

Action Plan 2015-2017, available <http://romagov.kormany.hu/hungarian-national-social-inclusion-strategy-deep-poverty-child-poverty-and-the-roma>

62 "Hungarian National Social Inclusion Strategy – extreme poverty, child poverty, the Roma" 2011-2020 in EN

<http://romagov.kormany.hu/download/5/58/20000/Strategy%20-%20HU%20-%20EN.pdf>

63 National NGO response to the 2016 CLE:SFw survey and correspondence with MDAC Hungary on 4th October 2017. Copy on file with researcher.

64 Action plan 2012-2015, available in EN: <http://romagov.kormany.hu/download/a/58/20000/Strategy%20Action%20Plan.pdf>

Hungarian and the National Social Inclusion Strategy Action Plan 2015-2017, available:

<http://romagov.kormany.hu/hungarian-national-social-inclusion-strategy-deep-poverty-child-poverty-and-the-roma>.

65 see Hungary's Partnership Agreement for the 2014-20 Development Period (Prime Minister with the participation of the Ministry of National Economy and the National Planning Office, Budapest 15 August 2014) s. 2.3 summary table of ex ante conditionalities, p 160 available:

https://ec.europa.eu/info/publications/partnership-agreement-hungary-2014-20_en and

Human Resources Development Operational Programme 2014-2020, Table 24: Identification and fulfilment of the applicable ex ante conditionality, p 170 (available in HU).

http://ec.europa.eu/regional_policy/en/atlas/programmes/2014-2020/hungary/2014hu05m2op001 (unofficial EN translation).

Lithuania – a lack of synergy between deinstitutionalisation strategies and the National Strategic Policy Framework.

A local NGO in Lithuania advised that “deinstitutionalisation strategies are not directly linked with poverty reduction strategies in Lithuania at all. Deinstitutionalisation measures are not foreseen in the NSPF.⁶⁶ The only possible link is that of including persons with disabilities (including psychosocial and intellectual disabilities) among other groups experiencing poverty in Lithuania. However, this document mainly focuses on families at risk, children, and older persons in rural regions. Persons with disabilities are only briefly mentioned.” The NGO advised that a separate document addresses deinstitutionalisation, namely the Deinstitutionalisation Action Plan for 2014–2020⁶⁷ and that “both documents have been developed and are being implemented without any synergies or mutual coordination.”

Poland – measures included in the National Strategic Policy Framework have not been implemented

A National NGO in Poland advised measures for the transition exist in the NSPF “The National Programme for Prevention Poverty and Social Exclusion 2020: A New Dimension Active integration”⁶⁸ that was drafted by the previous government in Poland. However, these measures have not yet been implemented. The NSPF is not a well-known document among civil society and service providers on the ground; there is no implementation plan for the programme; and it is unclear to civil society organisations whether the programme remains active. The Ministry of Regional Development’s guidelines on the implementation of projects in the area of social inclusion and poverty eradication using the resources of the European Social Fund and the European Regional Development Fund 2014–2020 are far better known.⁶⁹ These guidelines permit expenditure of ESIF on institutions of up to 14 places, in the case of children (in line with National law⁷⁰), and 30 places, in the case of adults.

• Targets typically focus on numbers to be 'transitioned' and omit quality-of-life outcomes

Performance goals for the transition from institutional to community-based care in Operational Programmes typically focus on the numbers that will leave existing institutions by a specified date. For example, Hungary aims to 'transition' 10,000 people by 2023.⁷¹ A number of Member States have also adopted arbitrary caps on the size of 'group homes' into which people will be 'transitioned' from larger scale institutions. Yet, as European Commission guidance notes, the size of such homes cannot be taken as a reliable indicator of whether the right to community-based living is being respected and ensured.

Evidence gathered by CLE:SFV did not identify any targets or measures concerning the quality and effectiveness of what people will be transitioned to, nor did it anticipate improvements in life outcomes as they correspond with the right to live independently and to be included in the community.

66 Action Plan 2014-2020 on Enhancement of Social Inclusion (in Lithuanian) available: http://www.socmin.lt/public/uploads/233_veiksmu_planas_2014-2020_bendras.pdf.

67 Action Plan 2014-2020 for Transition from Institutional Care to Family and Community-based Services for People with Disabilities and Children left without Parental Care, available: <https://www.e-tar.lt/portal/lt/legalAct/c90d41f097de11e3bdd0a9c9ad8ce1bf>) and Strategic Guidelines on Deinstitutionalisation of Social Care Home for Children with Disabilities, Children left without Parental Care, Adult People with Disabilities, available: <https://www.e-tar.lt/portal/lt/legalAct/TAR.529536C2C2A8>.

68 “National Poverty Reduction Program and Social Exclusion 2020. A new dimension of active integration” (RESOLUTION No. 165 COUNCIL OF MINISTERS Of 12 August 2014) isip.sejm.gov.pl/Download?id=WMP20140000787&type=2.

69 “Guidelines for the implementation of projects in the area of social inclusion and poverty eradication using the resources of the European Social Fund and the European Regional Development Fund 2014-2020” MR/H/2014-2020/13(3)/10/2016 (Warsaw, October 24, 2016).

70 Act of 9 June 2011 concerning Family Support and Foster Care (Text No. 887) ISN: POL-2011-L-89639.

71 see Human Resources Development Operational Programme, s. 2.A.1 Priority Axis: Infrastructure investments for strengthening social cooperation, 2.A.8 Performance framework, Table 6: Performance framework of the priority axis, available: https://www.palyazat.gov.hu/az_europai_bizottsag_altal_elfogadott_operativ_programok_2014_20.

- **Evidence suggests that some Member States are using ESIF to invest in the re-organisation of institutional care rather than the transition to community-based care**

European Commission guidance

“Building or renovating long-stay residential institutions is excluded, regardless of their size, and that the size of the institution cannot be used in isolation as a criterion to judge whether the supported infrastructure can be considered as community-based service or simply a scaled-down institution.”

“Assurance should be provided that any group of individuals will not be excluded from the support because of the type of their impairment (e.g. because of the complexity of their support needs).”

Draft Thematic Guidance Fiche for Desk Officers on the Transition from Institutional to Community-Based Care

In a number of Member States, including Hungary, Poland, Lithuania and Estonia, measures articulated either in Member States NSPFs or in their ESIF programming documents (Partnership Agreements and/or Operational Programmes) appear to propose the re-organisation of institutional care provision, not a genuine shift to community-based living, in particular through the development or maintenance of group homes. A number of Member States have set seemingly arbitrary ‘caps’ on the number of places for children or adults in such group homes, ranging from 12 to 30 persons. These proposed measures have been cemented in Partnership Agreements, Operational Programmes, calls for proposals, and funded projects. For example, one National NGO in Hungary commented that “the new calls for 2014-2020 are more about infrastructure development, [...] minimum financial tools are dedicated for training of staff, persons with disabilities or organisation development.”⁷²

Such approaches are typically characterised as a milestone in the ‘transition from institutional to community-based care’, albeit without providing details of any future milestones beyond this stage. In other instances, an explicit case is made by Member States to develop or maintain institutional care provision on the basis that the extent of some people’s individual care needs limits the prospects for community-based living.

Such plans fall short of achieving a transition to community-based living, as defined by both the Commission’s guidance for Desk Officers concerning fulfilment of ex-ante conditionality 9.1 (see above) and the recently published General Comment by the UN Committee on the Rights of Persons with Disabilities on Article 19 of the UN Convention on the Rights of Persons with Disabilities which states:

“...Neither large-scale institutions with more than a hundred residents nor smaller group homes with five to eight individuals, nor even individual homes can be called independent living arrangements if they have other defining elements of institutions or institutionalisation.”

Hungary – defining deinstitutionalisation as replacement of residential institutions with group homes

The project summary of the Methodological coordination project of Deinstitutionalisation (EFOP 1.9.1) says that: "The essence of deinstitutionalisation is to replace the previous residential institutions with large number of residents with smaller homes or apartments (suitable for a maximum of 12 people – 'subsidised housing') located at the place of residence of the disabled person or somewhere nearby in the settlement in his ordinary living environment. The government is committed to wind up all institutions with more than 50 beds until 2036 in accordance with EU goals and to establish a more modern service system as a replacement."⁷³

In the Central Hungary region,⁷⁴ 730 million forints (approx. €2.3 million) is allocated to deinstitutionalisation of adults under the Competitive Central Hungary Operational Programme.⁷⁵ One to two institutions will be selected for deinstitutionalisation, meaning an estimated 80-100 persons will transition to new "subsidised housing".⁷⁶ In all other regions of Hungary, the Human Resources Development Operational Programme co-financed by the ERDF plans to move 10,000 persons to new "subsidised housing" by 2023 with a total allocation of 77.3 billion forints (approx. €248 million) through two projects. The first project has an allocation of 23.8 billion forints (approx. €76.7 million) and aims to transition 2500 persons by 2018.⁷⁷ 30 institutions have applied for funding under the first project and are currently (August 2017) under evaluation for funding. The second project has an allocation of 53.5 billion forints (approx. €172.8 million).⁷⁸

Regarding children, Hungary has issued calls for proposals under two Operational Programmes concerning the "replacement of children's homes, resettlement of children's homes and modernisation of children's homes" (EFOP 2.1.1-16⁷⁹ & VEKOP 6.3.1-15⁸⁰). National NGOs in Hungary have expressed concern that Call EFOP 2.1.1 is directed toward the modernisation of children's homes and "virtually divided" large homes. Indeed, the "Compass - Home for Children" project (EFOP-2.1.1.-16-2016-00009) involves increasing child protection services from 600 to 800 places, the first infrastructure development under this project is a "20-person special home for children" in Békéscsaba costing 160 million HUF (approx. €519 Thousand). The home will consist of three housing units, for the "teaching of boys with various psychological problems" and will be completed in 2019.⁸¹

73 Project summary for "PARTNER – Establishment of professional coordination workshop for deinstitutionalisation" project ID: EFOP-1.9.1-VEKOP-15-2016-00001, Total project allocation: 2 499 492 655 Forints. Information provided by the project beneficiary: Fogytékos Személyek Eéselygyenlóségéért Közhasznú Nonprofit Kft (FSZK) on 14th August 2017, copy on file with researcher.

74 Budapest and Pest county

75 Competitive Central Hungary Operational Programme VEKOP 632-17, available: <https://www.palyazat.gov.hu/vekop-632-17-intzmnyi-elltsrl-a-kzssgi-alap-szolglatsokra-val-ttrs-fejlesztse-intzmnyi-frhely-kivlts-1>

76 Adults in large institutions are planned to be transitioned into 'subsidized housing', these are units that will be built with the support of the ERDF to a maximum number of 12 beds as stated in the Project summary for 'PARTNER – Establishment of professional coordination workshop for deinstitutionalisation' project ID: EFOP-1.9.1-VEKOP-15-2016-00001, Information provided by the project beneficiary: Fogytékos Személyek Eéselygyenlóségéért Közhasznú Nonprofit Kft (FSZK) on 14th August 2017, copy on file with researcher.

77 Human Resources Development Operational Programme 2014-2020, EFOP 2.2.2, available: <https://www.palyazat.gov.hu/efop-222-intzmnyi-elltsrl-a-kzssgi-alap-szolglatsokra-val-ttrs-fejlesztse>

78 Human Resources Development Operational Programme 2014-2020 EFOP 2.2.5-17, available: <https://www.palyazat.gov.hu/efop-225-17-intzmnyi-elltsrl-a-kzssgi-alap-szolglatsokra-val-ttrs>

79 Human Resources Development Operational Programme 2014-2020, EFOP 2.1.1-16, total allocation 4,590,000,000.00 Forints, available: <https://www.palyazat.gov.hu/plyzatkeres>

80 Competitive Central Hungary Operational Programme 2014-2020, VEKOP 6.3.1-16, total allocation: 260,000,000.00 Forints, available: <https://www.palyazat.gov.hu/plyzatkeres>.

81 "Compass – Home for Children" (Directorate-General for Social Affairs and Child Protection - SZGYF), 8th August 2017) available: <https://szgyf.gov.hu/hu/1762-iranytu-otthon-a-gyermekekert>. SZGYF is the central state body in Hungary maintaining all state institutions since 2013.

Lithuania – development of institutions for people with high support needs

In Lithuania, a National NGO advised that the Action Plan 2014-2020 on Enhancement of Social Inclusion⁸² provides that, when transitioning from institutions to family and community-based services: “the need for specialised residential and stationary services will remain” (in smaller institutions), as it is asserted that some social service recipients are in need of constant care that cannot be guaranteed either by the community or by family members. The Action Plan measures include the following: to develop small institutions that provide specialised stationary nursing and care services for persons who cannot take care of themselves or come back to the family and/or community (Measure No 4.3.2). The Lithuanian Operational Programme commits to creating ‘group homes’ and says that in exceptional cases “institutions will be developed or refurbished to provide improved quality of specialised hospital nursing and care services for people who cannot take care of themselves and return to family / community infrastructure; and to improve their quality. According to preliminary estimates, 5-7 percent of institutions will be refurbished.”⁸³

Czech Republic – including ‘special regime homes’ within the scope of deinstitutionalisation

The Czech Republic’s Integrated Regional Operational Programme, co-funded by the European Regional Development Fund states that; “Deinstitutionalisation of services transforms institutional (inpatient) care to community-based care. It systematically closes institutions and develops community-based social services. Support will be provided to the construction, establishment and renovation of existing facilities for the provision of community-based care, also including residential facilities. Support may be provided, for example, to special regime homes or homes for people with disabilities.”⁸⁴ The Czech typology of accredited social services distinguishes between so-called homes for people with disabilities – traditional institutional care – and smaller facilities named sheltered living – based on group homes principles. There is no limit in the size of group homes or ‘special regime homes’. By way of example, the Stod Social Service Centre or “CSS Stod” (a typical institution that housed 190 men) is in the final stage of ‘transformation’.⁸⁵ In order to complete the transformation, CSS Stod has applied for funding to support the following activities:

- Nine group homes will be created including three for people with the “highest levels of support”, with six persons living in each house.
- Two houses each for six people with high support needs will be built on land in the municipality of Kvíčovice.
- A house for people with Autism Spectrum Disorder and challenging behaviour is planned in the village of Dnešice.
- A house in Staňkov, that was acquired on the open market, will be renovated to house twelve people, with four persons “requiring a medium level of support” living in each household.
- The organisation also plans to acquire new headquarters as the old institution complex will be abandoned.⁸⁶

82 Ministry of Social Security and Labour Minister Order No. A1-588 (22/10/2014 – updated from 2013) “Approved Action Plan for Social Inclusion for the period 2014-2020” available in LT: http://www.socmin.lt/public/uploads/233_veiksmu_planas_2014-2020_bendras.pdf.

83 Operational Programme for EU Structural Funds Investment for 2014-2020, statement of activities to be funded under Priority Axis 8 “promoting social inclusion and combatting poverty”, Specific Objective 8.1.1 “Increase community-based social services share the transition from institutional care to community-based services” p 130 available: <http://www.esinvesticijos.lt/lt/dokumentai/2014-2020-metu-europos-sajungos-fondu-investiciju-veiksmu-programa>.

84 Integrated Regional Operational Programme for period 2014-2020 (Ministry of Regional Development CZ, version as of 18 May 2015) p 67; see also Milena Johnová & Jan Strnad “Evaluation of social services quality and protection of service user rights: Key findings” an analysis assigned by the Ministry of Labor and Social Affairs of the Czech Republic (2012, str.33-36)

85 “Transformation of Social Services” under the National Center for the Support of Transformation of Social Services as part of the Ministry of Labor and Social Affairs of the Czech Republic, see: <http://www.trass.cz/>; see also “The Use of the European Structural and Investment Funds for Deinstitutionalisation – Comparing the Slovak and Czech Experience” (European Parliament event hosted by the co-chairs of the EP Disability Intergroup, Brussels 27th September 2016) Presentations from the speakers available: <https://communitylivingforeurope.org/2016/08/25/using-esif-for-deinstitutionalisation-comparing-the-slovakia-and-czech-experience-ep-disability-intergroup-27-september-2016/>.

86 Correspondence from CSS Stod on 30th September 2016 to 27th July 2017. Copy on file with researcher.

Estonia – a “transition period” during which institutions for up to 30 persons will be developed

Estonia has argued in the “Special Care and Welfare Development Plan” that a “transition period” is necessary “to allow persons, used to living in institutions, to adjust to more independent life style; increase the awareness and tolerance of the society with respect to the persons with special mental needs; and to allow the provision of community-based services.” To these ends, it plans to focus on the “establishment and adaptation of smaller service provision units, with up to 30 service slots, and development of community-based services.”⁸⁷

Poland – “services provided in the community” defined as including residential institutions of up to 14 places for children and 30 places for adults

In Poland, “Guidelines for the implementation of projects in the area of social inclusion and poverty eradication using the resources of the European Social Fund and the European Regional Development Fund 2014-2020” define “services provided in the community” as including “family substitute custody and care and educational institutions up to 14 persons.” The Guidance states that services for adults must be personalised, enable choice and control, prevent isolation from the community and not force people to live together, and ensure that organisational requirements do not take precedence over individual needs. The guidance goes on to permit investment in “assisted living”, “support centres” and “social care homes” of up to 30 residents.⁸⁸

Poland’s Partnership Agreement acknowledges that institutional care continues to dominate service provision and that such models “often do not provide residents with the right to independence, limit or prevent participation in community life, and constitute solutions which are more costly than the services provided at the level of local communities. As a consequence, “it is necessary to promote undertakings aimed at setting up and development of deinstitutionalised forms of care for children, people with disabilities and the elderly, and forms of support for people who are socially excluded or at risk of social exclusion.”

However, the Agreement also states that:

“At the same time, in justified cases it is appropriate to continue support for institutional forms of care, in particular in situations where, because of the scope of care required by persons staying in these establishments, a transformation towards deinstitutionalised care within the local community is not possible. This mainly applies to groups whose need for support prevents living alone, using the protected housing system, or using deinstitutionalised care:

- Children and adults with a high degree of mental disability;
 - Children and adults suffering from severe mental disorders that prevent them from living independently and make them a threat to their own life, health and safety and that of others;
 - Children and adults who suffer from diseases that require round-the-clock medical care and access to specialised medical devices;
 - Aged seniors with a high degree of infirmity.
- (continued...)

87 Ministry of Social Affairs “Special Care and Welfare Development Plan for 2014-2020” (Tallinn, 2014) Annex 2 p 36 available in EN:

https://www.sm.ee/sites/default/files/content-editors/eesmargid_ja_tegevused/Sotsiaalhoolekanne/Puudega_inimetele/special_care_2014-2020.pdf

Note: the “Special Care and Welfare Development Plan 2014-2020” was incorporated into Estonia’s National Strategic Policy Framework for Poverty Reduction document; the “Welfare Development Plan 2016-2023” (Ministry of Social Affairs), see p 34-35 available in EN:

https://www.sm.ee/sites/default/files/content-editors/eesmargid_ja_tegevused/welfare_development_plan_2016-2023.pdf

88 “Guidelines for the implementation of projects in the area of social inclusion and poverty eradication using the resources of the European Social Fund and the European Regional Development Fund 2014-2020” MR/H/2014-2020/13(3)/10/2016 (Warsaw, October 24, 2016) Chapter 3 (unofficial EN translation).

Economic constraints make it impossible to effectively integrate such facilities into the system of establishments undergoing gradual deinstitutionalisation: Providing care to residents in the deinstitutionalised form, i.e. preparing adequate rooms for even a small group of people and adapting the facilities; providing medical equipment (often specialised) and everyday use items; employing highly qualified personnel to provide 24-hour care (including medical care); and ensuring the presence of physicians are costly, and therefore may not be undertaken by the local community.”⁸⁹

The Opening Doors for Europe’s Children Campaign⁹⁰ has noted that “In the last 5 years the number of Small Group Homes (SGHs) has tripled in Poland, as a result of the Act of 9 June 2011 on Family Support and the System of Foster Care,⁹¹ which was responsible for ensuring the establishment of units for no more than 14 children. Many large institutions were divided into smaller semi-autonomous units. However, this division did not change the reality of children’s everyday life. In many places, 2 to 5 new SGHs were built close to one another, which created new care complexes resembling the previous large institutions although the SGHs were located in more modern and smaller buildings.”⁹²

- **Some Member States have developed promising practices in the areas of prevention of institutionalisation, transition to community-based care, and access to community-based services, but plans are not always comprehensive**

European Commission Guidance

“...should include measures to prevent institutionalisation, measures to develop services based in the community enabling people to live independently and measures to enable access to mainstream community services”

Draft Thematic Guidance Fiche for Desk Officers on the Transition from Institutional to Community-Based Care

Positive examples of planned measures to prevent institutionalisation and widen access to community-based services exist across a number of Member States surveyed by CLE:SF. National NGOs and Governmental respondents in Bulgaria, Romania and the Czech Republic advise a broad range of measures are stated in their NSPFs in support of family-like care of children including community support services for families, measures to prevent institutionalisation, development of adoption and foster care services as well as emergency reception centres, small group homes, and training for social service and family support workers.

89 Programming the Financial Perspective 2014 -2020 - Partnership Agreement, “High level of poverty and social exclusion, associated with low access to services – diagnosis for Thematic Objective (TO) 9” (21st May 2014) p 41-42 available: https://ec.europa.eu/info/sites/info/files/partnership-agreement-poland-may2014_pl.pdf

90 <http://www.openingdoors.eu>

91 Act of 9 June 2011 concerning Family Support and Foster Care (Text No. 887) ISN: POL-2011-L-89639.

92 Opening Doors for Europe’s Children Campaign (Country Factsheet – Poland) available: <http://www.openingdoors.eu/wp-content/uploads/2016/12/poland-1.12.pdf>.

Promising practices include:

Bulgaria – new standards for social services in support of the transition to community-based care

The “New standards for social services” project aims to improve the process of deinstitutionalisation as well as the accessibility and effectiveness of social services for children, adults and people with disabilities through new quality standards and financing based on user needs, among other measures. Activities will include the creation of new financial models, the development of new quality standards, development of proposals for legislation to incorporate the new standards services, further development of the government’s deinstitutionalisation plan for adults, and assessment of the effectiveness of the existing social services targeted at social inclusion.⁹³

Czech Republic – investment in acute short-term psychiatric care to prevent institutionalisation

Under the Integrated Regional Operational Programme co-funded by the European Regional Development Fund, 2.5 billion CZK (approx. €96.6 million) is available to support the “Deinstitutionalisation of Psychiatric Care” further to Specific Objective 2.3 “Development of Infrastructure for Health Services and Care about health”.⁹⁴ So far eight projects have been approved, requesting an estimated amount of 1.5 billion CZK (approx. €57.8 million).⁹⁵ The eight projects aim to build the capacity for acute short term psychiatric care in general hospitals in order to prevent institutionalisation and prepare for deinstitutionalisation of psychiatric institutions.⁹⁶

However, few individual Member States have proposed comprehensive measures spanning prevention, transition and enabling access to community-based services. Experience has demonstrated that a clear comprehensive vision and plan for the transition to community-based living is crucial to success.⁹⁷

Civil society respondents in Bulgaria, Hungary, Romania and Lithuania noted that measures in their respective NSPF do not adequately address the needs of children with disabilities. In Lithuania, some measures are stated in the NSPF including development of adoption and foster care services as well as clustered village style homes. However, these measures are “addressed for ‘normal’ children only”.⁹⁸

93 Operational Programme Human Resources Development 2014-2020, “New Standards for social services”, Beneficiary: Ministry of Labour and Social Policy Bulgaria, total allocation: 2 million BGN (approx. €1 million). Information provided by civil society sector in Lumos Bulgaria, responding to the 2017 CLE:SFw survey.

94 Call 54 “Deinstitutionalisation of Psychiatric Care” announced by the Ministry for Regional Development of the Czech Republic on 15 September 2016 available: <http://dotaceeu.cz/cs/Microsites/IROP/Vyzvy/Vyzva-c-54-Deinstitutionalizace-psihiatricke-pece> and Call 75 “Deinstitutionalisation of Psychiatric Care II” announced by the Ministry for Regional Development of the Czech Republic on 30 June 2017 available: <http://www.strukturalni-fondy.cz/cs/Microsites/IROP/Vyzvy/Vyzva-c-75-Deinstitutionalizace-psihiatricke-pece-II>.

95 announced on 14 July 2017 by the Ministry for Regional Development of the Czech Republic, see: <http://dotaceeu.cz/cs/Microsites/IROP/Vyzvy/Vyzva-c-54-Deinstitutionalizace-psihiatricke-pece>. For a full list of the 8 approved projects see: http://dotaceeu.cz/getmedia/0c3e5235-ce03-432d-81d2-cde42578656b/Prehled-projektu-54-vyzvy-vzhledem-k-alokaci-vyzvy_1.pdf.

96 Integrated Regional Operational Programme, Call 54 “Deinstitutionalisation of Psychiatric Care” available: <http://www.strukturalni-fondy.cz/cs/Microsites/IROP/Vyzvy/Vyzva-c-54-Deinstitutionalizace-psihiatricke-pece> Positive assessment of approved projects provided by Jan Pfeiffer Senior Policy Adviser, Mental Health Europe and Milan Šveřepa, Director, Inclusion Europe and co-chair of the European Expert Group on the Transition from Institutional to Community-based Care.

97 See for example: Mansell, J et al (2007) Deinstitutionalisation and Community Living: Outcomes and costs - a report of a European Study: “Key ingredients for the successful replacement of institutional by community care are a national (or perhaps regional) policy framework and detailed local plans for transferring care out of an institution and into a well-prepared community.”

98 National NGO in Lithuania responding to the 2016 CLE:SFw survey.

Bulgaria

A National NGO in Bulgaria advises that the “Vision for Deinstitutionalisation of Children Action Plan for the period 2016 – 2020” does not focus sufficiently on preventative measures, family support and mainstream services and, supports infrastructure for alternative care e.g. building small group homes. Another National NGO advised that the NSPF⁹⁹ contains partial measures to develop specific services for people with disabilities such as Personal Assistance. Commenting further, the respondent advised that while Personal Assistance and home-based assistance for adults exist they are “quite underdeveloped and insufficient as the available funds do not match the needs and demand.” The respondent also stated that there are clear weaknesses in the implementation of the strategy and the action plan at local level as “not all 28 districts and a minority of the 264 municipalities in Bulgaria have strategies. Some of the municipal documents are of poor quality and are copied from standard templates or from other municipalities”.

• Member States sometimes struggle to coordinate strategy and implementation across national, regional and local government and between Operational Programmes

A particular challenge faced by Member States concerns both coordination and integration of strategy and action across government nationally, regionally and locally, and across Operational Programmes deriving from different ESIF funding streams. This can mean, for example in Slovakia, that the impact of measures supported under the European Social Fund for social services workforce development are not realised because planned measures to create physical infrastructure necessary for the transition under the European Regional Development Fund are not implemented¹⁰⁰ In other contexts, the absence or inconsistency of national measures over and above those supported by ESIF can hinder implementation and impact, such as where Member States invest domestic funding in the development or maintenance of institutional care.¹⁰¹

In some Member States, measures for the transition to community-based care span various strategies and plans, which have been developed and are being implemented in silos by their relevant Government Ministry.

A report on implementation of the ex-ante conditionalities advised that Commission staff stated that a “lack of time to work on the ex-ante conditionality had a negative impact on how the role of sound strategies and public policies have been perceived and dealt with in terms of transparency and partnerships, which ultimately could affect the quality of strategies developed.”¹⁰²

To address these challenges, some Member States are striving to ensure that their strategies and plans are comprehensive and coherent. Promising examples include:

99 National Strategy for Poverty Reduction and Promoting Social Inclusion, available in BG: <http://www.strategy.bg/StrategicDocuments/View.aspx?lang=bg-BG&id=790>.

100 Slovakia civil society sector responses to the 2017 CLE:SFV survey; see also Policy Department for Citizens Rights and Constitutional Affairs (September 2016) European Structural and Investment Funds and People with Disabilities: Focus on the Situation in Slovakia – in-depth analysis for the European Parliament Petitions Committee (European Network on Independent Living). available: [http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/571371/IPOL_IDA\(2016\)571371_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/571371/IPOL_IDA(2016)571371_EN.pdf)

101 Responding to the 2016 CLE:SFV survey, a National NGO in Romania and the Governmental sector of the Czech Republic advised national funding is being used to develop institutional care.

102 European Commission, Directorate-General for Regional and Urban Policy “The implementation of the provisions in relation to the ex-ante conditionalities during the programming phase of the European Structural and Investment (ESI) Funds” (European Union, 2016). Available: <https://goo.gl/6bKMPq> p 109.

Czech Republic – drawing together different strategies and plans

Measures for the transition to community-based care are currently spread across a number of strategies focused on different groups including the National strategy for the protection of children's rights, National Action Plan Promoting Positive Aging for the Period 2013-2017, Strategy of Reform of Psychiatric Care 2014-2020 and the National Strategy on Development of Social Services 2016-2025. The European Expert Group on the Transition from Institutional to Community- Based Care has urged that a comprehensive strategy spanning all groups be developed.¹⁰³ The Ministry of Labour and Social Affairs of the Czech Republic has advised that a plan is being developed and should be launched in 2017.

Romania – using ESIF to elaborate a comprehensive plan for the transition from institutional to community-based care for children

Romania is utilising ESIF to develop a comprehensive plan for the deinstitutionalisation of children. The aim of the project is "to achieve common procedures and methodologies at the level of the central and local public administration authorities in order to make their activity more efficient in ensuring the transition from the institutional care of children to their care in the community." Expected outcomes include comprehensive needs assessment concerning children presently residing in "classical placement centres" to underpin a closure plan, a map of preventive services in the communities from which the children originally came, a unitary methodology at the national level to guide the development of individual closure plans for the centres, to develop a uniform methodology for the development of preventive services in rural communities, a unitary methodology for developing plans for the development of services for the prevention of child separation from the community and a monitoring and evaluation plan for ensuring the transition from institutional care to community care.¹⁰⁴

• Plans are not always based on comprehensive needs analysis

European Commission Guidance

"Measures should be based on needs analysis, including in relation to the needs of the population at risk of institutionalisation, the availability of services in the community, financial, material and human resources, disaggregated data about individuals with support needs living in the community and individuals living in long-stay residential institutions; access of children and adults with support needs to mainstream services) and the causes of institutionalisation of children and adults which may include poverty, lack of services in the community, stigma etc."

Draft Thematic Guidance Fiche for Desk Officers on the Transition from Institutional to Community-based Care

¹⁰³ European Expert Group on the Transition from Institutional to Community Based Care, Joint Open Letter in relation to Calls for Proposals No 29 and 30 (Brussels, 14 June 2017) available: http://www.e-include.info/images/PDF_files/EEGOpenLetter.pdf

¹⁰⁴ Operational Programme Administrative Capacity 2014-2020 (POCA), Project: "Elaboration of the deinstitutionalisation plan for children in institutions and ensuring the transition of their care in the community – SIPOCA 2 Code" awarded to National Authority for the Protection of Child's Rights and Adoption. Start date: 31 March 2016, implementation period: 30 months, Total amount: 13,503,126.00 Lei, (of which 11,346,946.84 financial contribution from the European Union and 2,156,179.16 own contribution of the Beneficiary).

At the Community Living for Europe roundtable on 1st December 2016,¹⁰⁵ Commission officials reported that one of the key issues they have found in implementation of Operational Programmes is the lack of needs assessments and data collection by Member States.

Respondents from Romania and the Czech Republic¹⁰⁶ noted that their plans were based on an analysis of the situation and the needs of those at risk of institutionalisation. However, the respondent from the Czech Republic advised that measures were based on disaggregated data of individuals with support needs who were living in the community as well as disaggregated data on individuals living in institutions. Respondents from Bulgaria, Romania, and the Czech Republic reported that measures were based on the availability of services in the community.

In addition to the lack of needs analysis and data collection by Member States on which to base measures, it appears that the formulas employed for the allocation of ESIF across regions, which are based on GDP, can obscure needs related to deinstitutionalisation and lead to significant imbalances in investment. For example, in Hungary an ambitious goal exists to 'transition' 2,500 people from existing institutions with an estimated allocation of 23.8 billion Forints (approx. €76.7 million) by 2018 and 10,000 persons by 2023 with allocations of 53.5 billion Forints (approx. €172.8 million). The Operational Programme and call for proposals pertaining to this goal do not cover the Central region¹⁰⁷ of Hungary. A mirror call for proposals under the Central Hungary Operational Programme with an allocation of 730 million Forints (approx. €2.4 million) aims to transition just 80-100 people in the same timeframe across a maximum of two institutions, despite this region including an estimated 11-12 institutions overall.¹⁰⁸ The Mental Disability Advocacy Centre recently exposed inhuman and degrading conditions faced by adults and children in Topház Special Home located in the city of Göd, Central Hungary region. These included residents being tied to beds and restrained with makeshift straitjackets.¹⁰⁹

A similar imbalance is found in the Czech Republic where the National Transformation of Social Services Plan for Persons with Disabilities funded by the Integrated Regional Operational Programme and the Operational Programme Employment does not cover the Prague area.¹¹⁰

These findings also suggest that in some Member States ESIF is the primary source of funding for programmes of deinstitutionalisation, potentially violating the principle of additionality – ensuring the availability of additional sources of funding.

Some Member States are striving to base plans upon needs analysis. Promising practice includes:

Romania – needs analysis in Partnership Agreement

Romania's Partnership Agreement describes the type and number of social services including institutions serving children, children with disabilities, persons with disabilities and older persons. It advises on the progress made to date in transitioning to community-based living for children and on further work that is needed to extend community-based living to persons with disabilities. It notes the overall percentage of persons with disabilities living in specialised residential care institutions and the total number and size of such institutions and trends in services provision. It notes that social services in support of community-based living are insufficient, especially for the older population in need of home care, and that this is placing unsustainable pressure for institutional provision. It concludes that "for 2014-2020 programming period, Romania commits to ensure the shift from residential institutions to community-based/ alternative services."¹¹¹

105 "Building on the Promise of European Structural and Investment Funds into the Future" (European Parliament Brussels, 1st December 2016) Full report and video recording of the roundtable available:

<https://communitylivingforeurope.org/2016/12/15/report-on-roundtable-discussions-in-the-european-parliament-on-1st-december-2016-outcomes-and-video-recording>

106 Responses from a National NGO in Romania and the Governmental sector in Czech Republic to the 2016 CLE:SFV survey.

107 The Central Region of Hungary includes Budapest and Pest County.

108 Correspondence from ESIF project manager in Hungary on 18 August 2017. Copy on file with researcher.

109 "Straight Jackets and Seclusion: an investigation into abuse and neglect of children and adults with disabilities in Hungary" (Mental Disability Advocacy Centre, May 2017) available: http://www.mdac.org/sites/mdac.info/files/straightjackets_and_seclusion_-_mdac.pdf

110 see Integrated Regional Operational Programme for period 2014-2020 (version as of 18 May 2015 in EN) Specific Objective 2.1: Improving the quality and availability of services leading to social inclusion, "regional focus of support" p 70; See also Milan Šveřepa, Inclusion Europe – "Making significant progress, missing important opportunities. Status quo in Czechia and opportunities of the ESIF 2014-2020" (European Parliament Disability Intergroup event "Using ESIF for Deinstitutionalisation: Comparing the Slovak and Czech Experience", 27th September 2016) presentation available: <https://goo.gl/C7wm1n>

111 Partnership Agreement Romania 2014RO16M8PA001.1.2, p 52-53 available: https://ec.europa.eu/info/publications/partnership-agreement-romania-2014-20_en

- **Substantive projects concerning the transition to community-based care have yet to be started in some Member States**

At the time of writing this report, very few calls for proposals concerning the transition from institutional to community-based care have been issued in Greece. While some calls for proposals have been issued in Slovakia and Romania, delays have prevented projects from starting.

Greece – few calls for proposals have been launched and substantive projects have not started

A National NGO in Greece advised that budget reports of each Prefecture have a certain amount specified for deinstitutionalisation from the ESIF. However, substantive projects supporting deinstitutionalisation have not started. Civil society organisations have expressed concern that, given the lack of a specific deinstitutionalisation strategy or plan, this funding will not be spent on deinstitutionalisation and may be redirected toward other priorities or misused to support institutional care. This fear has intensified after a meeting in September 2017 between children’s civil society organisations and the Greek Regional Government of Attica. Civil society organisations were advised that an amount of €2 million for deinstitutionalisation noted in 2016, will not be released for this purpose.¹¹² A Government official reportedly advised that there is no other option than to support residential homes “because they are understaffed and there is nowhere else to put the children.”¹¹³

Slovakia – challenge of coordination between European Social Fund and European Regional Development Fund Operational Programmes has led to delays

The first National “Deinstitutionalisation” project¹¹⁴ funded by the European Social Fund (ESF) from 2013 to 2015 aimed to use a sample of 10 institutions to test the possibilities for their transformation to community-based services. Activities included training of the institutions staff, preparing the residents in the 10 institutions for relocation and the development of transformation plans. As a second stage, complementary activities were planned with funding from the European Regional Development Fund (ERDF) for physical infrastructure such as the purchase of real estate. While the first stage of ESF funding was completed, plans for complementary physical infrastructure were not realised. Several obstacles to drawing on the ERDF were reported by actors at the local level, primarily “bureaucracy related to the public procurement system and re-direction of available resources to other priorities.”¹¹⁵

(continued...)

112 Interview with National NGO on 21st October 2016 and further correspondence on 20th September 2017. Copy on file with researcher.

113 *ibid*

114 “Supporting the Process of Deinstitutionalisation and Transformation of the Social Services System” funded by the ESF and implemented by the Implementation Agency of the Ministry of Labour, Social Affairs and Family of the Slovak Republic from 2013-2015 available: <https://www.ia.gov.sk/sk/narodne-projekty/programove-obdobie-2007-2013/narodny-projekt-di>

115 National NGO responding to the 2017 CLE:SFV survey. See also; Policy Department for Citizens Rights and Constitutional Affairs (September 2016) European Structural and Investment Funds and People with Disabilities: Focus on the Situation in Slovakia – in-depth analysis for the European Parliament Petitions Committee (European Network on Independent Living). available: [http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/571371/IPOL_IDA\(2016\)571371_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/571371/IPOL_IDA(2016)571371_EN.pdf)

Several civil society organisations¹¹⁶ in Slovakia have advised that since November 2015 a new national project on DI (NPDI) is under preparation but has yet to be approved. The project will be supported by the 2014-2020 Integrated Regional Operational Programme¹¹⁷ (ERDF) and the Operational Programme Human Resources¹¹⁸ (ESF). It is to be implemented with civil society partners and a University research centre. Civil society organisations advise that problems with co-financing the project and reduction in the allocation of funds to the transition have created barriers to adopting the NPDI.¹¹⁹

Despite the NPDI not being launched, in May 2017 the Managing Authority of the Integrated Regional Operational Programme (ERDF) launched a Call for Proposals "to support the transition of social services and social protection of children and social welfare from an institutional form to a community (process of deinstitutionalisation of existing facilities)."¹²⁰ Following this, the civil society sector in Slovakia mobilised a Working Group for Cooperation of the two relevant Operational Programmes together with the Ministry of Labour, Social Affairs and Family. Together they have prepared a multi-criterial analysis for ERDF calls, designed to ensure projects applying for support are in line with the National deinstitutionalisation strategy.¹²¹

- **There remains a risk that ESIF and other EU funding instruments beyond the scope of ex-ante conditionality 9.1 will be invested in institutions**

All EU Cohesion Policy is subject to the UN Convention on the Rights of Persons with Disabilities and the Charter of Fundamental Rights, which clearly prohibit institutionalisation and human rights violations. Yet ESIF Investment priorities that are beyond the scope of ex-ante conditionality 9.1 can nevertheless provide opportunities for investment in institutional care, including those related to improving energy efficiency, or in support of education and training. Additionally, other EU funding instruments such as the European Fund for Strategic Investments (EFSI), can play a key role in complementing the ESIF through investment in social infrastructure and community-based social services sector, yet are not presently the object of equivalent conditionalities.

Hungary – Topház institution received ESIF funding

Evidence collected during a monitoring visit by the Mental Disability Advocacy Centre on 15 November 2016 and 18 April 2017 established that the Topház Special Home, where inhuman and degrading practices were identified, received 149.98 million HUF (approx. €482,000) for energy modernisation within the framework of the Environment and Energy Operational Programme, co-funded by the European Regional Development Fund. The project "Energy Modernization of the Building of the TOPHÁZ Special Home in Göd" (KEOP- 5.7.0/15-2015- 0246) was completed in December 2015.¹²²

116 Five National NGOs responding to the 2017 CLE:SFV survey.

117 Integrated Regional Operational Programme 2014-2020 (Managing Authority: Ministry of Regional Development) see: <http://www.ropka.sk/sk/irop>

118 Operational Programme Human Resources 2014-2020 (Managing Authority: Ministry of Labour, Social Affairs and Family) see: <https://www.employment.gov.sk/sk/esf/programove-obdobie-2014-2020/operacny-program-ludske-zdroje>

119 TASR: "Organizácie: Proces transformácie sociálnych služieb zastal", Teraz.sk, 30 May 2017, available at: <http://www.teraz.sk/ekonomika/proces-deinstitucionalizacie-socialny/262545-clanok.html>

120 Call code: IROP-PO2-SC211-2017-17 available: <http://www.mpsr.sk/index.php?navID=1124&navID2=1124&SID=67&id=12065>

121 Strategy for the Deinstitutionalisation of the System of Social Services and Alternative Care in the Slovak Republic (Ministry of Labour, Social Affairs and Family of the Slovak Republic, November 2011); National action plan for the transition from institutional to community-based care in the social services system 2016-2020 (Ministry of Labour, Social Affairs and Family of the Slovak Republic, 2016) see <https://www.employment.gov.sk/sk/rodina-socialna-pomoc/socialne-sluzby/deinstitucionalizacia-socialnych-sluzieb.html>

122 "The energetic modernization of the TOPHÁZ Special Home in Széchenyi 2020 program has ended" InfoSzentendre.hu (12th December 2015) available: <http://www.infoszentendre.hu/hirek/olvas/befejezodott-a-tophaz-specialis-otthon-korszerusitese-2015-12-12-101201>

Bulgaria – investment in boarding schools

Several national NGOs in Bulgaria voiced concern about the project “Support for equal access and personal development” which aims to improve educational boarding schools (EBS) and social-pedagogical boarding schools (SPBS) under the Operational Programme Science and Education for Smart Growth.¹²³ Children with disabilities and children involved with the criminal justice system are placed in EBS and SPBS under the authority of the Ministry for Education. Several reports of dire conditions have been made of these institutions.¹²⁴ Funded activities of the project include assessments of these schools, purchasing sports equipment and hiring psychologists and social workers.

3.4 Tracking implementation - how effective are current monitoring arrangements in supporting the transition from institutional to community-based care?

Legal base

Article 47 of the Common Provision Regulation (EU) No 1303/2013 states that “The Member State shall set up a committee, in accordance with its institutional, legal and financial framework, to monitor implementation of the programme, in agreement with the managing authority (the “monitoring committee”)”

According to Article. 48 CPR, the composition of the monitoring committee shall be decided by the Member State, provided that the monitoring committee is composed of representatives of the relevant Member State authorities and intermediate bodies, but should also include civil society organisations.

The European Network for Independent Living’s (ENIL) recent briefing¹²⁵ corresponds strongly with responses to the 2016 and 2017 CLE:SFV surveys in concluding that:

- Monitoring Committees have a key role but need support to enable them to exercise their functions effectively;
- Action is required to ensure that people with disabilities are involved in monitoring the use of ESIF, as required by the partnership principle;
- Although Member States are required to establish an effective complaints procedure, there is little clarity on how this obligation is to be met;
- Insufficient information is provided to the general public on the ESIF monitoring mechanisms, and there is little opportunity for civil society organisations to provide feedback on how projects funded by ESIF are being implemented in practice.

123 Operational Programme Science and Education for Smart Growth, Project: “Support for equal access and personal development”, start date: 22.12.2015 - end date: 31.12.2017, The total amount of the project is 17 500 000.00 BGL (€8 750 000.00) of which EU funds are 14 875 999.99 BGL (€7 437 499.995) and National co-financing 2 625 000.01 BGL (€1 312 500.005).

124 Correspondence from a National NGO in Bulgaria on 3rd January 2017. Copy on file with researcher.

125 Camilla Parker, Ines Bulic Cojocariu and Natasa Kovic, (July 2017) “European Union Structural and Investment Funds and the transition from institutional care to community living: Towards a more effective monitoring and complaints system” EU Funds for Our Rights Campaign – Briefing (European Network on Independent Living) available: http://enil.eu/wp-content/uploads/2017/07/OurRightsCampaign-Briefing_FINAL.pdf.

- **Civil society organisations with expertise on the transition to community-based living are not uniformly engaged in monitoring the implementation of ex-ante 9.1**

Responses from National and local NGOs to the 2016 CLE:SFW survey revealed that information on Monitoring Committees across the Member States varied considerably. In Bulgaria, the Committees are well known and some civil society organisations, in particular those representing children, participate actively. In other countries such as Greece, the existence of Monitoring Committees was not known, or the principle that civil society should be involved. In Hungary, one National NGO commented “We have no information on the Monitoring Committee selection, work is not transparent, no information is available.”

In Lithuania, a local NGO advised that networks of NGOs were approached by the Lithuanian Ministry of Social Security and Labour. These networks delegated members to the Monitoring Committee. However, the organisation advised that few NGOs relevant to the transition to community-based living are part of such networks, therefore this process excluded key organisations working in the area of deinstitutionalisation.

- **There are many positive examples of civil society involvement, in monitoring but many organisations report barriers preventing their full participation**

In general, responses to the 2016 CLE:SFW survey from organisations that are members of ESIF Monitoring Committees suggested that participating effectively requires the investment of significant resources in terms of time and technical knowledge. This points to the need for support, adequate time to respond and capacity building. When asked whether opportunities for capacity building, exchanges of good practices with other partners or support to carry out their functions had been provided, all responses were negative.

During the CLE:SFW roundtable on 1st December 2016 in the European Parliament, the EU Agency for Fundamental Rights noted the extremely important role that Monitoring Committees should play but acknowledged that their operational effectiveness often meant that they did not fulfil their potential. In particular, it was suggested that there are often too many members (in some cases 100-200 members) to coordinate effectively and also that the information shared with the Committees is often too complex for many to fully engage with.

Lithuania – major barriers to participation

A Local NGO advised that six representatives of the Monitoring Committee compiled a letter outlining challenges in engagement, such as infrequent meetings, retrospective presentation of programme activities relating to deinstitutionalisation and general dysfunction of the monitoring process.¹²⁶

¹²⁶ A National NGO in Lithuania responding to the 2016 CLE:SFW survey, advised on the infrequency of meetings and that information is provided post factum therefore members have “no possibility to impact decisions or criteria, or measures, or public procurements or calls for projects. Nothing. No discussions, no consultations, no agreements.”

Despite these challenges, promising practices were identified:

Romania – plurality of involvement

A National NGO in Romania advised positively that the Government had set up Monitoring Committees for the implementation of ERDF and ESF funds, and according to the methodology and functioning of the Committees, at least 40% of the members are representatives of civil society, academia and social partners of the Government.

Round tables, seminars and workshops will be organised in order to facilitate networking, communication and monitoring of the application of the programmes (implementation per se and monitoring of the results and of spending), as well as promotion of good practices and visits in the field.

Bulgaria – promising practice in the creation of sub-committees

In Bulgaria, a number of sub-committees have been created under each of the Operational Programme Monitoring Committees. The functions of the sub-committees are consultative. Their members help the Managing Authority in developing the criteria for selection of operations and in the evaluation of the Operational Programmes. The members of the Monitoring Committee take part in the sessions of the sub-committee. If a specific expertise is needed, the sub-committee invites consultants to help with the decision-making. Only the members have the right to vote while the experts have a consulting function. There are three sub-committees under the Human Resources Development Operational Programme Monitoring Committee, namely on the labour market, social inclusion and Roma inclusion.

During the CLE:SFV roundtable in the European Parliament, the National Network for Children Bulgaria advised that these sub-committees have proven useful to discuss concrete operations on specific topics such as deinstitutionalisation. The sub-committees have allowed more detailed examination of projects, discussion on issues and solutions as well as contributing to better understanding and agreement between the stakeholders involved.

3.5 The partnership principle in action

Article 5 Common Provision Regulation 1303/2013 Commission Delegated Regulation (EU) No 240/2014

The European Code of Conduct on Partnership¹²⁷ details how Member States should create partnerships with stakeholders, including civil society in the development of the Partnership Agreements and the design and implementation of the programmes to be supported by ESIF. The Code of Conduct calls for close cooperation between public authorities, economic and social partners and bodies representing civil society at national, regional and local levels throughout the whole programme cycle consisting of preparation, implementation, monitoring and evaluation.

Article 17 states that “The Managing Authority shall examine the need to make use of technical assistance to support and strengthen civil society, particularly smaller organisations, in order to help them effectively participate in the preparation, implementation, monitoring and evaluation of programmes.”

The Code of Conduct echoes and reinforces obligations arising from the UNCRPD which reaffirms that:

“Consultations with and active involvement of persons with disabilities, through their representative organisations (art. 4 (3)) is critical for the adoption of all plans and strategies as well as for the follow-up and monitoring when implementing the right to independent living in the community. Decision-makers at all levels must actively involve and consult the full range of persons with disabilities including organisations of women with disabilities, older persons with disabilities, children with disabilities, persons with psychosocial disabilities, and persons with intellectual disabilities.”¹²⁸

- **Civil society organisations relevant to the transition from institutional to community care are generally not uniformly involved in the development of Partnership Agreements or Operational Programmes.**

Responding to the 2016 CLE:SFV survey only two respondents from Bulgaria and the Czech Republic¹²⁹ advised that relevant civil society stakeholders had actively participated in the development, implementation and evaluation of the NSPF.¹³⁰ Civil society organisations in Bulgaria, Romania and the Czech Republic were consulted with respect to ESIF plans, such as the proposed allocation of ERDF and ESF funding, the identification of needs and main results to be achieved.

None of the respondents advised that the consultation of civil society had been representative of groups across the life-course. National and local NGOs in Bulgaria, Romania and Lithuania advised that organisations representing people with disabilities, in particular psychosocial disabilities, were under-represented or not present at all during consultations.

127 Commission Delegated Regulation (EU) No 240/2014 of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds. (OJ L 74, 14.3.2014, p. 1–7) available: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.074.01.0001.01.ENG

128 United Nations Committee on the Rights of Persons with Disabilities (2017) General Comment 5 on Article 19 of the UNCRPD - Living Independently and being included in the community.

129 One National NGO in Bulgaria representing children and the Governmental sector of the Czech Republic.

130 Responses were received from eight countries: Bulgaria, Czech Republic, Hungary, Lithuania, Slovakia, Romania, Greece and Estonia.

Poland – extensive consultation with civil society at the early stages

A National NGO from Poland reported positively that there had been a broad consultation of civil society organised by the Government Office of European Funds in the development of the Partnership Agreement and Operational Programmes in Poland. Conferences were arranged in the different regions in 2013 as well as discussions involving the Polish Parliament and the Polish Ombudsman Office. Since then, the NGO reported a lack of continuity in the involvement of civil society with more recent experience pointing to participation as tokenistic.

Greece – no civil society involvement in developing ESIF Partnership Agreement or Operational Programmes

A National NGO in Greece noted that ESIF programming documents were planned at the governmental level only and that they and other organisations in their network had not been involved. The NGO attended two working groups after the adoption of the ESIF Operational Programmes. These working groups discussed the need to adopt strategies on, and implement measures for, the transition from institutional to community-based support and adopt legislative changes, in particular, regarding oversight and monitoring of private sector residential centres. The organisation advised that the Greek Government has taken no action since the working group meetings.

Lithuania – no involvement of NGOs with expertise on deinstitutionalisation

Two National NGOs and one Local NGO in Lithuania advised that relevant civil society organisations had not been involved in the ESIF planning process such as the development of the Partnership Agreement, nor the Operational Programme. The Local NGO advised it was possible that “some selected NGOs or associations were consulted, but not the key NGOs dealing with deinstitutionalisation, child rights and the rights of people with disabilities.”

The CLE:SFW survey did however identify one example of promising practice:

Romania – end-to-end involvement of civil society

A National NGO representing children in Romania was particularly positive about Romania’s approach, advising that: “Methodology guarantees the involvement of civil society in all stages of ESIF planning: consultations on producing the applicant’s guide, on producing the criteria for assessing the application, on producing the Annual Implementation Report, on monitoring the performance score card and on identifying possible aspects that can be problematic.”

- **Civil society organisations have experienced barriers to participation and have not been offered technical assistance**

The lack of capacity of relevant civil society to participate in planning, implementation and monitoring of ESIF was highlighted as a key issue by several speakers at the CLE:SFW roundtable on 1st December 2016 in the European Parliament.

Only one respondent to the 2016 CLE:SFW survey from the Czech Republic Governmental sector stated that they had benefitted from Technical Assistance or capacity building activities funded by the ESIF.¹³¹

Estonia – too much complexity and too little time to meaningfully participate

A National NGO in Estonia advised that they and other organisations involved in the alternative care of children (foster care/adoption services) were consulted on the Partnership Agreement and Operational Programmes. The NGO noted that the documents were complex, with inaccessible terminology and they were not fully briefed on the process. The timeframe in which comments and feedback were requested was often unrealistic given the capacity of the organisations and available resources.

- **Civil society organisations experience significant barriers in accessing ESIF funding**

Civil society plays a central role in building the bridging social capital and in providing services and peer support that are essential for a successful transition from institutionalisation to community inclusion. However, evidence suggests that civil society organisations are being excluded from drawing on ESIF due to the challenges faced in accessing funding.

The majority of launched calls on the transition to community based care aim to implement national 'transformation' or re-organisation of institutions, therefore beneficiaries tend to be those providing institutional care who are primarily, but not always, state sector. Responding to the 2016 CLE:SFW survey, a National NGO in Lithuania commented that NGOs do not often participate in ESIF projects as the Calls for Proposals related to community living and deinstitutionalisation are "mostly for budget (state) sector and state institutions." Responding to the 2017 CLE:SFW survey, a National NGO in Romania advised that in the case of planned projects supporting deinstitutionalisation of children, the main applicants will always be the Child Protection Directorates, who also manage expenditure of the projects. The National NGO commented; "we foresee a lack of transparency in the use of funds".

Several responses to the 2016 CLE:SFW survey highlighted problems experienced by NGOs in accessing ESIF funding including the ad-hoc manner of calls, technical requirements, complexity of language and process as well as limited timeframes to submit funding applications particularly for smaller organisations with more limited resources.

One of the most significant barriers highlighted by civil society organisations in the 2017 CLE:SFW survey concerns the requirement to co-finance projects.

¹³¹ Responses were received from eight countries: Bulgaria, Czech Republic, Lithuania, Hungary, Slovakia, Romania, Greece and Estonia.

Slovakia – requirement to co-finance

Two NGOs and a University research centre were selected as partners for the implementation of the new National Project on “deinstitutionalisation” (NPDI) that has been under development since November 2015. In August 2016, the three partners were informed that they should financially contribute to the NPDI by jointly co-financing the project. In response, the partners prepared an Open Letter in January 2017 signed by 18 organisations to urge the Ministry of Finance to waive the co-financing requirement. They advised that, as a national deinstitutionalisation project, this should be financed by national funds. The Minister of Labour, Social Affairs and Family of Slovakia officially supported the partners Open Letter. However, there has been no response from the Ministry of Finance as of August 2017. In May 2017, the partners noted that the problem of co-financing the NPDI was marked in official state documents as “solved.” Yet the project has not started, and the partners have not been informed as to how this problem was solved.¹³²

Lithuania – criteria in calls for proposals preclude NGOs

A National NGO advised that requirements attached to Calls for Proposals where NGOs could provide valuable expertise have an exclusionary effect. The respondent provided an example where a Call for Proposals to arrange training of regional leaders on the deinstitutionalisation process was open only to training institutions (universities), as the work agreement required professional lecturers.

Estonia – technical assistance needed for civil society to participate

The National NGO advised that the timeframe given to apply for funding and the technical requirements presented significant barriers. The respondent advised that NGOs working in the area of alternative care of children operate largely on a voluntary basis. This means that their capacity to participate, not only in Calls for Proposals but more broadly in the ESIF arena, is often limited and provides a prime example where support to develop a funding application and to implement a project would be needed.

3.6 Assessing applicability

Relevant guidance

“Depending on the identified needs: this aims to make a clear distinction between those Member States that have shifted to community-based care and those that have not yet done so.”

Guidance on Ex-ante Conditionalities for the European Structural and Investment Funds Part II

• The assessment for applicability is failing to recognise institutionalisation in many Member States

Member States are required to include measures for the transition from institutional to community-based care in their National Strategic Policy Frameworks for Poverty Reduction (NSPF) “depending on the identified needs.” The phrase “depending on identified needs” is explained in the Commission Guidance as drawing a distinction “between those Member States that have shifted to community-based care and those that have not yet done so.” As noted in the introduction, the “identified need” for deinstitutionalisation has been established by the European Commission in respect of twelve Member States in the (2012) Commission position papers on the preparation of the Partnership Agreements and programmes for 2014–2020.¹³³

While acknowledging the extent of the challenge in those countries, the transition from institutional care to community inclusion is far from complete across all Member States.

A study requested by the European Parliament Petitions Committee on European Structural Funds and People with Disabilities in the European Union noted a rise in the number of people with disabilities in institutions in some Member States. It also noted that “more people with disabilities are being placed in long-stay residential settings, rather than being supported in their own homes as a result of the cuts to public services.”¹³⁴ The United Nations Committee on the Rights of Persons with Disabilities has highlighted the increase in the institutionalisation of people with disabilities in Austria, Germany, Italy, Portugal and Spain, as well as in the Czech Republic and Lithuania.¹³⁵ Its chair recently described the impact of cuts to social security benefits and public services in the United Kingdom (UK) as having created a “human catastrophe” that undermined the right to live independently and to be included in the community.¹³⁶ The Council of Europe Commissioner for Human Rights has raised concerns about institutionalisation in Austria, Denmark, Portugal and Spain, following country visits.¹³⁷

Among people over 85, the rate of institutionalisation is significantly higher in France, the Netherlands, and the UK, than in Bulgaria, Romania and Greece.¹³⁸

133 see European Expert Group on the Transition from Institutional to Community Based Care “Toolkit on the use of European Union Funds for the Transition from institutional to community -based care” (Revised edition June 2014) p 22 available: www.deinstitutionalisationguide.eu

134 Policy Department for Citizens Rights and Constitutional Affairs (October 2016) European Structural and Investment Funds and Persons with Disabilities in the European Union – study for the European Parliament Petitions Committee (ENIL) p 19, available: <https://publications.europa.eu/en/publication-detail/-/publication/402fe8d6-ab00-11e6-aab7-01aa75ed71a1/language-en>.

135 Ibid

136 See: <http://www.independent.co.uk/news/uk/politics/government-spending-cuts-human-catastrophe-un-committee-rights-persons-with-disabilities-disabled-a7911556.html>

137 Country Reports published by the Council of Europe Commissioner for Human Rights Nils Muižnieks see: Denmark (2013): <https://wcd.coe.int/ViewDoc.jsp?id=214535>; Portugal (2012): <https://rm.coe.int/16806db8bd>; and Spain (2013): <https://rm.coe.int/16806db80a> and; Austria (2012): <https://rm.coe.int/16806db764>.

138 Eurostat (2012) “People in the EU – who we are and how we live”.

- **The processes for assessing applicability are not transparent and civil society expertise is rarely engaged**

The process by which applicability is determined by Member States and the Commission is not transparent. The European Commission Directorate-General for Regional and Urban Policy published a report (July 2016) on the implementation of the provisions in relation to the ex-ante conditionalities covering the ERDF, Cohesion Fund and multi-fund programmes.¹³⁹ The report provides information on the involvement of stakeholders in the assessment of the applicable ex-ante conditionalities. The level of involvement of NGOs in the assessment of applicability is low. Over half (53%) of respondents reported no involvement, 14% reported very limited involvement, 18% limited involvement, 6% significant involvement and 8% very significant.¹⁴⁰ The report finds that “In most cases, the assessment of applicability and fulfilment was not separated from each other in terms of the involvement of stakeholders and the process of decision-making.”¹⁴¹

The “sources of information” recommended in the official European Commission guidance on the Ex-ante conditionalities provide little context or guidance with respect to the situation concerning the transition from institutional to community-based living in Member States.

139 European Commission, Directorate-General for Regional and Urban Policy “The implementation of the provisions in relation to the ex-ante conditionalities during the programming phase of the European Structural and Investment (ESI) Funds” (European Union, 2016). Available: <https://goo.gl/6bKMPq>

140 *ibid*, Figure 6, p 38

141 *ibid*, p 39

4. Recommendations

Based on the findings set out in this report, a number of recommendations are provided to strengthen existing ESIF regulations and guidance to support both the European Union and Member States to meet their obligations to respect, protect and ensure fundamental rights.

- **The criteria concerning the transition from institutional to community-based care in ex-ante conditionality 9.1 should be maintained and strengthened in the next programming period.**

ESIF and the ex-ante conditionality 9.1 have undoubtedly influenced Member States to embark on the transition from institutional to community-based care. Although there are inconsistencies in how the conditionality is interpreted and applied, they can be addressed through clearer guidance, support and monitoring processes.

- **There needs to be coherence across all EU funding instruments to prevent funds from supporting the maintenance of institutional care.**

The EU should ensure that the same criteria adopted for the ESIF are applied consistently and horizontally across all ESIF thematic objectives and to all EU financial instruments, including with respect to external funding. No EU funds should ever be used to build, renovate or support institutions for children or adults.

**CLE:SFW roundtable
discussions at the
European Parliament
on 1st December 2016**



- **Modest amendments to the ex-ante conditionality and guidance could bring greater clarity and focus on ‘community-based living’.**

It is proposed that Criteria 5 of ex-ante 9.1 is developed to better reflect the overarching obligations and goals of the EU. The primary aim should be to transform the life situation of children and young people, including those with disabilities, adults with disabilities and older persons, not on transforming modes of care provision. This is an important amendment, designed to focus Member States on the most critical outcomes and to discourage them from pursuing strategies and actions which focus on the re-organisation of institutional care provision without eradicating the oppressive features of institutionalisation. This would mirror, for example, the focus of ex-ante 9.2 on ‘Roma Inclusion’, which emphasises the situation and rights of people rather than the mode of service delivery.

It is proposed that Criteria 5, which presently refers to “measures for the shift from institutional to community-based care” should be amended to state that: *“measures for the shift from institutional care to family-based living for children and community-based living for adults”* should be included in the National Policy Framework for Poverty Reduction.

This should be reflected in the regulation with the following additional guidance:

- “Such activities should include measures to prevent institutionalisation, measures to develop services based in the community, enabling families to keep their children and people to live independently, and measures to enable access to mainstream community services”.
- Commission Guidance on the ex-ante conditionalities should also remove any uncertainty about what is or is not permissible during the transition process, clearly prohibiting use of ESIF for the development of new, smaller, congregate living arrangements in which an institutional culture prevails.



- Revised guidance should place an emphasis on the importance of developing human resources in the field of community-based social services, especially investment in staff training and in building the capacity of civil society. This will help re-balance investment away from 'bricks and mortar' towards the support systems required to make family and community-based living a success. Similarly, emphasis should be placed on investment in new technologies that support successful and cost-effective transition to family and community-based living.

- **Further guidance and support should be provided to Member States to develop and implement long-term strategies and plans.**

Member States and the European Commission would benefit from additional guidance and technical support in developing strategies, setting meaningful targets and taking action. Such support should be tailored to the experiences and needs of groups across the life course and based on best practice provided by the European Expert Group on the Transition from Institutional to Community-based Care and others. In particular, it is suggested that the following advice included in the Expert Group's Toolkit should be incorporated into Commission Guidance on Ex-ante 9.1:

“Drawing on the specific national contexts and based on a needs assessment, the anti-poverty strategies (NSPF) should include a timetable and some key principles to guide the reforms towards the development of family and community-based services and inclusive mainstream services. These would facilitate social inclusion and eliminate the need for long-stay residential institutions or, in the case of children, reduce the need for placement into alternative care. The strategy can also ensure that the reform is implemented in a coordinated and systemic way.

As the next step, it is important that the key principles set out in the national anti-poverty strategies are further elaborated. In particular, specific national and/or regional strategies and action plans on deinstitutionalisation should be designed. An inter-ministerial steering group should be created to coordinate and monitor the implementation of the strategies and action plans. Depending on the needs assessment and the national context, deinstitutionalisation strategies and action plans can concern all groups (children, persons with disabilities and mental health)”¹⁴²

It would also be beneficial to draw the attention of Member States to the following Opinions of the EU Agency for Fundamental Rights (FRA) in its report “From institutions to community-based living – Part 1: commitments and structures” (2017). The FRA recommends that all Member States should:

- Adopt deinstitutionalisation strategies. These strategies should be evidence-based, drawing on a comprehensive needs-based mapping of the status of deinstitutionalisation. They should also have a sufficiently broad scope to cover the different sectors involved in the transition from institutional to community-based support. These include health, employment and housing, in addition to support services for persons with disabilities;
- Ensure that they actively involve persons with disabilities and their representative organisations throughout the design, implementation and evaluation of the strategy;
- Include specific targets with clear deadlines in deinstitutionalisation strategies;
- Adequately finance the implementation of these strategies;

- Ensure that independent bodies regularly review the implementation of deinstitutionalisation strategies;
- Consider developing indicators to track progress during the lifetime of the strategy to highlight implementation gaps;
- Develop mechanisms to ensure effective coordination between relevant municipal, local, regional and national authorities and also facilitate the transfer of support services across different administrative sectors;
- Develop mechanisms to ensure effective coordination between relevant sectors involved in deinstitutionalisation, including housing, employment, health and social services; and
- Ensure that newly developed community-based support services are financially and practically sustainable.

It is also suggested that an expanded role for the European Expert Group on the Transition from Institutional to Community-based Care as a source of technical assistance for Member States to develop evidence-based, ambitious and measurable strategies and plans. An expanded role for the European Expert Group on the Transition from Institutional to Community-based Care in supporting the European Commission in future programming document approval would also help to improve the quality of submissions.

- **The European Commission and other EU agencies should support Member States to ensure strategy and action are underpinned by a thorough needs analysis.**

Needs analysis must look beyond the numbers of persons residing in institutional care and address questions such as what are the factors driving institutionalisation, what is the current capacity of areas such as social services, and how well-placed are Member States to successfully achieve the transition to community-based living. This should include assessment of the availability of and need for further community-based support, human resources development, including staff training, the capacity of civil society, current attitudes of society, arrangements for coordination across national, regional and local government and between different sectors such as health, housing and social services and crucially, securing sustainable funding.

- **Monitoring processes and complaints mechanisms should be enhanced.**

Monitoring of ESIF should be sufficient to prevent EU funds being used to support institutional care and to ensure that they are invested in developing community-based living. This demands that monitoring is an ongoing and transparent process, with civil society centrally involved.

- The Commission should encourage Member States to adopt indicators developed by the EU Agency for Fundamental Rights on the right to live independently and to be included in the community as key success measures for strategies and programmes on the transition to community-based living.
- There should be a recognised role at the EU level for the “independent mechanism” established under Article 33.2 of the UN Convention on the Rights of Persons with Disabilities (UNCPRD) in monitoring the use of ESIF in relation to community-based living.
- Commission guidance should recommend that Member State level bodies established or designated as “independent mechanisms” under Article 33.2 of the UNCPRD, Children’s Commissioners and National Preventive Mechanisms under the Optional Protocol to the Convention Against Torture, should be formally included in any monitoring committees.
- As recommended by the European Ombudsman, “the Commission should launch an online platform where civil society, particularly small organisations which do not easily come into contact with the Commission, could report abuses of funds and Charter violations and submit complaints and shadow reports on complaint-handling mechanisms and Member States’ compliance with the European Code of Conduct on partnership”.¹⁴³

- The Commission should strengthen, support and continue post-2020 ESF Transnational Cooperation and operation of the ESF Thematic Networks: increase and encourage participation in them by Member States, thematic networks that bring together Managing Authorities, Commission officials and civil society, as well as further encouraging transnational projects. The Commission should also further increase awareness of the ex-ante conditionalities and deinstitutionalisation among the networks.
- The Commission should continue and strengthen the working of the ESIF Structured Dialogue Group of Experts post 2020.¹⁴⁴ The Group of Experts currently meets twice a year, we recommend that the group meets at least three to four times per year and that time is set aside in each meeting for members to share practice on the implementation of the ESIF regulations, such as the ex-ante conditionalities or the partnership principle.

- **Civil society with expertise in the transition to community-based living should be involved in all stages of the planning, implementation, monitoring and evaluation of the Operational Programmes in a transparent and structured way.**

As sources of knowledge and expertise, and agents of change, it is crucial to involve civil society at every stage.

- The key principles of the European Code of Conduct on Partnership should be included in the main Regulation (Common Provision Regulation (EU) No. 1303/2013) text.
- EU level NGOs, campaigns and other organisations involved in or working on deinstitutionalisation need to take an active role in supporting capacity building of their members at all levels on the use and potential of the ESIF.
- Relevant civil society representatives should routinely be members of monitoring committees and supported to exercise their role and responsibilities.
- Member States should use their Technical Assistance budget for building the capacity of civil society (Article 17 ECCP).

- **Action is needed to improve access to ESIF by civil society.**

Steps need to be taken to optimise the involvement of civil society in supporting the transition to community-based living. A community-based development approach, as seen in other areas of Cohesion Funding such as on Roma Inclusion, would be hugely beneficial.

- Measures should be taken to avoid or mitigate the deterrent effect of excessive co-funding burdens on civil society.
- The Commission should encourage and support Member States to use integrated approaches to territorial development and the use of tools with built in partnership requirements such as the Community Led Local Development (CLLD) tool.

- **The assessment of applicability of ex-ante conditionalities, including with respect to the transition from institutional to community-based care, should be transparent, accurate and consistent.**

- Relevant civil society organisations should be routinely involved in the process of determining applicability of ex-ante conditionalities to their countries, including with respect to the transition from institutional to community-based living
- European Commission Desk Officers would benefit from regular training and expert advice on the transition to community-based living, which can be provided by existing bodies, such as the European Expert Group on the Transition from Institutional to Community-based Care.
- The following sources of information on institutional and community-based care in the European Union would enhance guidance on ex-ante 9.1:

¹⁴⁴ The "Structured Dialogue with European Structural and Investment Funds" partners group of experts" was formally established through Commission Decision C(2014) 4175 off 26 June 2014 see: http://ec.europa.eu/regional_policy/en/policy/communication/structured-dialogue-with-partners/.

- Council decision of 26 November 2009 concerning the conclusion of the United Nations Convention on the rights of persons with disabilities and, associate General Comment 5 on Article 19 and the Concluding Observations of the UN CRPD Committee
- United Nations Convention on the rights of the child adopted in 1989
- Council Declaration on the European Year for Active Ageing and Solidarity between Generations (2012): The Way Forward, 17468/12, Brussels, 7 December 2012
- Work or reports of the European Expert Group on the Transition from Institutional to Community-based Care
- Relevant reports of the EU Agency on Fundamental Rights

• **The EU Semester and Social Pillar systems should play a far greater role in advancing the transition from institutional to community-based living.**

The EU Semester system is among the most important and influential mechanisms for determining Member State priorities and areas for action. In some instances, the process has identified country-specific recommendations concerning the transition from institutional care to community-based living. This should be built upon in the following ways:

- The system could offer further leverage, in particular to secure action on community based living across a broader number of Member States and to underline the importance of the transition to community based living for the EU as a whole.
- The Social Pillar has the potential to positively contribute to the transition to community and family-based care beyond the closure of institutions. The EU should reform the European Semester process to rigorously apply the planned “Social Scoreboard”, establish a rigorous monitoring system and ensure the active involvement of civil society at all stages of implementation and monitoring.

• **Other EU funding and programmes should better support the goals of ESIF with respect to the transition to community-based living.**

Other EU funding streams should be better oriented towards supporting the objectives of ex-ante 9.1 with respect to the transition from institutionalisation to community inclusion:

- Under “societal challenges”, Horizon 2020 could assist in the generation of innovative solutions that better enable Member States to achieve the transition from institutional care to community-based living.
- The increased use of EU instruments such as the European Fund for Strategic Investments (EFSI), can play a key role in complementing the ESIF through investment in social infrastructure and community-based social services sector.
- To achieve this EFSI needs a greater focus on social investment (not just housing and hospitals), there should be support to smaller organisations/social service sector to better understand and access such funding, and improved guidance for Member States on how to complement EFSI and ESIF.
- Similarly, with the active involvement of the social partners, civil society, local and regional authorities, the Structural Reform Support Programme (SRSP) can provide support in the design and monitoring of reform policy programmes that will help support better conditions maximising the impact of ESIF into the future.

Annex

Key ESIF Regulations

- Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320–469) available:
<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R1303>
- Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006 (OJ L 347, 20.12.2013, p. 470–486) available:
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2013.347.01.0470.01.ENG
- Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006 (OJ L 347, 20.12.2013, p. 289–302) available:
<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R1301>
- Commission Delegated Regulation (EU) No 240/2014 of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds. (OJ L 74, 14.3.2014, p. 1–7) available:
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.074.01.0001.01.ENG
- 2014/99/EU: Commission Implementing Decision of 18 February 2014 setting out the list of regions eligible for funding from the European Regional Development Fund and the European Social Fund and of Member States eligible for funding from the Cohesion Fund for the period 2014–2020 (notified under document C(2014) 974) OJ L 50, 20.2.2014, p. 22–34 available:
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.050.01.0022.01.ENG

Key ESIF Guidance

European Commission:

- Internal Guidance on ex-ante conditionalities for the European Structural and Investment Funds Version 2.0: August 2014, Part I, available:
http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/eac_guidance_esif_part1_en.pdf
- Guidance on ex-ante conditionalities for the European Structural and Investment Funds Part II (13th February 2014) available:
http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/eac_guidance_esif_part2_en.pdf
- Draft Thematic Guidance Fiche for Desk Officers Transition from Institutional to Community-Based Care (Deinstitutionalisation-DI) Version 2 – 27/01/2014. Available:
http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/guidance_deinstitutionalisation.pdf
- Guidance on ensuring the respect for the Charter of Fundamental Rights of the European Union when implementing the European Structural and Investment Funds (“ESIF”) C/2016/4384 (OJ C 269, 23.7.2016, p. 1–19) available:
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2016.269.01.0001.01.ENG&toc=OJ:C:2016:269:TOC

European Expert Group on the Transition from Institutional to Community-based Care:

- Common European Guidelines on the Transition from institutional to Community Based Care and Toolkit on the use of European Union Funds for the Transition from Institutional to Community-based Care (Revised version 2014) both documents available:
<http://www.deinstitutionalisationguide.eu>

"Structured Dialogue with European Structural and Investment Funds' partners group of experts", formally established through Commission Decision C (2014) 4175 off 26 June 2014 see:

http://ec.europa.eu/regional_policy/en/policy/communication/structured-dialogue-with-partners

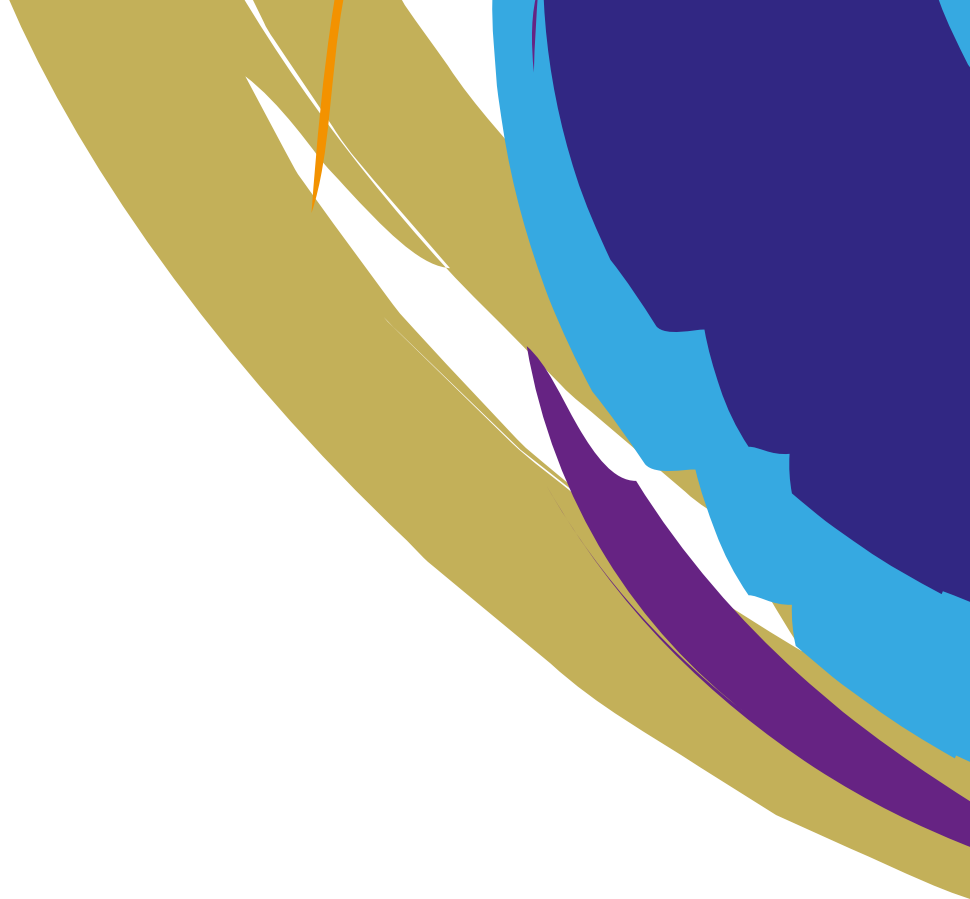
Opinion of the European Economic and Social Committee on the "Proposal for a regulation of the European Parliament and of the Council on the establishment of the Structural Reform Support Programme for the period 2017 to 2020 and amending Regulations (EU) No 1303/2013 and (EU) No 1305/2013" (COM(2015) 701 final — 2015/0263 (COD)) available:

From Institutions to Community Based Living – Parts 1-3 European Union Agency for Fundamental Rights, 2017

<http://fra.europa.eu/en/project/2014/rights-persons-disabilities-right-independent-living/publications>

Relevant International and EU law, policy and standards

- Council Decision (EC) 2010/48 of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities OJ L 23/35.
- EU Legislative Acts which refer to matters governed by the UN Convention on the Rights of people with Disabilities in European Commission "Progress Report on the implementation of the European Disability Strategy 2010-2020" SWD (2017) 29 final (Brussels, 2.2.2017) Annex 5.
- EUROPE 2020 A strategy for smart, sustainable and inclusive growth, COM (2010) 2020 final, Brussels, 3.3.2010).
- Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions - Europe 2020 Flagship Initiative - Innovation Union, COM (2010) 546 final, Brussels, 6.10.2010.
- European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, COM (2010) 636.
- Charter of Fundamental Rights of the European Union (2007/C 303/01) OJEU C 83/391, 30 March 2010.
- UN Convention on the Rights of the Child (1989).
- UN Guidelines for the Alternative Care of Children (2009) A/HRC/11/L.13.
- EU "Agenda for the Rights of the Child" (2011).
- Commission Recommendation of 20.2.2013 Investing in Children; breaking the cycle of disadvantage C (2013) 778 final (Brussels, 20.2.2013).
- Council of the European Union "Revision of the EU Guidelines for the Promotion and Protection of the Rights of the Child (2017) – Leave No Child Behind", adopted by the Council at its 3525th meeting (Brussels, 6 March 2017).
- Council of the European Union conclusions on "The European Pact for Mental Health and Well-being: results and future action" 3095th Employment, social policy, health and consumer affairs Council meeting (Luxembourg, 6 June 2011).
- Council Declaration on the European Year for Active Ageing and Solidarity between Generations (2012): The Way Forward, 17468/12, Brussels, 7 December 2012.
- United Nations Principles for Older Persons, Adopted by General Assembly resolution 46/91 of 16 December 1991.
- Political Declaration and Madrid International Plan of Action on Aging, Second World Assembly on Aging, Madrid, Spain 8-12 April 2002.
- Office of the High Commissioner for Human Rights, Normative standards in international human rights law in relation to older persons - Analytical Outcome Paper, August 2012.
- Recommendation CM/Rec(2014)2 of the Committee of Ministers to Member States on the promotion of the human rights of older persons (Adopted by the Committee of Ministers on 19 February 2014 at the 1192nd meeting of the Ministers' Deputies).
- Council of the European Union "EU Action Plan on Human Rights and Democracy 2015-2019 adopted by the Council on 20th July 2015" 10897/15 RC/oz (Brussels, 20 July 2015).



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