

A comparative analysis of the Child Protection Systems in the Czech Republic, Lithuania, Norway, Poland, Romania and Russia

By

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Bergen, January 17th, 2019.

Centre for Research on Discretion and Paternalism

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Foreword

This report is funded by the Norwegian Ministry of Children and Families, and has been written the autumn of 2019. Political scientist Trond Helland is the editor of the report and he has written chapter 1-3, whereas lawyer Dr. Katre Luhamaa has written chapter 5, and Helland and Luhamaa have jointly written chapter 4. Researcher Amy McEwan-Strand has commented and provided input to the report. The report has furthermore benefitted from input from the interdisciplinary research staff at the Centre for Research on Discretion and Paternalism, University of Bergen and its international partners. PhD fellow Barbara Ruiken has made a final review of the report before submission.

A first draft of the report was submitted to the Ministry of Children and Families December 4th. Comments from the Ministry are incorporated into this final version of the report. We are grateful for the time and insightful reflections from three country experts: Dr. Marta Danecka has reviewed and commented on the section pertaining to the Polish child protection system, PhD fellow Olga Angelovská has reviewed and commented on the section pertaining to the child protection system in the Czech Republic, and Prof. Gabriel Bădescu has reviewed and commented on the section pertaining to the Romanian child protection system.

Bergen January 17th, 2020.

Marit Skivenes

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Summary

The report was written on commission by the Norwegian Ministry of Children and Families. The research which lay the foundation for the report has been conducted at the Centre for Research on Discretion and Paternalism, located at the University of Bergen.

The Norwegian child protection system, *Barnevernet*, is renowned worldwide with purely negative connotations (Skivenes, 2019a). This report compares the Norwegian child protection system with the child protection systems in five countries that are known critics of *Barnevernet*, and vocal in the public debate. The five countries are the Czech Republic, Lithuania, Poland, Romania and Russia. The main goal of the report is to present quality assured information about the child protection systems in these countries, and examine whether differences in the respective countries child protection systems may explain some of the criticism against the Norwegian child protection system.

The report reveals that there are overall huge differences in the functioning of general governmental systems, protection of children's rights and living standards, when comparing Norway to the selected five East-European countries. In Norway it is a lower threshold for service intervention in the Norwegian child protection system, compared to the child protection system in the other countries concerned. The report also reveals that the post-communist countries are undoubtedly influenced by their socialist legacy, especially with regard to children living in institutions. While Norway has most children in alternative family care, the other five countries still have a high number of children living in institutions. However, the CPS in the eastern-European countries are rapidly changing. Recent legislations and reforms in i.a. Romania and Russia, reveal that seemingly the countries are turning more towards Norway's low-threshold and family-oriented approach.

With regard to the criticism against Norway, the report reveals that most of the official criticism against Norway focus on the need for a consistent child protection practice, with less use of discretion. Training of child protection workers is seen as one of the central tools that would support a more coherent implementation of child rights and national child protection criteria.

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Abbreviations:

Abbreviation:	Original:
The Agency	General Directorate of Social Work and Child Protection (<i>Romania</i>)
CPS	Child Protection System
CRIN	Child Rights International Network
CRC Committee	Committee on the Rights of the Child
CRC	Convention on the Rights of the Child
CRPA	Children's Rights Protection Agencies (<i>Lithuania</i>)
ECHR	The European Convention on Human Rights
ECtHR	The European Court of Human Rights
EEA	European Economic Area Agreement
EU	The European Union
GDP	Gross Domestic Product (PPP) per Capita
GIECPC	Global Initiative to End all Corporal Punishment of Children
The Ministry	The Ministry of Children and Families (Norway)
NAPCR	National Authority for Child Protection and Adoption (<i>Romania</i>)
OPEKA	Guardian Department (<i>Russia</i>)
SCPAS	State Child Protection and Adoption Service (<i>Lithuania</i>)
SDG	Sustainable Development Goals
SPAS	Social Services Department of the municipalities (<i>Romania</i>)
UN	United Nations
WJP	World Justice Project

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¹ Each of the section is presented with score, and percentage of maximum score. See <https://home.crin.org/issues/access-to-justice/access-for-children-data-and-methodology> for scorecard and dataset.

Chapter 1

Introduction

By

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The Norwegian child protection system (CPS) has been the target for criticism, across Europe, for years (see e.g. Andersland, 2019; Mæland, 2015; Skoglund, 2017; and Støbakk, 2015). The criticism expresses a mistrust in Norwegian national legal institutions as well as the normative foundation of the Nordic welfare state model (Skivenes, 2019a). In 2018, the BBC gained attention across Europe with their news report titled ‘Norway’s hidden scandal’, which questioned the legitimacy of the CPS and children’s rights in Norway (BBC News, 2018). The BBC-reporter from the news report, Tim Whewell, was interviewed by the Norwegian newspaper Dagbladet, and was asked why the BBC was interested in the Norwegian CPS. Whewell responded: ‘It begun with curiosity of why there is more international attention surrounding cases from the Norwegian CPS than equivalent in other countries. The answer seems to be that interest groups focusing on cases in Norway are more dominant than others.’ (Andersen, 2018).

The Centre for Research on Discretion and Paternalism has on assignment by the Norwegian Ministry for Children and Families (BFD) written a report with the purpose of ‘...identifying characteristics of the Norwegian child protection system compared to similar institutions in selected Eastern European countries it would be beneficial to get a better understanding of, as they are among Norway’s harshest critics (BFD, 2019). The countries included in this report are the Czech Republic, Lithuania, Norway, Poland, Romania and Russia. Which, with the exception of Lithuania, are amongst the most vocal critics against the Norwegian CPS. The report will look at the child protection systems of each of the countries concerned and identify characteristics as well as both strong and weak points with the systems, and to look at the implementation and compliance of legislation and regulation covering children’s rights and the structure of the CPS. The goal is to gain a better understanding of the systems and their underlying philosophies, and by this expand our knowledge base about the reasons for the expressed mistrust to the Norwegian CPS.

The Czech Republic, Lithuania, Poland, Romania and Russia are all former communist states. As this report will show, the countries’ socialist past is still a part of the challenges the respective countries face in their CPS.

The total population and child population in the respective countries will give an indication as to how many children are part of the countries’ welfare system. The six countries involved in this report vary in population size. Norway has a population of approximately 5.36 million, the Czech Republic 10.5 million, Lithuania 2.75 million, Poland 38 million, Romania 19.4 million and Russia 147 million. When looking at child population, Norway and Russia have the largest relative child population, with 23.20 % of total population. Poland has the smallest relative child population with 19.80 %, closely followed by Lithuania with 20.00 %. The Czech Republic and Romania have a relative child population of 20.30 % and 20.70 %, respectively; see Appendix D for a complete overview.

The CPS' responsibility is to protect children against harm. However, there are distinct differences, both instrumental and cultural, between CPS across different countries (Berrick et al., in press). CPS can be divided into two ideologies, family service-oriented and risk oriented. While family service-oriented systems have a low threshold for intervention, the threshold for intervention in risk-oriented systems is high (Gilbert et al., 2011). It is however not the system who makes decisions, it is the system's front-line staff, or child protection workers. The workers are faced with the difficult task of assessing both the child's needs and all potential risks to the child. The CPS workers' decision-making process is influenced by the culture and surroundings in which the workers live (cf. Hofstede, 1980; and Hofstede et al., 2010). It is the assessments from the CPS workers that lay the foundation for any interference in the lives of families. In other words, national culture, values and tradition all play a role in the assessments made by CPS and subsequently in all interferences from national authorities in the family sphere (Berrick et al., 2017; see also Gilbert et al., 2011).

The latest available figures available to us, reveal that in the Czech Republic 12.1 per 1000 children are placed out-of-home, in Lithuania 17.4 -, Norway 10.3 -, Poland 11.3 -, Romania 13.3 -, and in Russia 23.0 per 1000 children are placed out-of-home, see table 4.2 (chapter 4). This means that surprisingly, Norway, where the threshold for intervention is the lowest, is the country issuing the lowest number of care orders placing children out-of-home.

In many societies, children are increasingly regarded as individuals with their separate interests and rights, as the Convention on the Rights of the Child (CRC) prescribes. This is the most widely ratified human rights treaty in history (Archard, 2015; Archard and Skivenes, 2009a; Helland, 2019; Skivenes, 2019a). Countries that have ratified the CRC, have committed to provide children with basic human rights pertaining to protection, provision and participation (CRC, 1990; Archard, 2015; Kjørholt, 2010). Furthermore, by ratifying the CRC, the countries have committed to implement the CRC in domestic legislation.

Even though all countries that have ratified the CRC have committed to implement the convention in domestic legislation, differences in domestic legislation pertaining to children's rights across Europe is inevitable, due to different level of development and available economic resources. Looking at all 47 countries represented in the Council of Europe, there is one legal common denominator; the European Convention on Human Rights (ECHR) (Council of Europe, n.d.; ECHR, 1950).

The European Court of Human Rights (ECtHR) is the sovereign authority in interpreting the ECHR (Helland, 2012, 2019; Skivenes and Søvig, 2016). Research has shown that there has been an increase in CPS cases appearing before the Court in recent years (Helland, 2019). Research has also shown that the ECtHR has turned more child-centric in its rulings (Breen et al., In Press; Helland, 2019; Skivenes and Søvig, 2016). However, the recent focus by the ECtHR on Norwegian CPS is unprecedented (Emberland, 2016; Skivenes, 2019a). Between 1959 to January 2019, six care order cases from Norway were heard by the ECtHR. Five of these six cases were heard by the Court in the last decade. As of December 31st, 2019, Norway has 35 CPS cases pending before, or recently decided by, the ECtHR, most of which concern care orders.

This report will examine traits of the Norwegian child protection system and compare them to the child protection systems of five countries that have been vocal and known critics of the Norwegian system. An ambition of the report is to examine the differences of the child protection systems in the selected countries, and shed light on and improve our understanding of the criticism of the Norwegian CPS.

The report will start by presenting its methodological approach and the existing knowledge, which will form the basis for comparison. Next, statistics pertaining to children's rights and wellbeing in each of the countries concerned will be presented, before presenting the CPS in each of the six countries. Lastly, the report will address some of the criticism against Norway and the implementation of children's rights.

Chapter 2

Existing knowledge and methodological limitations

By

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When conducting a cross-country comparison, there are several sources of information ranging from legislation, statistics, NGO reports, to academic research articles. Among the six countries concerned, the Norwegian child protection system has received substantive attention in both international and national academia with many publications, whereas the other five countries have received relatively little attention and there are few research publications available. All six countries are, however, included in a variety of index² and reports from NGO's. Furthermore, international monitoring institutions, such as the CRC Committee, have themselves analysed the national situation in each of the countries concerned, based on reports from both NGOs and the self-reports from the countries concerned (cf. Svrljuga Sætre, 2017). The ECtHR has analysed some individual cases from these child protection systems and have indicated the legislative and institutional mechanisms used. All of which can be used in a comparative analysis.

This chapter will first start by presenting the existing knowledge on the CPS in the report countries, which will be the foundation for comparison. Further, it will address the limitations and quality of the existing information.

2.1 Existing knowledge - foundation for comparison

There is extensive research on the Norwegian child protection system in particular. In this report, existing research on Norway will be used, and some research will be quoted and paraphrased quite extensively. This includes Skivenes (2011) 'Norway: Toward a child centric perspective'; Skivenes and Søvig (2017) 'Norway: Child welfare decision-making in cases of removals of children, in: Child Welfare Removals by the State: A Cross-Country Analysis of Decision-Making Systems'; Falch-Eriksen and Skivenes (2019) 'Right to Protection, in: Children's rights in Norway'; Skivenes (2019a, unpublished paper) 'Legitimacy challenges for children's rights and the child protection system. An analysis of mistrust in core institutions and the normative foundation of the welfare state'; and Skivenes (in preparation) 'Population view on children's welfare and government interventions in England, Norway, Poland and Romania'. When quoting and paraphrasing these texts, it will be clearly marked in the text.

In order to get an overview of existing research on the CPS in the other five countries,² strategic literature reviews were performed using search phrases such as 'child protection system', 'children risk' 'children need', 'protect children', 'child welfare' and combined them with the country name (e.g. protect AND children AND Russia). Searches were conducted in the University of Bergen's database, Oria, and in 'Web of Science', which covers the world's most cited scholarly journals in all academic fields. The searches were limited to peer reviewed articles in English from the last decade. The searches revealed that there is very little research covering child protection systems in Russia; Lithuania; Poland; the Czech Republic; and Romania.

² Russia; Lithuania; Poland; the Czech Republic; and Romania.

The authors of this report have been given access to a new edited book titled ‘International Handbook of Child Protection Systems’, currently in press (Berrick et al., in press). The handbook gives an overview of the CPS in 50 countries across the world. With the exception of Romania, the countries concerned in this report are a part of the handbook. The chapters from the handbook covering the CPS in the countries concerned will be used as the base source of information in this report.

In the description of the assignment, the Ministry mentions five relevant publications that provide additional information to this report.

1. ‘Child welfare systems and migrant children. A cross country study of policies and practices’ (Skivenes et al., 2015).
2. ‘Family support and alternative care: The Baltic Sea States Regional Report 2015’ (Wenke, 2015).
3. ‘Norwegian CPS seen from the outside – does it make unreasonable demands?’ (Czarnecki, 2018).
4. ‘Understanding the lives of care-experienced young people in Denmark, England and Norway - A cross-national documentary review’ (Boddy et al., 2019).
5. ‘Building Trust across Borders – Polish-Norwegian exchanges on child and family welfare’ (Erdal et al., 2019; Korzeniewska et al., 2019)

All six countries in this report have ratified the CRC and have thus committed to implement some basic rights for children in domestic legislation. After ratifying the CRC, each State is obliged to send ‘State party reports’ to the CRC Committee with 4-5 years intervals (Bergman et al., n.d.; Müller and Seidensticker, 2007). In the reports, States inform on how children’s rights are being adhered to by the state, e.g. implementing children’s rights in national legislation (OHCHR, n.d.). After the States submit a ‘State party report’, the CRC Committee replies to the States in form of a list of issues and question to the report, to which the States are obliged to reply. After the States reply to the list of issues and questions, the CRC Committee writes a report entitled Concluding Observations. The ‘State party report’, list of issues and question, the States’ replies and the CRC Committees Concluding Observations are all publicly available and give an insight into strengths and weaknesses regarding children’s rights in the respective countries. However, all information in the Concluding Observations rely on self-reporting from the countries concerned. Furthermore, the CRC Committee expect more from developed countries, than from developing countries. Meaning, the CRC Committee will be more critical towards Norway than e.g. Romania. In other words, the content of the CRC Concluding Observation (including any concerns and criticism), will vary from country to country, making direct comparison between different countries’ Concluding Observation futile. Nevertheless, the criticism and concerns presented in the Concluding Observation are points where the CRC Committee believe the countries to have room for improvement.

The CRC is not the only human rights convention the Czech Republic; Lithuania; Norway; Poland; Romania; and Russia have ratified. All six countries have also ratified the European Convention on Human Rights (ECHR), and must answer to the European Court of Human Rights (ECtHR) if there is any violation of the ECHR. Research has shown that in the last decade, there has been an increase in cases concerning children appearing before the ECtHR,³ and also that the Court has turned towards a more child-centric approach in its rulings (Helland, 2019; Skivenes and Søvig, 2016). As stated in the assignment from the Ministry, Norway has been the target for criticism for

³ In 2010 Protocol No.14 came into force in the ECtHR, which caused significant changes in the daily workings of the Court. One of the changes was the opportunity for all individuals, living in a Contracting State, to submit cases to the ECtHR, see i.a. Helland (2019) or Myjer et al. (2010) for additional information. The Protocol caused the number of cases submitted to the ECtHR each year to increase.

its CPS for several years. As of December 31st, 2019, Norway has 35 CPS cases pending before, or has recently been decided by, the ECtHR. Helland (2019) examined all care order cases that had been heard before the ECtHR from 1959 – 2016, a total of 44 cases. In that time period, Norway and Romania had two care order cases that had been heard before the ECtHR, Russia and Poland one, and the Czech Republic and Lithuania none (Helland, 2019, p. 36).

NGOs play an important role in monitoring children's rights. There are several organisations, both national and international, working to promote and document children's rights and wellbeing all over the world. Indexes and reports from the organisations working with children's rights will play a crucial role in identifying strong and weak sides of the CPS in the countries concerned in this report, and thus lay the foundation for a comparative analysis. The various indexes and reports are presented in-depth in chapter 3 and in the appendix.

2.2 Limitations and the quality of the information

The lack of research on Eastern European CPS available in English causes the report to rely on few sources when addressing the inner workings of the CPS. Because of limited information available, the 'International Handbook of Child Protection Systems' (Berrick et al., in press) has been used as a primary source of information for the Russian, Lithuanian and the Czech Republic CPS. Information about the CPS in Norway, Romania and Poland all rely on information from peer-reviewed articles and a research project proposal by Polish political scientist Marta Danecka and Prof. Skivenes (Danecka & Skivenes 2019). For most of the Eastern European countries, we have received information and assistance from researchers in these countries to secure validity and reliability of our material.

Some of the information used in this report stems from reports from interest organisations working towards a specific goal, e.g. the KidsRights Index and CRIN.⁴ The index⁷ and reports used in this report are widely acknowledged as legitimate sources of information, however, the focus of these reports has not been solely the evaluation of the child protection system, but implementation of child rights in a wider sense.

Material from the CRC Committee also has limitations. The country reports and CRC Concluding Observations report on the past. Thus, the information available in them does not represent the more recent changes in legislation or practice. While the NGO reports and reports from the national human rights institution (typically an ombudsperson) present the more current issues of the CPS, they are not fully uniform and comparable. Furthermore, the state-specific Concluding Observations of the CRC Committee take into account states' individual developments and challenges (Carraro, 2019; Invernizzi, 2016).

Looking at the CRC Committees concluding observations, there are weaknesses in how the Committee receives its information (self-reporting). Furthermore, not all the criticism raised by the Committee is justified. As an example, the CRC Committee criticise Norway for how girls are portrayed in the media, which the CRC Committee states is '...in an over-sexualized and objectifying manner.' (CRC Committee, 2018a, para. 11(a)). The background for the claim is a report delivered by the Committee on the Elimination of Discrimination against Women (CEDAW). In their report, CEDAW is concerned for how 'Childhood and adolescence has become increasingly commercialized, gendered and sexualized ... giving rise to ... a youth culture that is increasingly marked by the objectification and sexualisation of girls and girls presenting themselves in a highly sexual manner.' (CEDAW, 2017a, para. 22(c)). CEDAW's concerns are

⁴ See chapter 3.

rooted in information the Committee received regarding i.e. ‘Russetiden’⁵ and a buddy system⁶ for new students (CEDAW, 2017b, para. 6). Students that are participating in ‘Russetiden’ and the buddy system are over the age of 18, and thus not children according to the CRC (see CRC, 1990, art.1). Which means that the criticism concerns young adults being ‘over-sexualized’ and ‘objectified’ in media, not children.

In order to overcome these limitations and to ensure the quality of data material in this report, when possible, several sources of information have been used and we have peer reviewed the information with experts when possible. In situations where the information in this report relies on limited sources and there is uncertainties about the validity of the information, this is specified.

⁵ “Russetiden” is a Norwegian tradition, where upper secondary graduations students celebrate the end of their schooling. “Russetiden” is for many closely related with parties and alcohol consumption.

⁶ When starting higher education in Norway, the first week is a celebratory week where students are divided into groups with their new classmates and voluntary students (buddies/faddere) are given the task of introducing the new students to the city. The week is filled with activities like i.. treasure hunt and pub crawl. The week is for many closely related with parties and alcohol consumption.

Chapter 3

Overview of welfare systems, index' and rankings, and views on corporal punishment

By

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Child protection systems seem to be closely related to the welfare state model in a country (Pösö et al., 2014), and government responsibility for children is imbedded in the family policies and general living conditions for children. Partly this is related to the societal values and cultures in a country. To generate an understanding of the living conditions for children and families, and the public institutions, this chapter presents comparable information about the living standards in the six countries, and how they are ranked on international measures of children's rights, children's access to justice, sustainable development goals, rule of law, gross domestic product and attitudes towards corporal punishment. A brief summary of the most important thematic rankings presented in this chapter is outlined in table 3.1 below.

Table 3.1 - Overview of rankings (index' and reports)⁷

	GDP (2018)	SDG (2019)	UNICEF SDG (2017)	WJP (2019)	KIDSRIGHTS INDEX (2019)	CRIN (2016)
CZECH REP.	36	7	20	19	22	53
LITHUANIA	41	32	33	-	99	24
NORWAY	3	8	1	2	16	13
POLAND	52	29	22	27	85*	23
ROMANIA	54	42	39	31	113	37
RUSSIA	57	55	-	88	84	76

*Ranking from Poland is from 2015, which was the last year Poland was part of the KidsRights Index.

Before presenting welfare state models and ranking, the report will present some basic information of the six countries concerned. The Czech Republic, Lithuania, Poland and Romania are all members of the EU. Norway and Russia both have a working relationship with the EU, even though the two countries are not members. Romania and Russia are the only two countries of the countries concerned that are not classified as high-income countries by the World Bank. Furthermore, the two countries are not part of the Schengen agreement and not OECD countries. However, Romania is currently in the process of joining the Schengen agreement (EU, 2019, 2016a, 2016b, 2016c, 2016d, 2016e; World Bank, n.d.). Both Romania and Russia are categorized as upper-middle income countries (World Bank, n.d.).

⁷ GDP – Gross Domestic Product; SDG – Sustainable Development Goals; WJP – World Justice Project; CRIN – Child Rights International Network

The following chapter is structured into six main sections, starting with welfare state models and gross domestic product, before giving an in-depth presentation of the index' and rankings presented in table 3.1.

3.1 Welfare State Model

The welfare state aims to protect inhabitants from market fluctuations causing e.g. an increase in unemployment (Fenger, 2007; Josifidis et al., 2015). Esping-Andersen (1990) created three typologies which are well-known in economic circles. The typologies are distinguished by the degree of de-commodification and the kind of stratification they produce in society. De-commodification 'occurs when a service is rendered as a matter of right, and when a person can maintain a livelihood without reliance on the market' (Esping-Andersen, 1990, pp. 21-22, in Fenger, 2007, p. 6), while stratification refers to 'the intensity of redistribution and the level of universality of solidarity that is imposed by the welfare state (Fenger, 2007, p. 6). The three typologies are liberal-, conservative-corporatist- and social-democratic welfare states (Esping-Andersen, 1990). Based on the Esping-Andersen's (1990) typologies, researchers have divided that welfare state model into more detailed models. Research has shown that welfare state models can often be categorized in geographical regions, such as the Nordic model or Eastern European model (Fenger, 2007).

Norway's welfare system is a social-democratic system often referred to as the Nordic or Scandinavian system (Greve, 2007; Josifidis et al., 2015). Norway's welfare system has a high degree of de-commodification and a low degree of stratification (cf. Esping-Andersen, 1990), with universal social security and welfare programs. The other five countries concerned are not social-democratic welfare state models, and Fenger (2007) found that the post-communistic Eastern European countries did not fit with Esping-Andersen's typology. The level of trust in the authorities, the level of social programmes and the social situation for the inhabitants are considerably lower in post-communist Eastern European countries, than rest of Europe (Fenger, 2007). Fenger (2007, pp. 20–27) therefore created three additional typologies as supplements to Esping-Andersen's typologies: Post-communist European systems; former-USSR systems; and, developing welfare systems. Post-communist European systems resemble the conservative-corporatist system, but with less money going through the system. The former-USSR system also resembles conservative-corporatist systems, with regard to the expenditure from the government. However, the level of all governmental programmes are below what is normal in conservative-corporatist systems. The former-USSR system is also similar to the post-communist European system, but with a lower level of social-wellbeing. The developing welfare state system is clearly behind in all measurable aspects, compares to the other welfare systems. The countries in this category have a significantly higher level of infant mortality and a lower life expectancy, which is a reflection of the difficult social situation in the countries (Fenger, 2007). The Czech Republic's and Poland's welfare systems are both categorized as Post-communist European systems, Lithuania's and Russia's welfare systems are categorized as former-USSR systems, and Romania's welfare systems as developing welfare state system (Fenger, 2007).

3.2 Gross Domestic Product (GDP) per Capita

Gross Domestic Product per Capita (GDP). GDP is a way of measuring standard of living (Mpofu, 2013), and is the most common method to compare development in international incomes (Bentzen, 2015). It reveals the purchasing power of inhabitants in the respective countries. Bentzen (2015, p. 1304) defines the purchasing power parity (PPP) rate as '...the number of units of the currency from country *i* required to buy the same quantity of goods as one USD would buy in the USA'. In the table below, the countries are ranked according to their GDP. The higher the GDP, the higher the ranking.

Looking at the overall ranking of countries based on GDP, Norway is the highest ranked country of the six, followed by the Czech Republic and Lithuania. Poland, Romania and Russia are the three lowest ranked countries (World Bank, 2018). Looking at the development for each country from 2015 to 2018, there has been a steady increase in GDP for Romania, Lithuania, Poland and the Czech Republic. Both Norway and Russia had a drop in GDP from 2015 to 2016, but have had an increase from 2016 to 2018. Of the six countries, Norway has had the biggest increase from 2016 – 2018, Russia the lowest.

Table 3.2 - Overview of GDP per capita (2018) – in order of ranking

Country	Ranking	GDP per Capita (US\$)
Norway	3	81 807.2
Czech Republic	36	23 078.6
Lithuania	41	19 089.7
Poland	52	15 424.0
Romania	54	12 301.2
Russia	57	11 288.9

3.3 Sustainable Development Goals – Overall and UNICEF

In 2015, all United Nation Member States adopted a plan to build a better world for people and our planet by 2030, entitled ‘The 2030 Agenda for Sustainable Development’ (United Nations, n.d.). The plan consists of 17 sustainable development goals⁸ (SDG), targeting different elements that will make the planet prosper, e.g. end hunger, achieve food security and improved nutrition and promote sustainable agriculture (SDG goal 2), ensuring availability and sustainable management of water and sanitation for all (SDG goal 6) and take urgent action to combat climate change and its impacts (SDG goal 13). In 2017, UNICEF created a report entitled ‘Building the future: children and the sustainable development goals in rich countries’, where they looked at the SDGs that involved children and how high-income countries⁹ adhere to the SDGs (Brazier et al., 2017). In the report, 10 SDGs are presented and each of the countries are ranked according to their respective scores. In the table below, both rankings for the SDGs overall and from the UNICEF report are presented. In order to separate the two rankings, they will hereafter be referred to as SDG and UNICEF respectively.

The SDG and UNICEF rankings are not directly comparable, due to differences in countries included in the rankings. In the SDG ranking, there are 162 countries, while in the UNICEF ranking there are 41 countries. The UNICEF ranking is from 2017, while the SDG ranking is from 2019.

Table 3.3 Overview of SDG rankings

Country	Overall SDG ranking (2019)	UNICEF SDG Ranking (2017)
Czech Republic	7	20
Lithuania	32	33
Norway	8	1
Poland	29	22
Romania	42	39
Russia	55	-

⁸ See www.sustainabledevelopment.un.org for a complete overview of SDGs.

⁹ In 2017, Russia and Romania were registered as upper-middle income countries (World Bank, n.d.). Russia is omitted from the UNICEF report, while Romania is included. Lithuania, Czech Republic, Poland and Norway were all high-income countries (World Bank, n.d.), and thus included in the UNICEF report.

With regard to this report, it is the SDGs pertaining to children, which are most interesting. Both the UNICEF ranking from 2017 and the SDG ranking from 2019 will be presented, but the presentations of the SDG ranking is limited to the nine goals identified by UNICEF as child-relevant:¹⁰ (1) No poverty, (2) Zero hunger, (3) Good health and well-being, (4) Quality education, (8) Decent work and economic growth, (10) Reduced inequalities, (11) Sustainable cities and communities, (12) Responsible consumption and production, (16) Peace, justice and strong institutions.

3.3.1 SDG overall

While looking at the detailed ranking of each goal, the SDG rankings presents its finding in a score table. The scores vary from 0-100 where 100 is the best.

It is worth noting that the countries ranking in the SDG overall from 2017 does not conform to the countries ranking in the UNICEF report. Romania is ranked as number 35 in the SDG overall ranking from 2017, and Lithuania as number 36. The difference in ranking implies that Romania does well in SDGs that are omitted from the UNICEF report, but are included in the SDG overall ranking.

In the SDG ranking, the Czech Republic is the highest ranked country at 7th place, just in front of Norway at 8th. Poland is ranked at 29th place, Lithuania 32nd, Romania 42nd and Russia at 55th place.

Table 3.4 - Overview of SDG scores in the SDG report

	<i>Czech Rep.</i>	<i>Lithuania</i>	<i>Norway</i>	<i>Poland</i>	<i>Romania</i>	<i>Russia</i>
Overall	7	32	8	29	42	55
<i>(1) No poverty</i>	99.41	98.44	99.48	99.91	98.83	99.95
<i>(2) Zero hunger</i>	63.10	58.50	57.03	61.23	58.03	45.56
<i>(3) Health and well-being</i>	92.41	84.65	97.89	87.56	80.63	78.06
<i>(4) Quality education</i>	96.28	98.68	99.87	94.39	84.17	97.21
<i>(8) Work and economic growth</i>	85.14	80.45	78.48	84.40	80.44	75.48
<i>(10) Reduced inequalities</i>	92.27	49.57	100.00	53.71	29.97	54.00
<i>(11) Sus. cities and comm.</i>	89.41	83.15	86.10	78.48	81.25	82.33
<i>(12) Res. cons. and prod.</i>	70.75	67.45	30.50	73.68	71.93	69.08
<i>(16) Peace, justice and institutions</i>	82.71	80.52	84.94	81.44	76.10	50.58

(1) No poverty, (2) Zero hunger, (3) Good health and well-being, (4) Quality education, (8) Decent work and economic growth, (10) Reduced inequalities, (11) Sustainable cities and communities, (12) Responsible consumption and production, (16) Peace, justice and strong institutions

Russia is the lowest ranked country of the six countries concerned. It is the lowest scoring country in four of the nine SDGs. Russia separates itself especially from the other countries with negative connotations in goal 16 on peace, justice and strong institutions. In goal 16, Russia receives a score of 50.58, which is 25.52 behind the second lowest scoring country, Romania, with a score of 76.10. However, in goal 1, no poverty, Russia is the highest ranked country of the countries concerned,

¹⁰ In the SDG report, the authors have numbered the SDGs from 1-17. The numbers, (x), reflect which SDG goal it is in the SDG report.

with a score of 99.95. It is worth noting that all six countries have a high score in goal 1. The lowest scoring country is Romania with a score of 98.83.

Romania is the lowest scoring country in goal 4, quality education, and in goal 10, reduced inequalities. In goal 10, Romania has a score of 29.97, which is 19.6 points behind the second lowest scoring country, Lithuania, who has a score of 49.57. It is goal 12, responsible consumption and production, which is Romania's strongest SDG, where the country has the second highest score of the countries concerned.

As mentioned, Lithuania is the lowest scoring country in goal 1. With regard to the six countries concerned, Lithuania is ranked as number 3 or 4 in five of the nine SDGs, which places the countries scores in the middle of the countries concerned. It is goal 4, quality education, which is Lithuania's strongest SDG, where it has the second highest score of the countries concerned, behind Norway.

Looking at Poland, the country has the lowest score in goal 11, sustainable cities and development. In addition, it has the second lowest score in goal 4, quality education. Poland is the second highest scoring country in three SDGs: goal 1, no poverty; goal 2, zero hunger; and goal 8, decent work and economic growth. Furthermore, Poland has the highest score in goal 12, responsible consumption and production.

Norway is the second highest ranked country of the countries concerned. It has the highest score in four SDGs and second highest in one. Meaning, Norway has the highest or second highest score in more than half of the SDGs. In goal 10, reduced inequalities, Norway has a perfect score of 100. However, Norway's scores vary. In two SDGs Norway is the second lowest scoring country, and in one the lowest. The two SDGs where Norway is the second lowest scoring country is goal 2, zero hunger (57.03) and goal 8 decent work and economic growth (78.48). It is however goal 12, responsible consumption and production, that is Norway weakest SDG. Norway has a score of 30.50, which is 36.95 points behind the second lowest scoring country, Lithuania, that has a score of 67.45.

The Czech Republic is the highest ranked country of the countries concerned. It is the highest scoring country in three SDGs and second highest in three. The weakest categories for the Czech Republic is goal 1, no poverty and goal 4, quality education, where it is ranked as number four of the countries concerned. Of the six countries concerned, the Czech Republic is the only country that has not achieved the lowest score in any of the SDGs.

3.3.2 UNICEF

Russia is not part of the UNICEF ranking and is omitted from this section. Unlike the SDG ranking, the UNICEF ranking ranks the countries according to their score. There are 42 countries in the UNICEF ranking. Norway is the highest ranked country at 1st place overall. The Czech Republic is ranked as number 20, Poland 22, Lithuania 33 and Romania 39.

Table 3.5 - Overview of SDG scores in the UNICEF report

	<i>Czech Rep.</i>	<i>Lithuania</i>	<i>Norway</i>	<i>Poland</i>	<i>Romania</i>
Overall	20	33	1	22	39
<i>(1) No poverty</i>	17	25	1	22	37
<i>(2) Zero hunger</i>	16	25	4	24	33
<i>(3) Health and well-being</i>	25	33	5	32	35
<i>(4) Quality education</i>	22	29	9	31	40
<i>(8) Work and economic growth</i>	13	27	5	4	25
<i>(10) Reduced inequalities</i>	31	33	2	23	38
<i>(11) Sus. cities and comm.</i>	26	-	2	17	12
<i>(12) Res. cons. and prod.</i>	24	5	13	10	37
<i>(16) Peace, justice and institutions</i>	6	31	30	20	24

(1) No poverty, (2) Zero hunger, (3) Good health and well-being, (4) Quality education, (8) Decent work and economic growth, (10) Reduced inequalities, (11) Sustainable cities and communities, (12) Responsible consumption and production, (16) Peace, justice and strong institutions

Of the five countries concerned,¹¹ Romania is the lowest scoring country in six out of nine SDGs in the UNICEF report. In goal 8, decent work and economic growth, it is the second lowest scoring country at 25th place, two places in front of Lithuania at 27th place. It is goal 11, sustainable cities and community, where Romania has its strongest score. In goal 11, Romania is the second highest ranked country of the countries concerned, with a 12th place. The lowest rank achieved by Romania is found in goal 4, quality of education, where the country is ranked as number 40 of the 41 countries involved in the report.

Looking at Lithuania, the country does very well in goal 12, responsible consumption and production, where it is the highest ranked country of the countries concerned, at 5th place. With the exception of goal 12, Lithuania receives mediocre rankings. The rankings vary between 25th and 31st place, in the remaining SDGs.

Poland does well in goal 8, decent work and economic growth, where the country is the highest ranked country of the countries concerned at 4th place, just in front of Norway at 5th place. Poland also does well in goal 12, responsible consumption and production, where the country is ranked as number 10, which is the second highest ranking of the countries concerned. It is goal 3, good health and well-being, and goal 4, quality of education, which is Poland's weakest categories, with a 32nd and 31st place respectively.

The Czech Republic does very well in goal 16, peace, justice and strong institutions, where it is the highest ranked country of the countries concerned at a 6th place. With regard to the countries concerned, goal 11 on sustainable communities and cities is the Czech Republic's weakest category. In goal 11, the Czech Republic is the lowest ranked country of the countries concerned at 26th place.

¹¹ Not counting Russia.

Norway is the highest ranked country (overall) in the UNICEF report. However, looking at each of the nine SDGs, Norway is only ranked as number one in goal 1, no poverty. In comparison with the five countries concerned, Norway is the highest ranked country in six out of the nine SDGs. In goal 8, decent work and economic growth, Norway is ranked as number 5, one place behind Poland at 4th place. In goal 12, responsible consumption and production, Norway is ranked at 13th place, and thus ranked behind both Lithuania (5th) and Poland (10th). However, it is goal 16, peace, justice and strong institutions, that is Norway's weakest SDG. In goal 16, Norway is the second lowest ranked country of the countries concerned at 30th place.

3.3.3 Summary

A direct comparison between the two rankings is futile, due to the difference in scoring-methods and number of countries included in the ranking. Regardless, the Czech Republic has undoubtedly increased its scores from 2017 (UNICEF) to 2019 (SDG), as indicated by the increase in overall ranking from the UNICEF- to the SDG ranking. The other countries included in both reports have similar rankings in both reports. The focus for the summary will be on the SDG report, due to it being the newest ranking.

In the SDG ranking, the Czech Republic and Norway are significantly higher ranked than the other four countries. However, while the Czech Republic is consistently amongst the top of the countries concerned in this report in all SDG goals, Norway has received the lowest score of the countries concerned, by far, in SDG goal 12, *responsible consumption and production*. Norway receives a low score due to an environmentally unfriendly use of electronics, among other things (Sachs et al., 2019).

Goal 10, *reduced inequalities*, is the goal where there is the biggest difference in scoring between the highest- and lowest scoring countries. Norway receives a perfect score of 100 and the Czech Republic a score of 92.27. Russia, Poland and Lithuania have nearly half the score of Norway and the Czech Republic, with 54.00, 53.71 and 49.57 respectively. Romania is far behind the rest with a score of 29.97. The main indicator for goal 10 is the Gini coefficient. The Gini coefficient measures all income and wealth in a country and examines how the income and wealth is distributed between the public (SSB, 2019). In other words, the Gini coefficient examines the difference in income and wealth between the richest and poorest inhabitants in a country. The less difference there is within the population, the better score the country gets.

Seemingly, money plays a role in achieving several of the SDG goals. Norway and the Czech Republic are the two countries with the highest GDP and the two highest ranked countries in the SDG ranking, while Romania and Russia are the two countries with the lowest GDP and the two lowest ranked countries in the SDG ranking. However, money may also be the reason why Norway achieves a low score in goal 12, *responsible consumption and production*. The large purchasing power in Norway may cause many to purchase new products, rather than repairing old products (cf. Heßler, 2013).

3.4 World Justice Project – Rule of law

The World Justice Project (WJP) 'is an independent, multidisciplinary organization working to advance the rule of law worldwide.' (WJP, n.d.). WJP has created an index which relies on more than 110 000 household and expert surveys to measure how the rule of law is both experienced and perceived in everyday life by general public around the world (WJP, 2019). In total, 44 indicators across eight categories are included in the index. The categories include fundamental

rights, open government and civil justice, among others.¹² The table below shows how the countries are ranked according to the rule of law in each of the countries.

In the following chapter, the rankings in the WJP index are presented in more detail. This report is limited to the areas in which the countries concerned stand out, either positively or negatively. In total, eight categories are taken into account when creating the WJP ranking: (1) Constraint on Government Powers; (2) Absence of Corruption; (3) Open Government; (4) Fundamental Rights; (5) Order and Security; (6) Regulatory Enforcement; (7) Civil Justice; (8) Criminal Justice. Each of the eight categories have between three to eight indicators which make up the category. For a list of all eight categories and their respective indicators, see appendix C.¹³ Lithuania is not part of the WJP index. See table 3.6.

Table 3.6 - Overview of world rankings in WJP index categories – in order of ranking

	<i>Norway</i>	<i>Czech Rep.</i>	<i>Poland</i>	<i>Romania</i>	<i>Russia</i>
Overall	2	19	27	31	88
<i>Constraint on Government powers</i>	2	18	50	36	112
<i>Absence of Corruption</i>	2	34	21	44	68
<i>Open Government</i>	1	24	30	32	67
<i>Fundamental rights</i>	3	15	38	29	104
<i>Order and Security</i>	3	11	19	23	86
<i>Regulatory Enforcement</i>	2	21	30	40	72
<i>Civil Justice</i>	4	21	31	29	66
<i>Criminal Justice</i>	3	18	25	32	101

Norway is the highest ranked country of the countries concerned, ranked as number 2 in the world. The country does well in the Open Government category, where it is ranked as number 1 in the world, with a score of 0.88. Civil Justice and Criminal Justice are Norway's weakest points in the index. In one of the indicators in the Civil Justice category, *No Discrimination*, Norway has a score of 0.68, which is the second lowest score of the countries in this report, only Russia having a lower score. Meaning that according to WJP, Civil Justice in Norway is not free from discrimination (WJP, n.d.).

The Czech Republic is the second highest ranked country, with a 19th place overall. On Order and Security, the country has the highest score, with a score of 0.90 and 11th place in the world. The lowest score is found in *Absence of Corruption*, where the country is ranked as 34th in the world. It is especially on *Absence of Corruption in the legislature*, that the country has a low score of 0.33. Two of the countries concerned in this report have a lower score in the same indicator: Romania and Russia, with 0.28 and 0.27 respectively. However, while the Czech Republic is categorized as a high-income country by the world bank, both Romania and Russia are categorized as upper-middle income countries. High-income countries generally score higher than upper middle in most categories. Amongst the 38 countries considered to be high-income countries, the Czech Republic is ranked as number 30 in the Absence of Corruption category, which places the country by the lowest scoring high-income countries.

Poland is ranked as 27th overall. The category in which the country has the highest score is Order and Security. On the indicator *Absence of crime* within the Order and Security category, Poland has

¹² See www.worldjusticeproject.org for a complete overview of indicators and categories.

¹³ See also Neukom (2009, pp. 10–13), available from <https://worldjusticeproject.org/our-work/wjp-rule-law-index>, for an in-depth presentation of the categories and indicators.

the second highest score of the countries in this report, only Norway having a higher score. However, in the Constraint on Government Powers category, Poland is ranked as 50th overall, which is the second lowest score of the countries concerned in this report, only Russia having a lower score. Within the category, all indicators are below the average for both region and income.

Romania is ranked as 31st overall. However, Romania is considered to be an upper-middle income country. Amongst the upper-middle income countries, Romania is ranked as number 2. Its best category is Order and Security. Romania has a higher score than the average in upper-middle countries in all but one indicator. The *Respect for due process* indicator in the Regulatory Enforcement category is the only indicator being below the average for upper-middle income countries.

Russia has achieved the lowest ranking of the countries concerned. It is especially in the Constraint on Government Powers, Fundamental Rights and Criminal Justice categories the country has a low score. In one of the indicators in the Criminal Justice category, *no improper government influence*, the country has a score of 0.15. Poland, who is the second lowest scoring country on the same indicator, has a score of 0.50, in comparison. The strongest categories for Russia are Civil Justice; Open Government; and Absence of Corruption. In all three categories, Russia is placed among the middle on the overall ranking. Looking at Russia's standing within the 38 upper-middle income countries, the country is placed at 31st place, which places the country amongst the lowest ranked upper-middle countries.

3.5 The KidsRights Index

The KidsRights Foundation is an international NGO that, in collaboration with the Erasmus University Rotterdam, '...took the initiative to develop an index that takes a scientific approach to charting the status of the implementation of children's rights worldwide.' (KidsRights Index, 2019a). The KidsRights Index is an annual global index on how countries adhere to and are equipped to improve children's rights (KidsRights Index, 2019b). The Index was first launched in 2013, and includes all countries that have ratified the CRC where sufficient data is available. The ranking is comprised of five different domains, each with specified indicators: *Right to life; Right to health; Right to education; Right to protection from exploitation and violence and Enabling environment for children's rights*. See appendix A for a complete overview of all indicators.

The report will look at the development in each of the countries concerned from 2013 to 2019. By examining the development in each of the five domains, one can map when there has been positive and negative changes in children's situation in the six countries.

As the report will show, it is the *Enabling environment for children's rights* domain that is often the most decisive domain in separating the countries concerned in the ranking. This domain is based on the CRC Committee's concluding observations. The Index evaluates the feedback given to the countries and scores the countries according to the number of positive- and negative remarks. The CRC Committee's expectations for each country varies with the standard of living and their level of development. This means the CRC Committee expects more from developed countries with a high standard of living than from developing countries. In other words, with regard to the countries concerned in this report, the CRC Committee would set the bar higher for example for Norway than it would for Romania.

It is worth noting that in 2016, the CRC Committee changed the format of the Concluding Observations (Child Rights Connect, 2019). The aim for changing the format was both to improve quality and reduce length. In the new format, the CRC Committee identifies up to six issues where states require 'urgent measures', encouraging States to implement some of the recommendations in a more urgent manner. Feedback in the new format is undoubtedly more direct than in the old format. The new direct approach by the CRC Committee may cause countries to have less positive

feedback and more negative, and thus receive a lower score in the *Environment* domain. Of the countries concerned in this report, only Norway and Romania have received Concluding Observations after 2016. Romania's newest Concluding Observation was registered in the KidsRights Index in 2018; and Norway's newest Concluding Observation was registered in the KidsRights Index in 2019. Both countries had a huge drop in score in the *Environment* domain, which caused the two countries to drop significantly in the overall ranking. Romania went from a score in the *Environment* domain in 2017 of 0.857 and a 19th place overall, to a score in the *Environment* domain of 0.214 and a 114th place overall. Norway went from a score of 1.00 and 1st overall, to a score of 0.583 and a 16th place overall. It is not unlikely that there will be changes in the score of the remaining countries when their newer Concluding Observations are registered. The Czech Republic, Lithuania and Russia are all due to submit their State Report in 2019 and Poland in 2020. The next State Report from Romania and Norway will be submitted in 2022 and in 2023 respectively. As the CRC Committees Concluding Observation will follow as a response to the States' reports, the countries score in the *Environment* domain remains the same until registering these new documents.

3.5.1 KidsRights Index - Fact and Figures, from 2013 to 2019

In 2013, Norway was the highest ranked country of the six, with an overall ranking of 3. Norway had the highest score in all domains, see table 3.7. Romania followed suit, with an overall ranking of 15. Romania had the second highest score in the *Environment* domain. However, the country had the second lowest score in *Education* and the lowest score in both *Life* and *Health*.

Poland had the lowest ranking of the six, 73rd overall. The country also had the lowest score in the *Environment* domain, but had the second highest score in *Education*. The Czech Republic had the highest score in the *Life* and *Health* domain, equal to Norway, but the country had the lowest score in *Education*, ranking 44th overall.

Table 3.7 - Overview KidsRights Index 2013 – in order of ranking

Country	Ranking	Overall	Life	Health	Education	Protection	Environment
Norway	3	0.862	0.99	1.00	0.83	0.96	0.60
Romania	15	0.805	0.93	0.90	0.78	0.90	0.57
Czech Rep.	44	0.758	0.99	1.00	0.75	0.94	0.36
Lithuania	54	0.744	0.97	-	0.81	0.90	0.43
Russia	68	0.716	0.94	0.92	0.76	0.85	0.33
Poland	73	0.710	0.98	0.98	0.82	0.92	0.25

In 2016, Norway was the highest ranked country of all, with an overall score of 0.981. In the *Environment* domain, Norway scored 1.000, see table 3.8. In 2016, Poland was not ranked by the Index due to missing data. In 2015, Poland was ranked as number 85 overall.

The *Environment* domain gives the biggest impact on the overall score. As mentioned, Norway scored a perfect 1.000 in this domain, while Lithuania had the lowest score with 0.250, making the difference between the highest score and the lowest score 0.750.

Another example of how the *Environment* domain affects the ranking is found by looking at the Czech Republic's score. The Czech Republic has a higher score than Romania in four out of five domains, but are nevertheless ranked behind Romania due to low score in the *Environment* domain. The Czech Republic even has the highest score in both *Education* and in *Health*, Poland second highest and Norway third highest.

Compared to 2013 Russia and Lithuania has a drop in ranking of 20 and 44 places, respectively, while Norway (+2) and the Czech Republic (+20) has an increase in ranking. Romania is ranked

the same, while Poland is not ranked in 2016. However, in the figures that are available, Poland has an increase in the score in both the *Education*- and *Protection* domain, while it has a decrease in score in the *Life* and *Health* category.

Table 3.8 - Overview KidsRights Index 2016 – in order of ranking

Country	Ranking	Overall	Life	Health	Education	Protection	Environment
Norway	1	0.981	0.979	0.971	0.964	0.992	1.000
Romania	15	0.892	0.888	0.890	0.903	0.923	0.857
Czech Rep.	24	0.877	0.949	0.987	0.992	0.979	0.571
Russia	88	0.753	0.849	0.874	0.963	0.945	0.357
Lithuania	98	0.717	0.893	0.927	0.942	0.973	0.250
Poland	-	-	0.935	0.973	0.954	0.973	-

In 2018, Norway was once again ranked as number 1 overall, with an overall score of 0.974, see table 3.9. As in 2016, Norway scores a 1.000 in the *Environment* domain. Norway has the highest score in four of the five domains and the second highest in the last (*Health*).

Romania had a severe drop in ranking from 2016 to 2018 dropping 99 places, from 15th to 114th place. Romania's ranking has decreased in the score in both the *Education* and *Environment* domain. In *Education* there is a decrease of 0.118, from 0.903 (2016) to 0.785 (2018), while in *Environment* there is a decrease of 0.643, from 0.857 (2016) to 0.214 (2018). Overall, Romania is the lowest ranked country of the six. It has the lowest score in four of the five domains and the second lowest in the last (*Life*).

Russia and Lithuania remains steady in their ranking from 2016 to 2018, with only marginal changes in the scores.

Table 3.9 - Overview KidsRights Index 2018 – in order of ranking

Country	Ranking	Overall	Life	Health	Education	Protection	Environment
Norway	1	0.974	0.981	0.979	0.917	0.996	1.000
Czech Rep.	24	0.848	0.944	0.981	0.845	0.980	0.571
Russia	87	0.738	0.848	0.940	0.805	0.953	0.357
Lithuania	99	0.706	0.895	0.942	0.852	0.975	0.250
Romania	114	0.656	0.888	0.883	0.785	0.922	0.214
Poland	-	-	-	-	-	-	-

From 2018 to 2019, there are only marginal changes in score for all countries but one. Norway plummets down the ranking and is for the first time since the Index started, not among the top five ranked countries. Norway is in 2019 ranked as number 16. See table 3.10.

Looking at Norway's score in the five domains, there is only one big difference from 2018 to 2019. In the *Environment* domain, Norway scored a 1.000 in both 2016 and 2018. In 2019, Norway scores a 0.583 in *Environment*, see table 3.10. The *Environment* domain consist of seven indicators: *Non-discrimination*; *Best interests of the child*; *Respect for the views of the child*; *Enabling legislation*; *Best available budget/Resources: Collection and analysis of disaggregated data*; and, *State-civil society cooperation for child rights*. See appendix A for an in-depth presentation of each of the indicators. As briefly mentioned in the introduction to this section, each of the indicators are scored from one to three, based on the CRC Committees concluding observations. If there are only positive remarks in the concluding observations pertaining to a specific indicator, the country receives a score of 3. If there are only negative remarks, the country receives a score of 1. If the remarks in the concluding observations

are balanced, meaning the country receives both positive and negative feedback, the country receives a score of 2.

In the latest KidsRights Index, from 2019, there is only one indicator where Norway has a score of 3: Enabling legislation. Norway has received a score of 1 on both the ‘Best interests of the child’- and ‘Best available budget/Resources’ indicator, and a 2 on ‘Non-discrimination’-, ‘Respect for the views of the child’ and ‘Collection and analysis of disaggregated data’ (KidsRights Index, 2019c). Some of the criticism against Norway, from the CRC Committee, will be presented in section 3.5.2.

Table 3.10 - Overview KidsRights Index 2019 – in order of ranking

Country	Ranking	Overall	Life	Health	Education	Protection	Environment
Norway	16	0.875	0.981	0.979	0.920	0.996	0.583
Czech Rep.	22	0.844	0.944	0.978	0.830	0.980	0.571
Russia	84	0.741	0.848	0.940	0.825	0.953	0.357
Lithuania	99	0.703	0.898	0.842	0.835	0.975	0.250
Romania	113	0.651	0.891	0.883	0.754	0.922	0.214
Poland	-	-	-	-	-	-	-

3.5.2 KidsRights Index – Enabling environment for children’s rights, Summary of criticism against Norway

Overall, as stated in the introduction, the *Enabling environment for children’s rights* domain, is a decisive factor in the countries’ scores. There are differences in the other domains as well, but not to the same degree as in the *Environment* domain. From 2018 to 2019, Norway had the biggest drop in ranking of the countries concerned in this report. Historically, Norway has been ranked amongst the top five countries since the first KidsRights Index was introduced in 2013. One of the reasons for Norway’s drop in score in the *Environment* domain may be the new format of the concluding observations from the CRC Committee. Both Norway and Romania received a significantly lower score in the *Environment* domain after the concluding observations were published in the new format. Whether the trend will continue with the remaining countries remains to be seen.

The indicators of the *Environment* domain is divided into two groups. Group one, *non-discrimination; child’s best interests; and respect for the views of the child*, all reflect how the State Parties have operationalized the general principles of the CRC. The second group: *enabling national legislation; budget resources; collection and analysis of disaggregated data; and state-civil society cooperation for child’s rights* reveal the extent to which there is a basic “infrastructure” for making and implementing child rights policy in each of the categories. With regard to Norway, there is not one group in which Norway does better than the other.

The criticism against Norway presented in CRC Committee’s concluding observations is varied. The criticism will be presented in-depth in chapter 5. However, the following is a brief explanation of some of the reasons as to why Norway dropped in rank in the KidsRights Index.

In the *Best interests of the child*’ indicator, one of the main criticisms against Norway is the lack of clear criteria of what constitutes as the child’s best interests, to be applied by all authorities making decisions that influence children. Furthermore, with regard to the *Best available budget/Resources*’ indicator, Norway is criticised for not earmarking funds to local authorities intended for implementing children rights, but rather giving block grants (KidsRights Index, 2019c). Both points of criticism can be related to the use of discretion by authorities/decision-makers. A third point relating to the use of discretion by authorities/decisions-makers is found in the *‘non-discrimination’* indicator. The CRC Committee raises a concern for children with immigrant backgrounds being exposed to discrimination and that the children often face difficulties at school which ‘...teaching staff are insufficiently trained to address’ (CRC Committee, 2018a, para. 11(b)). On a direct request

from the CRC Committee to indicate what measures are being taken to combat such discrimination, targeting staff in institutions [e.g. schools] that deal with children (CRC Committee, 2017a, para. 5), Norwegian authorities do not give a direct answer. Norwegian authorities state that ‘...schools have a duty to prevent and stop harassment. Teaching and teaching materials should be based on equality and combating discrimination whatever the basis for discrimination.’ (CRC Committee, 2018b, para. 35). In other words, the Norwegian authorities state that teachers and school staff are responsible for combating discrimination in school and have the discretionary power to implement the necessary measures in teaching.

When reading the criticism against Norway from the CRC Committee and looking at the KidsRights Index, it is worth keeping in mind that Norway is one of the wealthiest countries in the world and has amongst the highest scores (of all) in all but one category in the KidsRights Index. This implies that the expectation from the CRC Committee towards Norway is potentially higher than for the Czech Republic, Lithuania, Poland, Romania and Russia.

3.6 CRIN – Access to justice for children

The Child Rights International Network (CRIN) works to promote children’s rights. CRIN presents itself as ‘...a creative think tank that produces new and dynamic perspectives on human rights issues, with a focus on children’s rights.’ (CRIN, n.d.). CRIN is a global children’s rights advocacy network linking nearly 3000 organisations working in children’s rights all over the world (CRIN, 2016). Each year, reports, articles and other research is published by CRIN. One of the reports, from 2016, is entitled ‘Rights, Remedies & Representation: Global report on access to justice for children’ (CRIN, 2016). The report seeks to establish how children can access the justice system in their countries (CRIN, n.d.). Each of the six countries concerned are present in the report, which is used to compare domestic legislation and children’s legal rights in each of the countries respectively.

The CRIN ranking reveals the extent to which States enable children to access justice. The CRIN ranking is not just concerned with what rights are provided (on paper), but rather whether they can be enforced by the child. CRIN states that unless a child can use and trust the legal system, the rights given to the child are redundant. The ranking is based on treaties which the States have ratified, resolutions they have negotiated at the UN and guidelines developed by the UN’s specialised agencies. The report is divided into four sections: the legal status of the CRC; the legal status of the child; remedies; and the practical considerations when challenging violations using the national legal system (CRIN, 2016).

Section 1, the legal status of the CRC in the national legal system, examines how the CRC is implemented in domestic law in all countries that have ratified the Convention, e.g. whether the CRC is directly enforceable in court and if the CRC is incorporated into domestic legislation (CRIN, 2016).

Section 2, the legal status of the child, looks at the complaint mechanisms and legal status of children in the respective States. In its report, CRIN (2016, p. 7) writes that ‘In many ways, the way that a State formulates its rules on how children can make complaints is emblematic of the way it views their rights: children can be empowered or thrown into the shadow of their parents’.

Section 3, remedies, examines the extent of available remedies for children in their respective States. In order for a child’s rights to be effective, effective remedies must be available to address any violations (CRIN, 2016).

The last section, *section 4*, looks at practicalities surrounding children’s rights in each of the States. ‘The financial burden of seeking legal advice, intimidating courtrooms and labyrinthine legal

procedures can be difficult to overcome for many adults, but they can render access to justice for children a fiction.’ (CRIN, 2016, p. 10). It is often practicalities that forms barrier for children to access justice.

This section examines the national reports¹⁴ from each of the six countries, which forms the base on which the CRIN report is built, to look at the data behind the scores. Thereafter, statistics from each of the four sections in the CRIN report will be presented. When looking at the national reports, the focus will be on the legal status of the CRC and the child, as it reveals general structure surrounding children’s rights in the countries concerned.

Five of the six countries automatically implemented the CRC in national law, as they are monist states where the ratified international treaties are automatically part of the national law and can be directly used in the court proceedings (see e.g. CRIN, 2014a, and 2014b). Norway is a dualist state (CRIN, 2013a), where international treaties that are ratified must either be incorporated in national legislation through specific provisions, or existing legislation must be transformed (worded) so as to be in accordance with the ratified treaty (CRIN, 2013a). The CRC was made Norwegian law as part of the Human Rights Law in 2003. Furthermore, in 2014, the CRC was implemented in the Norwegian constitution.

It is also emphasized in the national reports from all six countries, that the CRC takes precedence over national legislation (see e.g. CRIN, 2014c, and 2014d). In Poland however, there are two declarations that limit the application of the CRC: ‘(1) A child’s rights, as defined in the Convention (in particular the rights defined in articles 12 to 16), shall be exercised with respect for parental authority in accordance with Polish customs and traditions regarding the place of the child within and outside the family; (2) With respect to article 23, paragraph 2 (f), of the Convention, family planning and education services for parents should be in keeping with the principles of morality.’ (CRIN, 2013b, p. 1). In Romania it is emphasized that international treaties always take precedence over national legislation, except in situations where national legislation is more favourable (CRIN, 2014a). In other words, if domestic legislation grants rights surpassing those granted by the CRC, the domestic legislation prevails. In the Czech Republic the CRC, as an international treaty, equals constitutional law, but does not take precedence over it.

In the reports from all six countries, it is emphasized that the CRC can be directly enforced in courts and that there are examples of domestic courts using the CRC as an argument in cases (see e.g. CRIN, 2013a, and 2013b). As the only country, the Czech Republic states that there is a limitation to the extent, which the CRC can be enforced in domestic courts. ‘The CRC’s provisions can be directly enforced in courts provided that they are ‘self-executing’.¹⁵ Should there be any provisions that are ‘non-self-executing’, they would have to be further elaborated in the national law.’ (CRIN, 2014d, pp. 1–2).

Looking at children’s legal status, a child can, either directly or through a spokesperson, bring cases in domestic courts to challenge violations of their rights. However, in Romania there are no child-specific provisions in domestic law for reporting crimes. Romanian law allows a child victim of a crime to file a complaint with the public prosecutor, but does not allow private prosecution (CRIN, 2014a). In Norway, one of the complaint mechanisms for children is the Parliamentary Ombudsman. The Ombudsman’s opinion is not legally binding, but is in practice frequently followed. There are however few cases involving child complaints handled by any of the Ombudsman, which has caused the Ombudsman for Children to express concern that ‘...the lack of cases dealing with children may be a reflection of the inaccessibility of public complaints mechanisms to children.’ (CRIN, 2013a, pp. 2–3).

¹⁴ The national reports can be found at <http://home.crin.org/evidence/national-reports/>.

¹⁵ It is up to the court’s discretion to decide whether a particular provision in question is, or is not, self-executing.

When creating the ranking, CRIN created a report card where countries are scored according to a set of indicators in each of the four previously mentioned sections¹⁶. The scorecard can be found in appendix B. The scoring is presented both in points and in percentage of maximum score. In table 3.11 below, and overview of the six countries' rankings, is presented.

In *Section 1* on the legal status of the CRC, five out of six countries have the same score of 35 points (77.8 %). Only the Czech Republic differs, with a score of 26 (57.8 %).

In *Section 2* on the legal status of the child, Romania is the highest scoring country with 49 points (67.6 %) closely followed by Poland with 48 points (66.2 %). Norway and Lithuania have 46 points (63.4 %) and 43 points (59.3 %) respectively, and the Czech Republic 40 points (55.2 %) Looking at the percentage of the total score, Russia is 15 percentage points (pp) behind the Czech Republic, which is the second lowest scoring country of the countries concerned. Apart from Russia, the other five countries are within 9 points, or 12.4 % of each other.

In *Section 3* on remedies, Norway is the highest scoring country with 49 points (87.5 %), followed by the Czech Republic and Russia with 37 points (62.5 %) and 35 points (60.7%) respectively. Lithuania is scored right behind Russia, with 34 points (60.7 %). Poland have 32 points (57.1 %) and Romania 30 (53.6 %).

In *Section 4* on the practical considerations when challenging violations using the national legal system, Lithuania is the highest scoring country, with 65 points (74.3 %), followed by Poland with 63 points (72.0 %). The Czech Republic, Norway and Romania have the same score, 58 points (66.3 %), while Russia is the lowest scoring country with 50 points (57.1 %).

Table 3.11 - Overview CRIN, access to justice¹⁷ - in order of ranking

Country	Ranking and overall score		Section 1 Points and %		Section 2 Points and %		Section 3 Points and %		Section 4 Points and %	
Norway	13	71.6 %	35	77.8 %	46	63.4 %	49	87.5 %	58	66.3 %
Poland	23	68.0 %	35	77.8 %	48	66.2 %	32	57.1 %	63	72.0 %
Lithuania	24	67.8 %	35	77.8 %	43	59.3 %	34	60.7 %	65	74.3 %
Romania	37	65.3 %	35	77.8 %	49	67.6 %	30	53.6 %	58	66.3 %
Czech rep.	53	61.3 %	26	57.8 %	40	55.2 %	37	66.1 %	58	66.3 %
Russia	76	56.7 %	35	77.8 %	29	40.0 %	35	62.5 %	50	57.1 %

Section 1 – Legal status of the CRC; Section 2 – Legal status of the child; Section 3 – Remedies; Section 4 – Practical considerations

3.6.1 CRIN – summary

Looking at the four sections overall, Norway is the highest ranked country. Russia is the lowest ranked country, and the lowest scoring country in three out of four sections (*section 2*; *section 3*; and *section 4*). Poland is the second highest ranked country, closely followed by Lithuania. Looking at the scores, Norway has a lower score than Poland in two sections (*section 2*; and *section 4*) and is tied with Poland in one section (*section 1*). Compared to Lithuania, Norway is tied with the country in one section (*section 1*), has a higher score in two section (*section 2*; and *section 3*) and a lower score in one section (*section 4*). It is Norway's high score in *section 3* which secures Norway's overall score. If the score from *section 3* had been removed, Norway would be ranked behind three out of the five other countries. Only the Czech Republic and Russia would still be ranked behind Norway.

¹⁶ Section 1 – Legal status of the CRC; Section 2 – Legal status of the child; Section 3 – Remedies; Section 4 – Practical considerations

¹⁷ Each of the section is presented with score, and percentage of maximum score. See <https://home.crin.org/issues/access-to-justice/access-for-children-data-and-methodology> for scorecard and dataset.

3.7 Corporal punishment

Worldwide, corporal punishment is the most common form of violence towards children. The Global Initiative to End all Corporal Punishment of Children (GIECPC) is a global initiative working towards a worldwide prohibition and elimination of all corporal punishment of children, in private homes as well as in children's homes, foster homes and penal institutions (GIECPC, 2018a).

Amongst the GIECPC's work, is a complete overview of legislation pertaining to corporal punishment of children in the countries concerned.¹⁸

Corporal punishment of children in all settings is prohibited in Lithuania, Norway, Poland and Romania, and not banned in Russia and the Czech Republic. In Norway, corporal punishment was first prohibited in 1987. However, after a supreme court ruling, in 2005, stating that 'lighter smacks would be permitted' according to the law, the law was amended in 2010, ensuring that the supreme court ruling would not become practice, for the child's protection (GIECPC, 2019a). In Lithuania, corporal punishment has been prohibited from 2017 (GIECPC, 2018b). In Poland, corporal punishment has been prohibited in institutions since 1997, and in the home since 2010 (GIECPC, 2017). Lastly, corporal punishment of children has been prohibited in Romania since 2005.¹⁹ In addition, since 2016, Romania has committed to the GIECPC to accelerate its action towards protecting children from violence the next three to five years (GIECPC, 2018c).

There is no prohibition against corporal punishment in the home, day care or in any other form of institution, in neither Russia nor the Czech Republic. Seemingly, in both countries, there is a near universal acceptance of corporal punishment in child rearing (GIECPC, 2018d, 2019b).

3.8 Summary of chapter 3

Norway is the only country of the six with a social-democratic welfare system, also known as the Scandinavian system. The Czech Republic, Lithuania, Poland, Romania and Russia are all post-communistic Eastern European countries. Post-communist Eastern European countries have a considerably lower level of trust in the authorities as well as a lower level of social programmes and worse social situation for the inhabitants than the rest of Europe. The low level of trust and social programs are incompatible with the established typologies of welfare systems. While the Czech Republic, Lithuania, Poland, and Russia all have similar welfare systems, Romania's welfare system is categorized as developing and has a lower score on all measurable aspects.

Norway has the highest GDP of the countries concerned. The World Bank distinguishes between high-, upper-middle-, lower-middle-, and low income countries. The Czech Republic, Lithuania, Norway and Poland are all high-income countries, while Romania and Russia are upper-middle income countries.

Comparing GDP with SDGs, it is likely that money does play a part in achieving several of the SDG goals. The two countries with the highest GDP are also the two highest scoring countries in the SDG ranking, and the two countries with the lowest GDP are the two lowest ranked countries in the SDG. However, the Czech Republic have a significantly lower GDP than Norway but are nevertheless ranked in front of Norway in the SDG overall ranking, which entails that there are other factors than money that play a part in reaching the SDG goals. Furthermore, Norway's low score in goal 12, *responsible consumption and production*, are seemingly a direct cause of Norway's high

¹⁸ See <https://endcorporalpunishment.org/>

¹⁹ The law was passed in 2004, but came into force in 2005.

purchasing power. Meaning, Norwegians buy new electronic products rather than repairing their old, which is not an eco-friendly use of consumer electronics.

Looking at the rule of law in each of the countries concerned, Norway is the highest ranked country. Norway has a considerably higher ranking in all eight domains, compared to the other five countries concerned. Looking at the Czech Republic's scores, the lowest ranking is found in the *Absence of corruption* category. It is also the only domain in which the Czech Republic is not the second highest scoring country: The scores indicate that corruption is a bigger issue in the Czech Republic than in Norway and Poland. However, both Romania and Russia's rankings are lower than the Czech Republic, which implies that corruption is more common in Romania and Russia. In the *Constraint on Government powers* category, Russia is by far the lowest scoring country and it is the category in which Russia receives its lowest ranking. However, the category is also where Poland has its lowest ranking. The low rankings indicate a need for legislation, limiting government powers. Overall, the rule of law is strong in Norway. The Czech Republic, Poland and Romania have similar rankings. However, their rankings in each of the categories vary. The variations in rankings indicate that, with regard to the rule of law, each of the countries has categories in which they excel and categories where they do not.

Looking at the rankings, we can see that children's rights are prominent in Norway and the Czech Republic, in comparison with the other four countries. It is in the *Environment* domain Norway and the Czech Republic differentiate themselves from the other countries. The differences in the *Environment* domain entails that the CRC Committee has less criticism and more positive feedback in their concluding observations for Norway and the Czech Republic, than for the other four countries.

Looking at children's access to justice, the six countries concerned are fairly evenly ranked in most categories. Overall, Norway is the highest ranked country. However, Norway's high ranking is due to the remedies available for children, where Norway has a considerably higher score than the other five countries. With regard to the practicalities surrounding children's participation in court proceedings, Lithuania and Poland are the two countries that best facilitate the practical sides of the court proceedings, making the proceedings more manageable for both the parents and the child. Looking at the legal status of the child, Russia excels with negative connotations. There are small differences in the legal status of the child amongst the other five countries, but a large difference between Russia and the other countries concerned, which entails that complaint mechanisms are not as easily available for children in Russia, compared to children in the other countries concerned.

Lithuania, Norway, Poland and Romania have prohibited corporal punishment in all forms, while the Czech Republic and Russia have not. For the latter two, there seems to be a near universal acceptance of corporal punishment in child rearing. Even though the legislation in Romania clearly prohibits corporal punishment, the law is not properly enforced. In other words, despite being prohibited, corporal punishment is a problem in Romania (see CRC Committee, 2017b, paras. 24 (a-c)).

Chapter 4

Overview of child protection systems

By

Trond Helland²⁰

Child protection systems can be categorized as either risk-oriented or family service-oriented depending on the threshold for intervention and focal aims of the system (Gilbert, 1997; Gilbert et al., 2011). In service-oriented systems, there is a low threshold for intervention. The system focuses on helping families to improve their lifestyle and/or behaviour by taking a therapeutic approach and thus promoting healthy childhoods, as well as mitigating serious risks to children (Falch-Eriksen and Skivenes, 2019; Skivenes, 2011; Skivenes and Sørsdal, 2018). Risk-oriented systems have a high threshold for intervention. These systems rely on the idea that families' private spheres should not be interfered with unless there exists a serious risk for a child to come to harm (Gilbert et al., 2011; Skivenes and Sørsdal, 2018). The main focus of the risk-oriented system is mitigating serious risks to children's health and safety (Falch-Eriksen and Skivenes, 2019; Gilbert et al., 2011).

Risk-oriented and family service-oriented systems reflect two different ideologies with regard to how the CPS operates. Traditions, values and beliefs will influence how the CPS works in the respective countries, even though the countries' CPSs can have a similar structure (cf. Christensen et al., 2015; see also Herlofson et al., 2019).

Chapter 4 is divided into six main sections, one for each of the countries' CPS. The report presents the following five key features pertaining to each of the six countries' CPS:

- a) General country overview
- b) General child protection characteristics and principles (Constitutional protection of children's rights, position of the CRC, guiding principles);
- c) Institutional setup of the CPS;
- d) CPS interventions – principles and types;
- e) International criticism of the CPS.

The CPS in Norway is presented first because there is extensive knowledge about the system and it provides a platform for the five remaining countries. Summary of these findings are presented in Table 4.1, below.

4.1 Norway

For this outline, three articles are primary sources: "The Child Protection Systems in Denmark and Norway" (Hestbæk et al., in press), "Right to protection" (Falch-Eriksen and Skivenes, 2019) and "Norway: Child welfare decision-making in cases of removals of children" (Skivenes and Søvig, 2017).

²⁰ With comments, inputs and contributions pertaining to legislation in the countries concerned by Dr. Katre Luhamaa. Dr. Luhamaa has also written introduction to section 4.7, and table 4.1.

4.1.1 Country overview

Norway is a parliamentary constitutional monarchy and the legislative and executive powers lie with the government and parliament. Norway has a population of 5.36 million, where nearly 1.3 million are children.

In 2016, 11 612 or 10.3 per 1000 children, under the age of 18, were in out-of-home placements and 59 or 0.05 per 1000 children were adopted from the CPS, see table 4.2 and 4.3 (Hestbæk et al., in press).

4.1.2 General child protection characteristics and principles

Norwegian CPS is family service-oriented (Gilbert et al., 2011). The Norwegian child welfare system is an integral part of the Norwegian welfare state (Skivenes, 2011). Children are included in the welfare system both as individuals and as members of their families. The Norwegian CPS responsibility is to provide help and services to children in need. The threshold for providing services is low (Hestbæk et al., in press; Skivenes, 2011). There is a principle of a therapeutic approach in Norway, where the CPS is a part of a larger welfare system, which helps to guide parents to change their ways. The reason for the therapeutic approach is to help parents and children at home and thus prevent out-of-home placements (Skivenes and Søvig, 2017).

4.1.3 CPS institutional setup

Local municipalities are responsible for the CPS in Norway (Hestbæk et al., in press). In total there are 356²¹ municipalities, distributed over 385 000 square kilometres. The municipalities differ vastly in size. The largest municipalities have more than 600 000 inhabitants, while the smallest have around 200, which also influences the workforce in the local CPS (Falch-Eriksen and Skivenes, 2019). Small municipalities may have a single staff member, while the largest municipalities have multiple underlying departments with service offices. In order to fulfil their welfare obligations, small municipalities are known to collaborate. Falch-Eriksen and Skivenes (2019) point out that 201 (47 %) of the municipalities have organized their child protection services in collaboration with other municipalities and that 13 (3 %) have organized their child protection system joint with Social welfare, unemployment and social security services.

The child protection services in the municipalities do not necessarily follow the same organization model (Hestbæk et al., in press). Typically there are two distinct organization models in the Norwegian CPS: the specialist model and the generalist model (Falch-Eriksen and Skivenes, 2019). In the specialist model, some caseworkers work with referrals while others follow-up families and children. In the specialist model, families may have several caseworkers assigned to their case, depending on what measures are being implemented. In the generalist model, the same caseworkers are responsible for a case throughout the various proceedings in the child protection system. Research has shown that more often than not, small municipalities tend to follow the generalist model, while the larger municipalities follow the specialist model (Falch-Eriksen and Skivenes, 2019).

County Boards are the first instance decision-making body in all CPS cases. In total, there are 12 County Boards in Norway. The County Boards are court-like in structure and operate as courts. The Boards are independent and have the authority to decide in all cases concerning interventions into the family, including in situations of coercion (Falch-Eriksen and Skivenes, 2019; Skivenes and Søvig, 2017). Decisions made by the County Boards can be appealed in full to the District Court and on a restrictive basis to the Court of Appeal and Supreme Court (Falch-Eriksen and Skivenes, 2019). The County Boards consist of three members: a legal scholar, who acts as the County Board

²¹ January 1st 2020, several municipalities were merged, reducing the number of municipalities in Norway from 422 to 356.

chair, an expert member and a lay member with the same influence on the decision (Skivenes and Søvig, 2017).

4.1.4 CPS interventions – principles and types

The concept of the child's best interests was incorporated in the Norwegian constitution in 2014. Section 104 of the Constitution states that the child's best interests is a 'fundamental consideration' in actions and decisions affecting children, and that 'The authorities of the state shall create conditions that facilitate the child's development, including ensuring that the child is provided with the necessary economic, social and health security, preferably within their own family.' In other words, the Norwegian Constitution states that the Norwegian CPS should first and foremost, help the child within their own family.

Thus, being raised at home with their parents is presumed to be in the child's best interests. However, should the child be in danger of harm, the state has an obligation to intervene and, if needed, remove the child from its home (Hestbæk et al., in press; Skivenes and Søvig, 2017; see also Skivenes and Sørsdal, 2018). Interventions from the CPS can be voluntary or involuntary. Involuntary, or compulsory, measures are decided by the County Boards (Skivenes and Søvig, 2017). All care orders are treated as involuntary measures in Norway, due to the seriousness of removing a child from their home, regardless of whether parents agreed or not. Skivenes and Søvig (2017, p. 47) have identified three criteria for a child to be removed from its home: 'First, in circumstances where harm or neglect may occur. Second, in-home services are unable to provide satisfactory conditions. Third, removal is considered to be necessary based on an overall assessment and is in the child's best interests.'

When looking at reasons as to why the Norwegian CPS intervenes, Skivenes and Søvig (2017, pp. 42–43) have identified three main reasons for interventions (from the least intrusive intervention to the most intrusive):

1. 'At the least intrusive level, the child welfare system intervenes when a child has a particular need for assistance, as defined in the Child Welfare Act (CWA) of 1992, section 4-4 (1), by providing in-home services.'
2. 'If the agency is unable to help the child with in-home services or if in-home services are inappropriate (if the child is maltreated or abused, for example, as described in the Child Welfare Act, section 4-12), out-of-home placement is sought.'
3. 'If a child behaves destructively or violently (e.g., substance abuse), the child welfare agency may provide in-home services or an out-of-home placement under the Child Welfare act, section 4-24 and section 4-26.'

The decision-making process in the County Boards is a thorough investigative process, where all parties have the opportunity to make their case heard. Even though the local CPS prepare cases and write recommendations to the County Board, the decision is made independently by the Boards (Skivenes and Søvig, 2017). The County Board procedures are oral and rely on the principle of immediacy of evidence, which entails that only evidence presented orally at the hearing is taken into consideration (Falch-Eriksen and Skivenes, 2019).

If there is a possibility that a child will suffer when remaining at home e.g. if parents suffer from substance abuse or are not present, the CPS (or police) have the authority to issue an emergency care order and thus immediately remove the child from the home. However, after removing the child, the CPS must send an application for approving the emergency care order to the County Boards within six weeks. An emergency removal by the CPS does not automatically result in a care order being issued. Only approximately 40 % of emergency removals result in either a care order application or another application to the County Board (Skivenes and Søvig, 2017).

4.1.5 International criticism and concerns

The Norwegian CPS is undoubtedly under scrutiny from the international community and is renowned worldwide most often with negative connotations (Skivenes, 2019a). When addressing the criticism and concerns against Norway and its CPS, we will use the latest Concluding Observation from the CRC Committee and the recent practice of the European Court of Human Rights as the first base of information. Secondly, we will present the criticism available in the recent research on the Norwegian CPS. This will be addressed in-depth in Chapter 5.

4.2 The Czech Republic

The CPS in the Czech Republic is rapidly changing. This outline mainly relies on two sources when addressing the structure of the Czech CPS. The first is the handbook chapter ‘Czech child protection after 1989: Between socialist legacy and the European call for democratic legitimacy’ (Shmidt, in press), and the second is the article ‘Institutionalization of Children in the Czech Republic: A Case of Path Dependency’ (Shmidt and Bailey, 2014).

4.2.1 Country overview

The Czech Republic is a parliamentary republic with president as the head of state and prime minister as head of the government. The country has a total population of 10.5 million and a child population of nearly 2.2 million.

In 2018, 26 372 or 12.1 per 1000 children under the age of 18, were in out-of-home placements, and 377 or 0.23 per 1000 children under the age of 15, were adopted from the CPS, see table 4.2 and 4.3 (Shmidt, in press).

4.2.2 General child protection characteristics and principles

The Constitution of the Czech Republic (1992) includes a general reference to fundamental rights and freedoms, and international treaties, but does not include a reference to any specific rights. The Constitutional Court of the Czech Republic has, however, stressed the importance and primacy of the family in child protection cases (*Pl. ÚS 7/15*, 2016). Legal commentators have noted that Czech court-practice uses a conservative definition of family. According to Czech court-practice, family is primarily defined by biological bonds and is not a social construct (Kopa et al., 2017).

There have been several changes in the Czech Republic’s CPS in the last decade. New reforms have been implemented as an attempt to align the CPS with expectations from the EU. After adoption of the revised Civil Code (2012), the number of terminations of parental rights has decreased as a result of extension of several services such as prescribing special training for parents, monitoring parents and introducing temporary, voluntary placement of children with delinquent behaviour in crisis centres (Shmidt, in press).

In practice, the Czech Republic is considered to be amongst the least child-friendly OECD countries (Tarshish, 2019), with a history of discriminating groups of children.²² Until a new reform entered into force in 2010, children with disabilities were consistently being discriminated by the CPS as they were rarely placed with substitute families and were instead placed in institutions. National experts stated that ‘...physical or mental disability or difficult behaviour can be inapproachable obstacle for placing the child into a family especially if the deficient state of health coexists with belonging to [an] ethnic minority’ (Kuchařová, 2010, p. 171 in Shmidt, in press, p. 13). In 2010, the Ombudsman declared that the practice of discriminating children with disabilities

²² The ECtHR stated in the case of *D.H. and Others v. the Czech Republic* (2007) that the State unlawfully discriminated against Roma children by placing them in segregated, special needs institutions, regardless of their abilities (Shmidt and Bailey, 2014).

was ‘anachronistic, representative of the socialist period and ultimately a violation of children’s rights.’ (Shmidt, in press, p. 13). The Ombudsman stressed that the country’s child protection had to guarantee *all* children a sufficient level of care in line with general levels of social provision.

2010 was a turning point for the CPS in the Czech Republic, with the introduction of a new child protection reform,²³ where the focus shifted to empowering biological families as a key alternative to residential care. New strategies for preventing the child being removed from the parents were introduced, such as treating families at risk of child removal, family visits and training for parents. The reform was revised in 2013 and a focus on the standards of care for children placed in crisis centres was introduced, by reinforcing the option of reuniting the child with the biological family (Shmidt, in press).

The Czech Civil Code stresses the importance of the interests of the child²⁴ as the guiding principle for decisions relating to parental responsibilities (Civil code, s. 866); it further requires informing the child so that the child would be able to form an opinion and communicate it to the decision-maker. If necessary, the child is assigned a person to protect their interests. A child who is 12 is presumed to be able to receive information and communicate her opinion (Civil code, s. 867). The 2019 report of the Czech Republic reported that amendment to the Child Protection Act (2013) established the interests and well-being of the child as central considerations of child protection. Nevertheless, the law also stresses the protection of parenthood and the family, and the right of parents to provide – and the rights of children to enjoy – parental upbringing and care (CRC Committee, 2019, para. 6).

Introducing a new legal order exacerbated a pre-existing issue in the Czech Republic’s justice system, namely the courts’ lack of capacity to process cases within a reasonable time. In 2004, more than 33 % of cases concerning termination of parental rights were delayed by more than 6 months past the period mandated by the law. Looking at time limits, the courts are bound by time limits for making decisions concerning removal, which is four hours, and placement into care, which is seven days. There is however no time regulation for revising decisions such as reuniting the child with the family (Shmidt, in press).

The public in the Czech Republic criticises the country’s CPS for both late intervention in cases concerning injuries to children and for arbitrary decisions which cause undeserved violations of family autonomy (Shmidt, in press).

There has been an increase in preventive measures by the CPS in later years. The country has taken a turn towards a more family service-oriented system. However, there is still a high threshold for interventions in the family sphere, even when children potentially are at risk. In other words, the CPS in the Czech Republic is a risk oriented system by ordinary typologies (cf. Gilbert et al., 2011).

4.2.3 CPS institutional setup

The Czech Republic has a relatively high number of children (Shmidt, in press, p. 3) in public care. The high number of children placed out-of-home is a legacy from the country’s socialist past, where institutionalization of children was fairly common. The last decade has seen attempts to reduce the number of children living in institutions. One of the first laws²⁵ reforming child protection introduced several forms of substitute family placements that were later amended by additional regulation focusing on prevention (Shmidt, in press).

²³ *Národní akční plán k transformaci a sjednocení systému péče o ohrožené děti na období 2009 až 2011* (National Action Plan of Transformation and Uniting the System of Care for Children at Risk)

²⁴ The translation of the act is inconsistent and sometimes talks about ‘interests of the child’ and at other times ‘best interests of the child’.

²⁵ *Zákon o sociálně právní ochraně dětí* (Law about child protection 1999)

When children enter public care, experts distinguish between residential care and family substitute care (Shmidt and Bailey, 2014). However, there is no distinction between the two types of care in the law. For children placed in family substitute care, there are a variety of family-type placements, including four different models of foster care, and for children in residential care, more than ten different institution-types (Shmidt and Bailey, 2014).

Local (regional) authorities have direct responsibility for children in public care in their jurisdictions, regardless of placement type. At the national level, the ministry of health, the ministry of education, and the ministry of labour and social affairs each have responsibility for different types of placements; children with special needs are under the ministry of labour and social affairs, while infants are under the ministry of health (Shmidt and Bailey, 2014).

The CPS in the Czech Republic is complex. The structural complexity makes efficient cooperation between different actors at both national and regional level difficult. Furthermore, by trying to meet the expectations set by the EU, the national authorities have become more “western” in their approach and thus alienated themselves from the “eastern” traditions of the child protection workers at the local level, which in turn has complicated the cooperation for example in gathering information about children in need, in order to make a well-thought decision (Shmidt and Bailey, 2014).

4.2.4 CPS interventions – principles and types

Czech legislation allows intervention into family life if there is a situation jeopardizing the proper upbringing and favourable development of the child, which parents or other persons responsible for the upbringing cannot or will not solve themselves (s.9a Act on Social and Legal Protection of Children (*SLPC*, 2000)). Priority is given to measures that allow the child to remain in the family.

With regard to the decision making process for maltreated children, special social services for child protection initiate the process, and the courts make the decision relating to parental rights (Civil Code s. 867 *et seq*) and to care (Civil Code s. 953 *et seq*). The guiding principle is the best interests of the child (Civil Code s. 872). Furthermore, the Civil Code states that courts should periodically review the care settings of every child, especially when the child is placed in an institution (Civil Code s. 973).

After receiving a case, the courts have seven days to decide whether to place the child in public care or to reunite the child with its family. Shmidt and Bailey point out that the short time span often leads to hasty decision-making, where the courts follow the recommendations made by social services, instead of thoroughly and independently assessing each case. Even though the law states that to place a child in an institution should only be considered when all options of family placements have been exhausted, the social services usually recommend that the child is placed in residential care, thus causing the courts to do the same (Shmidt and Bailey, 2014).

The Czech Republic’s court system is not under a clear obligation to ensure participation from neither the parents nor the child, which in turn causes parents and children to be left out of the decision-making process (Shmidt, in press). In addition, the parents’ access to an independent expert is limited. As a result, even though the courts are pressured to make transparent decisions which increase the possibility for family reunification, their decisions often rely solely on the child protection worker assigned to the case (Shmidt, in press).

For judgments pertaining to permanency, the cases take considerably longer than the first ruling about primary custody. In 2004, the average time period for making decisions about foster care placements was 274 days, and adoption 232 days (Kristková, 2005, in Shmidt, in press). In situations where the court has not decided on permanency yet, the authorities are not required to reunite children with their biological parents, and thus the children remain in residential care (Shmidt and Bailey, 2014).

While waiting for the court's permanency hearing, children under the age of three are placed in baby homes. For children over the age of three, where the court has decided to place the child in residential care, there is an assessment made by an assessment centre as to which institution the child should reside with (Shmidt and Bailey, 2014).

Alongside the courts, assessments centres have the power to determine the placement of children. There are 14 assessments centres in the Czech Republic. There is one centre in 12 of the country's 13 regions and two centres in the last (Prague). Assessment centres are obliged to observe a child over a period of eight weeks, in order to determine the best care environment for the child. There are three main focus areas in which the assessment centre assess the children: 'children's special needs and the impact of disability upon development and behaviour; asocial behaviour and the risk of criminality; and children's emotional and behavioural ability to join a family environment (Shmidt and Bailey, 2014).

Despite the high number of institutionalized children, alternative family placements (e.g., foster care) is legally considered the best option for the child in the Czech Republic. When recruiting foster parents, the country turns to grandparents and other relatives of the child. In 2016, 72 % of the total number of foster caregivers were biological family. The foster caregivers that are not biological family are mainly persons affiliated with SOS children's villages and foster care centres (Shmidt, in press).

4.2.5 International criticism and concerns

According to Shmidt (in press) the biggest concern for the CPS in the Czech Republic at present date, is the lack of involvement of children and parents in decision-making processes and domestic violence towards children.

Children's access to justice, or substantive protection of their rights in different proceedings, have been a concern for the CRC Committee. In the latest CRC Committee Concluding Observation on the Czech Republic, published in 2011, there was concern from the Committee that the child's best interests is *not* the decisive factor in all cases concerning children in the Czech Republic. More specifically, the CRC Committee was concerned by the lack of reference to the principle of the child's best interests in most of the legislation pertaining to children's rights (CRC Committee, 2011, paras. 32–33). The 2012 Civil Code remedied this matter and included the principle as a guiding principle in family law matters. The focus on parents' interests instead of children's interests goes against both the CRC (art.3(1)) and established case law from the ECtHR, both of which emphasize that the child's interests surpass those of the parents (CRC, 1989, art. 3(1); Helland, 2019; Skivenes and Søvig, 2016).

4.3 Lithuania:

There is limited research available on the Lithuanian CPS. In Berrick et al. (in press), Tamutienė and Snieškienė have written a chapter entitled 'Child Protection in Lithuania'. This chapter forms the foundation for information about the Lithuanian CPS presented in this report.

4.3.1 Country overview

Lithuania is a parliamentary republic with president as the head of state and prime minister as head of government. The country has a population of 2.75 million people, where 0.5 million are children. Lithuania started its transition from communism in 1990 and rebuilt its whole legal and child protection system.

In 2017, 8 752 or 17.4 per 1000 children under the age of 18, were in out-of-home placements, and 139 or 0.28 per 1000 children were adopted from the CPS, see table 4.2 and 4.3 (Ministry of Social Security and Labour, 2018).

4.3.2 General child protection characteristics and principles

The Lithuanian Civil Code does not use the term ‘best interests of the child’, but rather ‘interests of the child’ (s.3.159). The CRC Committee has noted that the terminology is not fully in compliance with the CRC, due to the ‘interests of the child’ not being an equivalent to the ‘child’s best interests’ (CRC Committee, 2013a, paras. 18–19).

According to Tamutienė and Snieškienė (in press), the development of political processes and child protection practices taking place after the restoration of independence can be summed up in three stages: ‘state and public initiatives in reforming the system (1990-2004), absorption of structural funds to support institutionalization (2005-2014); and the reform of child protection caused by public pressure (in 2015 – to present).’ (Tamutienė and Snieškienė, in press, p. 5). The focus in this report is on the newest reform of child protection caused by public pressure due to a tragic event.

In 2015, the four-year-old boy Matukas was beaten to death by his mother and her partner. Investigation revealed that the boy had been neglected and exposed to harmful behaviour by his parents over time and that the abuse had been reported by his teacher to formal authorities, without any action being taken (Tamutienė and Snieškienė, in press). The Matukas case was a turning point for Lithuanian child protection. The public was in outrage and demanded changes in the wake of the tragedy. The public’s outrage spurred politicians into action, leading to a ban against corporal punishment and a new child rights protection reform (GIECPC, 2018b; Tamutienė and Snieškienė, in press). In addition to banning physical-, psychological-, and sexual violence, the new reform also included a prohibition on ‘neglect’.²⁶

With the new reform, Lithuanian CPS turned more service-oriented, although at present date, Lithuanian CPS is risk-oriented according to the typology (cf. Gilbert et al., 2011).

4.3.3 CPS institutional setup

In Lithuania, the child protection services are divided into legal- and social child protection. Legal child protection services are covered by the Children’s Rights Protection Agencies (CRPA). The CRPA analyses reports of violations, represents children in court proceedings, coordinates guardianship and supports inter-institutional cooperation. The CRPA operates in cities and district municipalities, through central and territorial offices, ensuring that all children are protected by the child protection system. The CRPA’s functions have continued to expand through the new reforms (Tamutienė and Snieškienė, in press).

Social protection of children is covered by the State Child Protection and Adoption Service (SCPAS). The SCPAS provides preventive programs and services, and implements guardianship, including finding carers, assignment and placement of children under guardianship. The SCPAS is responsible for ensuring a uniform child protection in Lithuania, including practices, standards, rules and the appointment of specialists working in this field (Tamutienė and Snieškienė, in press). According to Tamutienė and Snieškienė (in press, p. 16) it is ‘expected that the safeguarding measures will provide prompt assistance for each child and decision-making in a particular situation will not be slowed down, helping to avoid tragedies in the field of child protection policy.’.

4.3.4 CPS interventions – principles and types

The Lithuanian Civil Code (s. 3.180.) connects the removal of a child with parental rights and allows for limitation of parental rights when parents fail in their duties to bring up their children, abuse their parental authority, treat their children cruelly or produce a harmful effect on their children, or do not care for their children. Child removal is decided by the courts, and is a consequence of temporary or unlimited restriction of parental rights. Parents retain visitation rights,

²⁶ ‘Neglect’ means permanent neglect of the physical, emotional and social need necessary for the child, causing harm or endangering the child’s life, health, development.’ (Tamutienė and Snieškienė, in press, p. 16).

unless this is contrary to the child's interests. If the parents' rights are fully restricted, the child may be adopted without parental consent.

In practice, the new child protection reform in Lithuania differentiates between two levels of threat towards the child: (1) violations that are not a danger to the child's health or life; (2) violations that endanger the child's health or life. When a CRPA-specialist assesses a situation to be at level 2, the CRPA requests that the child be removed from its family. The district courts then assess whether the request is reasonable and grant a care-order (Tamutienė and Snieškienė, in press; see also Lithuanian Courts, n.d.).

In 2018, a new childcare policy measure was implemented. The new childcare measure enabled children at risk to get help as soon as possible. There are time restraints as to how quickly authorities must react when a child is in need of assistance.²⁷ In addition, it is specified in the child protection law what action is to be taken (Tamutienė and Snieškienė, in press).

4.3.5 International critique and concerns

In 2013, the CRC Committee noted both the increase in abuse and neglect of children and the increase in the number of placements of children including voluntary placements of children (CRC Committee, 2013a, paras. 31–34). Furthermore, most of the children were still placed in institutions, as there was a lack of foster care placements for children. Those institutions seemed to be in poor condition, had limited space, and there was lack of substantive and systematic monitoring of the institutions. Other alternatives to institutional care such as adoptions from care, were hindered by bureaucracy and lack of support according to the CRC committee (CRC Committee, 2013a, paras. 35–36).

The changes made in the Lithuanian CPS in the new reform aim to 'respond promptly to the threats posed to the child or the family, urgently, in accordance with the need of the clients, to provide various kinds of collective or individual assistance and intensive work with the family.' (Tamutienė and Snieškienė, in press, p. 19). However, according to Tamutienė and Snieškienė 'The reform was hastily begun, poorly prepared, and did not have fully trained specialists engaged' (Tamutienė and Snieškienė, in press, p. 19). Furthermore, Tamutienė and Snieškienė argue that specialists working in the CPS 'feel great uncertainty, anxiety and ignorance, [the specialists] saying that the standards of child protection are unrealistic and impossible to implement in practice because of the lack of specialists and services for children and families.' (Tamutienė and Snieškienė, in press, p. 19).

Based on Tamutienė and Snieškienė's assessment of ineffectiveness of the Lithuanian CPS and their conclusion (see Tamutienė and Snieškienė, in press, pp. 19–27), the new child protection reform has not worked as well as hoped. The focus of the CPS remains on the family, not the child. There is no doubt that the new child protection reform from 2017 is a step in the right direction with regard to children's rights and well-being. However, there is a need to improve professionals' ability to recognize neglect and abuse. In addition, as is, institutions working with the CPS are assessed by the number of services provided, not their quality or effectiveness.

4.4 Poland

There is very little research on Polish CPS available in English. The Centre for Research on Discretion and Paternalism at the University of Bergen, in collaboration with the Institute of Political Studies Polish Academy of Science, has applied for funding to conduct a comparative analysis of family support and child protection systems in Norway and Poland. The project

²⁷ If the report states that the child has been subjected to violence, authorities must act within six hours. If it is a non-violent offence, the authorities must act as quick as possible – but not later than three days (Tamutienė and Snieškienė, in press, p. 17)

proposal underlines the knowledge gap pertaining to the Polish CPS (Danecka and Skivenes, 2019). The project proposal, in combination with available research articles and comments from the CRC Committee, form the foundation for information about the Polish system presented in this chapter.

4.4.1 Country overview

Poland is a parliamentary republic with president as the head of state and prime minister as head of the government. The country has a population of nearly 38 million and a child population of approximately 7.5 million.

In 2018, 72,000 or 11 per 1000 children under the age of 18, were in out-of-home placements, and 2,354 or 0.4 per 1000 children, under the age of 15, were adopted from the CPS, see table 4.2 and 4.3.

4.4.2 General child protection characteristics and principles

The Polish Constitution (*Constitution of Poland*, 1997) stresses both the importance of the rights of the child and the need to protect the child against violence and cruelty. At the same time, the constitution stresses the importance of the family as a child protection environment (s. 71-72). The constitution is the legal foundation of the CPS and prohibits removal of the child unless it is done based on law and in the form of a court judgment (s. 48). Interestingly, the constitution uses the term ‘parental authority’ emphasizing a subordinate relationship between the parent and the child (Danecka and Skivenes, 2019; Kosior and Łukasiewicz, 2018, p. 52). The Constitution further stresses that the views of the child should be given priority ‘insofar as possible’ (s. 72(3)); there is no age limit set for hearing the child. The Polish Ombudsman for Children has noted that the legislation does not set out a clear form and conditions for hearing the child (CRC Committee, 2018c, pp. 7–8).

Under the Code of Civil Procedure (CCP, 1964, s. 216), children under 13 years of age cannot act as witnesses in court. When the courts rule in cases concerning the basic rights of a child, the child’s opinion is only obtained if the child’s maturity level is considered significantly high enough for the child to comprehend the full extent of the situation and problem and if testifying is not against the child’s best interests. Neither the Family and Guardianship Code (FGC, 1964) nor the CCP includes a more precise obligation or procedure for hearing the child during the removal procedures in court.

The Act on Family Support and the Foster Care System (2011) was a result of a dire need to improve certain areas of the existing family care system. According to Ciczowska-Giedziun and Zmysłowska, the number of children in public care was unacceptably high, before the new act came into force. Many of the children living in public care were in public care due to lack of alternatives, such as providing help to the child and family at home (Ciczowska-Giedziun and Zmysłowska, 2018, pp. 30–32).

In 32 % of the Polish CPS cases, children were placed in foster care after unsuccessful supervision by probation officers or family assistants. Meaning, these children were still considered at risk by the probation officers or family assistants after supervision, and thus had to be removed. 60 % of the cases were interventions due to immediate threat to a child’s life or health (Prusinowska – Marek, in print).

In the Act on Family Support and the Foster Care System 2011, it is emphasized that the basic role of foster care is to support the biological parents. Even though a child is placed under foster care, the biological parents remain the child’s legal guardians due to blood-ties (Danecka and Skivenes, 2019).

The high threshold for intervention and the aversion against intervention in the family sphere, places the Polish CPS as a risk-oriented system (cf. Gilbert et al., 2011).

4.4.3 CPS institutional setup

Polish child protection is decentralised – local municipalities are responsible for prevention and social assistance; counties are responsible for organising alternative care including institutional and foster care; adoptions, including adoptions from care, are organised at the level of voivodeships (province-level).²⁸ The decentralisation of the CPS entails that CPS across different regions does not coincide. There are variations in resources available for the CPS in different regions, influencing how the CPS work. The Polish Ombudsman for Children notes a lack of insufficient co-operation between different institutions responsible for child care (CRC Committee, 2018c, p. 15). The Polish system focuses on family and aims at care and support in a family or through kinship placement; removal should be a temporary measure and the system's main goal is reunification (CRC Committee, 2014a, para. 400).

The Act on Family Support and the Foster Care System (2011) introduced family assistants. Family assistants work closely with families in order to illuminate problems in the family or home environment, in order to create unique support for the families, building on their strengths and working on their weaknesses (Ciczowska-Giedziun and Zmysłowska, 2018). A family assistant is *not* the same as a social worker. Family assistants work closely with multi-problem families²⁹ and try to build a personal relationship with the families. Each family assistant can assist a maximum of 15 families at a time. While the family assistant's main focus is to support families in their homes, social workers concentrate more on office work, administrative tasks, providing information and cash support (Ciczowska-Giedziun and Zmysłowska, 2018, p. 33). This means a family assistant has a closer and deeper connection with the families they attempt to help than what the social workers do (*ibid*).

There are limitations to what a family assistant can do. The family assistant supports families in their everyday-tasks. Furthermore, family assistants attempt to give parents guidance and therapy in order to prevent the child being removed from the home. If a child's safety or life is in danger, the family assistant intervention is limited to reporting the situation to the authorities (social workers or police) (Ciczowska-Giedziun and Zmysłowska, 2018, p. 37). The use of family assistants is voluntary. The family might not want help or can cancel the help during the support period. This support is provided before initiating a removal procedure in less urgent situations. As an involuntary measure, the family courts can assign a probation officer who will follow up the families (Danecka and Skivenes, 2019). Probation officers have the task of supervising / controlling, while the assistant supports. If the family does not comply with the court order, the children are removed from the family.

4.4.4 CPS interventions – principles and types

The Polish child protection regulation lacks a clear definition as to when a child should be placed in public care (CRC Committee, 2015, pp. 33(a-h)). A child can only be removed from its biological family when a serious risk or an extreme situation arises in the family (Danecka and Skivenes, 2019). The English translation of the Family and Guardianship Code of (1964) published in Kosior and Łukasiewicz (2018) refers to the best interests of the child (s. 109(1) FGC) as a guiding principle of child protection. Nevertheless, the Polish Ombudsman for Children noted in its report that there does not exist an appropriate mechanism to ensure that the best interests of the child is substantively protected in guardianship cases (CRC Committee, 2018c, p. 6).

²⁸ At municipality level, there are centres for social assistance; at county level there are centres for family help; and at province level there are centres for adoption.

²⁹ The term 'multi-problem family' was adapted by social workers in Poland to reflect 'the complexity of life of families applying for social assistance.' (Ciczowska-Giedziun and Zmysłowska, 2018, p. 33), and includes families that battle more than one issue.

Removals are permissible, in particular, when there is a threat to the life and health of the child (s. 112.3 FGC). The law specifically stresses that poverty alone cannot be a reason for removal (s. 112.3(2) FGC). Care in a family setting is preferred to care in other settings, and in essence, foster care is seen as a temporary measure until the child is returned to the family or the child is adopted (s. 112.4 FGC). Institutional placement can only be used if the return of the child, kinship placement or foster care is not available (s. 112.7 FGC).

When Poland joined the CRC in 1991, child maltreatment was an overlooked problem. The high occurrence of child maltreatment in neighbouring countries and an increase in public awareness caused Polish policy makers to improve the reporting system of suspected domestic violence cases. The result was the ‘Blue Card Procedure’, a standardized way of assessing domestic violence, which has been obligatory to the Polish law enforcement officers since 1998, by social workers since 2004 and by educators since 2010 (Freedle and Zelechowski, 2015). The procedure requires law enforcement officers to note visible signs of abuse or neglect and to ask victims about any abuse or neglect that occurs at home. The law enforcers are also obliged to provide information to the victim about where the victim can seek assistance. Furthermore, any law enforcer who files a domestic violence report is obliged to follow up with the family within a week after filing the report, to see if any further actions must be taken. (Freedle and Zelechowski, 2015; see also Tanaś et al., in press).

Polish Family Courts issue care orders (cf. CRC Committee, 2015, para. 33(e); and *P. and S. v. Poland*, 2013, para. 34). The Ombudsman for Children points out that the Courts are not included later in controlling the assistance provided to the families and its effects (CRC Committee, 2018c, pp. 15–16).

The law does not set firm time limits for care order applications, emergency removals or care proceedings. According to the CRC Committee (2015, para. 32(e)), the judges of the family courts have a tendency of choosing to place children in institutional care rather than kinship- and foster care. To meet the goal of reunification, parents and children have the right to extensive contact after removal (CRC Committee, 2014a, para. 439).

With the introduction of the ‘Blue Card Procedure’, there was an upswing in child maltreatment cases presented before the courts. As the decision-making process pertaining to children’s wellbeing is complex and there is no clear definition as to when a child should be taken into care in Poland, the Polish judicial officers increasingly rely on information provided by mental health experts. The mental health experts assess the parents’ parental capacity, in order to provide information to the courts whether the parents are capable of caring for the child (Freedle and Zelechowski, 2015).

If a care order has been issued and the child enters the foster care system, the child does so under the premise that the stay is temporary. The biological parents usually remain the child’s legal guardians even though the child is in foster care. 18 months after the child has entered into the foster care system, the social services should make plans for the future of the child. However, the average time spent in foster care is 3 years and 7 months (Danecka and Skivenes, 2019). Thus, according to the legal regulations, after 18 months the child should be returned to the parents or be adopted. However, in practice it takes many years to sort out the legal situation for the children, and children are return to their parents, and removed again, several times (a phenomenon called “migrant children”). This phenomenon is perceived to be common, but data is unavailable due to the secrecy of personal data (Danecka et al., 2018)

4.4.5 International critique and concerns

In the CRC 2015 Concluding Observation regarding Poland, one of the Committee’s concerns was the number of children being placed out-of-home by the Polish authorities (CRC Committee, 2015,

paras. 33(a-h)). The CRC Committee was especially concerned about the lack of a system that supports and assists families with children. It further recommended that Poland ‘Urgently reduces placement of children under the age of 3 years in residential-care institutions,’ (CRC Committee, 2015, para. 33(a)), and review and potentially amend domestic legislation to both ‘abolish pre-adoption centres for children under 1 year of age and avoid large residential-care institutions.’ (CRC Committee, 2015, para. 33(c)). The Committee emphasized the importance of raising awareness among family court judges about keeping the child’s best interests in mind in cases pertaining to children, to avoid the tendency of judges choosing to place children in institutional care rather than family care (CRC Committee, 2015, para. 32(e)). In other words, the CRC Committee’s concern was the wellbeing of children in large residential-care institutions. The Committee urged Poland to focus more on placements in family-based care. Due to a change in deinstitutionalisation rules, there are more and more orphanages in Poland. However, the orphanages are considerably smaller than the old orphanages in socialist Poland. The new orphanages house up to 14 children, while the old had between 50 and 100 children (see *Opening Doors*, n.d., 2017/2018).

When a child is in public care, it is important to maintain a connection/relationship with the biological parents, in order to facilitate a reunion between the child and its parents. Even though reuniting the child and the family was one of the aims of the Polish child protection policy, the Committee pointed out that Poland lacked proper methods for supporting parents after their child had been taken into care, in order to improve their parenting capacity and thus being able to be reunited with their child. Research points out that it is not the lack of method that is the problem, but the lack of authority to make the service users comply and to use the services. Furthermore, when a child is in institutional care, it is not uncommon that the institutions restrict contact between parents and child as a means of punishing the child, if the child has overstepped any boundaries in the institution (CRC Committee, 2015, paras. 32–33). While the Polish government rebutted a number of other findings of the Committee, none of the findings relating to care were contested (CRC Committee, 2016a).

4.5 Romania

There is limited research available in English of the inner workings of the Romanian CPS. There are, however, some articles providing a general overview, which will be referred to in the section-text. In order to see how child protection cases progress in the Romanian CPS, this report also relies on judgments from the ECtHR. These judgments will be used in combination with articles focusing on reforms in the Romanian CPS.

4.5.1 Country overview

Romania is a semi-presidential republic with president as the head of state and prime minister as head of the government. Executive functions are held by both government and the president. The country has a total population of 19.4 million and a child population of nearly 4 million.

In 2017, according to official sources, 52 783 or 13.3 per 1000 children under the age of 18, were in out-of-home placements (Onu et al., 2019). However, experts on Romanian CPS have stated that the number may be significantly higher, due to underreporting. 1 280 or 0.33 per 1000 children under the age of 18, were adopted from the CPS, see table 4.2 and 4.3 (Onu et al., 2019).

4.5.2 General child protection characteristics and principles

Romanian CPS has undergone substantive changes during the last few decades. Jacoby et al. (2009, p. 128) state that ‘nowhere in Europe have alternative services, mainly foster care and guardianship, increased as quickly as in Romania since the late 1990s’, when Romania implemented new legislation to strengthen children’s rights and bring Romania closer to the practices of more advanced countries (Anghel et al., 2013, p. 246; see also Negoita, 2010; and Rus et al., 2011).

However, the financial crisis in 2008 and reduced funding from the EU have caused obstacles for the development of Romanian CPS and slowed down the progress (Anghel et al., 2013). The focus shifted from improving the CPS to sustaining the improvements already made in the CPS, including maintaining the increased expenditures and not cutting in the CPS budget. In the conclusion of their research, Rus et al. (2011, p. 69) state hypothetically that if the government decides to cut the budgets ‘there may be a temptation to balance government budgets by sending foster children back to biological families where maltreatment occurred, and/or reduce treatments and intervention aid for these families.’.

As a prerequisite to join the EU in 2007, Romania was required to reform its CPS. It was especially the vast number of children in public care, a legacy from Romania’s socialist past, which was a concern for the EU. Romania was required to reduce the number of children in residential care, improve conditions for children in Romania, introduce foster care and promote domestic adoption (Neagu and Sebba, 2019). The EU’s request had an effect, and the number of children in public care is decreasing (Rus et al., 2011). However, in the Concluding Observation of 2017, the CRC Committee was still concerned that there is a high number of children placed in institutional care. Furthermore, the Committee raises the concern that children from low-income families, Roma children and children with disabilities are more likely to be separated from their families and placed in institutions (CRC Committee, 2017b, para. 28(a)). Seemingly, there is an attitude amongst social workers at the community level that some children, especially children with disabilities, are ‘better off’ separated from their families (CRC Committee, 2017b, para. 28(b)).

The CPS in Romania is risk-oriented, which entails that there is a high threshold for intervention (cf. Gilbert et al., 2011). The Constitution of Romania (1991) requires protection of both children (Article 45) and family (Article 27). Romanian law notes that decisions relating to children and their protection should be in the best interests of the child and that best interests takes priority over the rights of the parents (s. 2 Child Protection Act (CPA), 2004).³⁰ Romanian law requires hearing the child in accordance with giving due weight to the views of the child (s. 6 CPA); the law states that children 10 years and older must be heard (s. 24 CPA).

4.5.3 CPS institutional setup

The National Authority for the Protection of Child’s Rights (NAPCR) is a specialized body within the central public administration, subordinated to the Ministry of Labour, Social Solidarity, and Family. NAPCR was established to enforce the rights of Romanian children and it has two main priorities: (1) to protect and promote the rights of children; (2) to prevent child separation from parents and to offer special protection to children that have been temporarily or permanently separated from their parents (Rus et al., 2011).

The NAPCR does not implement their social assistance policies, nor their strategies for protecting children and families. The task of implementing the policies and strategies is delegated to the General Directorate of Social Work and Child Protection (the Agency) (Rus et al., 2011). The Agency is responsible for monitoring the situation of both maltreated and abandoned children, in collaboration with the Social Services Departments of the municipalities (SPAS). (*Achim v. Romania*, 2018; Pirneci, 2014). The Agency is also responsible for intervening in a family if it is deemed necessary (cf. *Achim v. Romania*, 2018; *Mircea Dumitrescu v. Romania*, 2013). In other words, the Agency is the authorities’ prolonged arm in child protection cases.

The SPAS acts on the Agency orders. If a child is reported to be in need of assistance, the Agency either examines the situation themselves or delegates the responsibility to the SPAS (cf. *Achim v. Romania*, 2018). If the responsibility is delegated to the SPAS, the SPAS writes a report and sends

³⁰ Lege Nr. 272 din 21 iunie 2004 privind protecția și promovarea drepturilor copilului (Law no. 272/2004 on the protection and promotion of the rights of the child), 21.06.2004, Romanian Official Gazette, Part I, no. 557.

it to the Agency, who then decides which action should be taken. According to an interview performed by Pirneci (2014, pp. 77–78) with a social worker from the Agency, there are problems with the collaboration between the Agency and the SPAS. The Agency social worker states that the social workers from the SPAS lack the training given to social workers from the Agency, and are in many cases overwhelmed with tasks unrelated to the social work field. In the report ‘Romania: Children in Public Care’ by Stănculescu et al. (2017), workers from the Agency are consistently referred to as *specialists* or *experts*, while workers from the SPAS is referred to as ‘SPAS workers’ or ‘workers at SPAS level’.

4.5.4 CPS interventions – principles and types

Family interventions are the responsibility of the DGASPC, but removal of a child can only be decided by the County Courts that issue care orders in Romania (cf. s. 38 CPA (2004); ECtHR, 2018, 2013b,). The case is initiated and prepared by the DGASPC. If the information in the case relies on reports from the SPAS, the SPAS is involved in the court proceedings. However, in the case of Achim v. Romania (*Achim v. Romania*, 2018), the DGASPC and the SPAS were not in agreement of what would be the correct action to take. According to the County Court’s ruling, the DGASPC’s word outweighs the SPAS’.

Romania has taken steps to reduce the number of children in institutions. There are three alternative care services that are meant to replace institutionalization: family-type services, residential care, and day care services. Both family-type services³¹ and residential care³² are for children who are temporarily or permanently removed from their parents’ care. Day care services are meant as a preventive measure, helping children and parents overcome obstacles that could potentially lead to the child being removed from the home. The day care services include parental guidance, psychological counselling, entertainment and socializing activities and child development education (Rus et al., 2011).

Removal of a child from the family is seen as an exceptional measure that can be justified only in the best interests of the child (s. 33 CPA); the law proposed early intervention and support for the family (s. 34-35 CPA). The removal criteria are, however, vague and intervention is justified when there is reason to suspect that the child’s life and security are endangered in the family (s. 36 CPA). The law does not include any specific emergency removal criteria.

4.5.5 International criticism and concerns

There is no question that the biggest challenge for Romanian CPS currently is the number of children in public care (Bainham, 2009; Jacoby et al., 2009; Neagu and Sebba, 2019; Negoita, 2010).

Corporal punishment, in all forms, is prohibited in Romania (GIECPC, 2018c). However, the CRC Committee emphasizes in its Concluding Observations, that even though corporal punishment is prohibited, this prohibition is not properly enforced (cf. CRC Committee, 2017b, paras. 24(a-c); c.f. Pirneci, 2014). Seemingly, there is a high level of tolerance for violence against children in Romania (CRC Committee, 2017b, sec. D).

Romania is also criticised by the CRC Committee for not including civil society, hereunder NGOs and children’s organizations, in developing, implementing, monitoring and evaluating legislation, policies, plans and programmes related to children’s rights (CRC Committee, 2017b, para. 14).

Furthermore, the CRC Committee is concerned that the training of professionals working with, and for, children lack understanding of what the child’s best interests entails (see also Pirneci, 2014). The Committee recommends that Romania reviews professional training in order to ensure that

³¹ Service is provided at home with i.a. extended family or foster family.

³² I.a. placement centres, emergency shelters for children and maternal centres.

the concept of the child's best interests is properly understood and implemented (CRC Committee, 2017b, para. 18).

Lastly, the CRC Committee is concerned that there is an absence of both adequate mechanisms for identifying children at risk in Romania and of early intervention services (CRC Committee, 2017b, para. 28(b)). For children living in institutions and residential care, the CRC Committee is concerned about inadequate monitoring of the children as well as lack of investigation of reports of physical and sexual abuse of children (CRC Committee, 2017b, para. 28(d)).

4.6 Russia:

In general, there is little research in English to be found about Russian CPS, as Russian researchers often publish their research in Russian journals. However, the book 'International Handbook of Child Protection Systems' (Berrick et al., in press), includes a chapter on Russian CPS titled 'Reforming Russia's Child Protection System: From Residential to Family Care' (Kulmala et al., in press). This chapter will be used as primary source of information about the Russian CPS. In addition, Höjdestrand (2016) has written an article entitled 'Social Welfare or Moral Warfare?: Popular Resistance against Children's Rights and Juvenile Justice in Contemporary Russia' and Rudnicki (2012) an article entitled "The Development of Russia's Child Protection and Welfare System'. Both articles will be used as a supplement to Kulmala et al.

4.6.1 Country overview

The Russian Federation is a democratic federal state with a republican form of government. Unlike the other countries concerned in this report, Russia consists, *inter alia*, of republics, territories and autonomous regions and districts (Demidova, n.d.). There are approximately 147 million people living in Russia, where 33.9 million are children.

In 2014, 613 000 or 23 per 1000 children under the age of 18, were in out-of-home placements, and 122 600 or 4.60 per 1000 children were adopted from the CPS, see table 4.2 and 4.3 (Kulmala et al., in press).

4.6.2 General child protection characteristics and principles

Looking at existing research on the Russian CPS, it is clear that the country has made efforts to strengthen the legal rights of children (Höjdestrand, 2016; Rudnicki, 2012). The efforts have, however, met great resistance in the country, by a grassroots mobilization in defence of 'traditional Russian family values'. The changes made to children's rights in Russia, to keep in line with the CRC, are seen by the public as 'weapons in a Western moral war against Russia' (Höjdestrand, 2016). What started as a grassroots movement has become a state supported movement, which has influenced State policy. As an example, Russia has initiated adoption of three resolutions on traditional and family values in the UN Human Rights Council (OHCHR, 2009, 2011, 2012).

The Russian Constitution (1993) includes protection of children (but not children's rights) as one of the tasks of the state (arts. 23, 38). The Constitution connects such obligations with the rights of parents to raise their children. Thus, from a child rights perspective, the Russian legal system is family focused.

At present date, there are ongoing changes in the Russian CPS. New reforms have caused the Russian CPS to turn towards a more service-oriented approach, at least at policy level (Kulmala et al., in press, pp. 27–33). In practice, with the lack of ability to support families at risk and high threshold for intervention, the Russian CPS is categorized as a risk-oriented system (cf. Gilbert et al., 2011).

4.6.3 CPS institutional setup

The new changes in the Russian CPS focus on early intervention. The municipal child protection authorities are responsible for early interventions, by holding registers, monitoring and providing services for children and families ‘in a socially unsafe situation’ (Prisiazhniuk 2015, p24 in Kulmala et al., in press, p. 15). There is however no definition of criteria for what constitutes a family in a socially unsafe situation nor for holding registers, which complicates preventive work and thus early interventions (Kulmala et al., in press).

The municipal child protection authorities are not the only authority with regard to the CPS. The guardianship department *organ опеки и попечительства* (OPEKA) is the state authority responsible for protecting children in need. The OPEKA receives information regarding children in need, assesses the information and conducts proper measures, e.g. placing the child in alternative care. It is also the OPEKA that prepares cases pertaining to child protection for the court (Kulmala et al., in press, pp. 12–14). In other words, the OPEKA is the authority on alternative care placements, not the municipal child protection services. Care order decisions are made by the district courts (Kulmala et al., in press).

The staff working in the OPEKA are not child protection specialists, meaning they are not required to have training in neither communication with children and their parents, nor in children’s rights. Mostly social workers and lawyers work in the OPEKA. Diversity in staff background and competence causes the treatment and assessment of cases to vary from social worker to social worker within the OPEKA (Kulmala et al., in press, pp. 13–14).

4.6.4 CPS interventions – principles and types

The Russian CPS divides the state’s concern for children in need of protection into two key concepts: (1) a child/family in a socially unsafe situation, (2) a child/family in a difficult life situation. Legislation in Russia emphasizes the parents’ responsibility in both raising and socializing a child. If parents do not provide for their child, that is a criminal offence. Furthermore, any deviations in a child’s behaviour is potentially framed as a consequence of negligence by its parents (Kulmala et al., in press, p. 12). The Russian legislation recognises the need to protect ‘legitimate interests of the child’ (*законных интересов ребенка*) (Luhamaa, 2015); this obligation extends to the parents as well as all state institutions included in child protection (Family Code s. 56). This inconsistency is also pointed out by the CRC Committee (CRC Committee, 2014b, paras. 26–27)

If parents find themselves in a difficult life situation, it is common practice to offer the children temporary institutional placements (Kulmala et al., in press, p. 17). This voluntary and temporary placement of children in institutions is meant to give the parents the opportunity to turn their life around, while knowing that their children are protected by the state. However, children are not heard and thus do not provide their consent to the placement.

The Family Code (1995) allows limitation or deprivation of parental rights if parents do not care for the child, if they abuse their parental rights, treat children cruelly, misuse drugs or alcohol, or when they have committed a deliberate crime against the child (s. 69 Family Code). Removal of children or limitation of parental rights do not typically limit contact between the child and the parents; it is possible to restore parental rights. While removal of the child generally requires a decision of the court, the law allows for emergency removals when there is immediate threat to the life or health of the child. In such cases, the guardianship authority has to immediately notify the prosecutor and bring the case before the court within 7 days for restricting or limiting parental rights (Family Code s. 77).

If a child is taken into care involuntarily, the parents’ parental rights are either limited or terminated. Limitation of parental rights can be issued e.g. due to parents’ health or ‘difficult life situation’. However, in Russia, parental rights are more often terminated than limited (Kulmala et al., in press,

pp. 14–15). Even if parental rights are terminated, Russian legislation allows the child to have contact with its biological parents and family, as long as the contact does not interfere with the child's interests. Furthermore, the biological parents have a duty to maintain their child, even if their parental rights have been terminated. In other words, the biological parents have a duty to support their child financially even though their parental rights have been terminated. If the biological parents' parental rights have been terminated, they can apply to have their rights restored if their situation has changed significantly. However, restoration of parental rights is rare – in 2015, only 5.8 % of children were returned to their biological parents after parental rights had been terminated (Kulmala et al., in press, pp. 14–15). When the biological parents' parental rights have been terminated, their child can be adopted without their consent.

Russian legislation has adopted the CRC and emphasizes that taking a child into public care and terminating biological parents' parental rights shall only be done as a last resort. Nevertheless, in Russia, placing children in alternative care is more common than giving support to the biological families (Kulmala et al., in press). According to Kulmala et al. (in press, p. 15), 'the system seems to lack the ability to support families at risk due to professionals' lack of skills and motivation.'

4.6.5 International critique and concerns

Both GIECPC and CRC Committee are concerned for children in Russia due to the lack of prohibition against corporal punishment. Seemingly there is a universal acceptance for physical disciplinary actions in child rearing (CRC Committee, 2014b, paras. 32–33; GIECPC, 2018d).

It has been suggested that the grassroots movement against the strengthening of children's rights in Russia reflects a profound distrust in Russian state administrators (Höjdestrand, 2016), which is reflected in a general mistrust amongst the Russian population against the OPEKA and other state-institutions. The mistrust stems from both the OPEKAs work practices and a known problem of corruption amongst OPEKA officials (Kulmala et al., in press). Kulmala et al. (in press), emphasize that professional- and ethical guidelines for the OPEKA must be developed, for the CPS to become more trustworthy.

There is a concern for the vast number of children in alternative institutional care in Russia (CRC Committee, 2014b, paras. 39–40; Kulmala et al., in press). Zapata et al. (2013) have researched risk-factors pertaining to children living outside family care in Russia. In their findings, they state that orphans and children living outside family care have a significantly higher risk for suicide and to become pregnant.

Kulmala et al. (in press, pp. 17–18) emphasize that to take a child into temporary institutional care is an extreme measure. When parents are in a difficult life situation and temporarily place their child in public care, it is in most situations financial problems that are the cause (e.g. due to unemployment). This means that placing children in public care could be avoided by the Russian state by offering financial aid or improving housing conditions for parents in need. Similarly, the CRC Committee noted the lack of support and assistance to reunite families (CRC Committee, 2014b, para. 41).

4.7 Discussion of country outline³³

The child protection systems of all six countries aim to support the child, as far as possible, in the family setting and they all recognise that removing a child from the family is a last resort measure that should be used in a limited number of cases. Furthermore, the most intrusive child protection measures require a formal decision of an independent decision-making body (typically a court) that has investigated the case.

³³ Introduction to section 4.7, and table 4.1 is written by Dr. Katre Luhamaa.

However, the focus, priorities and guiding principles of the child protection legislation differ substantively. The legislation of Norway, the Czech Republic, Lithuania and Poland includes a more or less clear list of rights of persons involved as well as criteria for when an intervention is permissible. The legislation in Romania and Russia do not indicate clear intervention criteria.

Findings of the six countries are summarised in Table 4.1 and we have identified the following characteristics of the child protection systems:

- 1) Orientation of the system shows whether the country is a family service oriented or risk oriented as referred in Gilbert (2011). Child protection service intervention is low in family service-oriented systems, whereas in risk-oriented systems, the threshold for all types of family intervention is high.
- 2) Some of the countries include child-specific rights in their constitution, while other countries focus on family related rights. This report has noted whether any such rights are present in the constitution.
- 3) CPS obligations are often divided between different levels of government. We have noted whether some level of governance or national institution has a primary obligation for providing child protection services, conducting family social work and preparing child protection interventions, whether such tasks are divided between different levels of governance, or whether there are specific agencies that fulfil child protection tasks.
- 4) Decision-making bodies for involuntary measures and intrusive interventions.
- 5) All of the countries are bound by an obligation to hear the child. We have noted the age limits set in national legislation.
- 6) All of the countries are bound by the principle of the best interests of the child included in Art 3 of the CRC. We note the position of this principle and, if available, the national wording of it.
- 7) We note the child protection intervention principles included in the national legislation.
- 8) The CRC Committee has stressed the need to protect children from any forms of violence and has recommended prohibiting physical punishment of children. We note whether such prohibition exists in national law.

Table 4.1 – Summary overview of the six child protection systems.

Criteria	Czech Republic	Lithuania	Norway	Poland	Romania	Russia
Orientation of the CPS	Risk	Risk*	Service	Risk	Risk*	Risk*
Constitutional rights focus	Not mentioned	Family, Parental rights	Child rights	Family	Child protection; family	Family, Parental rights
CPS responsibility	Divided	Agencies	Municipality	Divided	Agencies	Agency and municipality
CP decision-maker	Court	Court	County board**	Court	Court	Court
Age limit for hearing the child³⁴	12 years	Child capable of expressing views	7 years	No limit	10 years	10 years, unless contrary to interests
Best interests principle	Limited: interests of child	Limited: interests of child	Yes	Yes	Yes	Limited - Legal interests
Removal criteria	Danger to upbringing	Danger to health or life	Danger of harm	Danger to life or health	Danger to life and security	Abandonment; Danger
Ban of corporal punishment by parents	No	Yes	Yes	Yes	Yes	No

* - recent legislative changes focus on family services. ** - court-like collegial body.

4.7.1 Focus of the Child Protection System

Norway is the only family service-oriented country of the six countries concerned, which entails that the threshold for intervention is lowest in Norway. Lithuania is currently turning towards a more service-oriented system, but is still categorized as a risk-oriented system. Furthermore, research on Russian CPS clearly states that the country places family first in, and is thus categorized as family-oriented by Russian researchers. However, following the categories presented by Gilbert (1997) and Gilbert et al. (2011), the Russian CPS is undoubtedly a risk-oriented system, with a high threshold for intervention into the family sphere.

Looking at family values and tradition in the countries concerned, families have a strong position in all the Eastern European countries. A survey conducted by Herlofson et al. (2019) about family obligation revealed that in Norway, independency between generations seemed to have a strong footing in society. In the remaining five countries, the Czech Republic, Lithuania, Poland, Romania, and Russia, the idea of younger and older generations caring for each other is fundamental. The same survey revealed that the Czech Republic is the country nearest Norway in relation to family obligations, with Poland following suit. Russia is the country where family obligation across generations is the strongest (Herlofson et al., 2019, fig. 1).

Herlofson et al. (2019) emphasizes that in Scandinavian countries, such as Norway, the welfare state causes adults not to be dependent on help from children, due to public alternatives. However, that does not necessarily mean that Norwegian families do not support each other. The family and the welfare state are complementary, and thus can co-exist. However, in Eastern-European countries, where the welfare state provides less social help, families are of utmost importance.

³⁴ Children below this age can also be heard, but per the decision-makers' discretion

Seemingly, the fewer options provided by the welfare state, the more important the family (Herlofson et al., 2019).

Herlofson et al. conducted a survey in 13 countries, where people were given six claims³⁵. The respondents were asked to state to what extent they agreed with each of the claims. Four of the claims referred to responsibility by adult children, while two of the claims focused on the duties of the parents. In Norway, approximately 5 % agreed to 5-6 of the claims, while in Russia more than 50 % agreed with them. Looking at how many disagreed with the claims, 25 % of the Norwegian public did not agree to any of the claims, while in Russia the same figure is less than 5 % (Herlofson et al., 2019, fig. 1).

The difference in mentality pertaining to families' responsibility in Norway and the Eastern-European countries is evident, when dividing the claims in responsibility by adult children and parents. In Norway, more people agree with claims stating that parents have a duty to protect their adult children, than with the claim that adult children have a duty to provide for their parents. However, in the Czech Republic, Lithuania, Poland, Romania and Russia the tables have turned. In these five countries, more people agree with the claims that adult children have a duty to provide for their parents, rather than the parents having a duty to provide for their adult children (Herlofson et al., 2019, fig. 3).

It is evident that family plays a big role in the tradition and culture of the Eastern-European countries. Seemingly, in some situations, parents are dependent on their children's assistance due to a lack of social help from the State. The important role children play in providing for parents who are unable to provide for themselves, may be one explanation as to why there is a high threshold for interventions in the family sphere in the Eastern-European countries.

4.7.2 Guiding principles of the CPS

Vagueness in wording of children's rights, together with a lack of guidelines or consistent implementation of child rights, seems to be another key difference between Norway and the other five countries.

Article 3 of the CRC (CRC Committee, 2013b) and the practice of the ECtHR confirms that the best interests of the child should be a primary or paramount consideration in all matters relating to the child (Archard and Skivenes, 2009a; Skivenes, 2010; Skivenes and Søvig, 2016). All of the countries have included a version of the best interests of the child in its national legislation. While the legislation in Norway, Poland, Romania and the Czech Republic use the wording of the CRC and obligates decision-makers to take into account the best interests of the child,³⁶ Russian legislation refers to legal interests of the child and the Lithuanian legislation uses a term 'interests of a child'.

All of the countries also note that the child has a right to be heard as required by Article 12 of the CRC (CRC Committee, 2009). Neither Poland nor Lithuania have a clear age limit for hearing the child. While the Polish legislation focuses on informing the child and does not foresee a concrete procedure for hearing the child, Lithuanian legislation guides the decision-maker to evaluate whether the child is capable of expressing her views. Russian regulation requires that the child be

³⁵ (1) Adult children should take responsibility for providing care when parents need it; (2) Adult children should adjust work after parents' needs; (3) Adult children should support parent financially if they have financial difficulties; (4) Adult children should have parents living with them, if the parents' can not take care of themselves. (5) If adult children need help, parents should adjust their lives to help them; (6) Parent should support their adult children financially if the adult children have financial difficulties (Herlofson et al., 2019, p. 39).

³⁶ Previous research has shown that English translations of legal acts might not provide a correct translation of the terms used. As only Norwegian and Russian legislations are available to the researchers in their original languages, we have trusted English translations available for the legislations of the remaining four countries.

heard unless it is contrary to the interests of the child. All of the Eastern-European countries have difficulties in implementing both of these guiding principles.

4.7.3 Populations acceptance for intervention

A recent survey conducted in England, Norway, Poland and Romania revealed that despite the differences in welfare systems and CPS, the population's views on the government responsibility to protect children who suffer due to unsatisfactory parental care, are quite similar across these countries (Skivenes, in preparation). There is an acceptance among a majority of the populations to remove a child from the home if the child suffers due to unsatisfactory parental care, and it is in the best interests of the child.

Even though the majority of the population agreed that a child suffering due to unsatisfactory parental care would legitimize removing a child, there are differences in the acceptance between the four countries. In England, 86 % and in Norway, 84 % stated that unsatisfactory care from parents is a just reason for intervention, while in Poland and Romania, 58 % and 55 % respectively, stated the same (Skivenes, in preparation).

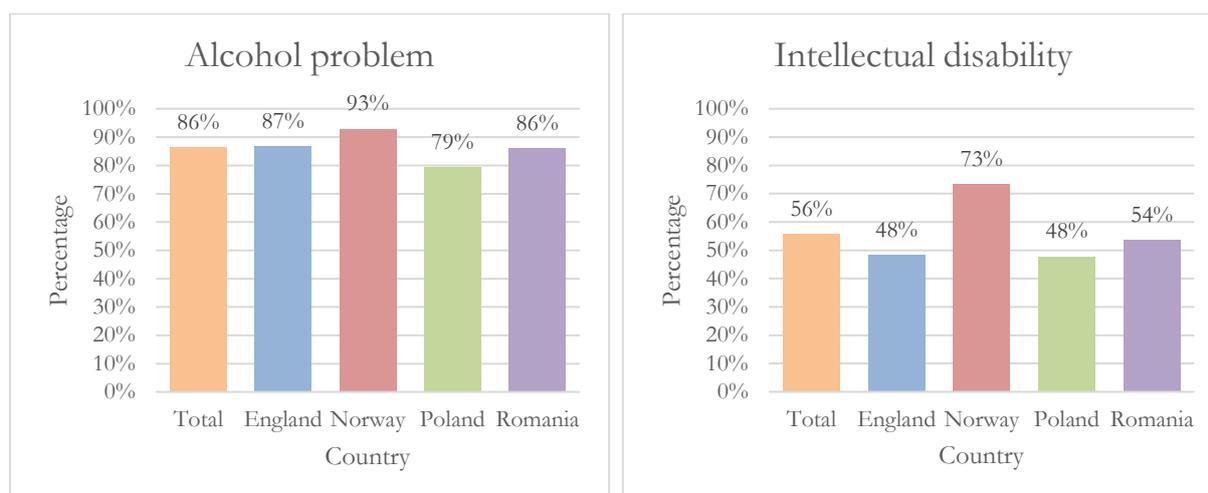
When asked whether a child's suffering due to parents' alcohol problems would constitute a reason for intervention, there was more uniform agreement between the countries. In Norway 93 %, in England 87 %, in Romania 86 % and, in Poland 79 % stated that parents' alcohol problems is a legitimate reason for authorities to intervene in the family and remove the child, see fig.4.1 (Skivenes, in preparation).

There is also a very high acceptance for intervention if a child is suffering due to parents' mental illness, in Romania (80 %), Norway (78 %) and England (72 %). In Poland (60 %) there is considerably lower acceptance for intervention due to parents' mental illness than in the other three countries, but still a majority of the population believe it to be a just reason for intervention (Skivenes, in preparation).

In Norway, there is high acceptance for intervention if a child suffers due to parents' intellectual disability, with 73 % stating that it is a justified reason, see fig.4.1. In Romania, 54 % agree that it is an acceptable reason for intervention, while in England and Poland, 48 % state the same. This means that only a minority of the population in England and Poland believe parents' intellectual disabilities is a justified reason for removing a child from the home. It is worth noting that the Norwegian population is considerably more acceptant to a child being removed due to parents' intellectual disability, than the population in the other three countries (Skivenes, in preparation).

Overall, there is generally a high acceptance in the Norwegian population for removing a child from the due to unsatisfactory parental care, regardless of social and/or health problem. In England, Poland and Romania, the level of acceptance varies somewhat more. To remove a child due to parents' alcohol problems is undoubtedly the social problem that has the highest acceptance rate, and quite similar across these four countries, while to remove a child due parents' intellectual disabilities is the least accepted reason, see fig.4.1 (Skivenes, in preparation).

Fig.4.1 – Acceptance for intervention (Source: Skivenes, in preparation)



4.7.4 Removal statistics - Children placed out-of-home and children adopted³⁷

With the exception of Norway, the countries concerned are former communist States. It is clear that the CPS in these countries are still influenced by their communist heritage. Especially the number of children placed in institutional care is a remnant from the communist era. The number of children in institutional care has been addressed as a concern from the CRC Committee in their Concluding Observation pertaining to each of the countries concerned respectively. In Norway, institutional care is not widespread. Skivenes and Søvig (2017) point out that, in Norway, 90 % of children in public care are placed in foster homes, 7 % are placed in residential care and the remaining 3 % are placed in contingency homes, bedsits or housing with follow-up services.

Overall, while the CPS in five out of six countries in this report face similar challenges, such as children in institutional care and domestic violence, the concerns pertaining to the Norwegian CPS differ. The ideology behind the Norwegian CPS is a family service-oriented system. Seemingly, the other countries concerned strive to become more service-oriented in their approach. Reforms have been implemented and legislation has been amended. However, in practice, there is still a gap between the low threshold for intervention and provision of services in Norway compared to the other countries concerned.

Looking at the number of children placed out-of-home, Russia is in its own league with 23 per 1000 children, see table 4.2. Lithuania has the second highest number, with 17.4, Romania third highest with 13.3³⁸, the Czech Republic has 12.12, Poland has 11.00, while Norway has the lowest number of children placed out-of-home with 10.3 per 1000 children.

³⁷ The figures from the Czech Republic, Norway, Poland and Russia are found in 'The International Handbook of Child Protection Systems' (Berrick et al., in press). The figures from Lithuania are found in a report from the Ministry of Social Security and Labour (2018). The figures from Romania are found in a report published by Save the Children România (Onu et al., 2019).

³⁸ According to official sources. Experts on Romanian CPS does, however, state that the number may be significantly higher – due to underreporting.

Table 4.2 - Overview of children placed out-of-home

Country (0-17)	Children placed out-of-home	Children placed out-of-home per 1000 children	Year	Stock or flow*
Czech Republic	26 372	12.1	2018	Stock
Lithuania	8 752	17.4	2017	Stock
Norway	11 612	10.3	2016	Stock
Poland	72 000	11.0	2018	Stock
Romania	52 783 ³⁹	13.3	2018	Stock
Russia	613 000	23.0	2014	Flow

* Stock numbers are measured on a specific day (usually the last day of the year), flow numbers are measured through the year.

Looking at how many children are adopted, Norway has the least children adopted from CPS each year (0.05 per 1000 children) and Russia has the most (4.60 per 1000 children), see table 4.3. In Poland 0.40 per 1000 children are adopted from CPS each year, in Lithuania 0.28, in the Czech Republic 0.23 and in Romania 0.33 per 1000 children. It is unclear, whether these adoptions include also kinship adoptions or whether such adoptions are excluded from the data.

The figures show that Russia has 92 times more adoption cases from CPS than Norway, Poland 9 times, Czech Republic 5 times, and Romania 4 times more. This shows that compared to the other four countries, adoption from care is uncommon in Norway, and undoubtedly most common in Russia.

Table 4.3 - Overview of children adopted from CPS

Country (age of children)	Children adopted from CPS in total	Children adopted from CPS per 1000 children	Year
Czech Republic (0-14 years)	377	0.23	2016
Lithuania (0-17 years)	139	0.28	2017
Norway (0-17 years)	59	0.05	2016
Poland (0-14 years)	2 354 ⁴⁰	0.40	2018
Romania (0-17 years)	1 280	0.33	2017
Russia (0-17 years)	122 600	4.60	2014

³⁹ This may include kinship placements.

⁴⁰ Includes 443 adoptions "blankietowe" [from the form] which means that the mother after giving birth does not take home the child from the hospital. These numbers may include some stepparent adoption.

Chapter 5

Norway in the international context

By

Katre Luhamaa⁴¹

In this final chapter, the report looks at some of the criticism against the Norwegian CPS and the implementation of children's rights. There are three main types of international scrutiny the Norwegian CPS has received – criticism from formal and informal media, official statements from state governments, and criticism from international institutions. The latter will mainly come from the CRC Committee and the ECtHR. This chapter will first provide a thematic overview of the concerns raised by the CRC Committee in the concluding observations of 2018 that relate either to the Norwegian CPS or the implementation of general principles of the CRC (cf. Svrljuga Sætre, 2017). Secondly, the ECtHR has adopted several judgments in recent years criticising the Norwegian CPS. It is important to note that the criticism of the ECtHR derives from individual cases. Thus, it is not possible to state, without further research, whether the problems indicated in the judgments were single incidents or whether they represent systematic failure. It follows that it is important to analyse whether the issues raised in the international dialogue are backed up with similar findings in academic research. In some of these cases, the ECtHR has accepted interventions from third states, Belgium, Bulgaria, Czech Republic (3 cases), Denmark, Italy, Poland, Slovakia (2 cases), and the United Kingdom. This report points out such criticism if it is presented by one of the countries included in the study. Thirdly, several states included in the current study have criticised the Norwegian CPS in the political forums of the Council of Europe.

Informal criticism of the Norwegian CPS from the five countries included in the current study is presented in numerous other forums and forms. Szyma (2018) has analysed the criticism presented in international media against Norway. Her research shows that articles criticising the Norwegian CPS aim at creating controversy and distort source credibility. Stang (2018) has discussed the grass-root criticism and mobilisation in social media and points out that international groups generally protest against the fact that the state has an authority to remove the child from the family. This is an area that would require further research before any further conclusions can be drawn on the type and scope of such criticism in international media and connection of it to the official positions of the states included in the current study.

Academic literature has pointed out several blind spots in the knowledge about the functioning of the Norwegian child protection system together with systematic failures of the Norwegian CPS. While there is sufficient information and research about the general functioning of the CPS, there is a lack of knowledge of some of the details of every-day practice. Falch-Eriksen and Skivenes (2019) have identified the following gaps in Norwegian child-protection research that are relevant for the current analysis: migration and non-discrimination; strong discretionary authority and equality in implementation; education and best practice; voice of the child. Most of these concerns are present also in the international criticism from the CRC Committee.

Case law from the ECtHR has identified violation of Article 8 of the ECHR in five cases relating to child protection in Norway:

⁴¹ The chapter includes minor contributions from Trond Helland.

1. Restricting contact between the removed child and the biological parent (*A.S. v. Norway* 17.12.2019; *K.O. and V.M. v. Norway* 19.11.2019). The court referred to the importance of contact also in previous case-law (*Jansen v. Norway*, 6.09.2018; *Strand Lobben v. Norway [GC]*, 10.09.2019).
2. Violation of procedural rights: procedure has to be based on updated expert evidence (*Strand Lobben v. Norway [GC]*, 2019); limiting contact without appropriate procedure (*Ibrahim v. Norway* 2019).
3. Lack of efforts to reunify the child with the family (*Jansen v. Norway*, 2018).

At the same time, the ECtHR found in two recent cases that Norway did not violate the Convention as the respective child protection processes were in-depth and fair and the removals of children were justified in the best interests of the child (*Hasan v. Norway*, 26.04.2018, *M.L. v. Norway*, 7.09.2017). Four of the seven cases included an element of migration or culture – the applicant in *A.S.* was a Polish national; the applicant in *Ibrahim* was a Somali national; the applicant in the *Hasan* case was born in Iraq; and the *Jansen* case included an applicant with Roma identity. Poland submitted its position in one, and the Czech Republic in three of the cases discussed; there were also other third party interventions. All of the interventions from Poland and the Czech Republic stressed that removals can only be temporary measures and that there is an obligation to reunite the child with their family as quickly as possible; they also stressed the importance of contact and the need to work actively with the biological family to maintain family ties.

During the political dialogue in the Parliamentary Assembly of the Council of Europe (PACE), the Norwegian CPS has received criticism in two main contexts. Firstly, there are individual questions or initiatives of the members of the PACE. During such communications, the following has been pointed out as problematic:

1. Removal of a child should be a temporary measure and Norway should work harder on reuniting families (CoE Committee of Ministers, 2016). During this discussion Romania pointed out that it was holding a constructive bilateral dialogue with Norway relating to childcare cases. The resolution stressed the need to fully implement the CRC.
2. Group of representatives in the PACE pointed out⁴² that Norway does not prioritise placement of migrant children removed from the family to a biological family and close relatives. They also stressed difficulties relatives face when trying to receive information from the Norwegian authorities (PACE, 2015).

The Norwegian CPS was also discussed in the context of the draft resolution and a report to the CoE Committee on Social Affairs, Health and Sustainable Development ‘Striking a balance between the best interest of the child and the need to keep families together’ (Ghiletchi, 2018). This report was then a basis for the PACE Resolution 2232 (2018). Although the resolution itself does not discuss the Norwegian CPS, the explanatory memorandum only gives an overview of the Norwegian CPS, as it “was highlighted in the motion for a resolution as a country facing particular issues”. The report points out that international criticism against Norway has been triggered by particular removal cases.⁴³ The report brings out as most problematic the limited rare and short visitation rights of the parents, especially in cases where the child is removed at an early age (Ghiletchi, 2018, para. 34).

⁴² This written declaration was not adopted as a declaration or resolution of the Committee of Ministers, but reflected the individual views of some members of the PACE. Persons supporting the declaration were from Lithuania, Croatia, Armenia, Latvia, Georgia, Czech Republic, Moldova, Poland, Serbia, and Ukraine.

⁴³ It brings out, in particular, a case where five children were removed from the Romanian-Norwegian family and that triggered international criticism towards Norwegian CPS in Romania and other countries. (Ghiletchi, 2018, paras. 12–13)

Summarising from above, different sources of international criticism focus on the treatment of migrants, limited contact and reunification arrangements in the Norwegian CPS. International research has also indicated that children's participation and wide discretionary authorizations to decision makers are problems that need to be addressed (e.g. Falch-Eriksen and Skivenes, 2019). These aspects of the Norwegian CPS are thematically analysed by looking at both international criticisms as well as academic research.

5.1 Migrant families and non-discrimination

Research shows (Falch-Eriksen and Skivenes, 2019) that migrant families are overrepresented in Norwegian CPS in-home measures, whereas they are not overrepresented in out-of-home care measures. This is to be expected, as in-home measures are voluntary and aimed at supporting integration of the child and the family. They also point out that there is a lack of clear knowledge of what the deficiencies voluntary in-house services aim to remedy are, and whether these services are substantively voluntary or whether there is more subtle coercion used.

At the same time, international criticism from the CRC Committee and the ECtHR has pointed out that there are deficiencies in maintaining contact between the child and the biological family, thus possibly affecting the cultural identity of the child. The CRC Committee has questioned whether children with an immigrant background are being exposed to different types of discrimination – children belonging to minority populations who are placed in alternative care are at risk of losing their connection with their native culture and language. They further worry that there is insufficient communication and information exchange between the child welfare services and migrant families (CRC Committee, 2018a, paras. 11(b), 20(f, g)). In this context, the CRC Committee recommends that Norway reviews the procedures for removing children in emergency cases and ensures that no form of coercion is used. It further recommends regular training of relevant professionals. In particular, Norway should take measures necessary, including adequate training of personnel, to ensure that children belonging to an indigenous or national minority group who are placed in alternative care learn about and maintain their connection to their native culture; there is also need to improve communication and information exchange between child welfare services and families, in particular migrant families (CRC Committee, 2018a, para. 21(b,f,g)).

Identity of the child and contact with culture and language of the birth parents was a focal matter in the *Ibrahim v. Norway* case, where the Court pointed out that where public care had been imposed, the authorities had a duty to take measures to facilitate family reunification as soon as reasonably feasible. While the child's best interests could override those of a parent, family ties could only be severed in very exceptional circumstances. In the Ibrahim case, the national authorities placed more importance on the opposition of the parents to open adoption, while less attention was given to the applicant and her child enjoying a family life through maintaining contact, and relating to their cultural and religious background. Reunification, acknowledgment of the importance of the identity of the child, together with the need to maintain at least limited contact, also prompted the adoption of the PACE Resolution 2232 (2018).

There is further need to study the work with the family and the way the system currently assesses reunification prospects in care order cases. Such analysis should pay particular attention to the sensitivity towards the culture and background of the biological parents.

Sensitivity to discrimination is relevant also in a wider context – all the members of staff in Norwegian educational institutions and other officials having contact with children have an obligation to report possible child maltreatment cases. Thus, biased understanding can result in under- or over-reporting of child protection cases. While over-reporting can be remedied by a professional and appropriately educated child protection work and social work, under-reporting cannot be easily remedied. Yet, studies examining populations view on corporal punishment and reporting to child protection authorities, that test for biases towards migrants, do not find biases

relating to migrant background in attitudes nor on reporting corporal punishment of children (Helland et al., 2018).

5.2 Strong discretionary powers and equality

Falch-Eriksen and Skivenes (2019) point out that the practice between different parts of Norway varies. As discussed above, primary responsibility for the provision of CPS lies on the local municipalities who have strong discretionary powers. Differences in practice also relate to limited clarity in concepts and principles used.

The CRC Committee has pointed to the same problem in the context of both the implementation of the best interests of the child in general as well as in the particular context of the CPS in Norway. First, the Committee noted that there is a lack of a clear criteria of what constitutes as the child's best interests, used by all authorities who make decisions affecting children (CRC Committee, 2018a, para. 13(a)). Secondly, the Committee referred to the need to integrate the best interests of the child principle and ensure that it is consistently interpreted and applied in all legislative, administrative and judicial proceedings and decisions (CRC Committee, 2018b, para. 13(b)). In the context of CPS, the Committee noted that it has received reports of separations of children from their families that may not always have been in the child's best interests, and the use of coercion in some cases of separation. Furthermore, there are significant disparities among Norwegian municipalities regarding the number of out-of-home placements (CRC Committee, 2018b, paras. 20(a-c)). The Committee recommends remedying this situation by ensuring that all municipalities follow the same criteria regarding out-of-home placements and that professionals receive regular training. The Committee also recommends researching the reasons behind the significant disparities among counties regarding children subjected to alternative care measures and emergency placements (CRC Committee, 2018b, paras. 21(a-c)).

This criticism is backed up by research showing a lack of professional guidelines and instructions that would steer professional judgment of the Norwegian CP workers. Falch-Eriksen and Skivenes (2019) connect this lack of clarity with the autonomy or discretion of the CPS, and point out that extensive autonomy and strong discretion facilitates variance and challenges equal treatment. Strong autonomy results in variations on how legal criteria are used and how rights are protected. Falch-Eriksen and Skivenes (2019) also point out that the majority of child protection workers have a general social work background and not an education specifically in child protection. They also point out that the short length and insufficient content of the child protection education is likely to hinder consistent child protection work.

5.3 Contact arrangements and reunification

All five recent judgments of the ECtHR where Norway has been found to violate Article 8 in child protection matters have pointed to the fact that typical contact arrangements in the Norwegian CPS do not facilitate connection and possible reunification between the child and the parent. Among the five countries included in the current report, the Czech Republic has intervened in three of the cases and stated that limited contact arrangements is a systematic practice in the Norwegian CPS. Czech authorities argue that such practice is in conflict with the requirement to facilitate family reunification as soon as possible.

There is a lack of systematic analysis of the contact arrangements in care order decisions in Norway. In its report to CRC Committee, Norway recognises that it does not have good aggregated statistics on the number of children reunified with the biological family after a period of separation from the family (CRC Committee, 2016b). Statistics show that approximately one third of applications for reunification after the removals in 2017 and 2018 resulted in reunification (160 and 165 respectively); such applications amounted to approximately half of the total number of care orders

made in a year (Sentralenheten for fylkesnemndene, 2019).⁴⁴ Nevertheless, there is limited information available on what the typical contact arrangements in different types of removal cases are, what is the variance of such contact arrangements and what precisely are the measures through which CPS aim to facilitate reunification (Skivenes, 2019b). All the five recent cases discussed by the ECtHR suggest that there might be a systematic failure in contact arrangements system that needs further analysis (*Jansen v. Norway*, *Strand Lobben v. Norway*, *K.O. and V.M. v. Norway*, *A.S. v. Norway*, *Ibrahim v. Norway*). Similarly, the CRC Committee also recommends that Norway reviews its practice in limiting the contact rights of parents (CRC Committee, 2018b, para. 21(a)).

5.4. Respect for the views of the child

Norway has set a guiding age for informing and hearing the child (7 years), which contradicts the recommendations from the CRC committee. Research indicates that the age limit is quite strictly followed, i.e. children over 7 are usually heard and children below this age rarely heard (Amy McEwan-Strand and Marit Skivenes, In Press). The CRC Committee has emphasized that the practices in Norway on the child's rights to be heard are not fully and uniformly implemented in practice (CRC Committee, 2018a, para. 14). This recommendation is closely connected to the evaluation of the best interests of the child. The CRC Committee recommends that professionals should receive adequate and regular training about children's right to be heard. Similar limitations have been noted by previous research (Archard and Skivenes, 2009b; Skivenes, 2011; Magnussen & Skivenes, 2015; McEwan-Strand & Skivenes, in press).

The Committee stresses that the right to be heard is especially important to children in vulnerable situations.⁴⁵ The Committee recommends that Norway ensures children are informed about their rights to participate in all cases affecting them and stresses the need to train professionals to ensure age-appropriate, meaningful and empowered participation (CRC Committee, 2018a, paras. 14 (a; c; d)).

The new guidelines on the dialogue with children (Fylkesnemndene, 2019) is an important step in supporting unified and better practices for hearing the child and including the child in the proceedings. It is positive that special attention is paid to the fact that low age and vulnerability should not limit the child's opportunity to give his or her views and be heard (ibid, p. 2).

5.5 Accountability of decision-making

Research of eight jurisdictions shows (Burns et al., 2019) that adoptions from care proceedings are, in general, not sufficiently transparent or accountable. This, in turn, creates myths and limits trust in these proceedings. Although the Norwegian system is, in principle, a frontrunner in terms of accountability compared to the other seven jurisdictions analysed – allowing e.g. for transparency, legal aid and appeals, there is still some room for improvements in terms of transparency and outreach to the public about the adoption proceedings (Burns et al., 2019).

5.6 Emergency removals

A concern raised by researchers on the Norwegian CPS, is the increase in children removed from their homes. However, it is not care orders issued by the County Board that are a concern, rather, it is the growing number of emergency placements issued by the Norwegian CPS (Skivenes and Søvig, 2017). Skivenes and Søvig (2017) point out that the increase in emergency removals was greater than the increase in care orders. They also found that there had been an increase in voluntary

⁴⁴ In 2017 there were 776 Barnevernloven § 4-8 care orders made, at the same time, there were 414 applications for reunifications; in 2018 there were 711 § 4-8 care orders, and 440 reunification applications made (Information received by email from the Central Unit of the County Boards, 2019).

⁴⁵ E.g. children with disabilities, children of a younger age and migrant, asylum-seeking and refugee children.

placements in later years. However, the significance of the findings is yet to be determined: ‘The expansion of emergency placements and voluntary placements clearly require further investigation ... the fact that so many children are being removed voluntary or by an emergency removal, may indicate that an alternative legal route for removals of children that does not involve the county board is needed.’ (Skivenes and Søvig, 2017, pp. 59–60). The use of voluntary placements and the lack of knowledge about the placement situation for the children as well as the potential misuse of power and force, have also been criticised by Skivenes (Skivenes, 2011; Skivenes et al., 2015).

The CRC Committee has made similar observations and noted that there is a need to review the procedures for removing children in emergency cases and provide for a more sensitive approach, ensure that no form of coercion is used and provide regular training to relevant professionals (CRC Committee, 2018b, para. 21(b)). In Norway, there has recently been a focus on reducing the use of emergency placements and to improve the situation for children when emergency interventions are necessary (Sentralenheten for fylkesnemndene, 2019); however, there has still been an overall increase during the last eight years (Falch-Eriksen and Skivenes, 2019).

It is especially important to review and study the effect of the emergency procedures for the reunification and its connection to contact arrangements. Recent practice of the ECtHR shows that initial removal of young children without sufficient support and attention to reunification or contact rights might have negative consequences for the child’s right to family life and the right to identity and culture.

Concluding remarks

Overview of international and academic scrutiny shows that the Norwegian CPS has some problems and blind spots. However, some of the international criticism presented is not substantiated with data nor research. Thus, there is a need for more knowledge and insight to the areas the critics point to.

Most of the criticism and recommendations refer to the need for consistent child protection practice, equality among different groups and territories in Norway, together with attention and sensitivity towards minorities and migrants. Training of child protection workers is seen as one of the central tools that would support a more coherent implementation of child rights and national child protection criteria.

The Norwegian legislation aims at supporting families and providing necessary services to children and families. International and academic scrutiny shows that there are concerns whether such services sufficiently reach vulnerable families. Recent case law of the ECtHR shows the need to analyse the removal procedure from the perspective of the rights of the biological parents. All of the recent cases where the Court has found a violation of Article 8 of the ECHR, have touched upon some procedural rights of biological parents and the corresponding obligations of the state.

Furthermore, these cases also indicate the need to pay attention to the cultural background of the biological parents together with the identity of the child. Lack of kinship placements has been a problem raised by the four states included in the study both in the cases of the ECtHR as well as in other international forums. Thus, supporting biological parents in the removal process and supporting the child’s identity are other topics that require both further attention and research.

It has to be noted that while some of the blind spots identified are well researched, others need further analysis. For example, it is impossible to conclude whether the criticism on contact arrangements in Norway is incidental or shows a systematic problem of the Norwegian CPS. There is also a further need to study the regional discrepancies of the child protection practice.

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National legislation

Norway

Kongeriket Noregs grunnlov (The Constitution of the Kingdom of Norway), 1814, LOV-1814-05-17; FOR-2018-06-01-788.

Lov om barneverntjenester (Child Welfare Act), 17.07.1992, LOV-1992-07-17-100; LOV-2019-06-21-30.

Czech Republic

Ústava České republiky (The Constitution of the Czech Republic), 1992, No. 1/1993.

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Lithuania

Lietuvos Respublikos vaiko teisių apsaugos pagrindų įstatymas (Law on the Fundamentals of the Protection of the Rights of the Child)

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Poland

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Romania

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Russia

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Appendices

The following chapter present the indicators which the rankings in chapter 3 are built upon. Appendix A is the indicators of the KidsRights Index, Appendix B is the scorecard from the CRIN report, Appendix C is the indicators of the WJP ranking and lastly Appendix D is an overview of the child population in each of the countries concerned.

The information presented in Appendix A-C is available from the webpage of each of the rankings:

Appendix A – www.thekidsrightsindex.org

Appendix B – www.home.crin.org

Appendix C – www.worldjusticeproject.org

Appendix A – Definition of indicators KidsRights Index

Definition of indicators are gathered from ‘Definitions of the indicators in the KidsRights Index’, see KidsRights Index (2018).

1. *Right to life*

- **Under-5 mortality rate** - Probability of dying between birth and exactly 5 years of age, expressed per 1,000 live births.
- **Life expectancy at birth** - Number of years new-born children would live if subject to the mortality risks prevailing for the cross section of population at the time of their birth.
- **Maternal mortality ratio** - Number of deaths of women from pregnancy-related causes per 100,000 live births during the same time period.

2. *Right to health*

- **Underweight** - Number of under-fives falling below minus 2 standard deviations (moderate and severe) and minus 3 standard deviations (severe) from the median weight-for-age of the reference population.
- **Immunization (MCV1)** - Percentage of surviving infants who received the first dose of the measles-containing vaccine.
- **Use of improved drinking water sources** - Percentage of the population using any of the following as their main drinking water source: drinking water supply piped into dwelling, plot, yard or neighbour’s yard; public tap or standpipe; tube well or borehole; protected dug well; protected spring; rainwater; bottled water plus one of the previous sources as their secondary source.
- **Use of improved sanitation facilities** - Percentage of the population using any of the following sanitation facilities, not shared with other households: flush or pour-flush latrine connected to a piped sewerage system, septic tank or pit latrine; ventilated improved pit latrine; pit latrine with a slab; composting toilet.

3. *Right to education*

- **Expected years of schooling of girls** - Number of years of schooling that a girl of school entrance age can expect to receive if prevailing patterns of age-specific enrolment rates persist throughout the child’s life.
- **Expected years of schooling of boys** - Number of years of schooling that a boy of school entrance age can expect to receive if prevailing patterns of age-specific enrolment rates persist throughout the child’s life.

- **Gender inequality in expected years of schooling** - Number of years of schooling that a child of school entrance age can expect to receive if prevailing patterns of age-specific enrolment rates persist throughout the child's life, expressed the absolute difference between girls and boys

4. *Right to protection from exploitation and violence*

- **Child labour** - Percentage of children 5–14 years old involved in child labour at the moment of the survey. A child is considered to be involved in child labour under the following conditions: (a) children 5–11 years old who, during the reference week, did at least 1 hour of economic activity or at least 28 hours of household chores, or (b) children 12–14 years old who, during the reference week, did at least 14 hours of economic activity or at least 28 hours of household chores.
- **Adolescent birth rate** - Number of births per 1,000 adolescent girls aged 15–19.
- **Birth registration** - Percentage of children less than 5 years old who were registered at the moment of the survey. The numerator of this indicator includes children reported to have a birth certificate, regardless of whether or not it was seen by the interviewer, and those without a birth certificate whose mother or caregiver says the birth has been registered.

5. *Enabling environment for children's rights*

- **Non-discrimination** (Article 2) - The extent to which a country has operationalized the general principle of non-discrimination. The Convention applies to all children, whatever their race, religion or abilities; whatever they think or say, whatever type of family they come from. It doesn't matter where children live, what language they speak, what their parents do, whether they are boys or girls, what their culture is, whether they have a disability or whether they are rich or poor. No child should be discriminated unfairly on any basis.
- **Best interests of the child** (Article 3) - The extent to which a country has operationalized the general principle of the best interests of the child. The best interests of children must be the primary concern in making decisions that may affect them. All adults should do what is best for children. When adults make decisions, they should think about how their decisions will affect children. This particularly applies to budget, policy and law makers, public or private welfare institutions, courts of law and administrative authorities.
- **Enabling legislation** (Article 4) - The extent to which there is a basic 'infrastructure' for making and implementing child rights policy, with a particular emphasis on the legal framework for protecting and promoting children's rights. According to the CRC, States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the Convention.
- **Best available budget** (Article 4) - The extent to which there is a basic 'infrastructure' for making and implementing child rights policy in the form of providing the maximum resources available to a country for protecting and promoting children's rights. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.
- **Respect for the views of the child/child participation** (Article 12) – The extent to which a country has operationalized the general principle of respect for the views of the child. When adults are making decisions that affect children, children have the right to say what they think should happen and have their opinions taken into account. This does not mean that children can now tell their parents or others what

to decide or do. The CRC encourages adults to listen to and seriously consider the opinions of children and to involve them in decision-making – but not to give children authority over adults. Article 12 does not interfere with the parental right and responsibility to direct and guide their child in exercising her/his rights or with the parental right to express their views on matters affecting their children. Moreover, the Convention recognizes that the level of a child's participation in decisions must be appropriate to the child's level of maturity or evolving capacities. Children's ability to form and express their opinions usually develops with age and most adults will naturally give the views of teenagers greater weight than those of a pre-schooler, whether in family, legal or administrative decisions.

- **Collection and analysis of disaggregate data** (implied in Article 4) – The extent to which there is a basic 'infrastructure' for making and implementing child rights policy in the form of the collection and analysis of disaggregated data (data collected on the situation of particular (groups of) children in a country or children in a particular location) to protect and promote children's rights. State – civil society cooperation for child rights (implied in Articles 3 and 5) – The extent to which there is a basic infrastructure⁷ for making and implementing child rights policy in the form of an effective cooperation for children's rights between the state and civil society.

Appendix B – Access to justice for children report card

ACCESS TO JUSTICE FOR CHILDREN: COUNTRY REPORT CARD¹

[Country]

I. Legal Status of the Convention on the Rights of the Child (CRC)	
A. CRC takes precedence over conflicting legislation (/10) (no = 0; partial = 5; yes = 10)	
B. CRC has been incorporated into national law (/10) (no = 0; partial = 5; yes = 10)	
C. CRC is directly enforceable in domestic courts (/10) (no = 0; interpretive guidance = 3; some direct, some interpretive guidance = 6; yes = 10)	
D. CRC has been applied in legal proceedings (/10) (no = 0; not systematically = 5; systematically = 10)	
E. OP3 is ratified (/5) (no = 0; yes = 5)	
SCORE /45:	

II. Legal Status of the Child	
A. Full range of legal claims is available to challenge rights violations (/20)	
Specific standards: (2.5 each)	
<ul style="list-style-type: none"> • violations can be challenged even if they are not crimes • can bring private prosecutions where the State will not carry out a criminal prosecution itself • can challenge deprivation of liberty and/or lawfulness of detention • mechanisms exist to investigate allegations against officials 	
Independent bodies capable of taking complaints before or on behalf of children: (2 each)	
<ul style="list-style-type: none"> • Independent institution exists with mandate that covers the protection and promotion of children's rights • There is a specific department or person within the relevant institution that specifically deals with children's rights • Institution is empowered to receive and address complaints in relation to violations of children's rights • Institution has a transparent appointment procedure • Institution is empowered to review State's progress in realising children's rights 	
B. Children can bring cases alone or via a representative (/7.5)	
Case can be brought in child's name (no = 0; yes = 2.5)	
Is generally not required to bring proceedings through a guardian ad litem or litigation friend (no = 0; yes = 2.5)	
No conflict of interests in appointments of representatives (no = 0; yes = 2.5)	

¹ This report card is based on CRIN's Access to Justice for Children: Model Report, available at www.crin.org/en/node/31972/.

C. Parents/guardians can bring cases on behalf of very young children (/10)	
Parents' ability to act on behalf of child is tempered by the principle of the best interests of the child (no = 0; partial = 5; yes = 10)	
D. Children/representatives are eligible for free legal assistance (/30)	
Settings: (2 each)	
<ul style="list-style-type: none"> • civil • criminal • administrative • family • all other judicial settings 	
Right to a lawyer of own choosing (no = 0; yes = 5)	
Right to lawyer with experience commensurate with nature of claim / offence (no = 0; yes = 5)	
Right to legal aid throughout the criminal process from arrest to trial and appeal (no = 0; partial = 5; yes = 10)	
E. No further legal limitations/conditions on children/representatives bringing, running or settling cases (/5) (deduct 1 for each limitation/condition)	
SCORE /72.5:	

III. Challenging Children's Rights Violations	
A. Children have complete access to all courts, complaints mechanisms (/10)	
Settings: (2.5 each)	
<ul style="list-style-type: none"> • criminal • civil • administrative • informal, customary or alternative justice mechanisms available where appropriate 	
B. Courts have broad powers to remedy rights violations (/16)	
Remedies: (2 each)	
<ul style="list-style-type: none"> • restitution • compensation • stop the enforcement of a law • stop the enforcement of subsidiary legislation • order government to take steps to prevent a violation • launch investigation OR bring proceedings at the court's initiative • guarantee non-repetition • repeal of law (partial = 1) 	
C. Widespread violations can be challenged without naming individual victims (/10)	
Named victims are not required (no = 0; partial = 5; yes = 10)	
D. Children can file group litigation to challenge multiple violations (/10)	
Group and collective litigation available (no = 0; partial (selected types of actions only) = 2.5; yes = 7.5)	
Courts have the power to combine cases to offer clear, consistent	

pronouncements of the law (no = 0; yes = 2.5)	
E. Non-governmental organisations can file, intervene in cases (/10)	
Can file (no = 0; yes = 7.5)	
Can intervene (no = 0; yes = 2.5)	
SCORE /56:	

IV. Practical Considerations	
A. Venue (/5)	
Formal restrictions relaxed as necessary and appropriate (no = 0; partial = 2.5; yes = 5)	
B. Legal aid / costs (/5)	
Court fees and case related expenses are not payable (no = 0; yes = 5)	
C. Pro-bono / financing (/10)	
Active legal and bar associations that offer pro-bono representation (no = 0; yes = 5)	
Systematic procedures to promote pro-bono (no = 0; yes = 5)	
D. Timing (/10)	
Limitation periods do not begin to run until a child reaches the age of 18 (no = 0; yes = 5)	
No time limitation period for "serious violations of international humanitarian law" (no = 0; yes = 5)	
E. Evidence (/7.5)	
Children may testify or give evidence in court proceedings (no = 0; yes = 2.5)	
Opportunity to give evidence not under oath where this is not understood (no = 0; yes = 2.5)	
Child friendly procedures to facilitate the giving of evidence (no = 0; yes = 2.5)	
F. Resolution (/10)	
Cases involving children are resolved without undue delay (no = 0; partial = 5; yes = 10)	
G. Appeal (/10)	
Children have right to appeal (no = 0; partial = 5; yes = 10)	
H. Impact and follow-up (/10)	
Judicial decisions are enforced and respected (no = 0; partial = 5; yes = 10)	
I. Privacy (/10)	
Privacy of children involved in legal proceedings guaranteed by law; public can be excluded; personal details unpublished (no = 0; yes = 10)	
J. Right to be heard (/10)	
Explicit provisions in place to guarantee children's right to be heard and for his or her views to be taken into account during legal proceedings (no = 0; partial = 5; yes = 10)	
SCORE /87.5:	

TOTAL WEIGHTED SCORE /261 =

Appendix C – World Justice Project indicators

1. *Constraint on Government Powers*

- a. Government powers are effectively limited by the legislature
- b. Government powers are effectively limited by the judiciary
- c. Government powers are effectively limited by independent auditing and review
- d. Government officials are sanctioned for misconduct
- e. Government powers are subject to non-governmental checks
- f. Transition of power is subject to the law

2. *Absence of Corruption*

- a. Government officials in the Executive Branch do not use public office for private gain
- b. Government officials in the judicial branch do not use public office for private gain
- c. Government officials in the police and the military do not use public office for private gain
- d. Government officials in the legislative branch do not use public office for private gain

3. *Open Government*

- a. Publicized laws and government data
- b. Right to information
- c. Civic participation
- d. Complaint mechanisms

4. *Fundamental Rights*

- a. Equal treatment and absence of discrimination
- b. The right to life and security of the person is effectively guaranteed
- c. Due process of law and rights of the accused
- d. Freedom of opinion and expression is effectively guaranteed
- e. Freedom of belief and religion is effectively guaranteed
- f. Freedom from arbitrary interference with privacy is effectively guaranteed
- g. Freedom of assembly and association is effectively guaranteed
- h. Fundamental labour rights are effectively guaranteed

5. *Order and Security*

- a. Crime is effectively controlled
- b. Civil conflict is effectively limited
- c. People do not resort to violence to redress personal grievances

6. *Regulatory Enforcement*

- a. Government regulations are effectively enforced
- b. Government regulations are applied and enforced without improper influence
- c. Administrative proceedings are conducted without unreasonable delay
- d. Due process is respected in administrative proceedings
- e. The Government does not expropriate without adequate compensation

7. *Civil Justice*

- a. People can access and afford civil justice
- b. Civil justice is free of discrimination
- c. Civil justice is free of corruption

- d. Civil justice is free of improper government influence
- e. Civil justice is not subject to unreasonable delays
- f. Civil justice is effectively enforced
- g. ADRs are accessible, impartial, and effective

8. *Criminal Justice*

- a. Criminal investigation system is effective
- b. Criminal adjudication system is timely and effective
- c. Correctional system is effective in reducing criminal behaviour
- d. Criminal justice system is impartial
- e. Criminal justice system is free of corruption
- f. Criminal justice system is free of improper government influence
- g. Due process of law and rights of the accused

Appendix D – Child population

There are differences between the countries with regard to how child population is measured. In order to get a comparable figure, the report have used an estimate, calculated from the UN World Population Prospects 2019 (United Nations, 2019). In the estimate, children are considered to be between 0-19 years. Which entails that 18 year olds are included in the child population, even though they are not considered to be children.

Estimate of child population (0-19 years) in 2020

Country	Child population total	Child population (% of the total population)	Children (age range, year)
Czech Republic	2 176 000	20.30 %	0-19 (2020)
Lithuania	544 000	20.00 %	0-19 (2020)
Norway	1 258 000	23.20 %	0-19 (2020)
Poland	7 495 000	19.80 %	0-19 (2020)
Romania	3 981 000	20.70 %	0-19 (2020)
Russia	33 879 000	23.20 %	0-19 (2020)

Source: UN World Population Prospects 2019