

Organising Transregional Child Protection within the Greater Region of France, Germany, Belgium and Luxembourg

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1 Introduction

In the Interreg research project, EUR&QUA (2016-2020), we observed the transregional organisation of child protection in the Greater Region. By referring to the concept of transregional organisation of child protection, we emphasise our perspective in researching the constituting role of boundary-crossing interactions as a characteristic of the modern world. The Greater Region provides a specific example for this. The Greater Region (formerly the SaarLorLux Region) extends over the borders of four nations (the German states of Saarland and Rhineland-Palatinate, the French region of Lorraine, the Grand Duchy of Luxembourg and the Belgian region of Wallonia as well as the German-speaking community in East Belgium). It can be characterised as a European cooperation area (Schriftenreihe der Großregion, 2018, p. 9). Crossing borders in the Greater Region is part of everyday life for the adults living here.

It is interesting to note that children in the Greater Region also cross borders in the context of child and youth welfare. However, the effects of this particular type of border crossing on children, their parents, their siblings and the child and youth welfare organisations are still largely unknown. The nation state forms the quasi natural point of reference in social work. This methodological nationalism (Beck, 2010) has been increasingly questioned in social work against the background of phenomena that cross nation-state borders (Bähr et al., 2014; Schwarzer et al., 2016). These include economic, cultural, political and social relations that transcend nation-state borders, such as migration, transnational corporations (Pries, 2001) and transnational social movements (Schröder, 2015). The increasing dissolution of the boundaries of human relations gives rise to transnational problems that cannot be addressed by social work that is purely nation-state oriented and anchored in the welfare state. In the field of research on transnational problems of social work, attention has so far focused on those phenomena that are not produced by welfare state arrangements themselves. Research has been conducted on transnational problems that have become the focus of welfare state arrangements as a result of the ‘second modernity’.

Böhnisch and Schröder (2017) describe the second modernity as a time of blurring boundaries, in which social, economic and political factors continue to play a central role, but climatic or ecological factors are added to this. From a social work perspective, climatic factors have been regarded as irrelevant although they affect the poor much more than the rich. The most serious social consequences of this are poverty and forced migration.

The focus of the Interreg EUR&QUA project (which began in 2016) has been on studying the situation of parents and children who receive social support in the Greater Region. We are specifically interested in learning how the rights of children are taken into account and

respected in situations of social support and how the professionals from the different countries work with the participating families.

Against the background of our research, we consider transregional placements to be useful only in exceptional cases, namely when they are based on a rights-based approach. The best interests of the child and the participatory rights of the child under the UN Convention on the Rights of the Child (Article 3: best interests of the child and Article 12: consideration of the will of the child) are decisive at this point.

2 State of the Art: in the Best Interest of the Child

Particularly in the care sector, the often forced migration of (predominantly) women causes an emotional burden on the family left behind and especially on the children at home. Pyle (2006) argues, for example, that women migrating provide care but, in return, they and their families often experience care deficits (p. 309). Besides, in the receiving country "migrating women can encounter a range of economic, social, and political abuses that involve discrimination based on ethnicity, race, nationality, class, religion, and age" (ibid. p. 309). In their study of Vietnamese migrants, Hoang and Yeoh (2012) show that deprivation is not limited to female migration but also affects fathers. On the other hand, they argue that while maintenance via communication media is important, it cannot replace physical presence and that, in the long run, separation leads to strong emotional stress within transnational families. The often precarious situation of families in the arriving countries and the difficulty of maintaining transnational family relationships pose new challenges for child and youth welfare professionals.

The dark sides of forced migration, which lead to social problems in both the countries of origin and countries of arrival, are confronted with a hope. As Pries (2013) argues: it is precisely in the transnationalisation of the social world that the foundations and possibilities for a - if not global, then at least - transnational civil society are emerging. The 'traveling idea' of children's rights is an example of this, spanning from the Genova Declaration (1924) to the United Nations Declaration of the Rights of the Child (1959) and the United Nations Convention on the Rights of the Child (1989). On the basis of sources collected in the archives of international (non-/inter-)governmental organisations, Moody (2014) elaborates the *transnational nature* of the idea: "Children's rights standards can in this respect be considered as the lowest common denominator likely to assemble the international community in a particular world context, rather than solely an extension of Western norms" (p. 163).

The UN Convention on the Rights of the Child includes all children 0-18 years of age. At the centre of this convention is the recognition of children as human rights holders. In all its actions, the state must take into account the best interests of children or of the individually affected child. The implementation of the Convention on the Rights of the Child is the responsibility of the nation states in their respective territories. For all children's rights, the various children's rights are equally important; impairments of one child's rights usually result in restrictions of another child's rights (Prengel, 2016, p. 32f.). In this respect, the protection, provision and participation rights (so-called 'triple p') laid down in the UN Convention on the Rights of the Child are inevitably interrelated. In addition to the three essential principles of the UN Convention on the Rights of the Child,

- the right of the child to life and personal development (Article 6),
- the right of the child to equal treatment and non-discrimination (Article 2), and

- the right of the child to freedom of expression and free will (Article 12),

Article 3 of the UN Convention on the Rights of the Child is a key guideline for the consideration of the welfare of children and adolescents (Gerarts & Wutzke, 2020, p. 16f.). These considerations raise the following research questions:

- With regard to protection rights: How is transregional child protection guaranteed in the Greater Region?
- With regard to provision rights: What are the professional practices in transregional cooperation?
- With regard to participation rights: What does transregional accommodation in the Greater Region mean for parents and children?

With the entry into force of the Brussels IIa Regulation in 2005 and the Hague Convention on the Protection of Children in 2011, there are binding procedures for accommodations abroad. A so-called consultation procedure regulates what is to be done in international cooperation if parents move abroad after indications of a threat to the child's welfare, if child abductions occur or if cross-border placement appears necessary because the parents of a child with a migration background die, are imprisoned or have had custody withdrawn from them (Sievers, 2013).

Childhood care is considered an international concern: "childhood and adolescence [are seen as] a generative core of social policy, not only within national welfare systems, but also beyond" (Köngeter et al., 2015, p. 73). With reference to the EU discourse, Herczog (2012) contends that a high return of investment in children is debated here primarily when it comes to programmes (and their financing) that are ostensibly oriented towards children's rights. In her analysis she can show that for this economical reasoning, two of the three overarching categories based on the principle of best interest of the child are in the foreground: the provision of services and the protection from harm and all forms of violence. However, the category of enabling participation in all matters affecting children is neglected (p. 552).

In migration research, too, the view of children's participation is treated as a desideratum. In migration processes, children are an important reason why families move across national borders and maintain transnational ties. Orellana et al. (2001), for example, point out that children also actively participate in shaping the way their families travel, the spaces in which they move and their experiences within these social spheres. Himmelbach (2011) shows, in her study on child trafficking, how children come into view as actors in a transnational and child-centred perspective, where they particularly can communicate their experiences and their knowledge. Herczog (2012) opposes the investment in the future argument with a rights-based approach:

A rights-based approach consists in a set of values and standards and a comprehensive and inclusive manner that apply to all children and their best interest, and the development of their capacities. It emphasises well-being and not only well-becoming. It is essential to ensure that 'no child is left behind', 'every child matters', and that the principles of the CRC are taken into consideration by ensuring the best interest, non-discrimination, protection from all forms of violence, and participation (p. 542).

We will also orient ourselves on this right-based approach when it comes to critically assessing how transregional placement of children in the Greater Region is organised. We are thus breaking new ground in research on transnational care work in social work in that the

phenomenon has so far been brought into focus transnationally primarily through forced migration and not, as in our study, initiated by social work organisations themselves.

3 Differences between Child and Youth Welfare Systems in the Greater Region using the Examples of France, Luxembourg and Germany

Within the Greater Region, cases of cross-border placement of children must be resolved in accordance with the requirements of Art. 56 Brussels IIa Regulation. This means that in the case of the placement of a minor, the foreign court or the foreign authority must consult the relevant authority of the receiving state before initiating the measure. The involved contracting parties are obliged to execute a consultation process (BAG Landesjugendämter 2016). Preliminary questions regarding the material custody situation are regulated by the law that defines The Hague Convention on the Protection of Children as the applicable one; generally, this is the law of the state in which the child is a habitual resident. The following legal frameworks are relevant: the Brussels IIa Regulation, the Hague Convention on the Protection of Children (HCCH) and the International Family Law Procedure Act (IFLPA/German: IntFamRVG). If the concerned child is to be accommodated in Germany, the procedure must be carried out in accordance with §§ 45 - 47 IntFamRVG. Despite the legal regulations, child and youth welfare in the Greater Region is primarily presented within the framework of the nation state. As a result, problems are defined by the nation state, and there are hardly any transnational solutions (Schröder & Schweppe, 2018, p. 1695). With cross-border measures, this often leads to difficulties in cooperation and understanding regarding the intervention with/of professionals beyond the borders. As we will refer mainly to the national welfare systems of France, Germany and Luxembourg, we will provide a brief introduction to the operational child welfare systems in each of these countries. The criteria for the introduction of the child welfare systems are: government regulations, the age groups and protection options.

In France, the central government is the main actor in social services. Voluntary organisations play a rather weak role. In the course of deconcentration and decentralisation in recent years, single areas of responsibility have been transferred to the local authorities. The prefect represents the state at the regional and departmental level within the framework of social services (ESTES, 2017, p. 21). In international comparison, however, the French state family policy with the appropriate infrastructure for children and families is highly developed (Bahle, 2007, p. 143). The main structural features are the great importance of central government regulations and public institutions, a high share of social security in their financing as well as a weak position of free public welfare (ibid.). The concept of child and youth welfare does not exist on a professional level in France, but is referred to as social assistance for children, because the French system of social assistance includes children and families. Social welfare for children is closely linked to family law and the right to protect children who are in the legal field. In France, assistance is generally granted from birth until the age of 18 and possibly up to 21 years of age. If necessary, 'jeunes majeurs' (young people aged 18-21 years) can also receive assistance (Mamier et al, 2003, p. 23). The protection options of children in France are complex. They involve medical protection (free health protection at school, etc.), administrative protection and legal protection. Responsible entities here are the State, the departmental level, the public services and the associations. These include the law of 10 July 1989 on abused children, the ordinance of 2 November 1945, the decree of 6 August 1992, with regard to administrative protection, the Code de la famille et de l'aide sociale (recently termed the Code de l'action sociale et des familles, a code outlining social actions for families) and, in the field of the legal protection of minors, articles of the

civil code and articles of the new code of civil procedures (Nouveau code de procédure civile) (ibid., p. 20).

The French system always deals with child protection when it comes to hazards. If there is an immediate hazard, the prosecution orders provisional custody and child judges are appointed. In an emergency, child judges can order custody, civil and criminal investigation measures can be initiated, and social-pedagogical family help, educational help with third-party placement or a third-party placement with a trustworthy third party can be ordered. The legal and administrative system of child protection has a long tradition in France. Social control and social work are interwoven in this system. A basic distinction can be made between two types of measures. In the first type, children are taken out of their families and parental responsibility is limited through state intervention. In the second type, the children remain in their families and the social and educational services are provided in the family milieu. Disabled children receive state disability benefits in France. Government benefits include cash payments, as well as inpatient and outpatient social services. Moreover, families with handicapped children receive benefits from the family funds (Bahle, 2007, p. 191).

3.1 Germany

In Germany, the federal framework legislation is implemented differently in the individual federal states and municipalities. Hence, there is not a central actor in Germany in the field of child and youth welfare. Three social structural features in child and youth welfare can be worked out: the central role of the family, political federalism and local self-government as well as the high importance of free charities. The terms child and youth welfare or youth welfare refer to young people, children, adolescents and young adults under 27 years of age, as well as their carers and other legal guardians (Wabnitz, 2019). The three aspects can be summarised under the concept of subsidiarity, which is important for Germany. There are two responsible systems that organise the help for children. Child and youth welfare is organised in child and youth welfare law, SGB VIII, and this is responsible for children and young people without disabilities or with (exclusively) mental disabilities (§ 10 (4) sentence 1 SGB VIII). Children and young people with (also) mental and/or physical disabilities are assigned to the disabled assistance of the social welfare (SGB XII). In some cases, this leads to competence disputes between the youth welfare office (SGB VIII) and the social welfare office (SGB XII), which particularly affects the beneficiaries and their families (Meysen, 2014). As a rule, the youth welfare office is responsible for controlling youth welfare services. The youth welfare office transfers the provision of concrete services to independent providers of child and youth welfare (service providers). A peculiarity in the German system concerns the state supervision. Child and youth welfare services primarily provide help, advice, support and promotion for young people and their families. The state respects the 'natural right of parents' to provide for the care and upbringing of their children and to meet this obligation according to their own ideas and possibilities (cf. Art. 6 para. 2 sentence 1 GG). The range of child and youth welfare services is not intended to "replace, but at best complement, services to be provided in the family" (Bahle, 2007, p. 207). Parental custody law, which is enshrined in the constitution, does not, however, create any legal vacuum or arbitrary space: "The state community watches over their activity" (Art. 6 para. 2 sentence 2 GG; § 1 para. 2 SGB VIII). In the event of immediate hazard, the youth welfare office can arrange for taking children into care or instruct independent providers of public child and youth welfare services to take a bundle of measures, with the parents also being involved here. If there is a specific risk, the youth welfare office can arrange for taking children into care or a family court is involved. The term child protection is ambiguous in Germany. Although different elements of child protection are mentioned in various legal texts

(Constitution, Civil Code, Social Code VIII, Law on Cooperation and Information in Child Protection), there are not any instances where it is clearly defined (Deutscher Kinderschutzbund Landesverband, NRW 2019, p. 8).

3.2 Luxembourg

Child and family support in Luxembourg is traditionally anchored in the family that is responsible for the care and upbringing of children. The state assumes the supervision function, legally enshrined in the youth protection law, for the protection of children, young people and for the common good (Jäger & Peters, 2020, p. 18). The 1992 Youth Protection Act relates to cases of delinquency and deviance (including school absenteeism, prostitution, begging and vagabonding) and physical, psychological, social and moral hazards (ibid., p. 17). In this sense, aid is understood as interventions in the family for the protection of the child and for the protection of society and is based on control and discipline. In the event of a third-party placement, the law stipulates the withdrawal of parental custody and its transfer to the appropriate institution. In the case of institutional care, working with the parents is limited to the right to visit, providing parents regular information and a leave of absence from the institution (ibid., p. 19). The law applies to all parents or legal guardians and children (possibly up to 21-25 years of age) who live in Luxembourg or have committed offenses that have occurred in Luxembourgish territory. The responsible ministry is the Ministry of Justice. The central actor is the youth court, and this is responsible for initiating the act of taking children into care and external accommodation, education and protection. A reform of the youth protection law has been envisioned, but has been pending since 2004 (ibid., p. 41). The law of Aide à la Enfance et à la Famille Act (AEF Act) of 2008 is regulated by the Ministry of Education, Childhood and Youth. The law applies to children up to the age of 18 and young adults up to the age of 27 (ibid., p. 20). The law aims to promote children's rights and acts in the best interests of the child. It complements the state's supervisory function to avoid neglect and provide adequate help for children, adolescents and their families. The key here is that a national youth welfare office (ONE) was created to coordinate and finance aid and to collect data (ibid.). As the reform of the Youth Protection Act continues to fail, the AEF Act continues to have negative consequences for young people and their families in Luxembourg.

At this point we can summarize that our research gives clear indications, especially for cross-border child protection, of the immense challenges for professional actors as well as for the children and their families due to the different laws and associated views of these countries. On the one hand, the regulations are strongly oriented towards the nation state and do not provide for transregional placement, which, however, requires the cooperation of two systems. On the other hand, the structures and interpretations of the actors involved behind the term 'child protection' are very different and sometimes lead to confusion. This can have a negative impact on interventions and transregional cooperation between the participating aid systems. The following case vignettes demonstrate how professionals deal with these challenges and how children are affected by cross-border placements within the Greater Region.

4 Methodology and Methods: A Transregional Perspective

The basis of our research has been a transregional perspective. The concept of transregional draws its creative potential from the thematisation of border crossings and the critical examination of all forms of container thinking and essentialisation (Herren-Oesch, 2015). Consequently, we believe that a culturalising view is not appropriate at this point. Rather, the focus is on the social structural factors that lead to the child crossing the border. For the research in the project, this meant that, from the empirical material, we derived how the

borders are socially produced and what effects these social production processes have on the rights of children and young people in the Greater Region.

In the research project EUR&QUA, we investigated the transregional placement of children between 0 and 18 years of age in cooperation with partner universities from Germany, France, Luxembourg and Belgium. The data were collected from pairs of countries, that is, the child's country of origin and the country in which the child was placed.

To obtain an overview of the transregional placement of children in the Greater Region, we first held interviews with experts in each region (eight in total for Saarland, Germany) who, due to their positions and activities, were able to provide us with insights into the phenomenon of transregional placement of children in the Greater Region (Meuser & Nagel, 2003). Among the interview partners were representatives of the International Social Service, the Federal State Youth Welfare Office, the Family Court, as well as leaders in the liable social service organisations. Based on the information gathered in these interviews, we selected four cases in the region Saarland in which children from one country were placed in another country within the Greater Region. For each of the four cases, we conducted problem-centred interviews (according to Witzel, 2000) with professionals in charge on both sides of the border as well as with the transregionally placed children and their families, as far as this was possible (12 interviews in total). In two cases, we were able to conduct an interview with the parents. Most cross-border cases were mentioned by experts in interviews. The interviews were then conducted with the relevant experts in the countries concerned. The public announcement of this project also brought us the case of 'Mila' whose mother had contacted us via the project homepage.

In a further step, we analysed excerpts from transcripts of the interviews with the aim of reconstructing latent structures of meaning in the interviews (Helfferich, 2011), which ultimately provided information on the occurrence of transregional cases, how the social support is implemented and what this means for the children and their families. To illustrate different aspects of the case, vignettes representing the course of the border-crossing placement were created. The specific procedure consisted of developing readings of transcripts in order to hermeneutically arrive at insights into how child protection is organised transnationally. Two case vignettes were selected to illustrate the structures of cross-border aid provision in the Saarland region. One case concerns a cross-border accommodation from Luxembourg to Saarland and shows the structural dynamics of cross-border aid. The other case again points out the necessity of cooperating aid systems in the Greater Region in order to avoid a conflict of responsibilities.

5 Results

In our research on transregional placement in the Greater Region, we found that different factors play a role, which lead to children being accommodated across borders. Children are accommodated in neighbouring countries if a lack of professional specialisation or competence can be substituted by offers in the Greater Region. In the case of the German-speaking minority in Eastern Belgium, for example, children are transferred to Germany solely on the basis of language. Furthermore, it may also make economic sense to utilise the offers in other areas of the Greater Region. For example, children with disabilities from all over France are accommodated in Wallonia—the French-speaking part of Belgium (Ellger-Rüttgardt, 2013; Plaisance, 2007).

We discovered that various factors play a role in the specific search for offers in the Greater Region. One factor is the family's place of residence, which is usually geographically close to the border. The language of the child or family is also a decisive factor in choosing a place beyond one's own national borders. For example, German is spoken in East Belgium, parts of Luxembourg and Germany. French is spoken in Wallonia, France and parts of Luxembourg. Between these German- and French-speaking regions, transregional placements is correspondingly more frequent. Furthermore, child and youth welfare services are more developed in some areas, for example, in Germany in the area of school support. It is also not uncommon for professionals to establish personal contacts with each other, resulting in children being placed in institutions beyond national borders.

In the following, two case vignettes are used to illustrate the main findings. All names have been changed to protect the respondents' anonymity.

5.1 Case Keaton

This case vignette was reconstructed on the basis of an interview with two experts of the host institution in Saarland who were entrusted with the case. An interview with the young person and his family could not be arranged.

Keaton comes from a Luxembourg family. He is 12 years old at the time of the interview (summer 2019). The boy's parents are divorced, the mother lives with her siblings in Luxembourg, and the father has recently moved to Germany. The reasons given by the German professionals for the inpatient accommodation are conspicuous behaviour at school, aggressive behaviour in the family and delinquent behaviour (including theft). Transregional placements from Luxembourg to the Saarland occur because the identified need of the young person to be educated in an integrated special school cannot be met in Luxembourg, according to the German experts. Because of the distance between school and home, it seems impracticable for Keaton to live with either of his parents, which is why the young person is placed in Germany.

Initially, the approval of the Saarland Federal State Youth Welfare Office is not required for admission to the five-day residential group in Germany. In Luxembourg, this admission is considered as a boarding school accommodation. The contact person for the host German institution is an employee of the Luxembourg school authority. Every year, discussions about Keaton's care plan¹ are held with this person in Germany. In addition to the yearly care plan meetings, regular telephone consultations are scheduled to discuss the young person's school situation in particular. This is also communicated in writing to the school authority in Luxembourg in the form of annual development documentation (including the young person's school reports). This report forms the basis for an annual extension of the measure in Germany. Furthermore, it is criticised that there is no contact person in Luxembourg who works locally with the parents, especially with the mother.

At the age of about 8, Keaton was placed in a five-day residential group of a Saarland youth welfare institution, a centre for educational support with the departments of youth welfare and special needs school or special education school. According to the professionals, Keaton has

¹ According to § 36 of the German Child and Youth Welfare Act, a help plan defines the form of help together with the person with custody and the child or young person. The assistance plan includes the findings on the need, the type of assistance to be provided and the necessary services; they are to check regularly whether the type of documented assistance is still suitable and necessary.

integrated well into the institution in the first years. He was elected by the children in his group as group spokesperson and is described as 'lovable' and 'helpful'. In the special needs school, he is classified as a student needing a special educational focus to learning due to his weak cognitive abilities. An agreement was reached with both the parents and the Luxembourg school authorities that the boy should remain in the German institution until he reaches the certified level of the special needs school for the learning disabled.

After two years, he switches to a seven-day residential group, which he is now attending in the second year. The reason given for the change from the five-day group to the seven-day group is the cost of commuting on the weekends and the necessary care also during school holidays. The costs of the transportation service are only covered during school hours but not on the weekends. The change in his residential group is accompanied by a change in the responsible department head for this young person.

At the time of the interview, the situation is considered to be 'very difficult' from the point of view of the professionals, as the young person insults and threatens the educators. He also expressed xenophobia. The professionals are worried about his contact with peers in Luxembourg, which would influence his behaviour. The tense domestic situation in Luxembourg is also considered to be a major factor underlying the negative change in his behaviour.

The negative change in his behaviour can be explained, from the point of view of the professionals in Germany, by the difficult cooperation across borders with Keaton's mother. The mother does not adhere to agreements, and she is also not easily accessible for the German institution due to the geographical distance. The mother once stated that she had forgotten the different holiday periods in Saarland and Luxembourg, so that the young person was unable to go on holiday with his family. However, Keaton considered this to be a pretext. The professional on his case reports an escalating conflict between Keaton and his stepmother. Because of his behaviour, Keaton is no longer allowed to be alone with his stepmother. He increasingly asks himself - as the German professional reported - where his home is. For the institution, it was also questionable whether a return to the biological mother was possible. According to the German professionals, during one period of time that Keaton spent with her in Luxembourg, his mother did not look after him at all due to her job, so that he was left unattended and on his own for long periods.

Keaton's continued stay in the German institution is questioned. Specifically, the institution questions whether Keaton's needs can be met when there is no possibility to personally discuss important, critical developments immediately with the Luxembourgish institutions.

Keaton's case vignette highlights two issues that also represent a significant challenge for transregional accommodation in other observed cases: First, the option to return, and second, spatial distance and transregional cooperation.

Challenge concerning the option of return

In the other cases surveyed, too, the children are described as being able to make a system that is functioning to fail (Baumann, 2016). Frequently, it is the escalating dynamic forces in schools and youth welfare that lead to situationally and generalisable dangerous situations. Children and adolescents physically attack teachers and educators, for example. The possibility of implementing appropriate measures, such as daily school support and flexible care arrangements (intensive education) in the neighbouring country may also speak in favour

of transregional placements. Such transregional placements also lead to the challenge faced by children to overcome large hurdles if they want to move their centre of life back to their country of origin.

Difficulties arise above all from the different school systems in place in each country, which make it even more difficult for these young people to return to the school system or make the transition to the world of work in their home countries. The possibility of returning Luxembourg children to their country of origin is - according to the experts - not even being considered from the outset. Crossing the border is used as a short-term solution to ease the burden on the organisation, without taking into account the timing of the case and, above all, without taking into account the prospects of return. When a child reaches the age of 18, the child and youth welfare system loses its authority, with the question of who is providing the continued support and assistance in each country remaining vague.

The short-term relief of an exhausted system that is achieved by transferring the child from one organisation to another has serious biographical consequences for the children. Their long-term perspective of returning to their country of origin becomes increasingly unattainable, and they are unable to build up stable ties and thus also a social support network, especially because of the frequent changes.

Challenges facing professionals: Spatial distance and transregional cooperation

Interviewed professionals often report that parental work is made more difficult because of the physical distance:

I don't remember any parent ever being here. There were situations where we went with the child to the parents with the Jugendamt [child protection services] people. But that was practically care planning there, because then the way was too far for them. Then we drove there and then there was a meeting with the parents, but otherwise we did not do any parental work with Luxembourg parents (interview with professionals of the German child and youth welfare institution).

A further challenge for the professionals seems to be the provision of transportation for the Luxembourg children and adolescents to Luxembourg. The interviewed experts speak of (logistical) problems that are hardly solvable. The difficulty in implementing the transfer had led to problems with the Luxembourg authorities. Among other things, it was difficult to organise transport services.

Children are accommodated in Saarland across the border from Luxembourg. Usually the starting point for this transregional placement - according to the professionals - is problematic behaviour at school. The accommodation is then based on two aspects. On the one hand, there is a lack of facilities that offer appropriate schooling in Luxembourg from the point of view of the professionals. On the other hand, it is possible that organisations and the children fail each other, so that another institution is sought (also) beyond the national border. Contact with institutions in Saarland is usually based on personal relationships. As we have been told by professionals, and is also indicated by the divergent data from the Federal State Youth Welfare Office (4-5 young people per year according to the Federal State Youth Welfare Office vs. 15 young people per year according to our own surveys), consultation procedures are not always carried out in all cases. Thus, personal contact between employees of Luxembourg and Saarland child and youth welfare organisations is often the shorter way to

find a quick solution in the form of transregional placement even in critical situations (e.g. when the organisation fails the child and the child fails the organisation).

Challenge facing parents and professionals: Building open and mutual relationships

After the case was handed over by the Luxembourg authorities, the Saarland professionals reported that they had received little information about the child. In a way, they are starting their approaches from scratch. From the point of view of the Saarland professionals, they report a lack of understanding and also, in part, resentment towards the Luxembourg system. In some cases there are regular care planning meetings, in which the Luxembourg authorities and the parents (or the holders of the *autorité parentale*) are also present. Nevertheless, due to the sometimes long travel times for parents, it is criticised that there is no contact person in Luxembourg to accompany the work with the parents in terms of content. A professional reports:

And the mother has also always formulated that she also feels very uh left alone, that she has already tried quite a lot to get help and that it would be so difficult to get the adequate help and she has already felt very uh left alone, yes? (Interview transcript with two German experts).

This quote shows that there is a need on part of the parents to get adequate social-pedagogical support to cope with the situation. The problem of the Luxembourgish law becomes apparent. It advocates a concept of child protection that primarily protects the child and does not consider the involvement of parents to be particularly urgent.

5.2 Case Mila

This case vignette was reconstructed on the basis of an interview with Mila's mother. Through the public relations work of the project (website, lectures and publications), a mother (originally from Germany) heard about our research and contacted us. We conducted an interview with her. The mother lives with her daughter (Mila) and son in France. The parents have been separated for 5 years. Mila is educated in Germany. About two years ago, she had her first behavioural problems at school (truancy and drug use). However, the school social work and school psychological services cannot offer any help due to the Mila's place of residence. After alcohol poisoning and a stay in hospital, Mila is sent to a child and youth psychiatric institution in Germany. From there she is discharged as 'untreatable'. According to the professionals in child and youth psychiatry, Mila is a case for the youth welfare office. However, the youth welfare office in Germany is not responsible for the case because the young person lives in France. Neither the Youth Welfare Office nor the Federal State Youth Welfare Office nor the International Social Service (ISD) can name a contact person in the French child and youth welfare system.

Through the contact with the Centre médico-psycho-pédagogique (CMPP) in France, monthly sessions with a psychologist are held. No further assistance is requested from the mother of the child. The behaviour worsens. The child attempts suicide. In France, the mother of the child contacts a non-governmental organisation.

This organisation arranges a meeting between different actors of the French child and youth welfare service. However, here, too, no further help is provided. Increasingly often, Mila stays away from home for periods of 4 to 5 days. She has committed several acts of theft and assault. Mostly she stays in her peer group in Germany. Letters and e-mails from the mother of the child to the children's judge (*juge des enfants*) in France remain unanswered for a long

time. Only after several inquiries is a hearing organised at the court in France, which is still pending. Currently, Mila is once again hospitalised in Germany due to alcohol poisoning.

In Mila's case, problems can be worked out which, from the family's point of view, prevented a transregional approach. These problems are divided into three challenges, which are explained below: expectations, the perception of institutional actors and the experience of the situation.

Challenge to transregional social support: Parental expectations of beyond border child protection

With regard to the current regulations of transregional social support, the child's mother makes two expectations clear: Firstly, the expectation that the actors in child protection provide social support beyond organisational, legal or nationally regulated competence. And secondly, the expectation that social support will be organised by a permanent, personal contact person. She demands that 'reasonable' structures should exist in every EU country. In her communications, she expresses her displeasure with the existing unreasonable structures and shows that she has dealt intensively with the regulations of transregional social support. Accordingly, she calls for a revision of the Brussels II Regulation, which assumes that jurisdiction lies with the courts of the EU country where the child resides. In her view, it would make more sense to distribute jurisdiction according to the availability of social support. Judicial decisions must also be able to make decisions more quickly in acute (emergency) cases. Furthermore, immediate measures should be possible in order to ensure an interim solution until a final decision on the measure is taken.

Challenges to transregional social support: Clear definition of institutional actors

In her description of the course of her request for help, she also expresses the wish to have a contact person who will inform her about possible offers of help and, if necessary, refer her to the responsible contact person on the other side of the national border. Specifically, in the case of her daughter, Mila, the German authorities should know who is responsible for the case in France and be able to inform her about how such cases are handled in France.

It is also clear that the child's mother is critical of her experience with regard to the actors in child protection on both the German and French sides in terms of their competence and motivation to support.

Challenges facing parents: Unsatisfactory experience due to lack of transparency of process and undefined organisational contact partners

The mother describes her experience as a 'catastrophe'; her daughter's situation has worsened. In contact with other actors in child and youth welfare in Germany, positive experiences are also described by helpful professionals who are trying hard but have their hands tied when dealing with transregional issues. A fundamental problem on the German side is funding: Because their place of residence is in France, German child and youth welfare declares that it is not responsible for this case and refers the family to the French partners. In France, too, the question of financing between the organisations remains unresolved. Mila's mother experiences the contact with the professionals on both sides of the national border as an 'ostrich policy', because she is passed on from one authority to the next and is always denied help. Depending on the organisational definition of the case, Mila will be referred to in both countries as a medical-psychiatric case or a case for child and youth welfare.

The mother describes the French system as a 'black box'. There is a lack - from the mother's point of view - of transparency in decision-making procedures and, in general, a lack of a functioning transregional child and youth welfare collaboration between Saarland and the Lorraine. Since her requests for help are not answered, she feels left alone. As she is caught between the 'two chairs' in her transregional situation, there is no one who seems to be responsible for her.

6 Discussion

In summary, the results of our analyses reveal three reasons why children receive transregional social support in the Greater Region:

- Organisations reach their limits and another provider from the Greater Region is willing to take the children in.
- Specific offers are lacking in their own country and are available in the neighbouring country.
- The solution appears financially attractive for the hosting country.

Noteworthy is the fact that none of the reasons listed above primarily contain a rights-based approach. The rights of protection, provision and participation (triple p) outlined in the Convention on the Rights of the Child are rarely mentioned explicitly by the interviewees. The implementation of these rights seems to vary considerably from country to country in the Greater Region. A uniform approach to the implementation of these rights in the Greater Region is not apparent. On the contrary, in the course of our research we have found that transregional placements for children and young people are associated with additional challenges. For example, greater spatial distances must be overcome in order to enable work with the parents. In addition, the different systems must also be partly coordinated, for instance, with regard to the health insurance system. Cooperation with professionals on the other side of the border, who have a different idea of child protection and refer to different procedures in their child protection work, also poses an additional challenge for transregional social support. Last but not least, children and adolescents often find it difficult to regain a foothold in their own country, both in school and at work, after having been placed in the neighbouring country. The right of participation, which means that children are involved in decisions that affect their own lives, is only apparent on a rudimentary level.²

As a result of our research we can state that a rights-based approach for the placement of children in Saarland from Luxembourg plays a subordinate role. In the placement from Luxembourg to Saarland, mainly children regarded as 'high-risk clientele' are placed transregionally (Baumann, 2018). According to Baumann (2014), these are children and adolescents "who find themselves in a negative interaction spiral with the help system, which is characterised by breaks, and who actively help to shape this behaviour, which is perceived as difficult" (ibid., p. 163).

In the cases we surveyed, we have shown that residential placement is organised across borders from Luxembourg to Saarland if there are no corresponding facilities in Luxembourg or a quick solution is sought because the staff of the Luxembourg facilities state that they are no longer able to continue working with the child or adolescent. On the other hand, it appears

² The study mainly refers to interviews with professionals. Few interviews could be conducted with parents and the children. This limits the results insofar as we could only record structurally how transnational child protection is organised. Future studies based on our findings should focus more on the views and experiences of children and their families.

to be financially lucrative for German institutions because they receive higher financing for children from Luxembourg compared to regular financing for children from Germany.

For children and young people from Luxembourg, transregional placements in the Saarland poses greater challenges than remaining in accommodations in Luxembourg. In most cases, the distance to their families or relatives is so great and, therefore, the effort for the German professionals is so high that adequate parental work can only be managed at least at a great additional expense. Furthermore, the accommodation for the children and young people means that the option of returning to Luxembourg is a great challenge due to the different school and training systems. In these cases, these particular challenges of transregional placement potentially result in more disadvantages for the children and young people so that, from a children's rights perspective, transregional placement should be avoided.

In the project we also collected data on situations where better cooperation and coordination between professionals within the Greater Region can lead to an improvement in the situation of children and their families. In the case of Mila described above, the mother does not receive adequate support in response to her request for help either in Germany or in France, and this serves as a poignant example of situations where better coordination and knowledge of the neighbouring child and youth welfare systems (Saarland and Lorraine) could also lead to better child protection.

7 Conclusions

The two specific cases outlined here demonstrate that a rights-based approach should be essential when making decisions about the transregional placement of children and adolescents in the Greater Region. This means that the organisation of these placements should not be motivated by economic reasons. Moreover, both cases show that, in practice, the question of the participation rights of the child reaches its limits. There is a lack of comprehensive research, including with children and young people, to actually take meaningful measures to really implement the right to participation for the future.

Against the background of our research, it can be stated that those cases where professionals decide they are unable to continue working with a child and therefore place the child into the care of organisations across borders that may operate with a different pedagogical approach, should be the exception. If a placement across borders is still the case, the option of returning the child to the school system or labour market of his or her country of origin should always be guaranteed, as this is a particular challenge of transregional placement due to the different school and training systems.

Besides, particularly the case of Mila shows an urgency with regard to the establishment of ombudspersons in the Greater Region. Therefore, we consider an ombudsman's office for cross-bordering children and their parents as a necessity from right-based approach. The office could be established in the House of the Greater Region in Esch zur Alzette/Luxembourg. This location houses various actors of cross-border cooperation in the Greater Region, it promotes synergies between cross-border institutions and it serves as a meeting and exchange point for municipal facilities in the Greater Region. The establishment of an ombudsman's office (an independent contact person for children and families) here would help to monitor the implementation of children's rights.

Rather, professionals can learn from the different ways of working and perspectives on child protection systems in the Greater Region. Therefore, we suggest that a transregional training programme for professionals in the youth welfare system of the Greater Region should be

established. In this training, children's rights in particular should be communicated and their implementation in the transregional area emphasised. Professionals require knowledge of the different legal concepts and their implementation in the individual countries of the Greater Region. Joint case work would be useful here to broaden the nation-state perspective to a transregional perspective. At the moment, such a transregional training programme is in the development stage within the framework of the Interreg EUR&QUA project.

Last but not least, the greater interaction among social work professionals in the Greater Region can also strengthen the role of social work and its position in issues of children's rights on the basis of a transregional right-based approach. Preventing psychiatric and other intensive pedagogical structures can prevent further pathologisation of children and adolescents in psychiatric and intensive pedagogical structures.

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