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Empowering children: childcare services in a rights-based comparative perspective

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Summary

This paper analyses early childhood education and care policy in Italy, Germany and Poland. Drawing on the capability approach and building on the power resources analytical framework, it maps policy design features in these three countries. Although the three childcare regimes fall under the umbrella of ‘familialism’, they exhibit some important differences. The paper finds that legal entitlement alone, which only exists in Germany, is not a necessary or sufficient condition to guarantee access for all children. In addition, it appears that similar funding structures do not affect all children and their families equally and quality of services can vary significantly. Instrumental resources, which are expected to help families to access childcare and reduce informational barriers to take-up, are underdeveloped in the three countries. Where they do exist, it is at local level. Finally, enforcement resources, that is, legal channels for individuals to claim their entitlement to childcare, only exist in Germany, where children have the legal entitlement, and seem to provide families with additional leverage in claiming a childcare place.

Besides the specific results, the paper provides an original analytical grid that for a broader assessment of childcare policies.

Keywords: Childcare, European Union, Social Investment

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Web address	For more information about the EuSocialCit project, please visit www.eusocialcit.eu . EuSocialCit's output can also be found in its community on Zenodo: https://zenodo.org/communities/eusocialcit .

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1. Introduction

Over the past three decades, the notion of ‘social investment’ has gained purchase as a novel welfare policy compass to address economic and social change in the 21st century. Its key objective is to provide a mix of policies that empower individuals and societies to respond to the changing nature of post-industrial social risks and labour markets. While policymakers at both national and European level became increasingly interested in ‘social investment’ from the mid-1990s (Hemerijck and Corti, 2022), the pandemic crisis has further strengthened the demand not only for inclusive income support policies but also for (gendered) life-course transition and human capital-enhancing policies (Hemerijck and Huguenot-Noël, 2022). With social investment gaining increasing political attention, the academic focus in comparative welfare state research predictably shifted from explaining change-resistant welfare states (Pierson, 1994, 1998) towards a better understanding of how welfare states do change over time (Ferrera Hemerijck, 2003; Ferrera, Hemerijck, Rhodes, 2000). Understanding trajectories of welfare recalibration became thus a key object of investigation.

In our first EuSocialCit deliverable (see Baiocco et al., 2021) we attempted to identify social investment strategies across EU countries and explain their evolution between 2004 and 2018, namely before, during and after the global financial crisis. By using cluster analysis on expenditure variables, we identified different groups of countries that have diversified over time in a progressively complex way. Since the financial crisis, three main strategies have emerged in Europe. They do not overlap with canonical welfare state models, nor have a clear-cut geographical connotation. The strategies are distinct because of different levels of overall expenditure in social investment but also different degrees of life-course orientation. A first group of countries, including continental and Scandinavian welfare states, is characterised by what we called a ‘balanced strategy’, that is, high spending on all main social investment areas, with comparatively higher spending on family policies, in particular on childcare services. A second group of countries, including mostly centre-eastern European welfare states, Spain and Greece, which we call a ‘bent strategy’, is characterised by a medium to low overall expenditure in social investment policies with a particularly high spending in early life-course stage, especially through in-cash parental leaves. Finally, a third group of countries, including Italy, Cyprus, Portugal and Ireland, which we call a ‘basic strategy’, is characterised by an overall low-medium to low spending on social investment policies, with higher spending on later life-course stage, especially university and compulsory education, and low expenditure in family policies.

One of the key findings of our previous working paper is how the role of policies for early life stages, namely child and family policies, defines social investment strategies. This is not surprising, as the lynchpin of the new social investment paradigm is the idea of work-family life course (Kuitto, 2016), which requires state intervention over the life course to break the cycle of disadvantage and to smooth life transitions by facilitating women's participation in the economy. An abundant scholarship demonstrates the benefits of early childhood education and care for children, families and society. Investment in children is thought to lead to long-term benefits for children by enhancing their human capital and learning outcomes, as well as their longer-term social and labour market prospects (Van Lancker and Ghysels, 2016). The first three years of life indeed represent a phase of particular sensitivity in which the possibilities for the acquisition of fundamental skills are maximised (Cavioni and Zanetti, 2015). As such, the quality of care and education has strong preventive implications for later life, because it allows the neuro-psychological system of a child to better structure itself, in cognitive but also socio-emotional and relational terms, developing children's (skills) resilience (Del Boca et al., 2020; Cefai et al., 2015; Harbach, 2019). Studies by James Heckman and his collaborators (Heckman, 2006; Heckman and Masterov, 2007) have shown that investment (by families and the education system) in the very first years of life is crucial for individual cognitive development.

At the same time, a wide literature has provided empirical evidence of how increasing the supply of public places in early childhood education and care (ECEC) services, which reduces the childcare costs borne by families, has a positive impact on the participation of mothers in the labour market (Morrissey, 2017). In particular, the literature shows that it is usually mothers with a lower level of education that benefit the most from the provision of public childcare services, with positive externalities in terms of social integration and the reduction of poverty (Alleanza per l'Infanzia, 2020). Other studies have shown the positive impact of early childhood investment on society overall, where enrolment in childcare and pre-primary school has an impact in terms of occupation and salaries. Non-cognitive skills acquired at an early age are remunerated in the labour market (Bennett, 2008; Duncan and Te One, 2012).

An in-depth analysis of ECEC policy is therefore key from a social investment perspective. This is certainly not a novelty. As illustrated above, there are plenty of studies that investigate the impact of childcare attendance on children's educational attainment, female employment, and other societal outcomes. Similarly, the political science literature has broadly investigated the politics behind the introduction of childcare policies over time (Häusermann, 2018; Blome, 2017). Yet what is missing in the literature is a comparative analysis of early childhood and education services from a capability perspective, that is, by looking at how different institutional settings impact on the concrete potential for children to enhance their capabilities by attending childcare.

While in the first EuSocialCit deliverable we briefly sketched institutional variation in early childhood education and care policy, the aim of this working paper is to examine the institutional features of these social investment policies in detail. To analyse cross-country variation, we take insights from the traditional defamilialisation (Leitner, 2003; Saraceno, 2016; Korpi, 2000) and degenderisation (Saxonberg, 2013; Kurowska, 2018) approaches to child and family policies. Contrary to traditional literature that looked at childcare policies from a family or female perspective, however, we are principally interested in comparing different welfare regimes based on the extent to which they improve children's capabilities, that is, whether they are accessible, available, adequate, and quality systems. To do so, we look at childcare policies from a rights-based perspective. Since children cannot directly claim for their dues, a rights-based approach to childcare policies means looking at the resources provided to parents and carers to claim for and help their children access high-quality childcare facilities that contribute to the enhancement of their capabilities. Comparing childcare regimes from a rights-based perspective can thus be an original and useful viewpoint from which to understand which resources are concretely provided to parents and carers and ultimately which capabilities the children can benefit from.

The rest of the paper is organised as follows: section 2 illustrates our rights-based approach and sets out the main elements of the analytical grid. Section 3 presents the case selection and the methodology used for the analysis. Section 4 presents the results for Italy, Germany and Poland. Section 5 concludes.

2. The capability approach and a rights-based approach to childcare policies

Based on increasing empirical evidence, childcare policy has undergone rapid change and expansion in many European countries since the 1990s, with the dual ambition of increasing investment in children and furthering work-care reconciliation, particularly for mothers. Simultaneously, substantial advancements and improvements in childcare policies were further incentivised by the changing legal landscape, notably at the EU level¹, with the emergence of non-discrimination and equal rights' cases that obliged employers to accommodate workers' care obligations (Yerkes and Javornik, 2019). Accordingly, scholarly attention has focused on developing analytical frameworks and tools for categorising different models of childcare policy across countries. Most prominently, the literature on (de)familialisation (e.g. Leitner, 2003; Saraceno, 2016) has focused on the extent to which individuals' welfare is dependent on their family and, conversely, the extent to which families are responsible for providing welfare to other family members. Key policy dimensions examined in this field include the provision of parental leave, formal childcare and care provision for the elderly (Leitner, 2003). Parts of this literature have also explicitly focused on degenderisation as an analytical lens, examining to what extent policy provisions reinforce gender divisions in society, including the division of labour and care (Saxonberg, 2013).

While the familialism perspective is a valuable tool for comparative childcare policy analysis, it tends to focus on the family unit, particularly parents, and on the description of policy design. Conversely, less attention has been paid to children and their personal development. To this end, we use an alternative but increasingly applied analytical approach to childcare policy: the capability approach, originally developed by Sen (1992). The central aim of the capability approach is to assess what individuals are effectively able to achieve in life (their 'capabilities'), depending on the outcomes (or 'functionings') they value, and to remove obstacles to enable them to achieve these ends (Yerkes and Javornik, 2019; Gladstone et al., 2021). The capability approach does not define a specific outcome as desirable, but argues for enabling individuals to access a plurality of options depending on what they most value (Yerkes and Javornik, 2019). In this context, a range of individual, institutional and society dimensions may influence the capabilities individuals are able to achieve (Hobson, 2018). The capability approach is not to be considered as a contrast to the literature on defamilialisation and degenderisation, but rather as a valuable tool for refining this (Kurowska, 2018). In particular, it allows

¹ Three recommendations are particularly relevant: the 2013 Council Recommendation on Investing in children: breaking the cycle of disadvantage; the 2019 Council Recommendation on High-Quality Early Childhood Education and Care Systems; and the 2021 Council Recommendation establishing a European Child Guarantee.

the perspectives of children to be taken into account more thoroughly, and to distinguish between policy regimes based on how these strengthen children's concrete capabilities (Hobson, 2018; Kurowska, 2018).

As stressed above, to analytically study childcare regimes and how they enhance, in principle, children's capabilities, we adopt a rights-based approach. Building on Vandenbroucke et al. (2021), we define rights as a bundle of power resources that confer to individuals the possibility of obtaining conformity from other individuals (horizontal power) and from public authorities (vertical power). Applying the power resources framework to childcare policies might not appear appropriate at first sight. Children do not and cannot claim for something. It is their parents or carers who, both as workers and representatives of the interests of their children, mobilise for childcare policies. Similarly, the public administration does not interact with young children, but rather with parents. In this respect, one might say that parents are ultimately empowered and provided with resources to claim for childcare services. Yet capabilities are developed by children and the fact that parents can claim for a childcare service that is free of charge or not, that is guaranteed from the age of 1 or not, that is provided part-time or full-time, that is subject to high-standard educational guidelines or not, ultimately affects the capabilities of children. This is why adopting the lenses of the power resources approach, zooming in on what parents or carers can claim for, is an original and interesting analytical angle to identify variation in childcare policies across countries and ultimately to understand how this can affect children's capabilities.

The traditional power resource theory (Korpi, 1974) has concentrated mainly on the vertical upward dynamic, which led from individual discontent to collective mobilisation to the evolution of the various welfare regimes and the outputs (benefits and services) and outcomes they have generated (dependent variables). Yet the power resource theory has largely ignored the vertical downward dynamic leading from the formal institution of social rights (macro level) to the concrete improvement of life chances and relational power at the individual (micro) level. Vandenbroucke et al. (2021) argue that the presence of institutionalised social rights (their content and production), despite being a necessary condition, is not sufficient for the real improvement of people's life chances. Indeed, what counts is the effective access of individuals to their rights, which the norm itself, however, cannot guarantee. The concrete access to a right requires in fact a direct encounter between the owner of a

right and the administration that provides it. Through this encounter, rights-holders obtain what is due to them: a transfer of money, an exemption, a service².

Building on Vandenbroucke et al. (2021), we argue that the concrete use of a service depends on three sets of normative, instrumental and enforcement resources that parents or carers can be entitled to.

First, *normative resources* are the ensemble of legislative acts that provide a detailed and operational definition about entitlements to a service, as well as the scope of any entitlement and the responsible authority for provision. There are several dimensions of childcare provision that are affected by such legislative provision, including availability, accessibility, affordability and quality (Yerkes and Javornik, 2019). In the first place, there is the question of whether any legal entitlement to childcare exists in a given country, and if so, who is covered by it. A policy that guarantees a childcare place empowers parents to legitimately claim for their children access to childcare from the legal age. The more expansive and universal such a legal entitlement is, the greater the positive effect on children's capabilities. When a child can be refused a place based on preferential criteria – such as parental employment, income or siblings – service provision may be more restricted (Yerkes and Javornik, 2019).

The existence of a right to childcare alone does not necessarily guarantee access to high-quality childcare services; other resources also play an important role. First, normative resources typically encompass funding arrangements for childcare. Depending on the fee structure set out in legislation, affordability of and therefore access to childcare may be influenced. While in some countries, funding support is often means-tested and mostly consists of tax concessions or cash benefits for parents with children in non-parental care, other countries provide more direct funding for childcare provision (OECD, 2020). In some cases, fees are directly set or capped by the government, sometimes based on a sliding-fee scale, with discounts for certain groups (Yerkes and Javornik, 2019). These arrangements will have different effects on the net costs of childcare, and ultimately on the affordability of early childhood education and care for parents, which then might be desensitised to enrol their pupils.

A further aspect of childcare policies influencing its quality is the means of provision, which may be specified in legislation. In this respect, four main logics underlie the provisions of services or goods:

² To explain this idea, the authors explicitly invoke the capability literature and Amartya Sen (1999), who argues that the actual enjoyment of the 'what' that is foreseen by a formal right can be made difficult and/or impeded by many obstacles. During a famine, for example, the right to subsistence by means of in-kind benefits (such as the distribution of food parcels), can remain a dead letter if the state is unable to guarantee access to the aid needed in the area concerned.

market provision (for profit), state provision, provision by association (formal private not-for-profit organisations), and private family provision (Brennan et al., 2012). Public and market provision of childcare may have different impacts on the availability and quality of childcare. For instance, in the absence of government involvement, profit childcare may be associated with lower quality, higher costs and rationing (Van Lancker and Ghysels, 2016). Increased marketisation may also favour families with more financial resources, who have advantages in acquiring information about options and navigating the system, so that inequality among service users may be exacerbated (Brennan et al., 2012). Overall, higher levels of government involvement in the form of public or subsidised childcare places, legal entitlements and lower net costs have been shown to be related to lower levels of inequality in childcare use (Van Lancker and Ghysels, 2016). Conversely, where structural constraints in childcare provision are more prevalent, children growing up in disadvantaged circumstances tend to be particularly impacted (Pavolini and Van Lancker, 2018).

Legislative provision can also address aspects relating to the quality of childcare. Quality can be operationalised both in structural terms (e.g. maximum group size, child-to-staff ratios and the educational level of childcare staff and their working conditions) and procedural terms at the organisational/staff level (e.g. what happens in the setting: the play and learning environment, child–teacher, quality management and child–child interaction) (Yerkes and Javornik, 2019). Given the poor information available on procedural quality, in this paper we focus on structural quality. All aspects of the legislation should be considered, as it is shown that benefits for children associated with childcare provision are conditional on quality in terms of teachers’ qualifications, child ratios, group sizes and curricula. By contrast, low-quality services may lead to detrimental outcomes in terms of child development relative to home care (Van Lancker and Ghysels, 2016). If codified in the national or regional legislation, the child ratio, group size, curriculum and a minimum qualification for educators can constitute a power resource and a guarantee for parents to claim for compliance and thus enhance the quality of the childcare service and ultimately strengthen their children’s capabilities.

To access any service, however, the existence of normative resources is not enough. As shown in the literature on take-up of social rights, many obstacles can prevent the holder of an entitlement from accessing it, such as the complexity of application procedures, insufficient information and fragmentation among levels of administration (Daly, 2002). Therefore, next to normative resources, we also focus on *instrumental resources*, that is institutional and non-institutional channels that are available to facilitate parents’ access to childcare (Vandenbroucke et al., 2021). In the case of childcare services, families might face several barriers to access, such as lack of knowledge about the existence of a service, or lack of familiarity with application procedures for places and funding. Furthermore, as various studies have illustrated, sometimes barriers to accessing childcare facilities are not only of an

economic nature, but can also be cultural (e.g. scepticism about the opportunity to enrol children too early) that ultimately affect the decision to enrol children (Milan et al., 2020). Instrumental resources include informational channels that may reduce such cultural barriers. In addition, instrumental resources may particularly benefit vulnerable groups within the population, for whom it may be more difficult to access childcare. For instance, an increasing number of studies emphasise migrants' lack of knowledge about their childcare rights as a barrier to their childcare usage (Seibel, 2021). Evidence shows that migrant parents tend to acquire knowledge about their childcare rights either via formal information platforms, such as governmental webpages, childcare information brochures, or through informal networks (ibid.).

Finally, access to childcare services can be related to a public administration's lack of compliance. *Enforcement resources* are channels providing avenues for individuals to enforce the supply of a service in the case of non-provision or disputes (Vandenbroucke et al., 2021). Where children are entitled with a legal right to childcare services, their families may then claim and call for enforcement channels, such as civil trials. As demonstrated by recent disputes in Germany (DW, [2016](#)), the existence of a legal entitlement to childcare gives children and their families additional resources to legitimately claim for the provision of a service and thus further increase, in principle, the accessibility of childcare services. Indeed, in Germany, where some local authorities failed to provide access to childcare facilities, families took the case to court and received a pecuniary compensation for the non-service.

Table 1 summarises the dimensions we selected to operationalise the three sets of resources outlined above.

Table 1. Indicators used to analyse childcare policies from a rights-based approach

Type of resource	Dimension	Operationalisation
<i>Normative resources</i>	Existence of legal entitlement to childcare	Yes/No
	Scope of legal entitlement to childcare	Universal/Restricted to specific groups based on preferential criteria/Not applicable
	Main providers of childcare	Public/Private for profit/Private non-profit/Mixed provision
	Funding mechanisms	Public funding/Public funding with parental fee contributions/Mixed/No public funding
	Support policies	Tax deductions/Allowances/None
	Funding provisions for disadvantaged groups	None/Staggered fees for disadvantaged groups/Free provision for disadvantaged groups
	Main providers of childcare	Public/Private for profit /Private non-profit/ Mixed provision
	Regulation on structural quality provision	None/Regulation on child-staff ratio/Group sizes/Regulation on staff qualification/Regulation on hours of provision/Educators' salaries
	Extent of regional variation in provision	Low/Medium/High
<i>Instrumental resources</i>	Existence of resources for improved access to childcare	National programmes/Some regional provision/Local services/Private initiatives/None
	Existence of specific initiatives to reach out to groups with lower access to childcare	National programmes/Some regional provision/Local services/Private initiatives/None
<i>Enforcement resources</i>	Existing judicial procedures for claiming childcare	Yes/No

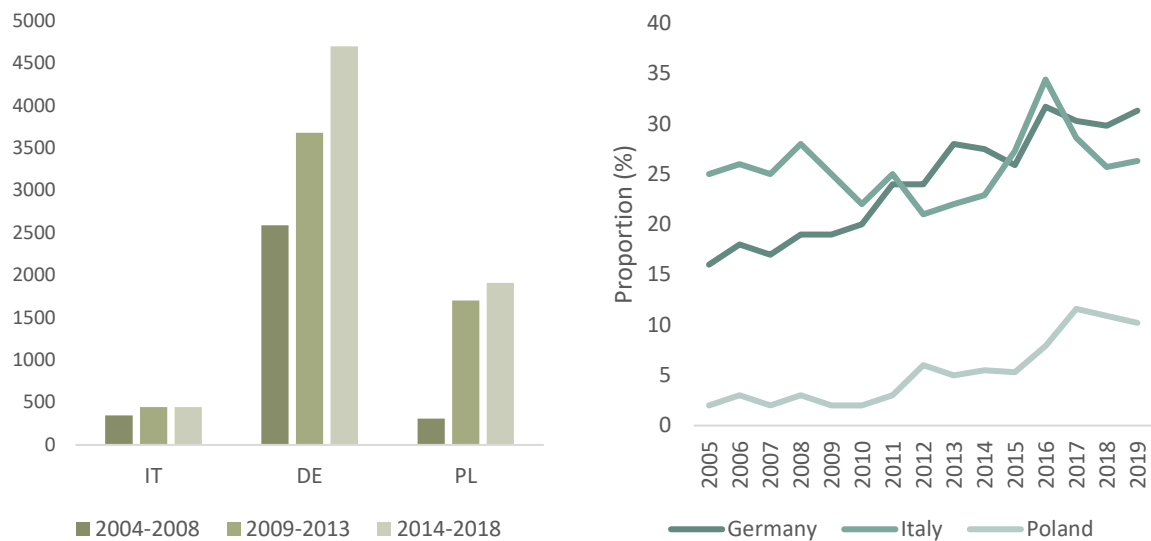
Source: Authors' composition.

3. Case selection and methodological approach

We apply our analytical grid to three case studies: Germany, Italy and Poland. Based on the results of Baiocco et al. (2021), these countries figure in three different clusters of social investment strategies, and indeed their budgetary efforts in early childhood education differ significantly in the time periods 2004-2008, 2009-2013, and 2014-2018 (see Figure 1, left panel). The budgetary effort variable is expressed in per capita terms, scaled down to the target population, and measures the general government public spending per possible beneficiary, that is, in the case of childcare, the total spending per children aged 0-3³. Germany is the country that invests the most in early childhood education per number of pupils aged 0-3, with a significant increase between the early 2000s and the post-Great Recession period. Next is Poland, which experienced a net increase of spending per targeted population in the immediate period after accession to the EU. Italy has the lowest budgetary effort in childcare, which remains on average the same over the three periods before, during and after the financial crisis. We juxtapose these figures with data on enrolment rates for children under 3 years in the three countries over the same period. Though it is notable that none of the three countries achieve the Barcelona target of 33 % enrolment for children under 3 – with Germany coming closest – there has been a significant increase in enrolment rates in Germany and Poland. Yet the most noticeable trend is that of Italy, where enrolment rates appear comparatively high compared to the other two countries and relatively stable with some ups and downs.

³ Each item of expenditure is expressed in 2005 constant prices and converted in PPS for EU-27, to ensure comparability both among countries and across time by discounting for differences in price levels and price fluctuations over time.

Figure 1. Budgetary effort (per capita, in euro PPS) in childcare facilities over time (lhs panel) and enrolment rate 2005-2018 (rhs panel)



Source: Authors' composition.

Traditionally, the three countries considered have been grouped as part of the same explicit familialism regime, as they were lagging behind in the development of family policies and suffered from a modernisation deficit in this field. The varieties of familialism literature labelled Germany, Poland and Italy as welfare regimes that strengthen the role of families in caring for children through highly generous income support measures, but ones that lack provision of alternative policies that unburden families from their caring responsibilities, such as childcare services (Szelewa, 2017; Saraceno, 2016). While this is true for the early 2000s, all three countries undertook a series of important reforms in the 2000s and after the Great Recession in the direction of strengthening the provision of childcare services and degenderising family policies (see next section for more details). In Germany, the first significant development in childcare policy had already occurred in the 1990s, while the first major interventions were in the 2000s. In Poland, a first order change with respect to childcare services occurred only in 2011. Finally, in Italy, a paradigmatic change occurred only between 2015 and 2017.

Against this background, in what follows, we are interested in exploring how concretely parents have been empowered to claim for childcare services and consequently how children's capabilities have been strengthened. Our purpose is descriptive and comparative and not explanatory. We do not aim to explain how the design of early childcare policies in the three countries can ultimately explain children's take-up of these services. Neither do we want to explain the interaction between institutional inputs and budgetary outputs. The relationship between childcare spending effort (explored in our EuSocialCit deliverable D3.1) and power resources inputs (explored in this deliverable)

and their interplay impact on childcare take-up, that is, the outcome, will be explored in our forthcoming paper (EuSocialCit D3.5).

Methodologically, in this paper, the analysis makes use of a range of qualitative and quantitative data. First, for each country, we carry out an evaluation of the 'state of the art' of the current set of power resources. Official documents and national reports concerning the progress of reforms, and the laws and regulations associated with these, are the object of our investigations. Data are collected from various national administrative and statistical sources: Bertelsmann Stiftung, the Italian National Institute of Statistics (ISTAT), the Polish Labour Force Survey, the Polish Central Statistical Office, Eurydice Comparative Reports and the MISSOC databases. In addition, 10 semi-structured interviews were carried out with country experts: 4 experts were interviewed in Italy, 4 in Germany and 2 in Poland.

4. Results

In the previous sections, we have set out our analytical framework, detailing how the capabilities approach provides a normative framework for focusing on policy to increase children's access to early childhood education and care. We have also used the power resources framework to derive and operationalise indicators of the design of ECEC, consisting of three essential dimensions: normative resources, instrumental resources, and enforcement resources. We now apply this analytical grid to three country case studies - Germany, Italy and Poland – drawing on desk research and the interviews with national experts. Our analysis first provides a brief description of the management of ECEC in each country and then zooms in on the three types of resources. We focus in particular on ECEC for children under 3, which has been an area of policy focus in the three countries in recent years. The Appendix provides further detail on the three case studies in the text.

4.1. ECEC in Germany

In Germany, ECEC is part of the public welfare system, where responsibility is shared between the federal government, the 16 state governments and the municipalities (Linberg, Baeumer and Rossbach, 2013). The governance structure of ECEC in Germany is complex and decentralised, relying on a system of multilevel governance (Oberhuemer, 2014). At national level, the German ECEC system is the responsibility of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) (OECD, 2016), with some responsibility for the Ministry of Education and Cultural Affairs (Eurydice, 2021). However, the Federation only sets the general framework for ECEC, with the national legislative framework on ECEC contained within the Child and Youth Services Act in Book Eight of the Social Code (*Achtes Buch Sozialgesetzbuch*) (Scholz et al., 2019). While the national level sets binding framework conditions and guidelines for childcare services and defines the key tasks of ECEC, no concrete content requirements beyond general guidelines are provided (ibid.). Rather, the 16 German Länder are responsible for adapting the framework conditions set by federal legislation into state-specific ECEC laws (Oberhuemer, 2014) and have regulatory competence, meaning that there are 16 state-specific frameworks for the funding and licensing of ECEC, as well as for setting standards and developing curricula (Scholz et al., 2019). Finally, the responsibility for the planning, organisation and provision of ECEC lies at the local level of municipalities, who also have responsibility for securing funding for ECEC (Scholz et al., 2019).

ECEC in Germany is provided in daycare centres (*Kindertageseinrichtungen*) for children under 3 years (*Krippen*), in *Kindergärten* for 3 to 6 year-olds or in mixed-age facilities (BPB, 2021). Increasingly,

Kindergärten are expanding their services to younger children so that the traditional formal distinction between *Krippen* and *Kindergärten* no longer applies in many cases, and the mixed-age model is more common (Linberg, Baeumer and Rossbach, 2013). In addition, there is the option of *Kindertagespflege*, home-based child-minding services by qualified individuals, which is particularly common for children under 3 (Eurydice, 2021).

4.1.1. Normative resources

As described above, normative resources define the entitlements to early education and care set out in national legislation, and as such, may have crucial influence on children's educational capabilities. The first step towards the right to childcare in Germany was made in 1996, when a right to ECEC for children aged 3 and older was first codified into legislation (West, Blome and Lewis, 2020). The Daycare Expansion Act (*Tagesbetreuungsbaugesetz*, or TAG) from 2005 was the first significant step towards expansion of ECEC for children under 3, as the first legislative effort to determine concrete goals for the number of childcare places for children (Scholz et al., 2019). A very significant development occurred in 2008, when the Child Support Law (*Kinderförderungsgesetz*, or KiföG) established a universal legal right to ECEC for all children from the age of 1, to officially come into force on 1 August 2013 (BPB, 2021). In addition to the universal right to ECEC from age 1, the 2008 law also laid down a gradual expansion of supervision and care offers for children under the age of 3 to meet the increased demand (Eurydice, 2021).

In addition to the existence of a right to childcare, the mix of providers and design of funding structures can hold central importance in influencing access. Funding structures for ECEC in Germany are very complex and characterised by regional variation due to decentralisation, though they generally rely on a mix of public and private sources (FiBS, 2016; Scholz et al., 2019). The municipality is usually responsible for most of the funding for ECEC, with limited involvement from the regional and, particularly, federal government. This means that funding, and therefore access and quality, depends strongly on place of residence, as highlighted by experts. Though there is a universal entitlement to a place in care, ECEC is generally not free of charge (Eurydice, 2021). The level of contributions depends, for instance, on the region, parents' financial circumstances, the number of children and attendance time (ibid.). In some Länder, there are general subsidies for all children or free amounts for some years or families with several children, while elsewhere, provision is completely free of charge, at least for some hours (Bertelsmann Stiftung, 2021). There are also varying regional funding arrangements for lunch provision and additional services (ibid.). Fees remain a barrier to take-up of ECEC (BPB, 2021) – as highlighted in interviews, fees vary enormously, even across municipalities in the same region, and are sometimes very high. The median cost of care for children under 3 in Germany is EURO 214 per

month, while that for children over 3 is EUR 100 per month (DJI, 2021). However, fees for under 3s can vary from little to no fees to more than EUR 300 per month, depending on the region (ibid.).

Fees are a particularly significant barrier to entry for socioeconomically disadvantaged families. 31 % of German families with children under 3 and with a low net equivalent household income indicate that fees are a barrier to accessing ECEC (DJI, 2021). Through the 2019 Good Day-care Facilities Act (KiQuTG, '*Gute-Kita-Gesetz*'), since August 2019, parental fee contributions are required to be staggered according to social criteria, including parental income (Eurydice, 2021). Nevertheless, the precise determination of how fees are staggered depends on the Land-specific legislation. Over time, progressively more regulations to make ECEC affordable have been introduced, and in some Länder, care is already completely free, depending on age and scope of care (ibid.).

As a result of the increased investment in provision and more generous entitlements, take-up of ECEC has increased significantly in Germany in recent years (Appendix, Figure A2.1). Attendance for children aged 3-6 is almost universal. Moreover, between 2006 and 2015, the proportion of children aged 1 and 2 in care (daycare centres and childminding services) – that is, children covered by the legal entitlement to care – increased from 29.4 % to 48.5 %, with further increases between 2015 and 2020. However, a lack of places for children under 3 remains an issue in some Länder, with provision particularly low in the West (Appendix, Figure A2.2). Survey data indicate that the demand for childcare places by parents remains significantly higher than available supply, particularly in Western Germany (Anton, Hubert and Kuger, 2020). On average across Germany, the gap between indicated demand (49 %) and actual take-up of places (34.3 %) amounts to 15 percentage points (DJI, 2021). In addition to regional inequalities, there are socioeconomic disparities in access. Parents of children under 3 from lower income families remain less likely than those from other families to use ECEC (West, Blome and Lewis, 2020). Moreover, although there have been large increases in the proportion of children with a migration background in ECEC for under 3s in recent years (Olszenka and Riedel, 2020), they continue to be under-represented in German ECEC relative to other children (Bertelsmann Stiftung, 2021), even in families that indicate that they are in need of a place (Anton, Hubert and Kuger, 2020).

In addition to fees, the mix of childcare providers may influence access. In Germany, the provision of ECEC is strongly governed by the subsidiarity principle – that is, public authorities are only obliged to provide social services if non-governmental agencies are not in a position to do so (Oberhuemer, 2014) – and by the principle of diversity of providers (Scholz et al., 2019). Only about one-third of children in Germany are in publicly provided care, with the majority provided for by not-for-profit private organisations (Bertelsmann Stiftung, 2021). In particular, non-profit private organisations active in

childcare provision are churches and welfare organisations, while private for-profit providers are very rare (West, Blome and Lewis, 2020). Providers have to have public recognition but have freedom in designing the content and method of care that they provide (BPB, 2021), within the broad objectives set at national level and the framework specified by the Land (Eurydice, 2021).

In principle, the diversity in providers was evaluated as positive by experts, as it increases choice and options. Yet studies have shown that social segregation can already be observed among young children in ECEC, as care providers exhibit marked differences with regard to, for instance, the proportion of children coming from poor families or children with native languages other than German (Hogrebe, Mierendorff and Nebe, 2021). Though research in this area is still developing, there is some evidence that these segregational tendencies could be linked to the German provider structure, as groups of providers differ with regard to the access criteria they prioritise, which include the family situation and age of the child, but also subjective criteria such as alignment with the provider institution's values or pedagogical concept (ibid.). Moreover, the heterogeneity of quality in provision across providers is a concern. While large associations of providers have a large infrastructure and can provide high-quality training for staff, for instance, this is not the case for small providers.

Indeed, in addition to normative resources that affect access to care, legal provisions on the *quality* of ECEC are of importance. The central motif in the German case is that of regional variation. While the Social Code does not define a specific time entitlement to care, 10 of the 16 Länder define a minimum number of hours per day, with additional variation at regional level (Bertelsmann Stiftung, 2021). Entitlements tend to be more generous in Eastern Germany, where childcare use was historically more prevalent than in the Western part of the country. There are also no national requirements regarding the child-staff ratio, which exhibits large regional variation according to Länder-specific regulation (BPB, 2021). However, it should be noted that there are efforts to improve the quality of childcare across Germany, with the national government increasingly involved. In 2019, the Good Day-care Facilities Act committed to federal support of EUR 5.5 billion from 2019 to 2022 to implement measures in 10 qualitative fields (which the Länder can select from), such as decreasing the specialist-child ratio, in addition to decreasing and socially staggering fee burdens.

As regards quality provisions directed at children from socioeconomically disadvantaged backgrounds, the focus is mainly on fee staggering, but there may also be other entitlements. In some Länder, entitlements are expanded, for instance for younger children or additional hours, depending on the position of the parents or if the children have any special requirements (Bertelsmann Stiftung, 2021). In addition, there has been increased investment in the development of language diagnostics and support in daycare to improve linguistic competence, particularly for children with a migrant

background or with deficiencies in language development (Eurydice, 2021). Nevertheless, there remain issues relating to quality in ECEC for children from socioeconomically disadvantaged groups, including children from families with lower financial means and children with a migrant background. These socioeconomic disparities appear to have been intensified, rather than weakened, in the course of the large childcare expansion Germany has undergone in recent years (Stahl, 2015). Evidence indicates that children from migrant families tend to attend facilities with lower performance in structural and procedural quality indicators and a less privileged social composition, though more research on this is necessary (ibid.). Moreover, in practice, the pedagogical approach in daycare seldom devotes space to multilingualism and may even marginalise children with a multilingual background (Olszenka and Riedel, 2020).

Finally, there are national standards regarding the qualification of personnel in ECEC. The qualification to become a state-recognised pre-primary educator takes three years of post-secondary vocational training, as well as either a course as a childcare assistant or training and work experience in the field (OECD, 2016). Though there has been a move towards the academisation of ECEC qualifications, this process has been slow (Rauschenbach and Riedel, 2016), and the number of staff with tertiary education remains marginal (Oberhuemer, 2014). In interviews with experts, the lack of qualified staff was highlighted as a major issue for the provision and quality of ECEC in Germany, which will likely be exacerbated in future years. In staff surveys, one in five leaders of educational institutions name staff shortages as a barrier towards providing high quality education and care (OECD, 2018). Expert interviews showed a concern about a decreasing trend in quality of provision even while maintaining the number of places, leading to a situation where the educational role of ECEC is no longer fulfilled. In particular, the lack of entitlements relating to quality at national level results in significant heterogeneity across regions, so that the quality that children are de facto experiencing depends on where they live.

4.1.2. Instrumental resources

In addition to normative resources – the legal provisions setting out the right to ECEC for children and what exactly it entails – instrumental resources may be essential in increasing access by providing children and their families with the necessary information and assistance to gain access to care. As stated previously, in Germany, the concrete implementation of measures in ECEC, including measures to facilitate delivery and access, depend on the state and local level. Generally, when parents are looking for a place in (centre-based) daycare, the first step – often during pregnancy – is to seek out local daycare centres, where they can find information and be placed on a waiting list (Schettler, 2016). In addition, in most Länder, regulation specifies that the need for a space has to be registered

with public authorities, usually the youth and welfare services, who may then provide information on how best to access a place in ECEC (ibid.). Increasingly, there are online tools to facilitate the process of parents registering their need for a place in ECEC, which can increase parents' access to information and understanding of the process; however, this is not available everywhere (ibid.).

Additional measures to raise awareness and provide information on quality are location dependent. As was also pointed out in interviews, there is currently little evidence on the existence of informational and other instrumental resources. Several regional examples of efforts to facilitate access to ECEC do exist, for instance the Kita-Navigator provided by the city state of Berlin⁴, where parents can search for available places and filter according to their preferences. However, systematic initiatives to provide information and increase access are generally lacking on a national level. In general, it can be concluded that a systematic approach to helping parents decrease barriers to access is lacking. Rather, the onus is on parents to seek out the public authorities, where they can then receive information. In a context where demand for ECEC continues to outpace supply, this lack of systematic information provision can be an impediment to accessing the right to ECEC.

Informational barriers related to access to ECEC may be particularly pronounced for children from migrant families or families where parents do not speak German. As highlighted by experts, parents in these families may often not be aware of their entitlements to childcare or may not know how to access these entitlements. Here, a greater effort has been made to increase outreach. For instance, there is the federal programme, Daycare Entry: Building bridges for early education (*Guter Kita-Einstieg: Brücken bauen in frühe Bildung*), which initially targeted mostly refugee children but has since been opened up to other groups, such as families that are economically at risk or in precarious living situations⁵. The aim of the programme is to provide information on ECEC to these families and thereby facilitate access. There are also local initiatives to increase access for disadvantaged groups, though this is not the case everywhere.

4.1.3. Enforcement resources

Finally, enforcement resources may play a role in influencing access to ECEC, in that they enable legal avenues for families to take in case their right to childcare is denied. As stated previously, in Germany, the legal right to a place in ECEC is codified in national legislation from the age of 1, and local maintenance bodies are therefore obliged to provide a place for all children. If the legal entitlement

⁴ For more information see kita-navigator.berlin.de.

⁵ For more information see <https://www.bmfsfj.de/bmfsfj/service/publikationen/bundesprogramm-kita-einstieg-bruecken-bauen-in-fruehe-bildung--118650>.

to care cannot be honoured, then parents have the right to sue these authorities for a place (Schettler, 2016; Eurydice, 2021). In October 2016, the German Constitutional Court (*Bundesgerichtshof*) ruled that parents may be entitled to compensation for lost earnings from their local authority if a place in daycare for their child cannot be provided (Spiegel, 2016). However, there may be specific cases where the municipality can justify the lack of places, for instance if agreed contracts were unfulfilled by contracting partners.

Nevertheless, while the right to sue for a place in ECEC exists, in practice, few families actually make use of this avenue, as pointed out by experts. Currently, around 1 000 court cases relating to the legal entitlement §24 SGB VIII are listed⁶. As stated by experts, however, this does not reflect the overall number of complaints, as not all are accepted by courts because they may be legally insecure, or because local authorities find a place before the legal process commences. There are barriers that explain parents' reluctance to sue, such as an unwillingness to cause a confrontation in the local community, perceived costs, time until the decision, and the chance of losing. Moreover, the families that do sue tend to be those in socioeconomically advantaged positions, who can afford to invest the time and other resources needed for such an endeavour. Hence, suing for a childcare place should not be seen as an effective avenue to increase access to childcare. At the same time, the existence of such a legal avenue may have contributed to increased provision of places. As laid out in the expert interviews, many municipalities increased their provision in anticipation of the establishment of the right to childcare for children under 1, and the potential suits associated with it. Hence, while enforcement resources do not in themselves appear as an effective way of accessing the entitlement to ECEC, they can have an indirect effect by increasing the bargaining and legal power of families relative to public authorities.

4.2. ECEC in Italy

In Italy, crèches have traditionally been under the responsibility of local and regional authorities since 1971, when they were first defined as social services of public interest (Law No 1044). In recent years, however, a significant change occurred when an integrated system for early childhood education and care for children aged 0 to 6 years was introduced for the first time (Law No 124/2015 and Legislative Decree No 81/2017). The new system consists of two main pillars: the nurseries or crèches (*nidi di infanzia*) and the kindergarten (*scuole d'infanzia*). Importantly, this legislative change constituted the first time that the State, particularly the Ministry of Education (MIUR), assumed responsibility for services for children under 3. Although not directly involved in service management, the MIUR

⁶ https://dejure.org/dienste/lex/SGB_VIII/24/1.html

exercises an important role in planning and coordination, as well as financing for the system. While the governance of the system remains decentralised – as will be set out in the analysis of power resources – there is evidently a move towards homogenising the quantity and quality of childcare services offered across the Italian regions. Around the same time, legislation was also introduced to formally recognise nurseries and supplementary services as services of public interest (Law 107/2015 and the subsequent Legislative Decree No 65/2017). Overall, it is evident that early childhood education and care is increasingly recognised as an important policy field within the Italian context, with the national government gradually assuming more responsibility.

4.2.1. Normative resources

As set out in the theoretical framework, a very significant part of the policy configuration in ECEC are normative resources, the legislative acts that define the entitlement to a service and the scope of such entitlements. Within the context of ECEC, the first important dimension of normative resources is whether a legal entitlement to ECEC exists. In Italy, there is no formal entitlement to a place in education and care. Rather, to access a place, families submit a request of admittance to childcare services at the relevant local office responsible for the organisation of ECEC services. Depending on availability in their region, in principle, families have freedom of choice of the facilities. Considering requests and admittance requirements established at local level, municipalities make priority lists based on criteria defined at local level in order to regulate admissions, and then allocate places. Given the lack of formal entitlement, a place in ECEC is not guaranteed for children.

Nevertheless, there are other significant provisions under the umbrella of normative resources. First, as discussed in the analytical framework, the funding structure of ECEC is significant in affecting access to childcare services. Prior to the 2017 reform, the state intervened in ECEC only with extraordinary funding, but has become more involved in funding provision for ECEC since then. As part of the funding structure for ECEC, different types of financial support measures to help families in financing ECEC are available in Italy. These include a 19 % deduction of the cost of nursery school fees, up to EUR 632 per year per child, and the *bonus asilo nido* (nursery school bonus), which consists of an annual voucher of EUR 1 000 (increased to EUR 1 500 in 2019) to reimburse the cost of attending a nursery school. In 2019, 38 % of families' expenditure on nurseries was covered by the bonus and another 5 % by deductions. However, the cost of childcare services to parents remains substantially high (Appendix, Table A1.1).

Moreover, there is significant regional variation, as the setting of fees is left to municipalities' discretion. On average, in Italy, families pay EUR 1 581 per year for each of their children enrolled in nursery. This figure, which is equal to one-fifth of the expenditure incurred to provide these services, varies greatly in the different areas of the country: it is highest in the Centre-North, where it is around EUR 1 600-1 700, with a peak of almost EUR 1 900 in the North-East, while it drops to around EUR 600-700 in the South. Research indicates that despite the availability of financial support measures, 12.8 % of families who do not use nursery services cite financial barriers as a reason not to take up care services. The fragmented governance and funding of childcare services across Italian regions means that the enrolment rate for children aged 0-3 is relatively low, at 29.6 %. In addition, there is significant variation in enrolment rates across regions (Appendix, Figure A1.1). While the North-East (34.5 %) and the Centre (35.3 %) have a relatively high coverage, rates are lower in the North-West (31.4 %) and particularly in the South (14.5 %) and the Islands (15.7 %). Coverage also tends to be higher in urban areas.

In addition, financial barriers may be particularly significant for children from socioeconomically disadvantaged families. However, in Italy there are no particular provisions, including financial support, for children from disadvantaged backgrounds. At the same time, evidence shows that these children do indeed have significantly reduced access to childcare services relative to those in more economically advantaged positions. Recent studies by ISTAT (2020) indicate that for children belonging to the poorest brackets within the population (first and second quintile of income distribution), the enrolment rate in nurseries remains just below 14 %, while in the third and fourth quintiles it increases to 20 % and to 26 % respectively, reaching 35 % in the top quintile (ISTAT, 2020). Hence, substantial inequality in access to childcare across income groups remains in Italy.

Inequality in access to childcare may also be influenced by the structure of providers. Both public and private nurseries exist in Italy, with public nurseries run directly by municipalities in accordance with regulation defined at local level. Alongside these facilities, there are also services run by private not-for-profit or for-profit organisations, which may receive municipal funding, as well as fully private offers, mainly financed through parental fees. Across Italy, services remain roughly equally split between private and public providers, though there is significant regional variation (Appendix, Figure A1.1). Research suggests that the high share of private providers affects the affordability of childcare services (Alleanza per l'Infanzia, 2020), therefore constituting a barrier to access.

In addition to normative resources, particularly funding provisions, that influence access to childcare, regulation on the quality of childcare services is very important. Again, there is significant regional variation. Each municipality is responsible for the organisation of the educational services for early

childhood, in compliance with regional regulations, and also develops its own educative project. These plans are then implemented by nurseries within the framework set by the municipality. Regulation on important aspects of quality, including the child-staff ratio and group sizes, is established at regional level.

Finally, a further dimension of normative resources on quality of ECEC are regulations regarding staff qualifications. In contrast to other dimensions of quality, national regulation exists in this respect. With the legislative decree 65/2017, a requirement for educators to have a university degree was introduced for both public and private nurseries. However, in expert interviews, the bad working conditions and wages of early childhood educators was highlighted as a cause of shortages in qualified teaching personnel. Working conditions of educators change significantly depending on whether they are employed in publicly managed services or in private ones (Neri, 2016). Leon et al. (2019) show that in 2015 29.3 % of the teachers in childcare had non-standard contracts and 30.3 % worked part-time, despite having stayed with the same employer for 12.3 years on average. In terms of wages, there is a significant monthly wage gap between childcare teachers and their pre-primary colleagues of around 15 %. While quality regulation related to the qualification of educators therefore does exist, the staff shortages within the ECEC sector pose a significant challenge for maintaining quality in the future.

4.2.2 Instrumental resources

Instrumental resources constitute the second type of resource we consider. These include targeted or universal support channels, which facilitate individuals' access to social rights. In the absence of an individual entitlement to access to childcare or pre-primary school, as is the case in Italy, instrumental resources consist in those procedures, information and support channels that support families in overcoming the barriers that still hamper the access to the service. Significant barriers to access to childcare do exist in the Italian case. In addition to financial barriers and regional inequalities, as set out above, these also include informational barriers, and in some cases cultural barriers. Instrumental resources could play an important role here in increasing access to information about ECEC and therefore incentivising take-up.

Despite this, we generally find no evidence of systematic provision of such resources in Italy. There are some local or regional initiatives, for instance, the Emilia-Romagna region has a dedicated website and service, *Informa Famiglie e Bambini*, where support is provided to families who want to access to ECEC services. A particularly good example is that of Reggio Emilia, where the municipality informs new parents, even before they give birth, about the opportunity to enrol their children in nursery. A childcare information kit is sent to the new parents with support for the administrative procedures. As stressed by our interviews, however, this 'door-to-door' information service is a peculiarity of few

municipalities, mostly in the Centre (Bologna) and North of Italy (Milan). Other information activities are carried out by the organisations that manage the private not-for-profit childcare services. For instance, the FISM (*Federazione Italiana Scuole Materne*) raises awareness around the educational and social services provided by the kindergarten. Nevertheless, overall, there is little systematic provision of information about access to ECEC.

Informational barriers may be particularly prevalent for children from socioeconomically disadvantaged families. For instance, as observed by Favaro (2013), the enrolment of pupils aged 3-5 in pre-primary school reduces significantly among non-Italian citizens (80.2 %, compared with 93.6 % of Italians). This discrepancy can be attributed to factors affecting both the family (an underestimation of the importance of this educational stage, or the organisational difficulties and the physical distances between home and school, especially for the those that live in isolated situations) and the reception context (the costs of canteen service being unsustainable for all, the difficulties of integrating the children of immigrants, especially where available places are limited or where, in a discriminatory manner, the intention is to discourage the attendance of foreign children). At the moment, however, there are neither institutional nor non-institutional channels to facilitate access and support non-Italian citizens in accessing childcare services.

4.2.3 Enforcement resources

As no legal entitlement to childcare exists in Italy, there are no remedy procedures in place for cases where children do not have access to services.

4.3. ECEC in Poland

In Poland, ECEC is not a uniform system but is rather based on two pillars: the childcare system supervised by the Ministry of Family and Social Policy (children aged 0-3 years) and the pre-primary education system that falls under the Ministry of Education and Science (children aged 4-6/7 years). For children aged 0-3, centre-based childcare is provided in crèches (*żłobki*) and, since 2011, kids clubs (*kluby dziecięce*), as well as home-based provision by daycare providers or childminders (*opiekun dzienny*) and nannies (*niania*). It is regulated by the Act of 4 February 2011 on the Care for children aged up to 3. For children aged 4-6/7 years, pre-school education is provided in nursery schools (*przedszkole*), pre-school classes (*oddziały przedszkolne*) in primary schools and other pre-school education settings. It is regulated by the Act of 14 December 2016, the Law on School Education.

ECEC includes three functions: educational, upbringing, and care provision. However, there is a clear division of competences between particular ministries (the Ministry of Family and Social Policy for 0-3 year-olds and the Ministry of Education and Science for 4-6/7 year-olds). As regards ECEC for children up to 3, the Ministry of Family and Social Policy is responsible for general monitoring of the implementation of the Act on the Care for Children up to the age of 3, but real implementation of the provisions takes place in communes (local municipalities). Local authorities are responsible for running ECEC facilities for children up to 3 years' old and supervising the whole system of ECEC facilities (private and public) on its territory. Hence, overall implementation is highly decentralised.

4.3.1 Normative resources

The first aspect to consider when analysing the normative resources in childcare is the existence of a right to care. In Poland, children aged 3-5 are entitled to a place in a pre-primary setting in their locality, with a year of compulsory pre-school at age 6. However, for children under 3, there is no legal guarantee of a place in ECEC. There is no single national rule for crèche or kids club recruitment. It depends on the institution and can be found on the website of a given institution, city or commune office. As such, access to a place cannot be guaranteed and will depend on local provision and guidelines. However, in addition to legal entitlements to a place in childcare, the design of other normative resources can also significantly influence access and quality.

Funding structures are significant. In Poland, funding for care services for children aged up to 4 comes primarily from the budgets of communes and other local government units, targeted state grants and EU structural funds. Generally, nurseries receive funding from the local governance unit for each child in the facility. Targeted state grants (e.g. the Maluch+ Programme) can be allocated for either the creation of new facilities, the creation of new places in existing nurseries and the subsidising of existing places to reduce fees. Moreover, there are specific financial support measures for parents. From 1 April 2022, parents have been able to apply for co-financing of their children's places at institutional care of up to PLN 400. Previously, such direct support for parents was available through the Maluch+ Programme, but it depended on the availability of the funds within the programme. This subsidy will cover a significant part of the cost of childcare for children aged 0-3 but a portion of the cost will still be borne by parents. In two-thirds of public institutions, fees are PLN 600 or lower, meaning that two-thirds or more of the cost of care will be covered by the subsidy. In contrast, among private institutions, the share of institutions with relatively low fees is smaller and fees can exceed PLN 1 000, so the subsidy may be less effective (Table A3.2).

There are also regional disparities in financial support. Parents can be supported by vouchers or subsidies organised by communes, but this is not a formal obligation; it depends on the particular commune. Big and affluent communes provide better access to institutional care for children under 3 by introducing special programmes, for example the Warsaw crèche voucher. Additionally, employed parents can apply for co-financing from the company's social benefits fund. However, it is not the case that these funds are open and available in every case – the rules of the company's social benefits fund are the deciding factor here. There may also be further regional financial support, depending on the commune. There are no specific financial support provisions for children from socioeconomically disadvantaged families.

As a result of public policy aimed at improving the access to ECEC, 12.4 % children aged 0-2 were covered by ECEC services in 2019, compared with 2 % in 2004 and 4.8 % in 2013 (Appendix, Figure A3.2). For children aged 0-3, the coverage rate rose to 15.4 % in 2019 and 17.5 % in 2020. Nevertheless, demand for care is not met, even though the number of children is decreasing. Moreover, the design of the Polish ECEC system exhibits significant regional inequalities in access. The coverage rate in 2020 for children 0-3 years' old varies greatly by regions. It ranges from 11.3 % in the Świętokrzyskie Province, 12.2 % in Warmia and Masuria, and 13.1 % in the Lubelskie Province, to 25.6 % in Lower Silesia, 21.4 % in the Opolskie Province and 21 % in Mazovia (Statistics Poland 2022). There are still communes where no places of institutional care for children up to 3 exist. There are also strong differences in access to ECEC for children up to 3 between rural and urban areas (especially big cities). In some rural communes, there are no places of institutional care for children up to 3. Costs are also a more significant barrier for disadvantaged groups. In general, women with low and medium education indicate higher barriers than those with tertiary education, especially in the case of the cost of childcare, though a reduction in these barriers has been observed in recent years (Appendix, Figure A3.1).

In terms of the type of providers for childcare, creches and kids clubs are mostly non-public. There are approximately three times as many private creches as public institutions, and the dimensions are similar for kids clubs. The differences are less pronounced when it comes to number of places, but private provision still dominates (Table A3.1). Among children aged 4-7, the majority of institutions are run by local municipalities, but 45.1 % of institutions remain privately run (Statistics Poland, 2020).

Creches and kids clubs that operate as private companies or are run by a non-government organisation have to comply with standards set in the Act of 4 February 2011 on the Care for children up to the age of 3. They can apply for public grants from the Maluch+ Programme, and after fulfilling the requirements they are generally granted support. In private care settings, financing is based mainly

on fees from parents, supplemented by other sources. It is not an obligation, but communes can grant subsidies to private care settings, after meeting some specific conditions set by the commune. Generally, private institutions operate mostly in urban areas and demand higher fees from parents than public institutions (Table A3.2). As a result, the access to these institutions is constrained by place of residence and income.

In addition to funding structures and the mix of providers, we also examine resources relating to the quality of childcare. In Poland, some national regulations on quality-of-service provision do exist. At national level, there are regulations on group sizes in crèches (Act on Care for children up to the age of 3), set at a maximum of 8 children cared for by 1 childminder in a crèche or kids club. The maximum number is reduced to 5 when a group includes a child with a disability, a child requiring special care or a child under 1 year of age. Crèches with more than 20 children employ at least 1 nurse or midwife. However, the Act on the Care for Children up to the age of 3 does not specify the number of working hours per week for childcare institutions. Working hours in crèches and kids clubs are determined by their organisational regulations, taking into account parents' preferences. Crèches and kids clubs provide care for up to 10 hours per day. In special cases, at parents' request, the duration of the stay can be extended for an additional fee. For a daycare provider (home-based provision), working hours are set in an agreement between the provider and the employing entity.

Overall, the Act on Care for children up to the age of 3 sets basic requirements, leaving much space for improvement. Each facility can decide on additional activities or introduce higher quality standards than required by law. However, it depends on each facility or its leading authority. There are no additional formal/legal requirements on quality at regional level. Additional quality standards are usually introduced by private entities and are connected to higher fees paid by parents. Higher quality entities have been established mostly in cities, where the competition between institutions (mostly private) is higher, and parental demand and financial capabilities are larger.

As regards staff qualifications, different types of qualifications are accepted in crèches and kids clubs: nurses, midwives, childminders, pre-school teachers, early school education or pedagogical specialists, and those who have completed a degree in areas relating to early childhood education and care. If employees have completed a specialist child first aid course less than 2 years before undertaking employment, they can also have completed any type of higher education which includes aspects of childcare and development (in addition to 80 hours of training) or secondary or vocational secondary education with at least 1 year's experience of work with children aged under 3 (or 280 hours of training). Hence, staff employed in ECEC have diverse profiles. Childminders can also have several qualifications. Childminders and child carers employed in creches and children's clubs are

employed on the basis of general employment regulations (Labour Code). Recruiting young people to work in institutional forms of childcare is a growing problem.

4.3.2 Instrumental resources

As set out previously, instrumental resources consist of those procedures, information and support channels that support families in overcoming the barriers that continue to hamper access to childcare services. There are substantial barriers to take-up of childcare services in Poland (Magda, 2020). These include the lack of availability of high-quality childcare services, the difficulties mothers face in finding flexible working arrangements, and financial incentives to stop working, given the cost of childcare. Cultural pressure and social norms also influence decisions about childcare take-up. Instrumental resources could play a role in increasing information about access to childcare services.

In Poland, activities that facilitate the delivery and access to ECEC are undertaken locally, mainly in big cities. Many communes create separate websites for educational and care issues. For example, in Warsaw, each woman in hospital receives a layette for the baby she is delivering. This includes small practical gifts and a book with all the necessary information. Moreover, Warsaw provides a separate website (<https://zlobki.waw.pl/>) with information on crèches and a Warsaw crèche voucher. In the case of nursery schools, there is an electronic system for recruitment in Warsaw. There are also provisions that facilitate the access of children with disabilities to ECEC, although mainly for children from 3 years' old. Some crèches or kids club offer places for younger children with disabilities or special care needs, but it does not create a coherent structure and is dependent on a particular unit.

In Poland there are two distinct groups of NGOs supporting parents with different services, as well as legal organisations. One group of NGOs is aimed at the general population of families with children, and the second integrates parents of children with disabilities. However, they do not have a common structure, so the support provided by them is fragmented. In conclusion, access to instrumental resources is rather fragmented and locally based, and this can be an impediment to accessing ECEC.

4.3.3 Enforcement resources

As there is no right to childcare for children under three, there is consequently no access to enforcement resources in Poland.

Conclusion

This paper provides an analysis of early childhood education and care policy in three EU countries: Italy, Germany and Poland. By drawing on the capability approach, and building on an original power resources analytical framework that defines relevant policy dimensions in ECEC policy from a rights-based perspective, we map policy design features in the three countries. Table 2 presents an overview of the relevant indicators in Germany, Italy and Poland. As can be seen, there are both similarities and differences in policy design.

Table 2. Summary of childcare power resources in Italy, Germany and Poland

Type of resource	Dimension	Italy	Germany	Poland	
<i>Normative resources</i>	Existence of legal entitlement to childcare	No	Yes	Yes	
	Scope of legal entitlement to childcare	Not applicable	Universal from age 1	Universal from age 3	
	Funding mechanisms	Public funding with parental contributions	Public funding with parental contributions	Public funding with parental fee contributions	
	Support policies	Tax deduction and child bonuses (applied universally)	Subsidies depending on Bundesland	Allowances	
	Funding provisions for disadvantaged groups	None	Staggered fees for disadvantaged groups	None	
	Main providers of childcare	Public and private for profit	Public and private not-for profit	Public and private for profit	
	Regulation on structural quality provision	Regulation on child-staff ratio/group sizes at regional level	Regulation on child-staff ratio/group sizes at regional level	Regulation on child-staff ratio/group sizes at regional level	Regulation on child-staff ratio/group sizes at national level
		Regulation on hours of provision at regional level	Regulation on hours of provision at regional level	Regulation on hours of provision at regional level	Regulation on staff qualification at national level
Regulation on staff qualification at national level		Regulation on staff qualification at national level	Regulation on staff qualification at national level		
Extent of regional variation in provision	High	High	Low		

<i>Instrumental resources</i>	Existence of resources for improved access to childcare	Some municipal provision	Some municipal provision	Some municipal provision	Some municipal provision
	Existence of specific initiatives to reach out to groups with lower access to childcare	Some local initiatives	Some national initiatives and regional provision	Some national and private initiatives	Local services and private initiatives
<i>Enforcement resources</i>	Existing judicial procedures for claiming childcare	No	Yes	No	No

Source: Authors' composition.

The first aspect of normative power resources examined in detail was the existence of a legal entitlement to childcare. Within the three countries examined, only one country – Germany - has established a legal entitlement to a place in childcare for the under 3s' age group. The establishment of such a legal entitlement, and the accompanying expansion in childcare places to guarantee the fulfilment of this right, certainly had a positive impact on the ability of children and families to access childcare in Germany, as evidenced by the significant positive trend in take-up of places in the past decade. In the absence of an entitlement to a place, as is the case in Italy and Poland (for children under 3), there may be limited incentives for public administrations to invest significantly in childcare expansion and limited opportunities for families to claim for places in childcare.

However, this does not mean that the existence of a legal entitlement to a place in childcare alone is a necessary or sufficient condition to guarantee access for all children. Indeed, for an entitlement to childcare to be effective at increasing access to childcare, it must be accompanied by further resources to reduce the cost of such care for families. In Germany, we find that there is a large regional variation in funding structures, which results in very high fees for care in some regions. This can significantly curtail access to care, even where a place is guaranteed. In contrast, in Italy and Poland, there are more concerted efforts to specifically reduce the cost of childcare through universal subsidies. In Poland, there has been a marked increase in take-up of childcare – albeit starting from very low levels – even without the existence of a legal right to childcare, whereas levels in Italy have been somewhat erratic, though not significantly lower than in Germany.

A common finding across the three countries is that funding structures do not affect all children and their families equally. First, the existence of measures for cost reduction and funding support is particularly significant for children from socioeconomically disadvantaged families. Inequality in access to childcare for children from these families continues to be an issue in all countries examined. The development of measures, including financial measures, targeted to vulnerable groups is an

important avenue to consider. Second, there is significant regional inequality in funding support for childcare, which affects both access and quality within facilities. Since funding for childcare services often relies on funding from local municipalities, the quality of childcare provision can strongly depend on children's place of residence. Stronger financial support measures at national level to equalise funding for childcare across regions could be an important policy measure in this context. Some measures in this direction have already been taken in the countries examined, but they could be further accelerated. Specifically, policy should explicitly seek to channel funding for childcare services towards regions with comparatively lower financial means.

Beyond funding structures, the mix of childcare providers may also play a significant role. In principle, having a range of childcare providers is a positive thing, as it increases choice for parents. Yet it may also be associated with inequality in access to and the quality of childcare services. In the two countries where private provision of childcare plays a significant role - Italy and Poland - this tended to be associated with a higher cost of care for parents, and therefore reduced access.

Beyond structural factors affecting access to childcare, quality is a significant issue. In two of the countries examined - Italy and Germany - regulation on staff-child ratios and hours of provision for childcare services falls to the regional level, while only Poland has regulation on staff-child ratios at national level. In the absence of national standards on the quality of care, regional inequalities will continue to persist. While the management and administration of services at local level – a common theme across all countries – may be appropriate in the context of the service being delivered, it should be accompanied by central (national/federal) action to reduce regional inequalities, not only in access but also in quality.

In all three countries, regulations on staff qualifications in ECEC services exist at national level, though the type of qualification required differs. Putting greater emphasis on high-quality training and education for care staff in ECEC facilities emerged as one of the most significant policy measures to ensure continuing high-quality provision of care services in the country examined. However, all three countries face issues in recruiting and retraining staff in ECEC, particularly highly qualified staff, and this was highlighted as a major issue for the future. In this respect, taking measures to increase working conditions and pay within the ECEC sector is crucial to counteract the issues in staff recruitment.

In addition to the formal entitlements, the analysis also examined the role of instrumental resources, that is, institutional and non-institutional channels to aid families in accessing childcare and reduce informational barriers to take-up. In all three countries examined, these resources tend to be underdeveloped and, if anything, are available at local level. Yet instrumental resources may greatly

help in increasing access to childcare services, particularly for children from particular backgrounds, such as families who do not speak the native language in the country of residence. Experience does suggest that specific programmes aiming to ease their access to education and care services can significantly increase take-up. This illustrates the role that instrumental resources could play in improving access to ECEC, particularly for disadvantaged groups.

Finally, the empirical research also investigated the role of enforcement resources, that is, legal channels for individuals to claim their entitlement to childcare. In Germany, the only country where children under 3 have a right to childcare, such channels do exist. In practice, enforcement resources appear of lower relevance in the context of childcare policy, as only a few families – those with sufficient resources – use legal channels to claim for their place in childcare. However, the existence of enforcement resources may have an indirect effect, in that the threat of a potential suit puts pressure on administrations to invest in the development of facilities in order to meet their legal obligations. In this sense, enforcement resources do provide families with additional leverage in claiming for a childcare place.

Overall, the analysis allowed us to shed light on the variation in the institutional design of three childcare regimes that, based on traditional literature, are grouped under the umbrella of familialism. Even though they exhibit different levels of budgetary effort in childcare policies, they are all characterised by a performance below the Barcelona targets in terms of enrolment of children under the age of 3. We provided an original analytical grid that links the rights-based approach with insights from the capability approach literature. The resources-based approach that draws on Vandenbroucke et al. (2021), and is here operationalised, can serve as a grid for the assessment of the quality of childcare policies. In the context of the EuSocialCit project, an forthcoming working paper links the institutional design of childcare policies with the public budgetary effort, and studies their interaction and the impact on the final take-up. The aim is to investigate the extent to which institutional design and public spending affect the use of these services.

Appendix – Country sheets

A1 ECEC in Italy

Type of resource	Dimension	
<i>Normative resources</i>	Existence of legal entitlement to childcare	No
	Scope of legal entitlement to childcare	No legal entitlement but universal free of charge from age 3
	Funding mechanisms	Public funding with parental fee contributions
	Support policies	Tax deduction and child bonuses (applied universally)
	Funding provisions for disadvantaged groups	None
	Main providers of childcare	Municipalities (0-3 years) Private for profit (0-3 years) State (3-5 years) Private non-profit (3-5 years)
	Regulation on structural quality provision	Regulation on child-staff ratio/group sizes at regional level Regulation on staff qualification at national level Regulation on hours of provision at regional level
	Extent of regional variation in provision	High
<i>Instrumental resources</i>	Existence of resources for improved access to childcare	Some municipal provision
	Existence of specific initiatives to reach out to groups with lower access to childcare	Some local initiatives
<i>Enforcement resources</i>	Existing judicial procedures for claiming childcare	No

With the adoption of Law No 124/2015 and then the Legislative Decree No 81/2017, Italy introduced for the first time an integrated system for early childhood education and care from 0 to 6 years' old. It is composed of two main pillars: the nurseries or crèches (*nidi di infanzia*) and the kindergarten (*scuole d'infanzia*). With this new provision, the State and, in particular, the Ministry of Education (MIUR) take on the responsibility for childcare services for the first time. Although not directly involved in the management of these services (unlike the kindergartens), the MIUR is called on to exercise a very important role of the direction, planning, coordination, and financing of the entire 0-6 system,

with the aim of gradually homogenising the offer in terms of quantity and quality. The governance of the system remains decentralised (see below for details), but the assumption of responsibility by the MIUR is evident and represents the main challenge of the decree. In what follows, we look at the individual power resources that are provided to children under the age of 5 in Italy to access both early childcare services and pre-primary school.

Normative legal resources

Formally in Italy there is no legal entitlement to early childhood education and care (ECEC).

Initially developed as health and welfare services within the company to help working mothers (Royal Decree No 718 of 1926), crèches were defined as social services of public interest by Law No 1044 of 1971, under the responsibility of local and regional authorities. In more detail, public nurseries are run directly by the municipalities, in accordance with general criteria defined at regional level, either directly or indirectly. Alongside services with mainly municipal funding (both managed directly by the municipalities and given in agreement to private non-profit or for-profit organisations, and private but affiliated with the municipalities), there is a private offer in Italy, mainly financed with fees paid by families, and in some cases by companies (public or private). From a regulatory perspective, childcare services were initially recognised as services of individual interest, which means without any duty from the state to guarantee access to them. In general, families submit a request of admittance to childcare services at the relevant local office responsible for the organisation of ECEC services. Where more than one service is available in the municipality, families have freedom of choice, and they may also indicate more than one option. Considering requests and admittance requirements established at local level, municipalities make priority lists based on criteria defined at local level in order to regulate admissions in case there are fewer places available than requests.

At the national level, the educational purpose of 0-3 services has definitively established itself since 2001, with the reform of Title V, which defines the competences of the state, regions and municipalities, and the various sentences of the Constitutional Court that accompanied it, such as judgment no 467 of 2002. Yet the formal recognition occurred only in 2015 with Law 107/2015 and the subsequent Legislative Decree No 65/2017, which brought nurseries and supplementary services for early childhood back to the educational sphere rather than to the welfare sector, and defined them as 'services of public interest'. The 2015 law and the 2017 decree also introduced the 'integrated education and training system from birth up to six years', directed and coordinated by the Ministry of Education, University and Research, with the aim of ensuring the continuity of the educational and scholastic path from birth up to 6 years of age.

Before 2017, the state intervened only with ad hoc extraordinary funding, as in 2007 with the Extraordinary Plan for the development of the integrated system of socio-educational services for early childhood. This was financed by the 2007 Budget Law (Law No 296 of 2006) and in 2011, with the Cohesion Action Plan (PAC), a state intervention that financed, among other things, the strengthening of early childhood services in four southern regions - Calabria, Campania, Puglia and Sicily. In the 1990s, Italy acknowledged various types of supplementary services for early childhood, such as playgrounds, parent-children centres and childminders as well as the micro-nurseries, defined as smaller crèches with greater flexibility, sized according to individual regional regulatory provisions.

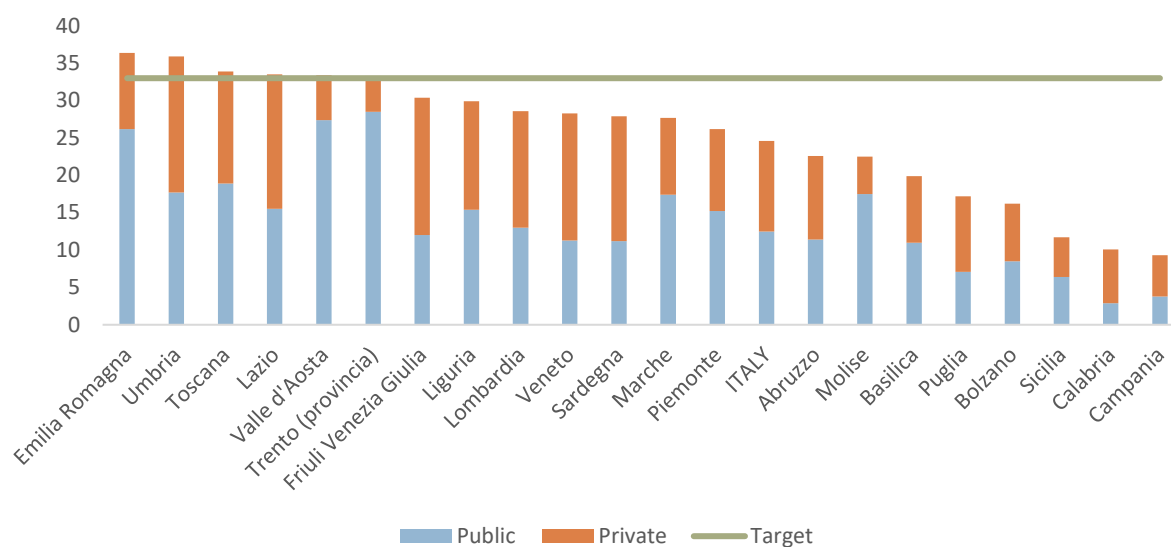
In 2007, spring sections were created in pre-primary schools, which welcome girls and boys between 24 and 36 months of age and favour the continuity of the educational path from 0 to 6 years of age.

In terms of quality of the service provided, each municipality is responsible for the organisation of the educational services for early childhood, in compliance with regional regulations. Therefore, the offer varies throughout the country. In general, nurseries admit children aged from 3 to 36 months. Municipalities may also offer services for children aged less than 3 months. Each municipality draws up a general educative project that is applied by each nursery through its own educational plan. The school plan details the activities carried out. The children/educator ratio, as well as minimum and maximum group size, are legally established at regional level. Since nurseries are managed at local level, it is not possible to provide detailed information on the organisation of time.

The high fragmentation in the governance of childcare services as well as the fragmentation in the funding scheme means Italy has been characterised by a low coverage, with a national average of 26.9 %, with significant disparities across regions (24.6 % for childcare services, and 2.3 % for integrative services). While the North-East and the Centre of Italy have a coverage level above the European target (34.5 % and 35.3 % respectively), the North-West present levels a little below the target (31.4 %). The South (14.5 %) and the Islands (15.7 %) are still far from the target. On a regional level, Emilia Romagna (36.4 %) has the highest coverage of childcare services (nurseries, micro-nurseries, spring sections), followed by various regions in the Centre (Umbria, Toscana, Lazio), Aosta Valley, and the autonomous province of Trento, all of which are above the European target. Southern regions, notably Campania and Calabria, show the worst results. Such percentages slightly increase if we account also for the integrative services, such as game space, childminders and child-parent centres, which cover at national level respectively 1.3 %, 0.4 % and 0.6 % of children aged 0-2. Game spaces are particularly important in Aosta Valley (7.1 %), Umbria (4.6 %) and Piemonte (3.1 %), while childminders are present in the autonomous province of Bolzano (7.1 %) and Trento (3.7 %). The province capitals have a coverage rate of 34.8 %. All the remaining municipalities have an average of 23.7 spots per 100 people under the age of 3. The cities of Florence, Bologna, and Rome have more than 45 % coverage among the central municipalities of the central-northern metropolitan areas, followed by other metropolitan cities and, at a significant distance, those of the South and the Islands, where coverage does not exceed 20 % (with the exception of Cagliari). Some urban cities, such as Bologna, Florence, Milan, and Genoa, are able to provide adequate coverage even in outlying municipalities. The Rome metropolitan area's peripheral municipalities, however, deviate significantly from the area's centre, with a coverage of 23.6 % (ISTAT, [2021](#)).

In terms of providers, as shown in Figure A1.1, childcare services remain substantially split between public and private sector, with significant cross-regional differences.

Figure A1.1. Coverage of 0-2 childcare services in Italy by region (2019)



Source: Authors' composition based on ISTAT.

The high share of private providers affects the affordability of childcare services (Alleanza per l'Infanzia, 2020). To support families in taking up childcare services, the Italian state offers two types of support for the costs incurred by families: a 19 % deduction of the cost of nursery school fees, up to EUR 632 per year per child, and the *bonus asilo nido* (nursery school bonus), which consists of an annual voucher of EUR 1 000 (increased to EUR 1 500 in 2019) to reimburse the cost of attending a nursery school. In 2019, 38 % of families' expenditure on nurseries was covered by the bonus and another 5 % by deductions. There are other forms of homecare assistance (*Forme di supporto presso la propria abitazione*) for disabled children. In this case the *bonus asilo nido* is granted under the form of home nursing for children under 3 years of age suffering from serious chronic diseases. Despite these measures, as shown in Table 1.1, the costs for parents remain quite high, thus undermining children's overall take-up of the service. Indeed, municipalities have the discretion to set the amount and methods of calculating these fees. On average, in Italy, families pay EUR 1 581 per year for each of their children enrolled in nursery (see Table A1.1). This figure, which is equal to one-fifth of the expenditure incurred to provide these services, varies greatly in the different areas of the country: it is highest in the Centre-North, where it is around EUR 1 600-1 700, with a peak of almost EUR 1 900 in the North-East, while it drops to around EUR 600-700 in the South. Such amounts are quite significant if we consider that according to the Ministry of Education, 12.8 % of the families who do not use nurseries report having made this choice because they can't afford the expense. Recent studies by ISTAT (2020) show that for children belonging to the poorest brackets (I and II quintile of income distribution), the frequency of nursery school remains just below 14 %, while in the third- and fourth-income classes it rises to 20 % and to 26 % respectively, reaching 35 % frequency in the last fifth (ISTAT, 2020).

Table A1.1 Average expenditure per child

	Percentage of expenditure paid by parents	of Fee paid by municipalities (euro)	Average expenditure per child Fee paid by users (euro)
North-West	23.0	5.655	1.687
North-East	22.9	6.381	1.892
Centre	17.8	7.546	1.636
South	10.7	5.374	643
Islands	10.7	6.180	739
ITALY	19.8	6.393	1.581

Source: Authors' composition based on ISTAT.

Finally, with respect to the educators, a university degree requirement has been introduced with the legislative decree 65/2017, which is required in both public and private nurseries and corresponds to a 3-year degree in the L-19 class (Educational Sciences). Working conditions of educators change significantly depending on whether they are employed in publicly managed services or in private ones (Neri, 2016). Overall, Italy is characterised by a high share of temporary involuntary contracts. Leon et al. (2019) show that, in 2015, 29.3 % of the teachers in childcare had non-standard contracts, 30.3 % worked part-time, despite the average number of years worked with the same employer being quite high (around 12.3 years). The consequence of such career fragmentation is a high dissatisfaction linked to income discontinuity and uncertainty, which is then translated into lower quality of the service for kids. In terms of wages, there is a significant monthly wage gap between childcare teachers and their pre-primary colleagues of around 15 %. If one considers the hourly wage, the gap between childcare and pre-primary teachers is even higher at around 25 %. Considering the wage dynamics for the level of qualification of teachers and the length of careers, childcare teachers have the lowest wages, regardless of their qualifications and their ages, with the sole exception of older teachers with 3-year degrees and a very long career. As stressed by our interviews, the bad working conditions and wages of early childhood educators in part explains the low attractiveness of this job and therefore the shortages of qualified teaching personnel. In this respect, the fact that the educators are not even recognised at the same level as pre-primary teachers in public schools, and are represented by two different trade union organisations, does not help in supporting the former and explains the low mobility.

Instrumental resources

Instrumental power resources include targeted or universal support channels, which facilitate individuals' access to social rights or assist them in access to justice in cases of non-compliance or rights-violation by third parties. In the absence of an individual entitlement to access to childcare or pre-primary school, instrumental resources consist of those procedures, information and support channels that support families in overcoming the barriers that still hamper the access to the service.

As observed above, access to pre-primary school is almost universal and barriers in access are limited. Yet, as observed by Favaro (2013), the enrolment of pupils aged 3-5 diminishes significantly among non-Italian citizens (80.2 %, compared with 93.6 % of Italians). The reasons for this absence can be attributed respectively to the family (an underestimation of the importance of this educational stage, the organisational difficulties and the physical distances between home and school, especially for the

those that live in isolated situations) and the reception context (the costs of canteen service unsustainable for all, the difficulties of integrating the children of immigrants, especially where available places are limited, or where, in a discriminatory manner, the intention is to discourage the attendance of foreign children). At the moment, however, there are no institutional or non-institutional channels to facilitate access and support non-Italian citizens in accessing pre-primary schools.

The situation is more complex when it comes to early childcare. As observed above, there are various factors that hamper participation. First, there are **territorial barriers**, as the services are more widespread in the Northern and Centre regions than they are in the South and the Islands. In the southern regions, the available places in public and private nurseries and complementary services do not reach an average of 15 % of the potential catchment area for children up to 3 years of age, compared with the Italian average of 24.7 %. In addition, significant disparities occur within territories, depending on the size of the municipality. The available places in centres with fewer than 10 000 inhabitants are 22.7 %, compared with 26.6 % in cities between 10 001 and 50 000 inhabitants, and 29.9 % in cities with more than 50 000 inhabitants. The second type of barriers are **economic barriers**. **Educational barriers** also play an important role, with the high school diploma and the middle school certificate under-represented among the families that use nurseries (31.8 % and 18.7 % respectively, against 39.5 % and 24.2 % of total families). Finally, **cultural barriers** play only a minor role in explaining the take-up of childcare facilities. In this case the main reason for not sending a child to childcare is that they are too young to be sent and would be better educated at home.

While territorial and economic barriers cannot be addressed via instrumental resources, that is, via strengthening information channels and helping families with the administrative procedures to enrol their children at nursery, educational and cultural barriers can be in principle reduced with instrumental resources. In this respect, however, there is no systematic evidence of the existence of such channels in Italy. Since the childcare system is managed locally with regional guidelines, each region provides a system of information and consultancy to parents or future parents on the services of childcare and pre-primary education. For instance, Emilia-Romagna has a dedicated website and service, *Informa Famiglie e Bambini*, where support is provided to families who want to access ECEC services. A particularly admirable example is that of Reggio Emilia, where the municipality informs new parents, even before they give birth, about the opportunities to enrol their children in nursery. A childcare information kit is sent to the new parents with support for the administrative procedures. As stressed by our interviews, however, this door-to-door information service is a peculiarity of just a few municipalities, mostly in Centre (Bologna) and North Italy (Milan). Other information activities are carried out by the organisations that manage the private not-for-profit childcare services. For instance, the FISM (*Federazione Italiana Scuole Materne*) raises awareness of public opinion around the educational and social service provided by the kindergarten.

To address the problem in access to information about childcare services, a proposal has been discussed in the Italian Parliament regarding the possibility of creating a home-visiting service, which would consist of the creation of a network of paediatricians to support families in getting the information to apply for the nurseries. Another initiative has created a network of parents to spread information about the advantages of enrolment in childcare services.

Enforcement resources

Since there is no right to childcare, and attendance not compulsory, there are no remedy procedures if a child cannot access childcare facilities.

A2 ECEC in Germany

Type of resource	Dimension		
<i>Normative resources</i>	Existence of legal entitlement to childcare	Yes	
	Scope of legal entitlement to childcare	Universal from age 1	
	Funding mechanisms	Public funding with parental fee contributions	
	Funding provisions for disadvantaged groups	Staggered fees for disadvantaged groups	
	Regulation on quality provision	Regulation on child-staff ratio/group sizes	
		Regulation on staff qualification	
		Regulation on hours of provision	
	Main providers of childcare	Mixed provision	
	Regulation on quality provision	Regulation on child-staff ratio/group sizes	
		Regulation on staff qualification	
Regulation on hours of provision			
Extent of regional variation in provision	High		
<i>Instrumental resources</i>	Existence of resources for improved access to childcare	Some regional provision	
	Existence of specific initiatives to reach out to groups with lower access to childcare	Some national initiatives and regional provision	
<i>Enforcement resources</i>	Existing judicial procedures for claiming childcare	Yes	

In Germany, ECEC is part of the public welfare system, where responsibility is shared between the federal government, the 16 state governments and the municipalities (Linberg, Baeumer and Rossbach, 2013). As such, the governance structure of ECEC in Germany is complex and decentralised, relying on a system of multilevel governance (Oberhuemer, 2014). At national level, the German ECEC system is the responsibility of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) (OECD, 2016), with some responsibility for the Ministry of Education and Cultural Affairs (Eurydice, 2021). However, the Federation only sets the general framework for ECEC, with the national legislative framework on ECEC contained within the Child and Youth Services Act in Book Eight of the Social Code (*Achtes Buch Sozialgesetzbuch*) (Scholz et al., 2019), which was passed in 1990 (Eurydice, 2021). While the national level sets binding framework conditions and guidelines for childcare services and defines the key tasks of ECEC, no concrete content requirements beyond general guidelines are provided (ibid.). In addition, the national level has ‘stimulatory competence’ regarding childcare issues, for instance through launching initiatives to improve the quality of childcare (Scholz et al., 2019).

At regional level, the 16 German Länder are responsible for adapting the framework conditions set by federal legislation into state-specific ECEC laws (Oberhuemer, 2014). The states have regulatory competence, meaning that there are 16 state-specific frameworks for the funding and licensing of ECEC, as well as for setting standards and developing curricula (Scholz et al., 2019). In addition to a legislative framework, each Land also has its own policy initiatives for access and quality in ECEC (Oberhuemer, 2014). Finally, the responsibility for the planning, organisation and provision of ECEC lies at the local level of municipalities, which also have responsibility for securing funding for ECEC (Scholz et al., 2019). Within the framework set by state law, each municipality can set its own framework for ECEC and the youth welfare offices (*Jugendämter*) – local agencies responsible for child welfare – have the overall responsibility for planning and implementation (BPB, 2021).

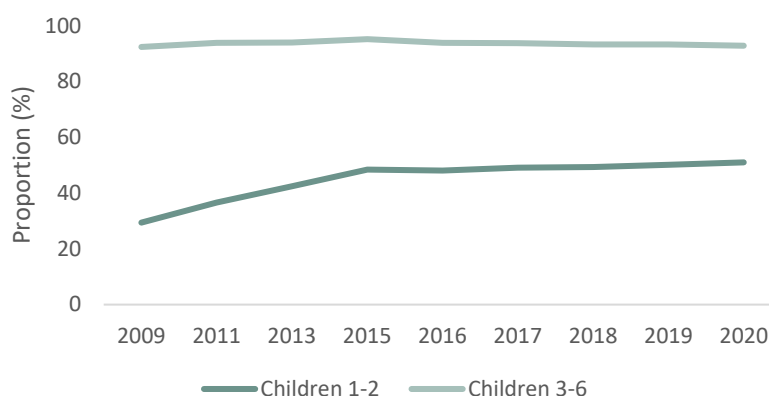
ECEC in Germany is provided in daycare centres (*Kindertageseinrichtungen*) for children under 3 (*Krippen*), in *Kindergärten* for 3 to 6 year-olds or in mixed-age facilities (BPB, 2021). Increasingly, *Kindergärten* are expanding their services to younger children so that the traditional formal distinction between *Krippen* and *Kindergärten* no longer applies in many cases, and the mixed-age model is more common (Linberg, Baeumer and Rossbach, 2013). In addition, there is the option of *Kindertagespflege*, home-based child-minding services by qualified individuals, which is particularly common for children under 3 (Eurydice, 2021). Traditionally, there is no strict distinction between childcare and education in care provision. Rather, institutionalised daycare is defined by a triad of *Bildung* (education), *Erziehung* (upbringing) and *Betreuung* (care) (OECD, 2016; Frindte and Mierendorff, 2017).

Normative resources

As set out in the theoretical framework, normative resources define the entitlements to early education and care set out in the national legislation, and as such, may have crucial influence on children's educational capabilities. The provision of and entitlements to ECEC have been progressively expanding in Germany in recent decades. As regards the existence of a right to childcare, a first step was made in 1996, when a right to ECEC for children aged 3 and older was first codified into legislation (West, Blome and Lewis, 2020). The Daycare Expansion Act (*Tagesbetreuungsausbaugesetz*, or TAG) from 2005 was the first significant step towards expansion of ECEC for children under 3, as the first legislative effort to determine concrete goals for the number of childcare places for children (Scholz et al., 2019). It required local authorities to provide enough places for children below 3 to meet demand or, at a minimum, to make places available for children with particular need, for instance where parents were in employment (West, Blome and Lewis, 2020). According to experts interviewed, expansion efforts were only progressing slowly in this period.

However, in 2008, the Child Support Law (*Kinderförderungsgesetz*, or KiföG) established a universal legal right to ECEC for all children from the age of 1 to officially come into force on 1 August 2013 (BPB, 2021). In addition to the universal right to ECEC from age 1, the 2008 law also laid down a gradual expansion of supervision and care offers for children under the age of 3 to meet increased demand (Eurydice, 2021). As a result of the increased investment in provision and more generous entitlements, take-up of ECEC has increased significantly in Germany in recent years, as highlighted in Figure A2.1. Between 2006 and 2015, the proportion of children aged 1 and 2 in care (daycare centres and childminding services) increased from 29.4 % to 48.5 %, with further increases between 2015 and 2020. Overall, it can be concluded that the introduction of a right to childcare for children aged 1 and older, and the associated investment in provision, had a significant impact on access to childcare.

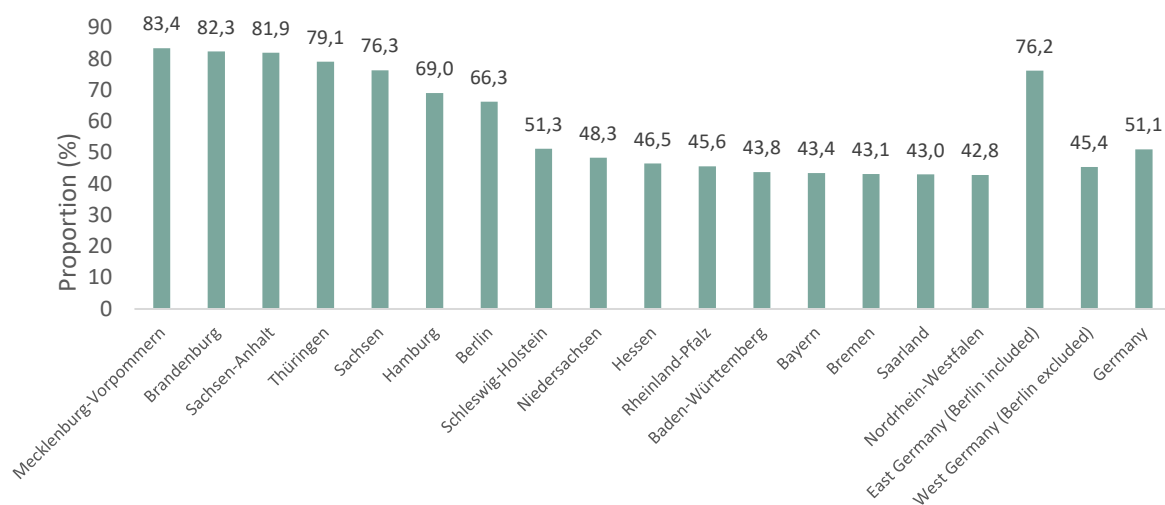
Figure A2.1. Proportion of children in care (daycare centres and childminding services), Germany, 2009-2020



Source: Authors' calculation based on (Bertelsmann Stiftung, 2022).

However, while attendance for children aged 3-6 is almost universal, a lack of places for children under 3 remains an issue in some Länder. In particular, as shown in Figure A2.2 provision remains lower in West Germany compared with the East. This can be traced back to historical development, as childcare provision was much more common in Eastern Germany (in the states previously belonging to the GDR), whereas initial levels of provision were much lower in the West. Survey data indicate that the demand for childcare places on the part of parents remains significantly higher than available supply, particularly in Western Germany (Anton, Hubert and Kuger, 2020). On average across Germany, the gap between indicated demand (49 %) and actual take-up of places (34.3 %) amounts to 15 percentage points (DJI, 2021). It should also be noted that the legal entitlement to publicly subsidised daycare may be realised in home-based provision (Eurydice, 2021). That is, not all families who would like access to institutionalised daycare receive a place there. Parents are free to indicate a facility of their preference but are not entitled to receive a place at any particular facility (Eurydice, 2021). Overall, therefore, there have been substantial advancements in Germany in access to ECEC following the introduction of the legal entitlements for children aged 3 in 1996 and aged 1 in 2013. Nevertheless, a discrepancy between demand and supply remains.

Figure A2.2. Proportion of children aged 1 and 2 in care (daycare centres and childminding services), Germany, by Bundesland



Source: Authors' calculation based on (Bertelsmann Stiftung, 2022).

Furthermore, as set out previously, in addition to the *existence* of a right to ECEC, other legal provisions may further lay out what precisely is contained *within* this right, in turn affecting the access to and quality of ECEC, and therefore the educational capabilities of children. First, funding provisions are of central importance. Funding structures for ECEC in Germany are very complex and characterised by regional variation as a result of decentralisation, though they generally rely on a mix of public and private sources (FIBS, 2016; Scholz et al., 2019). Overall, approximately 0.8 % of GDP in Germany is

devoted to ECEC, a similar figure to the OECD average (OECD, 2016). While the precise funding arrangements vary by Land, it is generally the case that the municipality is responsible for most of the funding for ECEC, with limited involvement from the regional and, particularly, federal government. The result of this, as found from the expert interviews, is that access to and quality of ECEC for children depends strongly on their place of residence. In municipalities that have lower financial resources, less funding will in turn be available for ECEC.

Though there is a universal entitlement to a place in daycare, ECEC is not part of the school system and generally not free of charge (Eurydice, 2021). The level of contributions will depend on several factors, including the region, parents' financial circumstances, the number of children and attendance time (ibid.). Funding and subsidies for childcare differ by Land. In some, there are general subsidies for all children or free places for some years or families with several children, while in others, provision is completely free of charge, at least for some hours, and there are also varying regional funding arrangements for lunch provision and additional services (Bertelsmann Stiftung, 2021). Fees remain a barrier to take up of ECEC (BPB, 2021). As highlighted in interviews, fees can vary enormously, even across municipalities in the same region, and are in some cases very high. The median cost of care for children under 3 in Germany is EUR 214 per month, while for children over 3 it is EUR 100 per month (DJI, 2021). However, fees for under 3s can vary from little to no fees to more than EUR 300 per month, depending on the region (ibid.).

Fees may particularly form a barrier to entry for socioeconomically disadvantaged families. 31 % of German families with children under 3 and a low net equivalent household income indicate that fees are a barrier to accessing ECEC (DJI, 2021). Since August 2019, the Good Day-care Facilities Act (KiQuTG, '*Gute-Kita-Gesetz*') requires parental contributions to be staggered according to social criteria, including parental income (Eurydice, 2021). Nevertheless, the precise determination of how fees are staggered depends on the legislation set out by the Land. Over time, progressively more regulations to make ECEC affordable have been introduced, and in some Länder, care is already completely free, depending on age and scope of care (ibid.). However, despite these subsidies, parents of children under 3 from lower income families still remain less likely than other families to use ECEC, (West, Blome and Lewis, 2020). Some aspects of ECEC provision may disproportionately benefit socially privileged groups, such as the common prioritisation of double-earning households where both parents are working (BPB, 2021).

Further to funding structures, legal provisions on the quality of ECEC are of importance. Again, the central motif in the German case is that of regional variation. As highlighted multiple times in the expert interviews, additional provisions beyond the right to childcare vary by Land, resulting in a high

degree of heterogeneity across the country. For instance, there is a high degree of variation in the number of hours of care children are entitled to. While the Social Code does not define a specific time entitlement to care, 10 of the 16 Länder define a minimum number of hours per day, with some additional variation at regional level (Bertelsmann Stiftung, 2021). Entitlements tend to be more generous in Eastern Germany, where childcare use was historically more prevalent than in the western part of the country. There are also no national requirements regarding the child-to-staff ratio, which exhibits large regional variation according to Länder-specific regulation (BPB, 2021). Across Germany, the child-staff ratio for children under 3 in full-time daycare is 3.9, increasing to 8.2 for children aged 3-6 (DJI, 2021). As a result, the de facto quality of childcare that children are entitled to varies immensely across Germany.

However, it should be noted that there is more effort being made to improve the quality of childcare across Germany, with the national government increasingly involved. In 2019, the Good Day-care Facilities Act committed to federal support of EUR 5.5 billion from 2019 to 2022 to implement measures in 10 qualitative fields (which the Länder can select from), such as decreasing the specialist-child ratio, in addition to decreasing and socially staggering fee burdens. As such, experts noted that efforts to improve quality and decrease heterogeneity therein are increasing, though progress is slow. While provisions to specifically support socioeconomically disadvantaged families mostly focus on fee staggering in some regions, there may also be provisions relating to other entitlements. In some cases, there may be additional entitlements, for instance for younger children or additional hours, depending on the position of the parents or if the children have special requirements (Bertelsmann Stiftung, 2021). There are also Bundesländer, where daycare centres receive higher funding when they have a higher share of children coming from a migrant background (FIBS, 2016).

In addition, there has been increased investment in the development of language diagnostics and support in daycare to improve linguistic competence, particularly for children with a migrant background or with deficiencies in language development (Eurydice, 2021). For instance, the federal programme 'Language-Kitas: Because language is the key to the world', launched by the BMFSFJ, promotes the teaching of language education in daycare centres, with a commitment of EUR 1 billion spent between 2016 and 2020 (ibid.). Moreover, a joint initiative to develop language promotion was launched by the Standing Conferences of Ministers for Education and Ministers for Youth, together with the Federal Ministries, in 2012 (ibid.). The resulting programme, 'Education through Language and Writing' (2013-2019), scientifically developed the linguistic education of children and assessed measures developed in the Länder for language promotion. In March 2020, a five-year initiative was launched to bring the results of the scientific initiative to a wider network of institutions, funded by the Federal Ministry of Education and Research and the Länder. Finally, there are specific support

measures available for children with disabilities and special education needs (Eurydice, 2021). These children can either attend daycare centres with inclusive care concepts or separate facilities. Most of the children attending a daycare facility who receive integration support or who have special educational needs will be cared for alongside children without disabilities. As regards the specific support provisions, there is a large amount of regional variation.

However, issues relating to access and quality in ECEC for children from socioeconomically disadvantaged groups remain, including for children from families with lower financial means and children with a migrant background. Evidence indicates that these socioeconomic disparities have been intensified, rather than weakened, in the course of the large expansion in ECEC Germany has undergone in recent years (Stahl, 2015). For instance, although there have been large increases in the proportion of children with a migration background in ECEC for under 3s in recent years (Olszenka and Riedel, 2020), they continue to be under-represented in German ECEC relative to other children (Bertelsmann Stiftung, 2021), even in families that indicate that they are in need of a place (Anton, Hubert and Kuger, 2020). This is likely related to a variety of barriers to entry on the parts of both institutions and families, including the cost of care, distance to the daycare, lack of information and transparency about access, perceived quality of care, the intercultural and linguistic competencies of staff in daycare and norms and values within the family (ibid.). While the educational plans of many states include support for multilingualism in daycare centres, in practice, the pedagogical approach in daycare seldom devotes space to multilingualism and may even marginalise children with a multilingual background (Olszenka and Riedel, 2020). In addition, evidence appears to indicate that children from migrant families tend to attend facilities with lower performance in structural and procedural quality indicators and a less privileged social composition, though more research on this is necessary (Stahl, 2015). Investment in the quality of ECEC in Germany, and in closing socioeconomic gaps in the quality of education that children receive, therefore remains a significant concern for the future.

There are also national standards regarding the qualification of personnel in ECEC. Historically, the concept of public childcare and the professionalisation of the ECEC was contentious in Germany (Rauschenbach and Riedel, 2016). The qualification to become a state-recognised pre-primary educator takes 3 years of post-secondary vocational training, as well as either a course as a childcare assistant or training and work experience in the field (OECD, 2016). Since 2005, there have also been minimum qualifications for childminders (Eurydice, 2021). Currently, the traditional vocational qualification is placed at Level 6 on the National and European Qualifications Framework, on a par

with a bachelor's degree, though this issue is contentious (ibid.). As such, although there has been a move towards the academisation of ECEC qualifications, this process has been slow (Rauschenbach and Riedel, 2016), and the number of staff with tertiary education remains marginal (Oberhuemer, 2014). Though staff qualifications are agreed nationally, the state government decides on staff-child ratios, the rate of inspections and training for childminders (West, Blome and Lewis, 2020).

In interviews with experts, the lack of qualified staff was highlighted as a major issue for the provision and quality of ECEC in Germany, and one that will likely be exacerbated in future years. In some cases, provision already has to be limited because of the lack of qualified staff. In staff surveys, one in five leaders of educational institutions name staff shortages as a barrier towards providing high-quality education and care (OECD, 2018). Expert interviews showed concern about a decreasing trend in quality of provision even while maintaining the number of places, leading to a situation where the educational role of ECEC is no longer fulfilled. Overall, the assessment of normative resources as relating to the quality of ECEC therefore shows that, while there has been significant progress in access to ECEC through the expansion efforts made in recent years, there are concerns relating to the quality of ECEC. In particular, the lack of entitlements relating to quality at national level results in significant heterogeneity across regions, so that the quality that children are de facto entitled to depends on their place of residence.

Finally, the provision of ECEC is strongly governed by the subsidiarity principle – that is, public authorities are only obliged to provide social services if non-governmental agencies are not in a position to do so (Oberhuemer, 2014) – and by the principle of diversity of providers (Scholz et al., 2019). Only about one-third of children in Germany are in publicly provided care, with the majority provided by not-for-profit private organisations (Bertelsmann Stiftung, 2021). In particular, non-profit private organisations that are very active in childcare provision are churches and welfare organisations, while private for-profit providers are rare (West, Blome and Lewis, 2020). Providers have to have public recognition but have freedom in designing the content and method of care that they provide (BPB, 2021). Overall, there are many diverse providers in Germany.

In principle, the diversity in providers was evaluated as positive by experts, as it increases choice and options. However, there is a concern as regards the heterogeneity of quality in provision across providers. While large associations of providers have a large infrastructure and can provide high-quality training for staff, for instance, this is not the case for small providers. Pay rates for staff can also vary immensely by provider. Moreover, studies have shown that social segregation can already be observed among young children in ECEC, as care providers exhibit marked differences with regard to, for instance, the proportion of children coming from poor families or children with native

languages other than German (Hogrebe, Mierendorff and Nebe, 2021). Though research in this area is still developing, there is some evidence that these segregational tendencies could be linked to the German provider structure, as groups of providers differ with regard to the access criteria they prioritise, including the family situation and the age of the child, but also subjective criteria such as alignment of the family with the provider institution's values or pedagogical concept (ibid.)

Nevertheless, all providers are subject to guidelines on the content of ECEC. At national level, the overall objectives of ECEC and broad (but binding) guidelines are defined. As specified in the Child and Youth Welfare Act, all ECEC should encourage children's mental, physical and emotional development to help them become responsible and autonomous members of society, and support families in raising children and reconciling this with employment (Linberg, Baeumer and Rossbach, 2013). These general objectives of daycare also apply for home-based provision of ECEC (Eurydice, 2021).

In 2004, the Standing Conferences of Regional (Länder) Ministers for Education and Cultural Affairs and Ministers for Youth adopted the Joint Framework of the Länder for Early Education in Day-Care Centres (*Gemeinsamer Rahmen der Länder für die frühe Bildung in Kindertageseinrichtungen*), which applies to centre-based ECEC across age groups (Eurydice, 2021). The framework lays down the objectives of ECEC, which include transferring basic skills, developing and fostering personal resources to motivate children and promote their ability to take up and cope with future challenges in learning and life, encouraging children to become responsible members of society, and enabling them to cope with lifelong learning (Linberg, Baeumer and Rossbach, 2013). In 2009, the national working group of the Länder youth welfare services adopted the Specialist Recommendations on the Quality of Education, Upbringing and Care for Children Under Three Years of Age in Day-Care Centres and Child-minding Services (*Fachliche Empfehlungen zur Qualität der Bildung, Erziehung und Betreuung der unter Dreijährigen in Kindertageseinrichtungen und Kindertagespflege*) (Eurydice, 2021).

The national frameworks set out guidelines for ECEC (Eurydice, 2021). As regards ECEC for children under 3, the 2009 guidelines state that care must respond to the basic needs of small children, such as loving attention, sympathetic support and safety and security. At this stage, the aim of educational support is to holistically support child development through play, social interaction and communication. From the age of 3, the 2004 Joint Framework of the Länder sets out further educational areas in order to support the development of children's intellectual, physical, emotional and social abilities. For instance, educational areas include (ibid.) language and communication, personal development and nature and cultural environments.

At Länder level, while there are no binding curricula, in recent years there has been an increased focus on developing educational plans and language support programmes (Linberg, Baeumer and Rossbach,

2013). Educational plans (*Bildungspläne*) further concretise the legal mandate for ECEC by providing a (non-binding) framework for curricula and developing recommendations for personnel and providers of ECEC at local level, covering guiding principles of ECEC, the core objectives of education, and educational areas to be addressed in ECEC (BPB, 2021). Based on the framework specified by the Land, each centre providing ECEC must develop its own pedagogical plan, which must be approved by youth and welfare services and is to be coordinated with primary schools (Eurydice, 2021). Depending on the Land, the responsibility for the licensing of family daycare and childcare services lies with regional/state level authorities or local municipalities (OECD, 2016).

Instrumental resources

In addition to normative resources – the legal provisions setting out the right to ECEC for children and what exactly it entails – instrumental resources may be essential in increasing access by providing children and their families with the necessary information and assistance to gain access to care. As stated previously, in Germany, the concrete implementation of measures in ECEC, including measures to facilitate delivery and access, depend on the state and local level. Generally, when parents are looking for a place in (centre-based) daycare, the first step – often during pregnancy – is to seek out local daycare centres, where they can get information and be placed on a waiting list (Schettler, 2016). In most Länder, regulation specifies that the need for a space has to be registered with public authorities, usually the youth and welfare services, who may then provide information on how best to access a place in ECEC (ibid.). Increasingly, there are online tools to facilitate the process of parents registering their need for a place in ECEC, which can increase parents' access to information and understanding of the process. However, this is not available everywhere (ibid.).

Additional measures to raise awareness and provide information on quality are location dependent. As was also pointed out in interviews, the existence of informational and other instrumental resources is an issue on which there is currently little evidence. Several regional examples of efforts to facilitate access to ECEC do exist, for instance the Kita-Navigator provided by the city state of Berlin⁷, where parents can search for available places and filter according to their preferences. However, systematic initiatives to provide information and increase access are generally lacking on a national level. In general, it can be concluded that approaching parents in order to decrease barriers to access is not systematic. Rather, the onus is on parents to seek out the public authorities, where they can then

⁷ For more information see [kita-navigator.berlin.de](https://www.kita-navigator.berlin.de).

receive information. In a context where demand for ECEC continues to outpace supply, this lack of systematic information provision can be an impediment to accessing the right to ECEC.

Informational barriers related to access to ECEC may be particularly pronounced for children from migrant families or families where parents do not speak German. As highlighted by experts, parents in these families may often be unaware of their childcare entitlements or may not know how to access these entitlements. Here, a greater effort has been made to increase outreach. For instance, there is the federal programme 'Daycare Entry: Building bridges for early education' (*Guter Kita-Einstieg: Brücken bauen in frühe Bildung*), which targeted mainly refugee children at first but has since been opened up to other groups, such as families that are economically at risk or in precarious living situations⁸. The aim of the programme is to provide information on ECEC to these families and thereby facilitate access. There are also local initiatives to increase access for disadvantaged groups, though this is not the case everywhere. In most municipalities, information in multiple languages is lacking, which is an issue in this context.

Enforcement resources

Finally, enforcement resources may play a role in influencing access to ECEC, in that they enable legal avenues that families can take if their right to childcare is denied. As stated previously, in Germany, the legal right to a place in ECEC is codified in national legislation from the age of 1, and local maintenance bodies are therefore obliged to provide a place for all children. If the legal entitlement to care cannot be honoured, parents have the right to sue these authorities for a place (Schettler, 2016; Eurydice, 2021). In October 2016, the German Constitutional Court (*Bundesgerichtshof*) ruled that parents may be entitled to compensation for lost earnings from their local authority if a place in daycare for their child cannot be provided (Spiegel, 2016). The court responded to a suit by three mothers, whose return to work after childbirth was delayed because of unavailability of daycare places. The Constitutional Court ruled that the legal right to ECEC is partially motivated by helping parents balance their employment with caring responsibilities; if authorities fail in this legal mandate, they may be required to pay compensation. However, there may be specific cases where the municipality can justify the lack of places, for instance if agreed contracts were not met by contracting partners.

Nevertheless, while the right to sue for a place in ECEC exists, in practice, few families actually make use of this avenue, as pointed out by experts. Currently, around 1 000 court cases relating to the legal

⁸ For more information see <https://www.bmfsfj.de/bmfsfj/service/publikationen/bundesprogramm-kita-einstieg-bruecken-bauen-in-fruehe-bildung--118650>.

entitlement §24 SGB VIII are listed⁹. As stated by experts, however, this does not reflect the overall number of complaints, as not all are accepted by courts. This is because they may be legally insecure, or the local authorities find a place before the legal process commences. Nevertheless, it was also pointed out that parents can be reluctant to sue owing to barriers such as an unwillingness to cause a confrontation in the local community, perceived costs, time until the decision and chances of losing. Moreover, the families that do sue tend to be those in socioeconomically advantaged positions, who can afford to invest the time and other resources needed for such a legal endeavour. As such, suing for a childcare place should not be seen as an effective avenue to increase access to childcare. At the same time, the existence of such a legal avenue may have contributed to increased provision of places. As laid out in the expert interviews, many municipalities increased their provision in anticipation of the establishment of the right to childcare for children under 1, and the potential suits associated with it. Hence, while enforcement resources do not in themselves appear to be an effective way of accessing the entitlement to ECEC, they can have an indirect effect by increasing the bargaining and legal power of families relative to public authorities.

⁹ https://dejure.org/dienste/lex/SGB_VIII/24/1.html

A3 ECEC in Poland

Type of resource	Dimension	
<i>Normative resources</i>	Existence of legal entitlement to childcare	Yes
	Scope of legal entitlement to childcare	Universal from age 3
	Funding mechanisms	Public funding with parental fee contributions
	Support policies	Allowances
	Funding provisions for disadvantaged groups	None
	Main providers of childcare	Mixed provision
	Regulation on quality provision	Regulation on child-staff ratio/group sizes Regulation on staff qualification
Extent of regional variation in regulation	Low	
<i>Instrumental resources</i>	Existence of resources for improved access to childcare	Some local services (in some communes)
	Existence of specific initiatives to reach out to groups with lower access to childcare	Local services and private initiatives
<i>Enforcement resources</i>	Existing judicial procedures for claiming childcare	No

The right to ECEC is codified into the Polish national legislation. ECEC in Poland does not form a single or uniform system in Poland. It is based on two systems: the childcare system supervised by the Ministry of Family and Social Policy (children aged 0-3 years) and the pre-primary education system that falls under the Ministry of Education and Science (children aged 4-6/7 years).

So, ECEC in Poland is divided into two stages:

1. for children aged 0-3 years: centre-based childcare provided in crèches (*żłobki*) and, since 2011, kids clubs (*kluby dziecięce*), and home-based provision by daycare providers or childminders (*opiekun dzienny*) and nannies (*niania*). It is regulated by the Act of 4 February 2011 on the Care for children aged up to 3.

Centre-based crèches and home-based provision (daycare providers/child minders and nannies) care for children aged at least 20 weeks, while kids clubs are for children aged 1 year and above. Children can attend those settings until the end of the school year in which they reach the age of 3 or up to the age of 4 in cases where it is difficult or not possible for the child to participate in pre-school education. Attending a **crèche is not obligatory**; crèches are not part of the education system.

2. for children aged 4-6/7 years: pre-school education provided in nursery schools (*przedszkole*), pre-school classes (*oddziały przedszkolne*) in primary schools and other pre-school education settings, including pre-school education units (*zespół wychowania przedszkolnego*) and pre-school education centres (*punkt przedszkolny*). This is regulated by the Act of 14 December 2016, Law on School Education.

Pre-school education is optional for 3, 4 and 5 year-old children and obligatory for 6 year olds. Every 3, 4 and 5 year old has an **entitlement to a place** in a pre-primary setting in his/her locality. As of the school year 2016/17 compulsory education in Grade 1 of primary school starts at the age of 7. All 6 year olds have to attend a pre-school institution for 1 year in order to acquire basic skills before they start school.

Normative legal resources

Care for children aged up to 3 years is a statutory task of the commune - *gmina* (the lowest-level local government unit). However, there is **no legal guarantee to a place in ECEC for children aged up to 3 years**. Crèches or kids club can be led by public or non-public institutions that fulfil the proper conditions and requirements.

Funding

Funding for care provided to children aged up to 3 years at crèches, kids clubs and daycare providers comes primarily from:

- budgets of communes and other local government units (LGUs) in the form of a subsidy. Generally, the only condition for the payment of the subsidy which follows directly from the Act on the Care for Children up to the age of 3 is the child's place of residence. The subsidy for a day nursery is granted only for children residing in the municipality – unless the municipality adopts a different decision in the resolution. Subsidies may be granted to children residing outside the municipality, but only if there is a resolution permitting it, and secondly, an inter-municipality agreement (i.e. reimbursement from a neighbouring municipality).
- state specific-purpose (targeted) grants, such as the Maluch+ Programme. In the case of the Maluch+ Programme, the funds generally can be allocated to three tasks: (1) creation of new facilities; (2) creating new places in existing nurseries; (3) subsidising existing places, thus

reducing fees. The subsidy covers up to 80 % of the total cost. In 2020, the entity receiving funding from the programme is required to ensure the operation of childcare places created or subsidised with funding from the programme for a minimum period of 5 years. Ensuring the operation of childcare places means that at least 60 % of the places indicated in the agreement are used during the required period. The programme is available both for public entities (mostly communes) and private. The programme is financed from the State Budget and the Labour Fund (since 2018 as a measure facilitating parents' engagement on the labour market).

- EU structural funds (as part of regional operational programmes).

The above funding sources can be granted measures to develop and maintain childcare facilities for children up to the age of 3: remuneration of teachers and administration, supply of utilities, rent, administrative charges relating to the premises, costs related to maintenance of cleanliness in the care institution, purchase of hygiene products, indirect costs, such as service costs (management, accounting, legal, human resources, training, recruitment and staff insurance costs, certification and authorisation costs, training and insurance costs for volunteers, child recruitment costs, costs of promotion and information on childcare facilities, bank account management and transfer costs), purchase of real estate (only for local administrative units – communes), construction or conversion of real estate (only for local administrative units – communes), purchase and installation of equipment (including, among other things, furniture, leisure equipment, sanitary equipment, kitchen equipment, toys), purchase of teaching and educational aids, specialised equipment and tools, purchase of aids for carrying out care and educational activities, specialist equipment and tools for diagnosing developmental and educational needs and psycho-physical capabilities of children, supporting development and carrying out therapy for children with special educational needs, with particular attention to these aids, equipment and tools, equipping and installing a playground with a safe surface.

Creches and kids clubs are mostly non-public (Table A3.1). There are approximately three times as many private creches as public institutions, and the dimensions are similar for kids clubs. In terms of number of places, the differences are less pronounced, but private provision still dominates. The vast majority of home-based provision is private. Among children aged 4-7, most institutions are run by local municipalities, but 45.1 % of institutions remain privately run (Statistics Poland, 2020).

Table A3.1. Distribution of public and private childcare institutions for children aged 0-3, 2022

Sector	Creches		Kids clubs		Home-based provision		TOTAL	
	No of institutions	No of places	No of institutions	No of places	No of institutions	No of places	No of institutions	No of places
Public	1,119	74,019	152	3,185	106	520	1,377	77,724
Private	3,334	111,408	755	14,321	1,784	11,529	5,873	137,258
TOTAL	4,453	185,427	907	17,506	1,890	12,049	7,250	214,982

Source: National Creche Reporting System.

Creches and kids clubs operate mostly as private companies or are run by an NGO. They have to comply with standards set in the Act of 4 February 2011 on the Care for children aged up to 3. At the same time, non-public entities react faster to growing demand. These institutions can apply for public grants from the Maluch+ Programme, and in all cases after fulfilling some requirements they are granted support. In the case of private care settings, financing is based mainly on fees for parents, supplemented by other sources. Communes can (but this is not an obligation) grant subsidies to private care settings, after meeting some specific conditions set by the commune.

Another, completely separate, catalogue of subsidies are those that entitle parents to subsidise their children's places in creches. From 1 April 2022 parents are able to apply for co-financing of their children's time in institutional care up to PLN 400¹⁰ (provided they are not granted the Family Care Capital – another support measure – for a particular child). Such direct support for parents so far has been available from the Maluch+ Programme, but it has depended on the availability of its funds. From April 2022 this possibility became a legal right coded in the proper Act (Bill). This subsidy will cover a significant part of the cost of childcare for children aged 0-3 but a portion of the cost will still be borne by parents. As shown in Table A3.2, in two-thirds of public institutions, fees are PLN 600 or lower, meaning that two-thirds or more of the cost of care will be covered by the subsidy. In contrast, among private institutions, the share of institutions with relatively low fees is smaller and fees can exceed PLN 1 000, so that the subsidy may be less effective.

¹⁰ Typical fees in public creches vary between approximately PLN 500-800, so the co-financing for parents can amount to more than 50 %.

Table A3.2. Monthly residence fees by type of institution, 2021

Fee	Residence fee, monthly			
	Public		Private	
	No of institutions	No of places	No of institutions	No of places
no fee*	84	4.7	326	5.4
2-300	579	33.8	276	8.9
301-600	543	32.0	1,192	32.0
601-900	34	0.5	1,420	35.3
901-1200	12	0.5	1,301	28.4
1201-1500	12	0.2	823	14.8
1501-1800	0	0	174	2.9
1801-2100	0	0	63	0.9
2101-2400	0	0	17	0.2
2400>	0	0	6	0.07
Total	1,264	71,622	5,598	128,853

Source: Polish Creche Register.

Additionally, parents can apply for co-financing from the company's social benefits fund (but this possibility is only available for employed parents). In 2009, an amendment concerning labour law and company social benefit funds came into force. At that time, the definition of social activity that can be financed from the company social benefit funds was broadened – as this is what the funds are to be used for – and crèche care was introduced as one such purpose. Therefore, an employer may finance the participation of its employees' children in creches from the company's social benefits fund. The second, more complex, option (and therefore rarely used so far) is the possibility of financing the establishment of a company crèche. The employer must meet safety, hygiene, and fire protection criteria appropriate for creches. Even if they create a creche for a small group of their employees, this is quite a barrier. However, it is not the case that these funds are open and available in every case – the rules of the company's social benefits fund is the deciding factor here. Of course, this co-financing should apply to employees who are most in need according to economic and social criteria. But undoubtedly such a source exists and can be used.

Parents can also be supported by all kinds of vouchers or subsidies organised by communes, but this is not a formal obligation, and depends on particular communes. However, there are plans to co-finance the access to institutional care for children up to 3 years' old from the state budget on a regular basis (in the form of the legal act).

Care provided by nannies is based on a service agreement which, in accordance with the Civil Code, is subject to regulations applicable to civil law contracts (a 'contract of mandate'). A nanny can be anyone who meets the following three conditions: (1) is not the parent of the child to be cared for, (2) is over 18 years of age, (3) has a sanitary-epidemiological qualification and a certificate of no impediment to work. A nanny can be a grandmother, a sister, a cousin of the child, or someone from outside the family, for example a neighbour, a student, a pensioner, or a person on a pre-retirement benefit. A nanny does not need to have any specialist education or professional experience of working with young children. Neither do they have to undergo special training. Public funding is available for hiring nannies. The National Social Security Institution pays contributions for nannies, including pension, disability pension, and accident and health insurance contributions. The Social Insurance Institution pays contributions on half of the minimum wage (100 % before 2018), the remaining part is paid by a person or persons (mostly parents) hiring nannies (as social security contribution payers). For example: you hire a nanny in January 2021 and give her a salary of PLN 3 000 (the minimum salary in 2021 was PLN 2 800). The Social Insurance Institution pays contributions on half of the minimum wage, i.e. PLN 1 400. You pay contributions on the remaining amount, i.e. on PLN 1 600 (PLN 3 000 minus PLN 1 400 equals PLN 1 600).

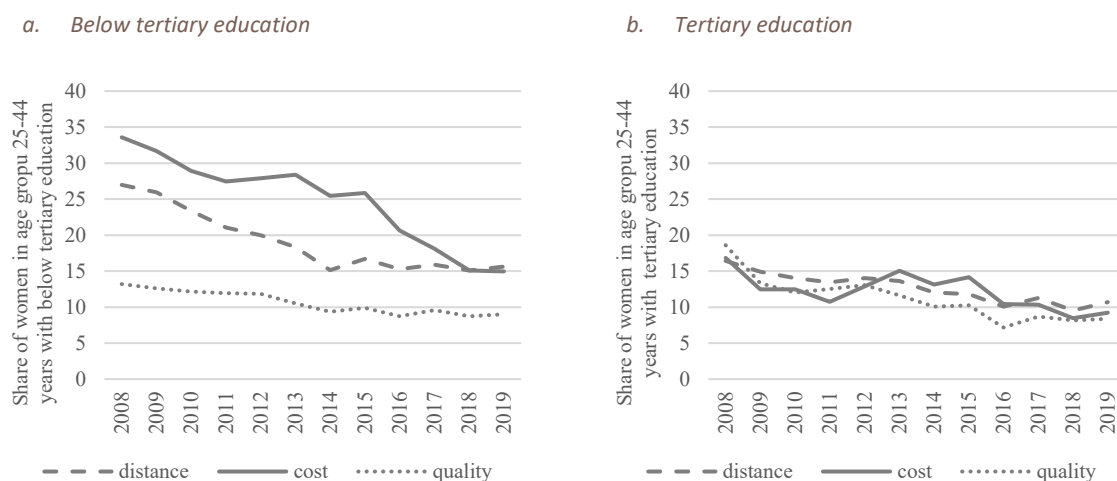
Accessibility

The way the system is constructed results in inequalities in access to institutional care provided for children up to 3 years' old. Big and affluent communes provide better access to institutional care for this group of children by, for example, introducing special programmes such as the Warsaw creche voucher. According to the Ministry of Family and Social Policy, the coverage rate of institutional care for children aged 1 and 2 years old¹¹ reached 28 % in 2021 (the rate does not take into account children below 1 year old). This is growing, but the demand is still not met. Although the number of children is decreasing there is a demand for new places of institutional care up to 3 years' old. **This suggests that the access to institutional care for children in this age group is not sufficient.** There are still communes where no places of institutional care for children up to 3 years' old exist at all (especially rural).

¹¹ The coverage rate calculated by the Polish Ministry of Family and Social Policy does not include children below 1 year old, because those children are rarely covered by institutional care. The parental leave (with high replacement rate) lasts 1 year and parents usually do not place children below 1 year old in institutional care.

Since 2008, the existence of various types of barriers related to access to childcare (cost, distance, quality of care) is monitored in the Labour Force Survey. Figure A3.1 shows the share of women in age group 25-44 years experiencing these barriers by educational attainment. In general, women with low and medium education indicate higher barriers than those with tertiary education, especially in the case of the cost of childcare, but also in distance to childcare institutions. Significant reduction of barriers has been recorded for women with education below tertiary.

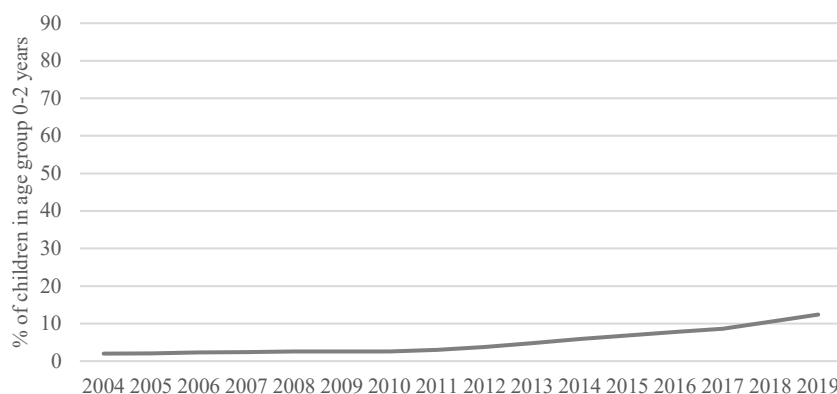
Figure A3.1. Share of women in age group 25-44 years experiencing barriers in access to childcare by educational attainment, 2008-2019



Source: Polish Labour Force Survey data.

As a result of public policy aiming to improve access to ECEC, we can note that in 2019, 12.4 % children aged 0-2 were covered by the ECEC care, compared with 2.0 % in 2004 and 4.8 % in 2013 (Figure A3.2). At the same time, there are significant geographical differences - 18.4 % of children in urban areas but only 3.7 % of children in rural areas attend ECEC.

Figure A3.2. Participation of children in Early Childhood Education and Care in Poland, 2004-2019



Source: Statistics Poland.

Eligibility criteria

Crèches or home-based provision are for children aged at least 20 weeks, and kids clubs for children aged 1 year and above. Children can attend those settings until the end of the school year in which they reach the age of 3, or up to the age of 4 in cases where it is impossible or difficult for the child to participate in pre-school education. There is no single national rule for crèche or kids club recruitment. It depends on the institution and can be found on the website of the given institution, city or commune office.

Scope of services

The tasks of crèches and kids clubs are, in particular, to:

- provide care to children in home-like conditions
- provide proper nursing and educational care to children through the organisation of play activities with learning elements, while taking into consideration their individual needs
- organise care, educational and learning activities that are suitable for the age of children and the level of their physical and psychological development.

The services provided by crèches include the following elements based on the norms for children of this age: meals; care and nursing; sleep and rest hygiene; indoor and outdoor educational and learning activities; activities preventing diseases and promoting health; corrective activities; and medical first aid.

In accordance with the Act on the Care for Children up to the age of 3, a parents' council can be established and operate in a crèche or kids club. The council may, for example, propose action, put forward suggestions and give opinions to the head and the administering body of a crèche or kids club in all matters relating to its activities, and, in particular its educational and learning activities. However, as it is for pre-school education, there is no national core curriculum.

Organisation of services

The maximum number of children cared for by 1 childminder in a crèche or kids club is 8. However, the maximum number is 5 when a group includes a child with a disability, a child requiring special care or a child under 1 year of age. Crèches with more than 20 children employ at least 1 nurse or midwife. Crèches and kids clubs may have volunteers supporting the provision of childcare. Volunteers who do not have the necessary qualifications are required to complete 40 hours of training in baby/child first aid.

The Act on the Care for Children up to the age of 3 does not specify the number of working hours per week for childcare institutions. Working hours in crèches and kids clubs are determined in their organisational regulations, taking into account parents' preferences. **Crèches** and kids clubs provide care for up to 10 hours per day. In special cases, at parents' request, the duration of the stay can be extended for an additional fee. For a **daycare provider (home-based provision)**, working hours are set in an agreement between the provider and the employing entity.

Learning and development

The Act on the Care for Children up to the age of 3 does not recommend any teaching methods or aids. Activities in crèches are based on their organisational regulations, which specify the institution's tasks. These include, in particular, the provision of care and education in safe and hygienic conditions that are necessary for children's development; disease prevention and health promotion; and nursing care.

In addition to care and education and nursing activities, crèches and kids clubs organise play activities with learning elements that are suited to children's individual needs and the level of their physical and psychological development. Staff are free to choose teaching aids, while taking into consideration children's age and development needs.

Assessment

The Act on the Care for Children up to the age of 3 does not provide the assessment for children attending crèches or kids-clubs. Crèche staff work with parents, providing on an ongoing basis information about children's achievements, their problems and any worrying health symptoms.

Quality assurance: staff

Crèches with more than 20 children employ at least one nurse or midwife. Crèches and kids clubs may have volunteers supporting the provision of childcare. Volunteers who do not have the necessary qualifications are required to complete 40 hours of training in baby/child first aid.

The following types of child carers can be employed in crèches and children's clubs:

- a person with the qualifications of a nurse, midwife, childminder, pre-school teacher, as well as early school education or pedagogical specialists in early care, social care, early education, and a pedagogical therapist
- a person who graduated from a study programme (or a postgraduate study programme) in the following areas: early development support, child development support in the framework of psychological and pedagogical support in crèches and nursery schools, pro-development education, young child pedagogy, child psychology, psychology of support to development and education, care psychology.

The persons employed in crèches and children's clubs can also hold the following qualifications provided they have completed a specialist child first aid course less than 2 years before undertaking employment:

1. any type of higher education that includes aspects of childcare and child development, and completed 80 hours of additional training,
2. secondary or vocational secondary education with at least 1 year's experience in work with children aged below 3 or before employment in ECEC has undergone 280 hours of training, including 80 hours of practical training (looking after a young child under supervision).

A childminder should complete 160 hours of training that includes such topics as early childhood development, stimulating comprehensive development, childminders' competences, and practical training. If the childminder has the qualifications of a nurse, midwife, child carer, pre-school teacher, as well as early school education or pedagogical specialists in early care, social care, early education, and a pedagogical therapist or is a person who graduated from a study programme (or a postgraduate study programme) in the following areas: early development support, child development support in the framework of psychological and pedagogical support in creches and nursery schools, pro-development education, young child pedagogy, child psychology, psychology of support development and education, care psychology, they are obliged to undergo 40 hours of training that includes first aid offered to children, stress management, problem solving, and innovation methods of stimulating a child's development. Child carers employed in creches and children's clubs and childminders are employed on the basis of general employment regulations (Labour Code). There is a growing problem in recruiting young people to work in institutional forms of childcare.

Besides staff requirements there are precise conditions on **premises and nutrition**.

Instrumental resources

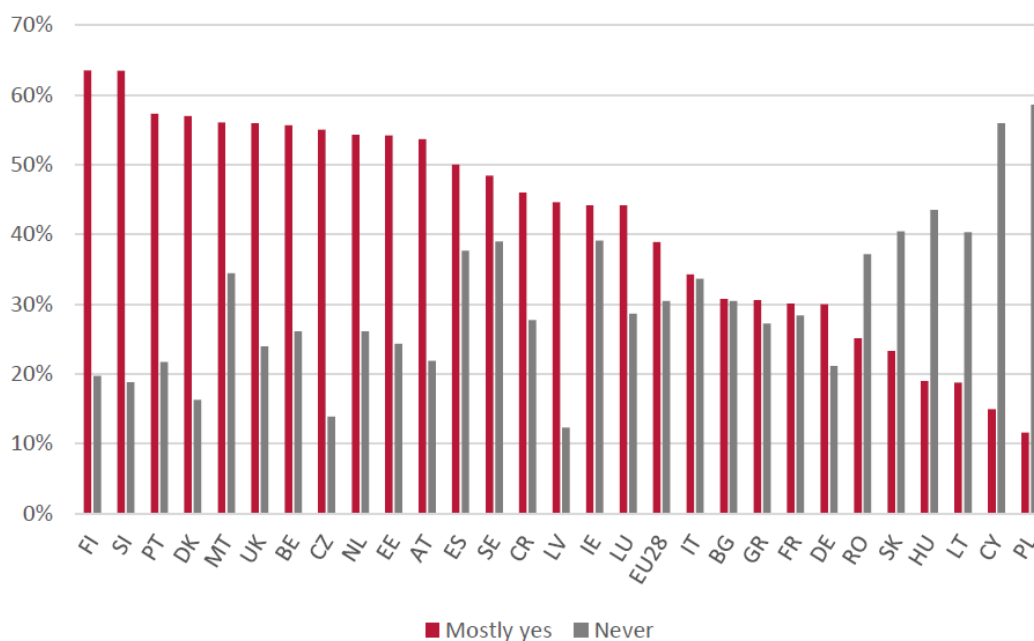
There are many causes of non-take-up of childcare facilities¹²:

- Low availability of high-quality early education and care facilities of different forms (especially in rural areas with high spatial dispersal of children). Although the availability of early education and childcare facilities has greatly improved in Poland over the past two decades, still only 1 in 10 children aged 0-3 has a secured place at a nursery – while more than two-thirds of municipalities in Poland have no available places for children under 3. Alternative, more flexible forms of childcare provision (such as childminders) are growing dynamically, but their availability is still low. Another limitation to ECEC has been not just its unavailability, but its price (particularly when most available forms are private, i.e. not co-funded by municipal authorities). The quality of childcare is also important as well as the still persistent perception of the creche as a 'child storage' facility devised for the sole purpose of 'pushing' women into the labour market. Another obstacle are the limited hours when childcare is available, which preclude parents from flexibly reconciling work and family obligations.
- Labour market situations of mothers. Unattractive jobs with non-flexible working hours that require lengthy and costly commuting leads to mothers' inactivity on the labour market that in turn results in non-take-up of ECEC. This is especially the case of mothers of two or more children. Only a small number of Polish women are free to decide about their working day's start and finish times, which would enable them to reconcile work with childcare obligations.

¹² Based on Magda I. (2020), Increasing female labour market participation in Poland, IBS Policy Paper. https://www.researchgate.net/profile/Iga-Magda/publication/338656073_Increasing_female_labour_force_participation_in_Poland/links/5e21cd12a6fdcc1015715c0e/Increasing-female-labour-force-participation-in-Poland.pdf.

This option is available to 12 % of working women, compared with about 40 % in the EU-28 (Figure A3.3). The situation persists despite numerous demands and recommendations to make the labour market more flexible and introduce solutions that would be more conducive to reconciling work and family life. Most women in Poland have no opportunity to decide about their working hours (this share is twice as high than in the EU).

Figure A3.3. Share of women aged 25-49 declaring their ability to use flexi-time due to childcare obligations



Source: Eurostat.

- Money issues. For some women, taking up work is unprofitable. This concerns, in particular, single mothers and women with potentially low wages. The tax and benefit system – set thresholds, amount of benefits and the rules of their withdrawal – means that taking a low-paid job would lower the total income of a household. This difference becomes even greater if we take into account the cost of childcare provision. Consequently, working becomes unprofitable in the short-term cost-benefit analysis (which fails to include long-term benefits of work, such as gaining experience or accumulating pension contributions). Moreover, unprofitability of work is enhanced by the Family 500+ allowance (PLN 500 paid for each child every month). Non-working mothers usually do not take up childcare facilities for children below the age of 5.
- Cultural pressure and social norms influencing decisions about individual childcare provision. As a result, some women decide to withdraw from the labour market and devote themselves to household work and childcare, and thus do not use ECEC. Research fails to give a clear answer as to whether the share of women who make this decision in Poland is higher than in other EU countries. On the one hand, Polish society is generally viewed as more conservative. On the other hand, Poland – like other post-socialist CEE countries – traditionally had high women’s employment rates (strengthened by economic necessity). Moreover, a number of

signals indicate that social norms are evolving and Polish women are ever more frequently declaring their support for equality in terms of women's labour market participation.

- Family network providing care for children. Around 20 % of households with dependent children receive unpaid care from family members outside the household. In most cases the care provided by relatives can be considered a substitute for institutional care.

Activities that facilitate the delivery and access to ECEC are undertaken locally, mainly in big cities. Many communes create separate websites for educational and care issues. For example, in Warsaw, each woman delivering a baby in hospital receives a layette for the baby. This includes small practical gifts and a book with all the necessary information. Moreover, for example, Warsaw provides a separate website (<https://zlobki.waw.pl/>) with information on crèches and a Warsaw crèche voucher. In the case of nursery schools there is an electronic system for recruitment in Warsaw.

There are also provisions that facilitate the access of children with disabilities to ECEC. However, it is mainly available for children from 3 years' old. Some crèches or kids club offer places for younger children with disabilities or special caring needs, but it does not create a coherent structure and is dependent on a particular unit.

In Poland there are NGOs supporting parents with different services, and also legal ones. Two groups of such organisations can be distinguished. The first one refers to NGOs aimed at the general population of families with children, the second one consists of NGOs integrating parents of children with disabilities. However, they do not create a common structure, so the support provided by them is fragmented.

Enforcement resources

Public authorities are not obliged to ensure ECEC for children aged 0-3 years, and there are no remedy procedures.

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