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## Child abuse in institutions in Europe

### Report<sup>1</sup>

Committee on Social Affairs, Health and Sustainable Development

Rapporteur: Mr Pierre-Alain FRIDEZ, Switzerland, Socialists, Democrats and Greens Group

### Summary

In Europe, we must never again turn a blind eye to the abuse of children, whether they have been victims of sexual predators, gratuitous violence or ill-treatment in public, private or religious institutions that are supposed to be safe havens. Too many children's futures have been shattered beyond repair.

Drawing on the example of good practice in Switzerland, the Parliamentary Assembly should call for full reparation for all violence committed against children in institutions. This reparation should truly reflect the seriousness of and be proportionate to the harm done. It is essential that member States recognise the suffering inflicted and offer appropriate care for its effects; issue an official apology to past and present victims, subjected to any form of physical, sexual or psychological violence; and ensure the prosecution of the authors of such crimes without a statute of limitations. The Assembly should encourage the authorities to create places of remembrance of institutional mistreatment which highlight the Council of Europe's fundamental values – human rights, democracy and the rule of law – in order to educate future generations about the best interests of the child and the protection of children's well-being.

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1. Reference to committee: [Doc. 15390](#), Reference 4618 of 24 January 2022.



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## A. Draft resolution<sup>2</sup>

1. In Europe, we must never again turn a blind eye to the abuse of children, whether they have been victims of sexual predators, gratuitous violence or ill-treatment in public, private or religious institutions that are supposed to be safe havens. Too many children's futures have been shattered beyond repair. The exposure of such human rights violations throughout Europe has also highlighted serious errors of judgement and professional or ethical misconduct committed by third parties. The accounts of these crimes are always harrowing, whether they took place in orphanages in Ireland and Romania, schools in Sweden and Norway, church-run institutions in Germany, Belgium, Spain, France and Switzerland, as well as farms in Switzerland or in summer camps in France.

2. A reality passed over in silence, the amount of suffering, abuse and violence, be it sexual or otherwise, that children have suffered in institutions in Europe is as intolerable as the impunity that surrounds it and still continues today. Ignoring such malicious acts, refusing to acknowledge the acts and the torment of victims play a part in perpetuating the conditions that enable such totally impermissible criminal behaviour to continue to this day.

3. The Council of Europe, including the Parliamentary Assembly, strongly supports children's rights and their protection from abuse. It has developed pioneering, binding standards and norms, monitored their implementation, issued guidance, and provided support and capacity building through, in particular, the multidisciplinary work of the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee), in which the Assembly participates. The Council of Europe has established itself at the forefront of efforts to consolidate children's rights and, above all, as a driving force for positive change.

4. "Freedom from violence for all children" and "Child-friendly justice for all children", two of the six strategic objectives of the fourth Strategy for the Rights of the Child (2022-2027), remain priority areas for the Organisation, requiring "continuous implementation". These objectives and the achievement of the United Nations Sustainable Development Goal (SDG) 16.2 to "end abuse, exploitation, trafficking and all forms of violence against and torture of children" must remain a priority for all Council of Europe member States.

5. In order to reaffirm that combating violence against children is a European priority and to ensure that national structures are set up to prevent such violence effectively, the Assembly reiterates the recommendations set out in [Resolution 2330 \(2020\)](#) "Addressing sexual violence against children: stepping action and co-operation in Europe" and in [Resolution 2294 \(2019\)](#) "Ending violence against children: a Council of Europe contribution to the Sustainable Development Goals" which echoed [Resolution 2056 \(2015\)](#) "The inclusion of children's rights in national constitutions as an essential component of effective national child policies".

6. By promoting good practice, the Assembly seeks to open up a Europe-wide debate on full reparation for all violence committed against children. Violence takes many forms (and is not always sexual) and its effects on victims today and on their development must be recognised so that this full reparation truly reflects the seriousness of and is proportionate to the harm done.

7. The Assembly therefore calls on all member States to:

7.1. take stock of the situation of violence committed in public, private or religious institutions against children in order to create the right conditions for victims to speak out (including as adults) by ensuring they are treated with respect and humanity;

7.2. analyse the circumstances conducive to such abuse, including institutional care in public, private or religious settings, inadequate care, foster care in private homes, the removal of children from parents deemed to be "unfit", forced adoption, etc.;

7.3. recognise the suffering endured and ensure complete management of after-effects and consequences of all kinds (physical, emotional, social, etc.);

7.4. issue an official apology to past and present victims;

7.5. prosecute and sanction perpetrators of these acts without a statute of limitations;

7.6. encourage and support non-State institutions caring for children and operating on the national territory to assume their responsibilities and ensure that their responses also allow full reparation for all violence committed against children;

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2. Draft resolution adopted by the committee on 6 December 2023.

7.7. ensure that victims, regardless of their age, who have been subjected to any form of physical, sexual or psychological violence are awarded an appropriate and adequate compensation that is proportionate to the gravity of the harm done, as reparation and redress for it and its future impact, with no time limit in relation to the date of the offences and in a manner proportionate to the seriousness of the damage suffered;

7.8. support the creation of places of remembrance of institutional mistreatment which highlight the Council of Europe's fundamental values – human rights, democracy and the rule of law – in order to educate future generations about the best interests of the child and the protection of children's well-being;

7.9. embark on a comprehensive programme of prevention and awareness-raising measures, including monitoring institutional care facilities and any situation in which children are taken into care, in order to minimise risks and be able to react quickly in cases of abuse.

8. The Assembly encourages the European Union and Morocco to also accede to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, Lanzarote Convention) in order to contribute to the Council of Europe's efforts to strengthen children's rights and to work towards the eradication of all forms of violence against children, and to combat new threats.

9. Lastly, the Assembly intends to update its handbook for parliamentarians in order to support the implementation of the Lanzarote Convention and to provide parliamentarians with effective instruments to combat violence against children.

## **B. Draft recommendation<sup>3</sup>**

1. Referring to Resolution ... (2024) "Child abuse in institutions in Europe", the Parliamentary Assembly proposes to take advantage of good practice and wishes to open up a Europe-wide debate on full reparation for crimes committed against children in public, private and religious institutions in Europe.
2. The Assembly welcomes the launch of the 3rd monitoring round by the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee) which will focus on the protection of children against sexual abuse in the circle of trust.
3. The Assembly invites the Committee of Ministers to encourage the Lanzarote Committee to:
  - 3.1. take into account the example of good practice in Switzerland, which has recognised its share of the responsibility for violations of the rights of children placed in institutions and has presented public apologies to victims;
  - 3.2. support the memorial efforts of the member States, as well as co-operation and the exchange of good practices, by encouraging the creation of such memorials commemorating the victims of institutional mistreatment which highlight the fundamental values of the Council of Europe – human rights, democracy and the rule of law – in order to educate future generations on the best interests of the child and the protection of their well-being.
4. Finally, it also encourages the Committee of Ministers to support the efforts of the member States to recognise the suffering inflicted and offer appropriate care for its effects; issue an official apology to past and present victims, subjected to any form of physical, sexual or psychological violence; provide for the compensation for the damage suffered with no time limit in relation to the date of the offences, and prosecution of the authors of such crimes without a statute of limitations.

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3. Draft recommendation adopted by the committee on 6 December 2023.

## C. Explanatory memorandum by Mr Pierre-Alain Fridez, rapporteur

### 1. Introduction

1. A reality long passed over in silence, the amount of suffering, abuse and violence, be it sexual or otherwise, that children have suffered over the centuries in institutions – and still endure across Europe today – is unimaginable and intolerable. Turning a blind eye to the past, refusing to acknowledge the facts and the torment of victims is tantamount to perpetuating the conditions that enable such impermissible behaviour to continue to this day.
2. While uncovering this painful past is no simple task for our societies, it is especially hard for victims, who often bury this traumatic experience deep down, plagued by a sense of worthlessness and sometimes even shame. Once the abscess is burst, institutional recognition of these injustices may offer an invaluable source of reassurance and comfort.
3. Child abuse has a serious impact on health, including cognitive impairment or the development of mental health issues. In Europe, each year it causes the premature death of more than 800 children under the age of 15.<sup>4</sup>
4. According to the World Health Organization (WHO), child maltreatment involves “physical, sexual and mental abuse and/or neglect of children younger than 18 years”. In Europe, around 18 million children suffer from sexual abuse, 44 million from physical abuse, and 55 million from mental abuse. The most serious cases have occurred and continue to occur within public and religious institutions. When mistreatment occurs elsewhere, State institutions often fail to fulfil their responsibility to prevent and address such abuse.<sup>5</sup>
5. The Covid-19 pandemic has further exacerbated the situation. As WHO points out, “movement restrictions, loss of income, isolation, overcrowding and high levels of stress and anxiety are increasing the likelihood that children experience and observe physical, psychological and sexual abuse at home – particularly those children already living in violent or dysfunctional family situations.”<sup>6</sup>
6. On 4 October 2021, I tabled, together with other members of the Parliamentary Assembly, a motion for a recommendation entitled “Child abuse in Europe: addressing, compensation and prevention” (Doc. 15390). The motion raised the issue of child abuse in Europe and stressed the need for the Council of Europe member States to officially recognise the damage caused to the children who have suffered from sexual, physical, and psychological violence and to ensure that the survivors of such violence receive adequate reparations and solidarity contributions. The motion expressed regrets concerning the tendency to undermine facts of abuse committed in religious or State institutions. It deplored that abuse victims continue to suffer, due to the traumatic experience and the lack of official recognition and support.
7. As part of this report, the Committee on Social Affairs, Health and Sustainable Development held a public hearing in Strasbourg on 11 October 2022 with the participation of Mr Guido Fluri, Justice Initiative NGO, and two survivors of institutional abuse: Ms Sîrmanca Beladi (Romania), accompanied by Ms Gabriela Lupea, Head of the Justice Initiative NGO; and Mr Karl Hauke (Germany). The “Shame – European Stories” exhibition held at the Council of Europe in the margin of the October 2022 Assembly part-session was an excellent example of the possible actions aimed at raising awareness and breaking the silence on the topic of child abuse in Europe.
8. I would particularly like to thank Mr Fluri and his team, who have been very successful in Switzerland where they even obtained an apology from the State for violence committed against children. I support his work in Europe, especially in Germany, France and Romania. The aim of this report is to raise similar awareness across Europe so that people can speak out, survivors can be helped to rebuild their lives and receive compensation, and tools can be put in place to ensure that such situations never happen again.
9. I also had the opportunity to travel to Romania from 3 to 6 September 2023. I warmly thank the parliament for facilitating a series of very interesting discussions on the situation of children with disabilities who were abandoned under the communist regime and remain so to this day.

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4. WHO, “[European report on preventing child maltreatment](#)”, p. viii.

5. Justice Initiative Website, “[Justice for victims of abuse in Europe](#)”; Press Center of Justice Initiative.

6. Interpol, “[Threats and trends child sexual exploitation and abuse](#)”, p. 14.

## 2. The European and international framework

10. As well as the United Nations Convention on the rights of the child, several Council of Europe conventions have established useful legal standards for the protection of children such as the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, “Lanzarote Convention”)<sup>7</sup> and the European Social Charter (revised, ETS No. 163), which outlines that “children and young persons have the right to appropriate social, legal and economic protection” (Article 17).

11. The Council of Europe’s fourth Strategy for the Rights of the Child (2022-2027) was adopted by the Committee of Ministers on 23 February 2022 and officially launched at the High-Level Conference “Beyond the horizon: a new era for the rights of the child” in Rome on 7 and 8 April 2022. Regarding its six strategic objectives, I note in particular that “Freedom from violence for all children” and “Child-friendly justice for all children” remain priority areas, requiring “continuous implementation”. I would like this all to make a greater contribution to work to remember past abuses, so that they are not forgotten and such situations do not recur. Following the good practice established by my country, Switzerland, ensuring reparation and compensation for victims is the final step in this exercise.

12. In September 2010, the Assembly adopted [Recommendation 1934 \(2010\)](#) “Child abuse in institutions: ensure full protection of the victims” that asked member States to take stronger action to protect children from mistreatment. Furthermore, it stated the importance of providing full justice to victims of past offences and supporting children affected by recent abuse.<sup>8</sup>

13. The Assembly’s Handbook for parliamentarians on the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse has been available to its members since 2011 to support the ratification of the Lanzarote Convention. The document has not been updated since 2015 and should be further developed, taking into account in this report.

## 3. Child abuse in Europe

14. Past and present child abuse and the missing historical perspective are a pan-European problem.<sup>9</sup> In several European countries, until recent years, child removals, forced adoptions, sterilisations and drug/vaccine experiments on children and teenagers were reported.<sup>10</sup> One case that comes to mind is that of the babies “stolen” from the families of Spanish republicans during the civil war, who deserve victim status.<sup>11</sup> We must learn from history, especially at a time when the Russian Federation’s unilateral aggression has led to serious crimes against children. In April 2013, the Assembly adopted [Resolution 2495 \(2023\)](#) “Deportations and forcible transfers of Ukrainian children and other civilians to the Russian Federation or to temporarily occupied Ukrainian territories: create conditions for their safe return, stop these crimes and punish the perpetrators”, on the initiative of our colleague, Mr Paulo Pisco (Portugal, SOC).

15. To this day, many European countries do not have an appropriate legal framework or a reparation fund to redress the suffering of child abuse survivors. Only a few countries have taken decisive action to address historical incidents of child abuse.<sup>12</sup>

16. In La Réunion, a French overseas district in the Indian ocean, around 2 000 children – abandoned or not – were forcibly brought by the French Government to rural metropolitan France between 1963 and 1982, to repopulate rural areas on the mainland and respond to security and social issues on the island. These children were torn from their environment and, some of them, from their families. They were often exploited by handymen, farmers, or workers without being paid, and were also often abused in their adoptive families.<sup>13 14</sup>

17. In Sweden, between 1920 and 1980, around 100 000 children lived in State-run institutions, orphanages, or foster homes, where a lot of them experienced maltreatment and abuse.<sup>15</sup> Although comprehensively investigated and officially recognised in a reconciliation ceremony, only 46% of the victims

7. [Council of Europe Strategy for the rights of the child \(2022-2027\)](#).

8. See also [Doc. 12358](#) as well as [Doc. 9692](#) and [Recommendation 1601 \(2003\)](#) «Improving the lot of abandoned children in institutions».

9. Justice Initiative Website, “Abuse of children, An ongoing issue in Europe”.

10. Justice Initiative Website, “Justice for victims of abuse in Europe”; Press Center of Justice Initiative.

11. *La Croix*, 21 August 2023, “Guerre d’Espagne, l’inlassable quête des familles de disparus”

12. Justice Initiative Website, “Justice for victims of abuse in Europe”.

13. Justice Initiative Website, “Abuse in France”.

14. *Libération*, 13 June 2021, “‘Enfants de la Creuse’: quarante ans d’identité volée”.

15. *Radio Sweden*, 21 November 2011, “Foster home children receive apology”.

had their compensation applications accepted and received compensation. Particularly alarming is the fact that only the victims who – according to the government – had been subjected to the “most serious” abuses received compensation. The severity of abuse is however difficult to qualify and assess.<sup>16</sup>

18. In Ireland, in the 20th century, thousands of children were born in Mother and Baby Homes where their mothers had been taken in. These homes were typically church-run but State-funded and -inspected. Although there is no evidence that women were forced to enter these homes by church or State authorities, many women had no alternative but to enter such a home.<sup>17</sup> Numerous women and children later reported that they had experienced psychological and physical abuse in these homes.<sup>18</sup>

19. In Switzerland, until 1981 the authorities lent thousands of children and teenagers to farmers as labourers or placed them in institutions under strict supervision and with insufficient arrangements for care and protection. While many of these children were already suffering from being separated from their parents and siblings, they were subjected to physical, psychological, or sexual abuses in such settings.<sup>19</sup>

#### 4. The situation in three European countries: France, Germany and Romania

20. This section analyses some key cases, starting with one involving the authorities of a member State, and then examines how the Roman Catholic Church has dealt with the abuse cases that have tarnished its image. Lastly, I will turn to the situation in Romania, where I carried out a visit.

21. The transfer of more than 2 000 impoverished children who were wards of the French child welfare agency (ASE) from the island of La Réunion to mainland France in the 1960s is a tragedy that has long been overlooked.<sup>20</sup> The Swiss NGO Justice Initiative has taken up the cause.

22. La Réunion became an overseas département in 1946. From 1963 to around 1982, the Departmental Directorate of Health and Social Affairs (DDASS), at the instigation of Michel Debré, member of parliament for one of the island’s constituencies, transferred children, some of whom had been abandoned and were living in children’s homes, to mainland France. A total of 2 015 children were sent, according to calculations made in 2016 by the commission for information set up by the Ministry of Overseas France. The scandal mainly concerns children who were taken away from their families, with the latter agreeing only reluctantly or being deceived into agreeing.<sup>21</sup> These socially disadvantaged families, often illiterate and intimidated by the persistent visits of social services, were assured that their children would receive a good education in “metropolitan France” and would succeed there. They were also told that the children would return to the island regularly and would not lose contact with their families. This was not the case.

23. The initial reason for the resettlement programme was Debré’s concern about the population explosion that he felt was threatening the island, and even more so the desire to breathe new life into the French *départements* that were gradually being emptied by the exodus to the cities. The Creuse, with 215 children,<sup>22</sup> was not the only *département* to which these children were sent. 83 *départements* in France received children from the island of La Réunion. The Creuse was the hardest place for them to live. It was the coldest, the most isolated and the place where they suffered most from exploitation on the farms, with evidence of some of the boys being subjected to abuse.

24. From the 2000s onwards, some of the victims of this displacement questioned the conditions under which they had been resettled and the fate that had befallen them, referring in books to “abductions”, “deportations” and ill-treatment.<sup>23</sup> They took the French authorities to court on several occasions, demanding

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16. Justice Initiative Website, “Abuse in Sweden”.

17. Irish Department of Children, Equality, Disability, Integration and Youth, 12 January 2021, “Executive summary of the Final Report of the Commission of Investigation into Mother and Baby Homes”.

18. Justice Initiative Website, “Abuse in Ireland”; “Executive summary of the Final Report of the Commission of Investigation into Mother and Baby Homes”, *op. cit.*

19. Justice Initiative Website, “Abuse in Switzerland”.

20. *Le Monde*, 8 December 2021, Tribune “Enfants de la Creuse. Justice doit leur être rendue”.

21. Valérie Magdelaine-Andrianjafitrimo, “Les ‘déportés’ de la Creuse: le dévoilement d’une histoire oubliée”, published online on 2 June 2014, accessed on 26 May 2023.

22. *Le Monde*, 10 April 2018, “Enfants de la Creuse: Un rapport pointe la responsabilité de l’État”.

23. Jean-Jacques Martial’s story, *Une Enfance volée* (2003), was followed by others, such as Jean-Pierre Gosse’s *La Bête que j’ai été* (2005) and those published in Élise Lemai’s book, *La Déportation des Réunionnais de la Creuse. Témoignages* (2004).



notably, financial compensation. When their claims were rejected, they took the issue to the political level. In 2014, the National Assembly adopted a “special resolution for remembrance” declaring that France had failed in its “moral responsibility” towards these minors.<sup>24</sup>

25. The resettlement of children and adolescents was co-ordinated by the Bureau for the Development of Migration involving the Overseas Departments (BUMIDOM), a public body under the joint supervision of the Ministry of Overseas *Départements* and Territories and the Ministry of Economy, whose aim was to help solve the demographic problems of the overseas *départements*. It was abolished in 1981. Its archives are probably of great interest for understanding this chapter of French history. In general, the need to document such events should be taken seriously, before records are lost. Forgetting is not an ethical solution for our democracies.

26. Dealing with abuse requires close co-operation between the authorities and civil society. It should be noted that there is still no umbrella association bringing together all those affected, who are known as the “Réunionnais de la Creuse”. Of the 2 015 victims, only a hundred or so have contacted an association. The Federation of children uprooted from the French Overseas *Départements* and Regions (FEDD) aims to provide a forum for dialogue between the victims, the people of mainland France and of the island of La Réunion, the authorities and the media. Their main demands include providing easier access to the victims’ files and a government-funded trip to the island of La Réunion for those displaced. The Minister for Overseas France, Ericka Bareigts, agreed to both requests in February 2017. The other demands made by the various NGOs representing the victims (Rasinn Anlèr, Association des Réunionnais de la Creuse, Collectif Enfants 3D, Génération brisée) include: financial compensation and public recognition of the historical facts; holding the State accountable for its actions in a court; a place of remembrance; a reference to these events in school history books; the assimilation of resettlement to a form of trafficking in human beings; payment for work done in host families; and a one-off retirement payment similar to that for military service.

27. The Commission for Information and Historical Research was set up on 9 February 2016, two years after the National Assembly resolution, and was chaired by Philippe Vitale, a sociologist who had co-authored a book (*Tristes tropiques de la Creuse*) on the subject in 2004. In 2018, it published its report, which sheds light on the life of each of these children and on how their separation came about.

28. In their report, the experts found that the case of children and adolescents from the island of La Réunion who were relocated to rural French *départements* was symptomatic of a wider problem stemming from the history of the ASE, which was run by the central government until 1984, when it devolved responsibility to the *départements*. It reveals the shortcomings of the ASE’s general philosophy, which from the 1960s to the early 1980s was not based on the same principles, way of working or view of children that we have today.<sup>25</sup> Almost one child in three sent to mainland France was under the age of five. The majority were adopted or placed in foster care. The report draws attention to the difficulties faced by these minors: sometimes the victims of poor administrative management, they were often exposed to ill-treatment, torn from their roots, felt abandoned, had unmet emotional needs and experienced everyday racism and hostility. To date,<sup>26</sup> France has not initiated a process to help the victims rebuild their lives through individual and collective measures, nor has it acknowledged the abuses committed in violation of the rights of these children.

29. With regard to crimes committed in the name of the Roman Catholic Church, in October 2021, after two and a half years of work, the Independent Commission on Sexual Abuse in the Catholic Church (CIASE), or the Sauv  Commission (named after its chair, a former vice-president of the French Conseil d’ tat), published its report on the sexual abuse of minors and vulnerable persons committed in the Catholic Church in France since the 1950s. Its members were recognised experts in their fields: psychiatry, law, theology, sociology, anthropology, etc.

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24. Gilles Gauvin et Philippe Vitale, “Lesdits enfants de la Creuse”, *Revue des sciences sociales*, published online on 15 June 2021, consulted on 25 May 2023.

25. Philippe Vitale, Wilfrid Bertile, Gilles Gauvin, Prosper  ve, “ tude de la transplantation de mineurs de La R union en France hexagonale (1962-1984)”, [research paper], Universit  de la R union, 2018; pages 11-12.

26. At its general meeting in Saint Herblain (Loire Atlantique, France), the Federation of Children uprooted from the Overseas D partements and Regions (FEDD) called on the French Government to issue a public apology and to create a place of remembrance in Gu ret, where the children landed 60 years ago. *France 3*, 19 August 2023, “Enfants de la Creuse: R unis en assembl e g n rale   Saint-Herblain, ils demandent une r paration financi re et la cr ation d’un lieu de m moire”.

30. The Sauvé Commission carried out a qualitative and quantitative analysis of sexual violence in the Catholic Church from 1950 to the present day. It estimated that 216 000 minors were sexually abused by priests and clergy from 1950 to 2020. When lay persons working in church-run institutions (such as Catholic school teachers, lay assistants and organisers of youth movements, etc.) were included, the figure rose to 330 000 victims.<sup>27</sup>

31. The Sauvé Commission also carried out a sociological analysis of the profiles of victims and perpetrators of violence. Although some victims of sexual violence against minors committed in the Church were girls, the vast majority were boys. The Sauvé Commission report highlighted the “silence” and “failures” of the Catholic Church in dealing with acts of child sexual abuse committed within the Church since the 1950s.

32. Lastly, the Sauvé Commission listed 45 recommendations for bishops and clergy to deal with the situation in various ways: by listening to victims, doing prevention work, training priests and clergy, overhauling canon law, reforming Church governance, etc. It proposed a policy of acknowledgement of responsibility and, finally, of financial compensation specific to each victim. The situation remains complex, as most of the cases are time-barred and many of the perpetrators are dead, making it unlikely that legal action will be taken. In the Sauvé Commission’s view, the Church must “take responsibility both individually and systemically”. Responsibility must apply both “individually by reason of the particular role exercised by the individual” and “to those who have not [committed acts of abuse] but with whom, through the legal relationship existing between the perpetrator and the bishop of the perpetrator’s diocese, they are linked”.<sup>28</sup> According to the report, “all the legal entities within the Church should be able to be held criminally and civilly liable for the misconduct of its components, ministers or members. The juridical liability of the Church can also extend to the juridical liability of natural persons in positions of authority within the Church, foremost among whom are bishops and major superiors of congregations.”

33. The Sauvé Commission gave its opinion on another question very often raised by victims: the time limits in which legal proceedings must be brought. In criminal matters, the limitation period varies from 10 to 30 years after the victim reaches the age of majority, depending on the nature of the offence. For civil liability claims, it is 20 years. As for extending limitation periods, the Commission considered it best to maintain the *status quo*, on the grounds that such a reform would probably not help victims in their reconstruction. It did, however, ask the Church to assist victims who so wish, to establish the truth, even in the case of events that took place long ago and were therefore time-barred, by carrying out the necessary investigations. For the Commission, this would be a crucial part of implementing “restorative justice”.

34. The Sauvé Commission also considered the question of compensation for those victims who wished to receive it. Compensation must be awarded on an individual basis, namely according to the situation of each victim. The mechanism must be entrusted to an independent body outside the Church. The Sauvé Commission stressed that the necessary funding should come from the assets of the perpetrators and from those “of the institutions belonging to the Church in France [and] exclude any appeal for donations from the faithful”.

35. After the publication of the Sauvé Commission’s report, the Episcopate took measures in the spring of 2022 promising not reparations but a system of financial “contributions” (this term plays down the responsibility of the Church as an institution) to be paid to the victims from 2022. This did not meet with the unanimous approval of either the victims or the faithful, the latter being asked for donations. In direct opposition to the recommendations, some bishops appealed to the faithful to contribute to the compensation fund.

36. In autumn 2021, the Commission for Recognition and Reparation (CRR) was set up by the congregations. The Independent National Authority for Recognition and Reparation (INIRR) was set up by the bishops for the victims of priests. The CRR established a sliding scale of compensation ranging from €5 000 to €60 000.<sup>29</sup> The assessment of each situation is based on two factors, the first being the nature of the abuse committed, by a member of the Church. With the victims, it is determined whether they were subjected to touching, assault and/or rape. The second factor is for the victims to decide. On a scale of 1 to 7, they are asked to assess the impact of the violence on different areas of their lives since it occurred. They should evaluate the damage done to their intimate life, emotional life, family relationships, professional and social life

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27. *Le Monde*, 5 October 2021, “Rapport de la commission Sauvé: le pape François fait part de son ‘immense chagrin’”.

28. *Le Monde*, 5 October 2021, “Responsabilité de l’institution, indemnisation des victimes, gouvernance... Les préconisations de la commission sur les abus sexuels dans l’Église”.

29. *Le Monde*, 13 April 2021, “Un barème pour la réparation financière des violences sexuelles dans l’Église catholique”.

and finally their spiritual life. The victims and the institute of consecrated life concerned then work together “to arrive at a sum that seems as fair as possible”, according to former judge Antoine Garapon, president of the CRR.

37. According to the final report<sup>30</sup> published in 2011 of the German Independent Commission for the Study of Child Sexual Abuse Issues<sup>31</sup> established after the disclosure of repeated abuses on children in the Roman Catholic Church, cases of child abuse in Germany are most frequently detected in connection with church institutions, such as the church itself with 44% (29% Catholic, 11% Lutheran, 4% undefined), but also in schools with 24% (10% being religious schools). At 19%, children’s homes are the third-largest institution where children experience abuse. It is interesting that 8% of the institutions here are also religious. A minority of the abuse occurred in clinics/practices (7%) and associations (5%). These numbers, however, only show reported cases.

38. The initial body was replaced in 2016 by the office of the Commissioner for Child Sexual Abuse Issues.<sup>32</sup> Ms Kerstin Claus was appointed independent commissioner for questions of child abuse in April 2022 for a 5-year term.

39. Scandals linked to religious entities have surfaced, but the child abuse in children’s homes in Germany, especially in the former Democratic Republic (East Germany), has long been neglected. In 2006, the German State started the reappraisal process for the abuse in the homes.<sup>33</sup> When comparing suspected cases of abuse from 2009 to 2012 in three types of institutions: schools, boarding schools, and children’s homes, it becomes apparent that children’s homes especially are places where abuse is still rife. In 82.1% of children’s homes, at least one case of abuse was suspected.<sup>34</sup> The *Ergänzendes Hilfesystem* (EHS), the supplementary aid system for child abuse in Germany, foresees that persons affected by abuse in the participating State-run and non-State-run institutions can submit applications without any time limit, until they have made full use of the €10 000 or €15 000 (in the case of additional expenses due to disability) available to them.<sup>35</sup>

40. Regarding the sexual abuse in the Catholic Church, the so-called MHG-study<sup>36</sup> of 2018 reviewed 38 156 sets of personnel records and reference files from the 27 dioceses dating from 1946 to 2014. During the study, information about allegations of sexual abuse of 3 677 minors were found with regard to 1 670 clerics (1 429 diocesan priests, 159 priests with a contract conferring a form of stipend, 24 full-time deacons and 58 persons with unknown clerical status). Only 50% of the personnel records concerning the plausible accusations showed a corresponding reference to the accusation or offence.<sup>37</sup> However, in at least 53% of the cases, no proceedings had been initiated under canon law and about one quarter of all proceedings under canon law ended with no sanctions. The accused persons were also more likely to be transferred within their respective home dioceses than non-accused persons. Moreover, 60.8% were not criminally charged.<sup>38</sup>

41. The Catholic Church, namely the German Bishops Conference, has adopted a uniform framework for all its 27 dioceses regarding prevention, and since 2021 a new procedure for recognition payments decided by an independent commission has been in place. The German Bishops Conference specifically refrained from calling the payments reparation or compensation, but rather acts of recognition of the suffering, by the Church. The payment mechanism exists alongside the recourse to the ordinary courts.<sup>39</sup>

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30. Le rapport final a été publié en avril 2011. [https://beauftragte-missbrauch.de/fileadmin/user\\_upload/Publikation\\_-\\_Abschlussberichte/Abschlussbericht-der-Unabhaengigen-Beauftragten-zur-Aufarbeitung-des-sexuellen-Kindesmissbrauchs.pdf](https://beauftragte-missbrauch.de/fileadmin/user_upload/Publikation_-_Abschlussberichte/Abschlussbericht-der-Unabhaengigen-Beauftragten-zur-Aufarbeitung-des-sexuellen-Kindesmissbrauchs.pdf).

31. The temporary committee was founded in 2010 after revelations of child abuse at the Canisius Kolleg Jesuit school in Berlin. It was headed by the former Federal Minister for Family, Ms Christine Bergmann.

32. Site web de la Commissaire indépendante aux abus sexuels sur les enfants: [beauftragte-missbrauch.de](http://beauftragte-missbrauch.de) (en allemand et anglais seulement).

33. [www.bmfsfj.de/blob/137722/36ce82cf91fd7db8dae03a854e93d99a/abschlussberichtlenkungsausschuesse-der-fonds-heimerziehung-data.pdf](http://www.bmfsfj.de/blob/137722/36ce82cf91fd7db8dae03a854e93d99a/abschlussberichtlenkungsausschuesse-der-fonds-heimerziehung-data.pdf).

34. [https://beauftragte-missbrauch.de/fileadmin/user\\_upload/Publikation\\_-\\_Abschlussberichte/Abschlussbericht-der-Unabhaengigen-Beauftragten-zur-Aufarbeitung-des-sexuellen-Kindesmissbrauchs.pdf](https://beauftragte-missbrauch.de/fileadmin/user_upload/Publikation_-_Abschlussberichte/Abschlussbericht-der-Unabhaengigen-Beauftragten-zur-Aufarbeitung-des-sexuellen-Kindesmissbrauchs.pdf).

35. [www.fonds-missbrauch.de/fileadmin/FSM/Dokumente/Jahresbericht\\_FSM\\_2021.pdf](http://www.fonds-missbrauch.de/fileadmin/FSM/Dokumente/Jahresbericht_FSM_2021.pdf).

36. “MHG” stands for the German cities of Mannheim, Heidelberg and Gießen, where the institutions of the scientists of the study were located.

37. [www.dbk.de/themen/sexualisierte-gewalt-und-praevention/forschung-und-aufarbeitung/studien/mhg-studie](http://www.dbk.de/themen/sexualisierte-gewalt-und-praevention/forschung-und-aufarbeitung/studien/mhg-studie).

38. *Ibid.*

39. ZDF, 3 February 2023, “Katholische Kirche: Bisher 40 Millionen für Missbrauchsoffer” – ZDFheute.

42. From the start of the Commission's work on 1 January 2021 to 31 December 2022, 2 112 applications have been made of which more than 1 839 have been decided upon. In 1 809 cases money has been paid, with the total sum paid out reaching over €40 million. In 143 individual cases more than €50 000 was paid out.<sup>40</sup> Until 1 March 2023, once the independent commission had set the amount of the payment, the affected person could not object to it. However, it is now possible to object to the amount, with €50 000 normally being the highest amount that is paid. The affected person now also has the right to inspect the relevant files.<sup>41</sup>

43. The German Bishops Conference has its own website on sexual abuse.<sup>42</sup> Affected persons can find information about contact persons, the procedure for the recognition of their suffering and about the supplementary help EHS system which, amongst others, is in place for abuse in the institutions of the Lutheran Church to assist those that otherwise are not covered by the original recognition system.

44. Furthermore, the Church has started different preventive initiatives. For instance, the Archdiocese of Munich and Freising relies on digital learning at an early stage in its prevention work and has introduced training for all pastoral workers with an e-learning programme to prevent sexual abuse.<sup>43</sup> Since 2010, the schools under the auspices of the School Foundation in the Diocese of Osnabrück have paid special attention to the topic of prevention of sexualised violence in everyday school life. To this end, the foundation holds regular training courses and support with external experts for prevention and intervention. In order to combine the many individual measures taken in different schools and make them binding, the foundation designed the seal of quality "SAGE HALT – FINDE HALT" in 2020.

45. Regarding the reappraisal of child abuse in the Lutheran Church in Germany, a new procedure to find a unified approach in the whole of Germany was introduced in 2021. The church changed from flat-rate payments to individual ones with the typical amount paid situated between €5 000 and €50 000.<sup>44</sup>

46. There is a central help body for affected persons. This independent and external body acts as a guide to refer those affected to church and diaconal contact points, but also gives information about alternative and independent counselling services. The free consultation can be used anonymously and is subject to confidentiality. In addition, one or more contact persons are available in each of the 20 Lutheran regional churches in case of sexual abuse.<sup>45</sup>

47. The recognition commissions of the regional churches have notified the Lutheran Church of a total of 757 applications for recognition payments. However, the real number of cases remains unknown. A study by the Church showing the dimension of abuse (of all reported/known cases) will only be published at the end of 2023.

48. Next to these compensation schemes, victims can have recourse to the courts. The big issue regarding prosecution remains the statute of limitations or the lack of proof.<sup>46</sup> Depending on the crime, the statute of limitation ranges from 10 to 20 years (and 30 years if the child died as a consequence of the abuse).<sup>47</sup> For this reason, in 2015 the start of the statute of limitations was changed to run from the thirtieth year of life of the victim.<sup>48</sup>

49. In addition to these examples from Germany and France, I am delighted to note that such cases of past abuse are no longer being ignored in other countries.<sup>49</sup> In Spain, for example, the national ombudsman recently published a report stating that 200 000 people had been sexually abused by the country's Roman Catholic clergy. I welcome these initiatives, which pave the way for recognition and then reparation and compensation for the victims. Nevertheless, I note that there continues to be resistance within the Catholic Church that prevents reparation for victims. I would cite the example of the Australian Church recently reported in the Guardian.<sup>50</sup>

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40. Ibid.

41. *Bayrischer Rundfunk*, 31 January 2023, "Missbrauch: Widerspruch gegen Kirchen-Entschädigung nun möglich", BR24.

42. [www.dbk.de/themen/sexualisierte-gewalt-und-praevention](http://www.dbk.de/themen/sexualisierte-gewalt-und-praevention).

43. [www.dbk.de/themen/sexualisierte-gewalt-und-praevention/praevention/angebote#c6169](http://www.dbk.de/themen/sexualisierte-gewalt-und-praevention/praevention/angebote#c6169).

44. [www.evangelisch.de/inhalte/191199/28-09-2021/missbrauch-evangelische-kirche-regelt-leistungen-fuer-betroffene-neu](http://www.evangelisch.de/inhalte/191199/28-09-2021/missbrauch-evangelische-kirche-regelt-leistungen-fuer-betroffene-neu).

45. [www.ekd.de/haufige-fragen-zu-sexualisierter-gewalt-64520.htm](http://www.ekd.de/haufige-fragen-zu-sexualisierter-gewalt-64520.htm).

46. *Spiegel*, 21 March 2023, "Missbrauch im Erzbistum München und Freising: Staatsanwaltschaft stellt Ermittlungsverfahren ein".

47. Germany has no statute of limitation for murder.

48. See paragraphs 78 et seq., 174 et seq., *Strafgesetzbuch* (Code pénal allemand).

49. *The Guardian*, 27 October 2023, "Spanish clergy sexually abused more than 200,000 children, inquiry estimate."

50. In order to study the situation of child abuse in non-religious organisations, I undertook a fact-finding visit to another Council of Europe member State. I chose the country of one of the three victims present at the hearing of the Committee on Social Affairs, Health and Sustainable Development: Romania. I became particularly interested in children placed for various reasons in institutional care (hospital homes) in the 1980s. At that time, harrowing images of such situations sent shock waves through the international community. US paediatrician Barbara Bascom was the one to break the horrifying news: the New York Times headline read “Slowly Killing Romania’s Children.”<sup>51</sup>

51. At the public hearing, Ms Beladi read out her statement, which the committee members found particularly moving. She was 37 and was single-handedly raising her two children, who were her pride and joy and her reason for living. In 1988, at the age of three, she was placed in a public institution for physically and intellectually disabled children because of her frail constitution. This institution, in Cighid (in the west of the country), housed about 100 children and was like a death camp. She still has nightmares about it. 138 children died there in the space of two years. She has often been told by her daughter that she is crying in her sleep and begging not to be hit any more. Images of the centre moved the world following Nicolae Ceaușescu’s execution. This experience has ruined her life. Her husband has left her after she attempted suicide. She has recently found out that the doctor who had worked in Cighid was still practising and felt no guilt or remorse.

52. In 1966, as a response to Romania’s low natality rate, Nicolae Ceaușescu’s regime implemented Decree No. 770, banning elective abortion.<sup>52</sup> Coupled with the lack of promotion and availability of contraceptive measures, this policy led to an artificial increase in the number of children being born, many of whom were unwanted.<sup>53</sup> Due to the forced nature of these births and the socio-economic situation of their families, numerous children were abandoned or placed in orphanages, ending up in the care of the State.

53. The communist regime grouped abandoned children into three categories: “recoverable”, “partially recoverable” and “non recoverable”.<sup>54</sup> The first two labels described children whom the State believed could eventually be put to work. Children with mental or physical disabilities were deemed “non recoverable” and placed in so-called hospital homes, such as the one in Cighid, where Ms Beladi lived. A squint or a broken bone was enough to be classified as disabled. Deprived of food and affection, the children were drugged into submission and lived in freezing temperatures, alongside rats. For many, being sent to a hospital home was equal to a death sentence.<sup>55</sup> Many of these deaths were due to causes that could have been prevented or easily treated, such as pneumonia or malnutrition.<sup>56</sup> I heard powerful words like “crimes of extermination”. The investigations of the IICCMER have uncovered that, between 1967 and 1990, approximately 15 000 children died in the 26 hospital homes.<sup>57</sup> In the three worst of the 26 hospital homes (including Cighid), 2 500 children were said to have died.

54. In the past three decades, the Institute for the Investigation of Communist Crimes and the Memory of the Romanian Exile (IICCMER), a governmental structure founded in 2009, has investigated the communist orphanages and hospital homes.<sup>58</sup> Various non-governmental organisations, journalists, and other private parties have also joined in documenting the treatment of institutionalised children. They have uncovered decades-long abuses,<sup>59</sup> such as a lack of appropriate nutrition, insalubrious and medically dangerous living conditions, isolation from the outside world, but also mental and physical violence.<sup>60</sup> The worst conditions, however, were found in the hospital homes.

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50. *The Guardian*, 21 March 2023, “It crucifies you every time’: the ‘crushing’ new tactic the church uses to block claims by abuse survivors.”

51. *New York Times*, 5 October 1990, [Review/Television](#); “Slowly Killing Romania’s Children”.

52. Decree No. 770/1966; Helsinki Watch, December 1990, “Romania’s Orphans: A Legacy of Repression”.

53. Diana Meseșan, Diana Oncioiu, 4 November 2021, “The Party State Tasked Women with Having Children. The Repercussions Are Still Felt – Decree Chronicles”.

54. IICCMER, 25 June 2018, [Masacrul inocenților de la “Spitalul pentru copii neuropsihici cronici Siret”](#).

55. Diana Meseșan, Diana Oncioiu, 5 November 2021, “Under Communism Abandoned Children Were Left to Die. Romania’s Child Protection System Builds on This Legacy – Decree Chronicles”.

56. IICCMER, 19 May 2022, “Acțiune de exhumare a primelor victime dintre copiii instituționalizați în Căminului spital pentru minori irecuperabili Păstrăveni, județul Neamț”; [Masacrul inocenților de la “Spitalul pentru copii neuropsihici cronici Siret”](#), op. cit.

57. IICCMER, 14 December 2022, “Institutul de Investigare a Crimelor Comunismului și Memoria Exilului Românesc solicită sprijinul tuturor europarlamentarilor români pentru a prezenta, în grupurile politice din care fac parte”.

58. IICCMER, [About Us](#).

59. Children were made to sleep in their own excrement, they were given food out of buckets, they were kept in very cold environments (going as low as 6 degrees; many children died because of the cold), they were not given appropriate clothing, were not washed or were washed in water that was of an inappropriate temperature, lived with vermin (rats, flies), were tied to their beds. They were not given any attention and were systematically beaten.

55. Based on their findings regarding four of these institutions, the ICCMER has launched two criminal complaints regarding the inhumane treatment of the children and the subsequent death of 2 207 of them.<sup>61</sup> A decision has been reached regarding only one of the institutions: the Prosecutor General discontinued the investigation, citing a lack of proof as to the inhumane and degrading treatment of the children.<sup>62</sup>

56. The ICCMER expressed its disapproval regarding this decision, highlighting in particular the fact that not all avenues for the collection of proof had been exhausted by the competent authority.

57. The Prosecutor General's decision, therefore, continues to illustrate Romania's unwillingness to recognise the crimes committed against institutionalised children during the communist regime, even in the face of growing evidence uncovered by competent bodies. This lack of recognition translates into the inexistence of a formal apology, redress, or compensation for the victims, a situation that must be remedied.

58. A reform of the Romanian child protection system occurred in 1997, when this task was decentralised to county-level. Two reasons were behind this decision: first, it facilitated assistance to families, in order to reduce the rate of abandoned children. Second, it aimed to close large-capacity residential institutions, while finding suitable alternatives.<sup>63</sup>

59. Law 272/2004, for the protection and promotion of children's rights, and its most recent amendment, Law 191/2022, notably furthered these goals. Importantly, these documents regulate the types of out-of-home care that children may receive. All children must be placed in family-style services or in residences which house a maximum of 12 children.<sup>64</sup> The number can be increased to 30 children, but only for emergency housing, which may only be utilised for up to 6 months. Additionally, children below 3 years of age may not be placed in residential units.

60. In light of the most recent amendment to the legislation, starting from 1 October 2022, the authorisation to run large-capacity residential institutions has been withdrawn, except when they are subject to an ongoing closing procedure.<sup>65</sup> As of July 2023, under 3 000 children are reportedly living in the remaining 113 large-scale residential institutions. These are set to close by 2026.<sup>66</sup>

61. In total, as of December 2022, there were 30 400 children in family-style care, and 11 629 in residential institutions.<sup>67</sup>

62. For the children still living in residential institutions, while the situation has vastly improved over the past three decades, some issues persist. As flagged by the relevant State institutions and NGOs, these include insufficient medical assistance and psychological counselling, insufficient or insufficiently trained personnel, violence between children or between children and staff, and inadequate living conditions.<sup>68</sup> Additionally, the number of adoptions remains very low, amounting to only 2-3% of the total number of children in family-style or residential care.<sup>69</sup>

63. In 2022, the Romanian Institute for Human Rights published a Guide on the Prevention of Situations of Violence Against Children and Young People Living in Residential Centres, an instrument which sets out to tackle abuses taking place in such facilities. The guide follows a child rights-based approach, explaining the most relevant rights, setting out guidelines for staff, and encouraging child participation by informing them how they may flag any violent behaviour which they have been subjected to.

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60. Justice Initiative, "Abuse in Romania".

61. [Masacrul inocenților de la "Spitalul pentru copii neuropsihici cronici Siret"](#), op. cit.

62. ICCMER, 4 May 2023, [Semnal de alarmă – o formă clară de neasumare – cu privire la clasarea de către Parchetul de pe lângă Înalta Curte de Casație și Justiție – Secția de Urmărire Penală, a unuia dintre cele mai importante dosare de crime comise de regimul comunist](#).

63. National Association for the Protection of Child's Rights and Adoption, [Prezentare generală – Autoritatea Națională pentru Protecția Drepturilor Copilului și Adopție \(gov.ro\)](#).

64. LEGE nr. 272 din 21 iunie 2004, art 123(3)-(5).

65. Human Rights Council, Working Group on the Universal Periodic Review, 17 February 2023, "National report submitted pursuant to Human Rights Council Resolutions 5/1 and 16/21: Romania", para. 126.

66. Hopes and Homes for Children, [Europe: Romania](#).

67. National Association for the Protection of Child's Rights and Adoption, [Date statistice copii și adopții – Autoritatea Națională pentru Protecția Drepturilor Copilului și Adopție \(gov.ro\)](#).

68. Salvați Copiii România, 1 June 2021, "Starea copilului în România: Unul din doi copii e supus unei forme de abuz și unul din trei copii se află în risc de sărăcie și excluziune socială", 8; Domeniul pentru prevenirea torturii în locurile de detenție, 2015, "Sinteza Raportului anual privind activitatea domeniului pentru prevenirea torturii în locurile de detenție, parte din Raportul anual al instituției Avocatul Poporului", 22-24.

69. Salvați Copiii România, op. cit.

64. The conditions in residential institutions may also be evaluated by two of the organs of the Ombudsman: the Child Ombudsman, newly instituted in 2019, and the National Mechanism of Prevention, the national authority entrusted with visiting detention places.

65. Finally, a new National Strategy for Children's Rights for the 2023-2027 period is underway.<sup>70</sup> It remains to be seen how this instrument will further enhance the protection of children placed in out-of-home care.

66. During my visit to Romania, I had the opportunity to meet with public officials and a large number of representatives of civil society and international organisations (UNICEF, Save the Children, Justice Initiative, SERA, IICCMER, etc.) monitoring the situation of children in the country. I would like to thank the authorities and the Justice Initiative for their help in organising an excellent programme of visits.

67. I note that there has been considerable progress in the situation of Romanian children over the last 30 years. The legislative and regulatory framework is sound and recognised as such. Progress is being made on the prohibition of institutionalisation, which is about to be implemented. However, several of the people I spoke to regretted that the implementation of the whole body of laws and regulations was limited, particularly in rural areas where the lack of resources exacerbates isolation. The country is facing a serious demographic crisis, with a worryingly low birth rate. There is still insufficient data collection and monitoring to get back on track: monitoring of pregnant women is almost non-existent, as is that of children under six. The return of war to Europe and the Covid-19 pandemic have exacerbated the situation. The number of poor children is all the more worrying as it is increasing. The situation of street children and the Roma minority is a cause for concern, as they are more vulnerable to organised crime, particularly trafficking in human beings. Romania has the highest rate of child marriage in Europe, with far too many underage mothers, even though the age of consent is 16. Too little is being done to improve children's prospects. There are glaring shortcomings, which are not just due to a lack of financial resources. For example, there should be more support for parents. The body of laws and policies that have been introduced is exemplary, but more awareness is needed to implement them.

68. In the light of my discussions, I note that violence against children remains systemic and attitudes are changing too slowly. Many people believe that violence is part of bringing up children. Society is not receptive to violence being reported and prevention is proving difficult to implement. Health education is at a standstill, when it should be a priority with a strong commitment from all levels of authority to modernise Romanian society.

69. I could not visit Cighid, as it was too far but I visited the site of a former institution in Plătărești, near Bucharest. They documented every death. There is a long chain of responsibility, including civil servants, directors, carers and guards, to name but a few. I encourage the Romanian authorities to begin the work of remembering this dark past. A restorative approach is needed in light of the abuse committed.

70. During my visit, I also met the team behind the Museum of Abandonment. I found this initiative, launched by a journalist, Oana Dragulinescu, with the help of an anthropologist, Iris Serban, particularly moving. They have collected 20 000 objects from the 700 institutions identified under the communist regime. Their aim is not to point the finger at those responsible, but above all to create a place of remembrance for a shocking phenomenon that is being forgotten by younger generations. Although the museum is a digital experience, accessible online, it is based on a sound knowledge of museography and is meticulously designed. I agree with the founder of the project that they are "building something powerful".

71. I met several survivors of the abuse committed in hospital homes. They told me how difficult it was for them to form a group, as many of the children had been adopted abroad. Most of the victims who remained in Romania have had a hard life and had struggled to find work or accommodation. Some of them were surprisingly young and had been born after the communist regime. They all told me that they had not been given enough to eat and that the staff were unfit to look after traumatised children. Day in, day out, they ate the same thing. They were given drugs to keep them quiet between meals. No one from outside the institution was allowed to enter. Parents who visited their children could not see the conditions in which they were being kept. Sometimes they were beaten with sets of keys or had cloth bags put over their heads. One of the survivors told me that he first celebrated his birthday at the age of 11. All the survivors spoke to me about the need for the authorities to consider and acknowledge the facts. This should take the form of a place of remembrance to highlight the tragic fate of the victims of abuse, which would help schools to address the issue and contribute to the training of professionals to ensure that it never happens again. Government compensation for victims would also be welcome.

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70. Human Rights Council, op. cit., para. 122.

72. I would like to thank the authorities and civil society for their time during my visit to Romania. The legal arsenal to protect children is particularly well developed and I am aware of the difficulties the country is facing after the public health crisis and now that war is on its doorstep. I encourage the authorities to continue their work, putting the best interests of the child at the heart of public policy and tackling systemic violence against children. The partners I met expressed particular concern about the lack of financial and human resources allocated to public services for children and the failure to involve all civil society stakeholders, including the Romanian Orthodox Church, in the fight against violence. They call for greater awareness of the situation of children in Romania, including those with disabilities, by ensuring systematic and efficient data collection for the necessary statistics and by introducing closer, nationwide monitoring of children's development – from the womb to early childhood – to ensure the protection of their best interests and well-being.

## 5. Official recognition and reparation: good practice in Switzerland

73. In this section, I would like to highlight a good practice in Switzerland, which an NGO, Justice Initiative, has undertaken to promote throughout Europe.

74. Many people who have been victims of child abuse live in a precarious situation today – financially, socially, physically, and psychologically.<sup>71</sup> In Switzerland, for instance, it has been found that victims of abuse often experience exclusion, marginalisation, stigmatisation and poor living conditions. The injustices experienced influence the victims' chances of social and professional integration. Many victims suffer from lifelong physical and psychological disorders and are dependent on social assistance.<sup>72</sup>

75. When it comes to dealing with past injustices, Switzerland is a role model in Europe. After a popular initiative, the Swiss Parliament passed the "Federal Act on Compulsory Social Measures and Placements prior to 1981" that came into force on 1 April 2017 and laid down the legal principles for a comprehensive reappraisal of the compulsory social measures and placements before 1981. The law provides for various measures including the payment of a solidarity contribution of CHF 25 000 per victim, counselling and support through cantonal contact points and access to archives for victims and other persons affected, other support measures for the benefit of victims (in particular, self-help projects) and an academic inquiry into the subject matter".

76. In Switzerland, persons who consider themselves to be victims of compulsory social measures and external placements prior to 1981, and who wished to assert their entitlement to a solidarity contribution, had to apply to the Federal Office of Justice. Applications could however only be submitted within a certain timeframe.<sup>73</sup> This short deadline was probably one of the reasons why there was only a limited number of applications for solidarity contributions filed in Switzerland. Thus, in future, it is recommended that legal framework conditions for a comprehensive social and individual reappraisal of abuses do not entail any time limitation with regard to the reporting of the abuses, as well as to the claim for solidarity contributions or any other form of reparation.

77. According to the independent expert commission set up by the Swiss government to investigate the issue of administrative care, as well as a research team from the Singieria project "Placing Children in Care 1940-1990", there are several other reasons why there was only a limited number of applications for solidarity contributions. First, many of those affected have passed away and a lot of those who are still alive lack the emotional or health resources to apply. Second, past defamation and stigmatisation have led those affected to distance themselves from the authorities in order to protect themselves from being attacked again. The autonomy and self-reliance acquired through high resilience can lead to the affected persons not wanting to demand anything from the authorities. Third, filing an application also means identifying oneself as a victim of abuse. For those affected, their history of abuse is often associated with feelings of shame and fear of (re-) stigmatisation.<sup>74</sup> When formulating legal reparation frameworks for victims of abuse, member States should consider these obstacles. Measures are needed to overcome these obstacles so that more victims can be identified, report their abuse, and file an application for solidarity contributions.

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71. UEK, 2 September 2019, "[Mechanics of arbitrariness – Administrative Detention in Switzerland 1930-1981](#)".

72. [Research \(uek-administrative-versorgungen.ch\)](#).

73. Swiss Ministry of Justice, 6 July 2017, "[Opfer fürsorgerischer Zwangsmassnahmen: Bisher 2536 Gesuche um Solidaritätsbeiträge](#)".

74. UEK, 11 January 2019, "[Forschungserkenntnisse zur Anzahl Solidaritätsbeitragsgesuche von Opfern fürsorgerischer Zwangsmassnahmen](#)".



78. Persons affected by child abuse suffer from considerable physical and emotional damage, the consequences of which continue to be felt daily and for which – in many cases – the authorities bear a certain responsibility.<sup>75</sup> Against this background, solidarity contributions aimed at improving the quality of life of those affected in the long term should be made. Other member States should provide for a solidarity contribution to victims similar to what is in place in Switzerland, with the amount to be determined in line with best international practice.<sup>76</sup> Besides these solidarity contributions, further reparation contributions should be undertaken.

79. Forms of reparation in European countries could entail the following: tax waivers for the victims of abuses if the victims have tax debts due to their precarious situation; the establishment of a relief fund to cover the medical, psychotherapeutic, and dental costs that are not covered by basic insurance, or which fall under the deductible threshold; or a right to a special life-long pension, independent of social assistance or supplementary benefits for victims of abuses.

80. In order for victims of abuse to participate fully in public debates and political mobilisations that affect them, the following instruments could be created: State financial support for the civic engagement of victims, so that they can access both material resources (office equipment, computers, printers, etc.) and human resources (expertise and counselling); creation of a forum for political exchange and negotiations between victims and experts and comprehensive financial support for individual and collective projects run by victims.

## 6. Conclusions

81. Drawing on good practice in Switzerland, where this chapter of the country's history was officially closed with an apology from the government for the violence perpetrated against children, this report aims to draw up a comprehensive list of all the steps that Council of Europe member States should take in order to: seek to establish the facts without fear or favour; make the necessary reparations through appropriate care and compensation for victims; and provide the legislative, social and administrative conditions for preventing such practices to the fullest extent possible in the future.

82. We first need to take stock of the situation of child abuse in institutions in our countries. Creating the right conditions for people to speak out is a complex and extremely sensitive exercise. In-depth investigations must be carried out into the various institutions that may be involved today, and the victims of the past, now adults, should also be able to provide testimony to qualified and compassionate professionals in a respectful and humane environment. Violence takes many forms (and is not always sexual) and its effects on victims today and on their development must be carefully established.

83. Switzerland's experience has shown that investigations must be wide-ranging and cover physical, sexual and psychological abuse. The circumstances enabling such abuse must be assessed on a country-by-country basis and include institutional care in public, private or religious settings, inadequate care, foster care in private homes, children being removed from parents who are deemed "unfit", forced adoptions and forced sterilisations.

84. The authorities should then recognise the suffering inflicted and offer appropriate care for its effects, if at all possible. This should be followed by a formal, official apology by the authorities to past and present victims.

85. Lastly, victims must be granted compensation, regardless of their age: there must be official redress for all victims, for all children who have been subjected to any form of physical, sexual or psychological violence and without any time limit on the period in which to establish the facts. Accordingly, the length of time between the perpetration of the abuse and its disclosure by the victim may not be a justification for the refusal of any reparation. The amount of compensation awarded must be substantial and commensurate with the harm and suffering that was caused.

86. States must embark on a comprehensive programme of prevention and awareness-raising measures, including monitoring institutional care facilities and any situation in which children are taken into care, in order to minimise risks and detect problems at the earliest possible stage.

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75. UEK, 2 September 2019, "[Mechanics of arbitrariness – Administrative Detention in Switzerland 1930-1981](#)".

76. [Doc. 15390](#).