



Universal Periodic Review on Greece

Submission by Lumos concerning Greece for consideration under the Universal Periodic Review at the 25th session of the UPR Working Group of the Human Rights Council.

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1. Introduction

- 1.1. Lumos respectfully submits comments concerning Greece for consideration of the Human Rights Council (HRC) within the Universal Periodic Review working group at its 25th session in April- May 2016. This report outlines particular concerns about the situation of the institutionalisation of children in Greece and the failure to protect their human rights by the Hellenic Government.
- 1.2. Lumos is an international non-governmental and not-for-profit organisation working to end the institutionalisation of children around the world by 2050.¹ More than 80 years of research from across the world has demonstrated the significant harm caused to children in institutions, who are deprived of loving parental care and who suffer life-long physical and psychological harm as a consequence.² Children are likely to suffer from poor health, physical under-development and a deterioration in brain growth.³ The cognitive development of children who grow up in institutional care is noticeably poorer compared to their non-institutionalised peers.⁴ Institutionalisation has a severe impact on early brain development; babies in particular fail to develop as they should without one-to-one parental interaction.⁵
- 1.3. Children have the right, as far as possible, to know and be cared for by their birth families and not to be separated from their parents (UN Convention on the Rights of the Child (UN CRC), Article 7 and 9). Parents have the primary responsibility to raise their children and it is the State's obligation to support parents so that they can fulfil that responsibility (UN CRC, Article 18). At the same time, children have the right to protection from harm and abuse (article 19), to an education (article 28) and to adequate healthcare (article 24), all of which they should be able to enjoy while living in their family. Where their family cannot provide the care they need, despite the provision of adequate support by the State, the child has the right to substitute family care (article 20). The Convention and the Guidelines for the Alternative Care of Children (A/RES/64/142)⁶ also call on States to ensure that families have access to forms of support in the caregiving role. The Guidelines state that, "[e]very child and young person should live in a supportive, protective and caring environment that promotes his/her full potential. Children with inadequate or no parental care are at special risk of being denied such a nurturing environment". Moreover the Convention on the Rights of Persons with Disabilities (CRPD) emphasises the rights of children with disabilities to be raised in their families and included in their schools and communities alongside their peers.⁷
- 1.4. Lumos has been working on deinstitutionalisation in Greece since November 2014. As part of our operations, we have conducted a review of national child protection legislation and

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

² Berens, A.E. & Nelson, C.A. (2015). The science of early adversity: is there a role for large institutions in the care of vulnerable children? *The Lancet*. [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), p. 2.

³ See Lumos factsheet: *Children in Institutions, the Risks*, 2014, for more details.

http://wearelumos.org/sites/default/files/The_Risks.pdf

⁴ Nelson, C. A., Zeanah, C. H., Fox, N. A., Marshall, P. J., Smyke, A. T., & Guthrie, D. (2007). Cognitive recovery in socially deprived young children: The Bucharest Early Intervention Project. *Science*, 318(5858), 1937-1940.

⁵ Michael Rutter (1998), Development catch-up, and Deficit, Following Adoption after Severe Global Early Privation, <http://journals.cambridge.org/action/display-Abstract?fromPage=online&aid=10487&-fileId=S0021963098002236>

⁶ Guidelines for the Alternative Care of Children (2009) A/RES/64/142 http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf

⁷ UN (2006) UN Convention on the Rights of Persons with Disabilities. United Nations, New York.

research into residential care institutions for children in various regions of the country. On 11 December 2014 Lumos held a consultation with major child protection stakeholders to discuss the current system of institutional child care services and possibilities to move towards the deinstitutionalisation of children. The information provided in this document has been gathered through these processes.

- 1.5. The current economic crisis, related instability and austerity measures are causing adversity, straining existing community services and disproportionately affecting children, especially children who live in poverty, with a disability or children from minority backgrounds, including migrants and refugees, particularly unaccompanied minors. The UN Committee on the Rights of the Child noted in 2012: "due to the current economic hardship facing families, children may increasingly be deprived of their family environment, accentuating a tendency towards institutionalisation of children".⁸ The influx of individuals fleeing conflict and humanitarian crises puts a further strain on existing social structures, putting vulnerable people, particularly children, at even greater risk.

2. Institutionalisation and alternative forms of care for children in Greece

- 2.1. There are six different categories of residential care institutions for children in Greece; 1. Governmental institutions; 2. Institutions run by charity funds; 3. NGO run intuitions, homes and shelters; 4. Religious shelters; 5. Institutions for children with disabilities; and 6. Residential institutions for unaccompanied migrant children. The first category of institutions are run by legal entities under public law, categories 2-4 by legal entities under private law and categories 5-6 may be run by either. The number of children who live in these institutions is unknown, but estimates over the last decade have ranged between 3,000 and 4,000.⁹
- 2.2. The Greek authorities have no system in place for collecting data on children being admitted to and/or living in institutions. It also does not record information about care leavers. The absence of a robust data collection mechanism means that there is a lack of reliable data on the number of children living in institutions and their backgrounds. There is a need for a centralised approach, which is led and overseen by the Greek authorities, ensuring a comprehensive monitoring and reporting mechanism is put in place. In absence of Government efforts to address this problem, several NGOs and other civil society organisations are developing monitoring mechanisms. Two data collection mechanisms for children at risk and in care are currently being developed within the context of the EU's structural funds for Greece.¹⁰ However, these systems can only be successful if they are implemented throughout the country and by all relevant agencies.
- 2.3. Family-based care services in Greece are underdeveloped and placement of children in foster families is rare with only a few dozen of cases each year.¹¹ In 2010 and 2011, a total of only 22

⁸ CRC/C/GRC/CO/2-3 Available at: http://www2.ohchr.org/english/bodies/crc/docs/co/CRC_C_GRC_CO_2-3.pdf

⁹ Greek Ombudsman for the rights of the child public statement also published in press in <http://www.e-typos.com/gr/ellada/article/109582/perissotera-apo-3000-paidia-zoun-se-idrumata-logo-tis-oikonomikis-krisis/>

¹⁰ These are the electronic registration system for social welfare ("e-pronoia") developed by the National Center of Social Solidarity ("EKKA") and the National Registry for Child Abuse and Neglect Cases ("ESA-KaPa-P") developed by the Institute of Child Health.

¹¹ Moschos, G., & Stratidaki, S. (2012). Organization and operation of the institution of adoptive care. Greek Ombudsman, Deputy Ombudsman for the Rights of the Child (pp. 9-10) [available ONLY in Greek at: <http://www.synigoros.gr/resources/ek8esh-gia-anadoxh-2102012.pdf>]

new foster care placements were approved.¹² Furthermore, anecdotal evidence suggests that family reunification of children who have previously been separated from their biological parents is rare.¹³ Cases where institution staff (predominantly in privately run institutions) have deliberately prevented a biological parent from seeing his or her child are also known to Lumos. Consequently, children tend to live in institutions for extended periods of time; a conclusion which was already drawn by the 2003 Daphne Programme, which found that the average stay of children under five in Greek institutions was 20 months.¹⁴

3. Legislative and structural concerns about the protection of the rights of children in residential institutions

- 3.1. There is no effective legislation regulating quality standards for both state¹⁵ and privately run residential care institutions. This means that in most instances there are no regulations regarding the maximum number of residents, required services and facilities. There are no guidelines to prevent inappropriate grouping of children, such as preventing separation of siblings or preventing homing adults with children. There are also no requirements on type of staff (social workers, psychologists, medical professional, etc) or on the qualifications staff need. There is no (effective) pre-appointment screening of personnel, resulting in an increased risk that those with bad intentions end up working with children in institutions.
- 3.2. Private legal entities providing organised social services, which include those which provide residential care for children, are obliged to obtain a license to operate, as established in Law 2345/95 (Governmental Gazette A'213, art.1; para 1). This law does however not lay down any standards for establishing and operating an institution, instead it refers to a Ministerial Decision. (Decision ref. no. Δ27/οικ.34481/1526/2014), which was issued almost 20 years after Law 2345/95 was introduced, but included many flaws. The Ministerial Decision was repealed in January 2015 (see 3.3). As a result, some private institutions are operating without a license or defined operating framework.
- 3.3. In 2014, the Government took a first step in regulating privately run care institutions by adopting the Ministerial Decision¹⁶ (as referred to in para 3.2) on the prerequisites and requirements for founding and operating private 'Child Protection Units'. While the Government's recognition of the need for more regulations was well-placed, the Decision's content was poor, not in any way contributing to the improvement of the situation of children living in institutional care, but rather the contrary. The prerequisites set out for these units focused primarily on the building, infrastructure and location in a fashion by which it would have promoted and reinforced an institutional culture.¹⁷ The Government's decision to repeal the law in 2015 was therefore welcomed, but the need for other and better regulations governing care for children in Greece remains and is critical.

¹² Μόσχος, Γ., & Στρατιδάκη, Σ. (2012). Οργάνωση και λειτουργία του θεσμού της αναδοχής ανηλίκων. Συνήγορος του Πολίτη, Κύκλος Δικαιωμάτων του Παιδιού (σσ. 9-10)
<http://www.synigoros.gr/resources/ek8esh-gia-anadoxh-2102012.pdf>

¹³ Ibid.

¹⁴ Browne, K.D. and Hamilton, C. (2003) Identifying good practices in the deinstitutionalisation of children under 5 years from European Institutions. Project Nr : 2003/ 046/C

¹⁵ Public institutions are governed by Law 4052/2012.

¹⁶ Decision ref. no. Δ27/οικ.34481/1526/2014

¹⁷ Ibid.

- 3.4. Children in institutions are at increased risk of experiencing abuse, violence, neglect and trafficking compared to their peers who live in families.¹⁸ The lack of an effective mechanism for registration, monitoring or supervision of residential care facilities in Greece places children at even greater risk. There is a general lack of oversight by authorities on all institutions, which means that if violations take place, they are often left unnoticed. Concerns are even greater for children who live in unlicensed institutions, which are even further removed from any government controls. Children who are placed in residential institutions after a court or public prosecution order may also be placed in unlicensed institutions, after which they might also become invisible to authorities.
- 3.5. In 2012, the Committee on the Rights of the Child reiterated the need for a national plan for the protection of children's rights, improved implementation of the UN CRC and data collection on CRC implementation.¹⁹ Such mechanisms, governed by a central Government body, would have the ability to regulate the care system to an internationally accepted standard. In 2007/8 the Government announced an Action Plan on the Rights of the Child would be introduced. The same happened in 2014. Both times, the Action Plans were never enacted. The continuous absence of an Action Plan, and a subsequent body to coordinate its implementation is disconcerting and needs to be imminently addressed

4. Level of care and conditions in institutions

- 4.1. The living conditions in many residential institutions for children in Greece have been found to be poor, and in some cases appalling. For example, media reports have brought to light the use of caged beds for children with disabilities²⁰, which is in violation with the UN CRPD. Lumos' own research confirms the continuous use of caged beds. Feedback from Lumos' wider network of stakeholders has provided additional evidence of human rights violations of children living in institutions in Greece. These include: use of restrains of children living in institutions for children with disabilities; use of corporal punishment and other type of physical and hard psychological discipline; and neglect, portrayed by a total indifference by institution staff about the individual needs of children.²¹
- 4.2. Lumos is aware that children including babies and toddlers are cared for in residential institutions. This is of grave concern as institutionalisation has a severe impact on early brain development, as was mentioned earlier in the submission. It is in contradiction with the UN Guidelines on Alternative Care, which state that all children, but especially those under the age of three, need to be cared for in a family-type setting.²²

5. Private adoption

- 5.1. Private adoption in Greece is regulated under Law 2447/1996, Para 7.2, modified by Law 3719/2008, Art 21). Under the law, private adoption is not supposed to be commercially motivated and may not involve any financial gains for any of the parties involved. However, it

¹⁸ Csaky, C. Keeping children out of harmful institutions. Save the Children, London, 2009

¹⁹ Ibid.

²⁰ Hadjimatheou, C. (2014) The disabled children locked up in cages. BBC Magazine.

<http://www.bbc.co.uk/news/magazine-30038753>

²¹ The Special Rapporteur on Torture Juan E. Mendez recently outlined the different forms of ill-treatment which children in institutions may be subjected to, "even where the purpose or intention of the State's action or inaction was not to degrade, humiliate or punish the child", see A/HRC/28/68, para 50 – 58.

²² UN Guidelines for Alternative Care. A/RES/64/142. Available at: http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf

seems apparent that that financial transactions are sometimes made as part of the private adoption process, which would be in contradiction with the UN CRC, Article 21(a) and Hague Convention, Article 8.²³ There are no reliable statistics on the number of children who are adopted via the private adoption route.

6. Unaccompanied minors

6.1. Increasing numbers of individuals are seeking refuge in the EU from conflict and humanitarian crises entering the Union via Greece. On route to Greece by boat, many children lose their caregivers. Other children start their journey seeking safety unaccompanied. The system in place to care for unaccompanied minors in Greece is heavily under-resourced and not able to respond to the high demand. Many children are placed in detention facilities on arrival. While the closure of refugee and migrant detention centres in Amydgaleza²⁴ has been a positive development, Lumos is aware that unaccompanied minors are still often kept in custody at the Greek border for a considerable amount of time before being referred to hostels or residential care facilities. Often unaccompanied minors' age is estimated higher than it is in reality, which leads to them being placed in the same detention facilities as adults. Unaccompanied minors who are placed in institutional care for children tend to only stay there for short periods of time. There is no follow up with children when they leave or when they children run away from institutions, entering an underground and off the radar circuit. Usually no efforts are made to trace them back. Lumos believes that the absence of a system of appointing custodians to these minors, their particular vulnerabilities and trauma, as well as existing weaknesses in the care system may lead to serious child protection concerns and a failure to protect these children from further harm.

7. Positive developments

7.1. Lumos welcomes Greece's ratification of the UN Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol in 2012. The Hellenic Government should ensure its effective implementation, ensuring all rights of children with disabilities living in institutions are met.

8. Recommendations

In light of the highlighted concerns, Lumos appeals to the Human Rights Council to call on the Hellenic government to:

- 8.1. Move towards deinstitutionalisation of all children by investing in and promoting family-based care facilities for children, including services in the community, foster care and family reunification programmes in line with the UN Guidelines on Alternative Care for Children.
- 8.2. Draft a new Ministerial Decision on care institutions, particularly focusing on the need for the transition from institutional to family-based care and the importance of developing community-based services to support children and families. The Decision should include a provision for the development of a regulating framework that includes all state and privately run residential care units in line with the UN Guidelines on Alternative Care for Children. It should also include the adoption of a monitoring and data collection mechanism to gather

²³ The Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption

²⁴ <http://www.asylumineurope.org/news/23-02-2015/greece-commits-detaining-migrants-only-exceptionally-and-no-more-six-months>

information about children living in alternative care, including foster care. Alongside this process, the Government should develop and implement a national action plan on the protection of the rights of the child, ensuring the full and correct implementation of the CRC. This should all be done in consultation with all children's rights civil society actors operative in the country.

- 8.3. Put in place a comprehensive standardised system to respond to allegation of child maltreatment, neglect, torture and other forms of abuse across the country.
- 8.4. Make private adoption illegal and instead ensure that all adoptions in the country are implemented by the official authoritative agencies. The government should ensure effective monitoring of adoptions taking place in the country and act firmly to ensure that the adoption process never involves financial gains for anyone involved, in line with UN CRC, Article 21(a) and the Hague Convention.
- 8.5. End the detention of minors, including unaccompanied minors, with immediate effect and ensure unaccompanied minors are appointed a custodian and settled into family-type care settings upon arrival, responding to the particular vulnerabilities and care needs.