



Protecting Children. Providing Solutions.

Universal Periodic Review – Bulgaria 2015

Lumos' recommendations to protect the human rights of children in the deinstitutionalisation process in Bulgaria

About Lumos

Lumos is an international NGO¹, founded by author J.K. Rowling, working to end the institutionalisation of children around the world by 2050. We support governments and communities to transform education, health and social care systems for children and their families, assisting children to move from institutions to family-based care. In 2009, Lumos began working with the Bulgarian State Agency for Child Protection as it planned its reforms of residential child care, which involved 137 children's residential institutions.

We are a founding member of the European Expert Group on the Transition from Institutional to Community-based Care. Lumos also sits on the Leaders' Council of the Washington-based Global Alliance for Children, a coalition of US government departments, the World Bank, the Canadian government, major foundations and experts.

Institutionalisation

More than eighty years of research demonstrates the harm caused by institutionalisation. In spite of the best intentions, institutions do not protect children or provide them with a safe environment; instead they leave children more vulnerable to violence, abuse and neglect. Institutions are not an effective means of providing education, health or other services to children. The outcomes for children raised in institutions are dire² with a dramatic reduction in their future life chances and significantly limiting the potential to achieve mainstream development goals³. The impact of institutionalisation can last a lifetime with some research suggesting that these children are 10 times more likely than their peers to be involved in prostitution; 40 times more likely to have a criminal record; and 500 times more likely to commit suicide⁴.

For more information, please see the [Lumos Factsheet: How institutions are harmful to children](#)⁵.

Institutionalisation and human rights

The United Nations Convention on the Rights of the Child (UN CRC), ratified by Bulgaria, sets out that every child has the right to be cared for by their parents (Article 7) and to be protected from abuse and neglect (Article 19).

¹ Lumos Foundation (Lumos) is a company limited by guarantee registered in England and Wales number: 5611912 | Registered charity number: 1112575

² Browne, K. (2009) *The Risk of Harm to Young Children in Institutional Care*, Save the Children UK: London

³ Delap, E. (2010) *Protect for the future. Placing children's protection and care at the heart of achieving the MDGs*. London: EveryChild

⁴ Pashkina (2001). *Sotsial'noe obespechenie*, 11:42-45. Cited in Holm-Hansen J, Kristofersen LB, Myrvold TM eds. *Orphans in Russia*. Oslo, Norwegian Institute for Urban and Regional Research (NIBR-rapport 2003:1).

⁵ Tiny URL: <http://tinyurl.com/kjpg6uq> or full link: <http://wearelumos.org/sites/default/files/Lumos%20factsheet%20-The%20harm%20caused%20the%20children%20through%20institutions.pdf>

The United Nations Convention on the Rights of Persons with Disabilities (UN CRPD), which Bulgaria has also ratified, requires that persons with disabilities have the right to live in the community (Article 19), to be protected from any form of torture or cruel, inhuman or degrading treatment or punishment (Article 15) and exploitation, violence and abuse (Article 16). Such treatment is a common occurrence in long-stay residential institutions. As regards children with disabilities, Article 23(1) of the UN CRPD provides that they have equal rights with respect to family life, and Article 23(5) states that where the immediate family is unable to care for them, State Parties shall “undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.”

Deinstitutionalisation in Bulgaria

In 2010 the Bulgarian government adopted a national strategy on deinstitutionalisation – the Vision on Deinstitutionalisation of Children in Bulgaria⁶ - and a plan of action for its implementation – the National Strategy for Deinstitutionalisation⁷. This strategy outlines Bulgaria’s vision to achieve social inclusion and well-being for all its children. Its goal is to move away from use of children’s institutions and replace these with alternative family and community based services. Since the adoption of the strategy five years ago, the number of children in institutions has reduced from 7600 in 2010 to less than 3000 in December 2014.

Lumos welcomes Bulgaria’s continuous commitment to place deinstitutionalisation (DI) of children as a human rights priority for the forthcoming Universal Period Review period⁸ and efforts by the newly elected government to take the implementation of the deinstitutionalisation plans forward.

The DI process in Bulgaria is now in a critical phase as hundreds of children and young people with disabilities across the country have now been moved or are being prepared to move away from residential institutions. (Many of them having already been moved from older institutions.) Whenever possible children should be returned to their families or, where the needs of a child are beyond the full time coping capacity of the family, into specially trained foster families or small scale community based care. Community based care should be designed to meet the needs of and to support families caring for children with disabilities. Lumos is concerned that if certain safeguards are not put in place, the needs of vulnerable children and their families will not be met and their human rights may be violated. **This paper has been written in the light of Bulgaria’s Universal Periodic Review. It outlines a set of recommendations which will ensure the deinstitutionalisation process in Bulgaria will meet the needs and respect the rights of all children involved and to help ensure that policy in this area is in line with Bulgaria’s international human rights commitments.**

Need for a child-centred approach

Every aspect of the deinstitutionalisation process needs to be driven by a child-centred approach and each decision needs to be taken in each child’s best interest (in line with CRPD Article 7 and CRC Article 3). The approach needs to include a full assessment of the ability and needs of the immediate or extended family to care for their child so the child can return to the family home on a full or part time basis.

When moving children from residential institutions to new community housing (also known as Family-Type Placement Centres) developed for children with disabilities, it is particularly important that a child-centred, individualised approach is followed to guarantee the best possible outcome for the child. However, current practices do not take into consideration the specific needs of every individual child. Instead, decisions about rehoming children tend to be driven by the need to fill a home to its full capacity and the need to obtain financial resources needed to sustain the community housing. In order for the arrangement to be in the best

⁶ Vision on Deinstitutionalisation of Children in Bulgaria – Available in Bulgarian here: <http://sacp.government.bg/detstvo-za-vsichki/viziya-za-deinstitucionalizaciya/>

⁷ Action Plan for the National Strategy "Vision for deinstitutionalisation of children in Bulgaria" - Available in Bulgarian here: <http://sacp.government.bg/detstvo-za-vsichki/plan-za-dejstvie/>

⁸ As stated in the *National Report submitted in accordance with paragraph 5 of the annex of Human Rights Council resolution 16/21 Bulgaria*: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/024/42/PDF/G1502442.pdf?OpenElement>

interest of the child, practices should be revised to ensure that the needs and rights of the child are considered first and foremost, other resource led considerations should not be a deciding factor.

Ensure quality care for children with disabilities

The government has decided to change the target users of the Family-Type Placement Centres which were originally designed for children with disabilities, to children without disabilities. The centres are designed in such a way to be purely residential not rehabilitative in nature so they cannot meet the needs of children with disabilities and or their families. The lack of rehabilitation or other support to families and children with disabilities in communities is therefore likely to cause an increase in the numbers of children being taken into foster or family-type care, a trend which is reflected in recent figures.⁹ As a result, it is feared that harmful institutions and institutional models of care may re-emerge.

The risk that children with disabilities, particularly those with severe and complex disabilities, will not receive the quality care and attention in their communities which they need and have the right to can be mitigated by setting up short and medium term family-based care services for children with disabilities and their families.

Of particular concern is that in some instances, new 'community-based' residential services are set up in the same building as the former institution. This must be avoided at all cost as in such cases, inevitably, the institutional culture and nature of the original institution remain, which is not in the best interest of the child.

Any policy that may lead to children being unnecessarily removed or kept away from their families is in breach of a child's right to a family and should be reversed.

Allocation of financial resources to implement to deinstitutionalisation plan

There are significant concerns about the financial framework that surrounds the deinstitutionalisation process. Financial resources that are saved in the process of closing specialised residential institutions are currently being transferred to the government's general budget. It is internationally acknowledged good practice that funds saved in the closure process are ring-fenced and allocated to providing and building family support services and community-based children's services or policies. A commitment contained in the 2010 action plan to create a mechanism to ring-fence funding in this way has not been realised.

It should be noted that financial analyses have been developed in Bulgaria which demonstrate that the funds originally spent on the institutions are more than enough to run a broad range of community based services – family support, respite care, foster care, emergency services and small community based homes. However, this will not happen unless the government commits to ring-fencing and transferring the funds.

Babies and infants with disabilities

There is resistance to deinstitutionalisation for babies with disabilities and a belief that these children in particular must remain in an institutional, hospital-like environment. In fact renowned international research¹⁰ evidence demonstrates that institutionalising babies seriously impairs their early brain development. The UN Guidelines on Alternative Care state that no children under the age of three should be in institutions, because of this scientific evidence of harm. Therefore there is an urgent need to develop family based support services for babies with disabilities, as well as specialised foster care for disabled infants.

⁹ Joanna Rogers (2014) *Deinstitutionalisation of children in Bulgaria – how far and whereto. Independent review of progress and challenges*. UNICEF. Available online: http://www.unicef.bg/assets/PDFs/De_I_Review_Report_EN_small_size.pdf

¹⁰ Anne Berens and Charles Nelson (Harvard, 2015) "The science of early adversity: is there a role for large institutions in the care of vulnerable children?" [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(14\)61131-4/abstract](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(14)61131-4/abstract)

Children in institutions missing from the Vision and National Action Plan

The Bulgarian government is to be congratulated for their Vision and National Action Plan on ending institutionalisation and considerable progress has been made to date. However, when the Vision was developed, two groups of children were not included: those living in residential special schools and those in juvenile justice facilities. This means that the plans for ending institutionalisation will not be fully achieved unless these groups of children are included. It is essential that these groups are not forgotten. The new government should revisit the original plan and make specific provision for the development of inclusive education and the systematic dismantling of the residential school system. In addition, careful work is required to introduce community based alternatives to custody for children in conflict with the law.

Conclusion and recommendations

Lumos welcomes the strong commitments made by Bulgaria in its strategy on deinstitutionalisation and the progress made in moving children out of residential institutions and into community-based care settings. There are however some weaknesses in the implementation of the strategy that put children, particularly children with disabilities and young babies, at risk of harm. There are also some groups of children missing from the plans. In order to reverse and mitigate these risks over the forthcoming UPR period, Lumos suggests that the Bulgarian government implements the following recommendations:

1. Ensure that each step in the deinstitutionalisation process is driven by a child-centred approach. Moving children from (special) residential institutions back to their families or to the new facilities needs to be based on a thorough assessment of the needs and individual characteristics of each child.
2. Ensure children with disabilities and their families have access to and receive the community-based support that they need. This should include reversing the decision to expand the intended residents of the Family-Type Placement Centres to include children and young people without disabilities and avoid using former institution buildings for new community-based services. Also, an analysis to develop community-based services for children with disabilities is required, which considers the requirements for specialist foster care, respite care, health and education in the community.
3. Implement the commitment in the 2010 Action Plan to create a mechanism to ring-fence funding that used to be spent on residential institutions, for it to be used to enhance family support services, community-based children's services and policies.
4. Revisit the original Vision and National Action Plan and ensure that new plans are made to develop inclusive education and non-custodial approaches to children in conflict with the law, coordinated with a plan to dismantle residential special schools and large juvenile justice facilities.
5. Develop an agreement between the Ministry of Labour and Social Policy, the Ministry of Health, Ministry of Education and the Ministry of Finance for the implementation of quality integrated care for children and young people, based on their needs and rights. In this light, a methodology needs to be developed to set up integrated services and differentiated financial standards, which guarantees decisions are made on the basis of the principle of "the money follows the child".

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