

LIFE SENTENCE

A REPORT BY THE EUROPEAN ROMA RIGHTS CENTRE, BULGARIAN HELSINKI COMMITTEE, MILAN ŠIMEČKA FOUNDATION AND OSSERVAZIONE



Romani Children in Institutional Care

JUNE 2011

CHALLENGING DISCRIMINATION PROMOTING EQUALITY



BULGARIAN
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centro di ricerca azione
contro la discriminazione
di rom e sinti



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2 Introduction

This study explores the representation and human rights situation of Romani children in institutional care in Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia. It follows a report issued by the European Roma Rights Centre (ERRC) in 2007 entitled, *Dis-Interest of the Child: Romani Children in the Hungarian Child Protection System*, which analysed the situation of Romani children in State child protection institutions in Hungary.¹ Its findings pointed to several particularly troubling problems which disproportionately affect Romani children:

1. Compared to their overall numbers in the population, Romani children are overrepresented in institutional care in Hungary;
2. Child protection and social service systems do not adequately support families and children, especially Romani families, to avoid child endangerment and the placement of children in institutional care;
3. A child's ethnicity negatively affects its likelihood of adoption once in institutional care; and
4. Many Romani children in State care are categorised as mentally disabled without adequate supervision of the diagnosis procedure.

Research in Hungary indicated that once a child is placed into institutional care it is very unlikely that s/he will succeed in leaving before reaching the age of 18. Exclusion and inadequate access to housing, education, health care and employment place Romani families at a particular risk of family break-up and make them poorly equipped to navigate the child protection system. Many Romani children spend their whole childhood and adolescence in institutional care and leave without strong social support networks. Many go on to have children that also are at risk of institutionalisation. Other research published in 2011 indicates that children that grow up in institutional care are at increased risk of being trafficked for various purposes.²

The negative effects of institutionalisation on the life opportunities of the affected children are well documented. Piecemeal data and information about numerous countries suggested that these problems were present in other European countries with significant Romani populations, including those targeted in the current study. With this study, the partners intended to expand the 2007 research to other European countries with significant Romani populations, to update the data on Hungary and assess whether any significant changes have taken place in Hungary since 2007.

This study presents the main findings of extensive desk and field research by the partners across Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia. It is the first

¹ European Roma Rights Centre, *Dis-Interest of the Child: Romani Children in the Hungarian Child Protection System* (Budapest, 2007), available at: <http://errc.org/cikk.php?cikk=2960>.

² European Roma Rights Centre/People in Need, *Breaking the Silence: Trafficking in Romani Communities* (Budapest, 2011), available at: <http://www.errc.org/cms/upload/file/breaking-the-silence-19-march-2011.pdf>.

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transnational effort to collect data on the proportion of Romani children in State care and to identify factors that contribute to the overrepresentation of Romani children in institutional care. It is intended to assist policy-makers and advocates in protecting and promoting the rights of Romani children as one of the most vulnerable segments of Europe's most marginalised minority group. By identifying problems commonly experienced by Roma across various EU Member States vis-à-vis child protection systems, this study is intended to help set future priorities for EU and Member State policy and action.

3 Executive Summary

This study maps the overrepresentation and human rights situation of Romani children in institutional care in Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia. It follows a report issued by the European Roma Rights Centre (ERRC) in 2007 entitled, *Dis-Interest of the Child: Romani Children in the Hungarian Child Protection System*, which revealed significant overrepresentation of Romani children in State care in Hungary.³

There is no official data on the proportion of Romani children in the institutional care system, with the exception of limited data from official sources in Bulgaria and the Czech Republic, due to the perceived prohibition of data gathering based on ethnic or religious background. In Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia, Government representatives, child protection authorities, children in institutional care and other experts provided information and estimates about the proportion of Romani children in institutional care, which was found to be much higher than their share of the overall population in all countries of this study.

Table 1: Representation of Romani Children in Institutional Care
(based on information from research respondents)

	Bulgaria	Czech Republic	Hungary	Italy	Romania	Slovakia
Percentage of Romani children in children's homes visited	63.0%	40.6%	65.9%	10.4%	28.0%	82.5%
Share of Roma in the total population	10%	3%	7%	0.23%	9%	9%

The Constitutions of all six countries of this study guarantee the protection of the child and the family without discrimination, and all have ratified the United Nations Convention on the Rights of the Child. All six have adopted specific laws which govern child protection matters, with the best interests of the child as the prevailing legal principle. Court orders are required prior to the suspension or termination of parental rights and the placement of children in institutional care on a temporary or permanent basis in Bulgaria, the Czech Republic, Italy, Romania and Slovakia. In Hungary children can be placed in institutional care on a temporary or long-term basis by an administrative decision of guardianship authorities; only in the case of permanent removal of parental rights is a court decision required. This is very problematic in practice because many children end up spending their entire childhood in institutional care, remaining formally under temporary or long-term protection based on an administrative decision.

³ European Roma Rights Centre, *Dis-Interest of the Child: Romani Children in the Hungarian Child Protection System* (Budapest, 2007), available at: <http://errc.org/cikk.php?cikk=2960>.

EXECUTIVE SUMMARY

Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia have policies on children's rights and child protection in place. However, only in Hungary, Italy and Romania do the policies specifically recognise Romani children as a vulnerable group.

Legal definitions of child endangerment as a basis for child placement in institutional care do not exist in Italian, Romanian or Slovak law. Only very general definitions are provided in Bulgaria, the Czech Republic and Hungary. Detailed descriptions of child endangerment and clear guidelines for assessment are lacking, which creates significant opportunities for subjective interpretation or mis-application of child protection provisions by child protection and social workers, and may have a particularly negative impact on Romani children and families.

Research across Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia revealed a myriad of factors contributing to the overrepresentation of Romani children in institutional care, which can broadly be broken down into two main categories: those related to the situation of the family and those related to the child protection system itself. Discrimination is a factor in both of these categories.

As concerns the situation of the family, numerous factors were highlighted during research including poverty and material conditions (such as unemployment, indebtedness and inadequate housing), school absenteeism, single parenthood (especially single motherhood), unwanted pregnancies and migration. Child abuse was noted in some cases, but overall this was considered a very small factor in the placement of Romani children in institutional care. While poverty and material conditions were reported by at-risk Romani parents and child protection workers to be the most common reason for child removal, some countries, like the Czech Republic, Hungary, Italy and Slovakia ostensibly prohibit the removal of children from their families on this basis.

With respect to the child protection system, some Romani families perceived discrimination against them on the part of the child protection actors, which is borne out by other evidence of discriminatory attitudes and prejudice amongst child protection actors. Social workers may assume that Romani families are not able or willing to raise and educate their children. During interviews, some social workers blamed Romani families for their poor housing conditions, lack of cleanliness, their children's school absenteeism, giving birth at an early age, having too many children and for "living on welfare, being unwilling to work, and for expecting free welfare provisions without anything in return." In failing to consider the factors that may contribute to such situations, social workers allow such opinions to negatively influence their interactions with the families.

In addition, in all countries of this study preventative measures by child protection authorities in relation to the needs of Romani families at risk of separation were inadequate. Romani families reported that many social workers do not help to identify solutions to their problems; rather they order certain changes and then leave disadvantaged families to fend for themselves in implementing them. In addition, an insufficient number of social workers to cover caseloads and a lack of skilled social workers were reported, as well as the absence of community level prevention services.

The rate of family reintegration for institutionalised children is low in all countries of this study, in part due to ineffective support by child protection workers for the families to resolve the problems leading to child placement in State care. For many children who enter State care, adoption is the only avenue for getting out of an institutional setting. For Romani children, however, the chance of adoption is significantly diminished as a result of anti-Roma racism and discrimination both inside and outside the child protection system. In all countries, adoption authorities reported that many prospective adoptive parents are not willing to adopt Romani children. There are also reported cases of adoption workers preventing the adoption of Romani children. More Romani children are likely to be adopted internationally. Research revealed that the chances for placing a disabled child into adoption is very low. As Romani children are more likely than non-Romani children to be labeled as mentally disabled, they are at a double disadvantage regarding the identification of suitable adoptive families in relevant age categories. If they are not adopted by potential adoptive parents from western countries, which in the case of Romania is prohibited, Romani children with a disability have almost zero chance of exiting the system.

Given that a disproportionate number of Romani children are in institutional care and that many are passed up for adoption, a great proportion of Romani children are likely to spend their entire childhood in an institutional setting because suitable adoptive parents cannot be identified.

There are indications that the current systems creates a cycle from which it is hard to escape. Children growing up in institutions are forced to leave them when they reach 18 and, in most cases, have no or only limited support in the outside world. They face multiple forms of discrimination as Roma and as persons raised in institutions, which result in socio-economic exclusion and poverty. This may also lead to multi-generational institutionalisation of children from the same family.

4 Methodology

Research for this study was conducted in three stages.

Legal and policy research: Between April and July 2010 researchers conducted a review of law and policy in each of the target countries: Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia. Researchers reviewed relevant national legislation and policies related to child protection and adoption in the country, protection against discrimination and data protection regulations. Roma-specific policy documents such as strategies, programmes and national action plans were reviewed, as well as reports on their implementation and reports published by international bodies and NGOs. Through this research a map of the national child protection system was created and potential gaps in the protection of Romani children were identified.

Field research: Between June 2010 and December 2010 field research was conducted by a researcher in each country based on a qualitative research methodology. The field research team was trained on the study concepts, interviewing children and research safety and ethics. In-depth interviews were conducted with a total of 1,109 people including Romani children living in or who had already left institutional care, Romani families at risk of child removal or whose children were already in institutional care, representatives of international organisations, Government officials, child protection professionals, social workers, NGO representatives, children's rights advocates, academics, school officials, school mediators and the persons responsible for administrative or civil decisions concerning child placement.

Table 2: Number of Interviews Conducted and Children's Homes Visited Per Country

	Interviews conducted	Children's homes visited
Bulgaria	136	15
Czech Republic	236	22
Italy	92	22
Hungary	236	24
Romania	258	22
Slovakia	151	12

In each country, five locations were selected for field research: four locations were known to have a greater proportion of Roma in the local population while one location was chosen with a relatively smaller proportion of Roma. To the extent possible, researchers were instructed to seek a balance in terms of geographical representation, institutions present (i.e., large and small sized homes), rural and urban settings, as well as economic and intra-ethnic group diversity.

The institutions included within the scope of this research were those in which children and youth aged 0 to 18 are placed on a temporary or permanent basis due to abandonment⁴ or perceived endangerment.⁵ Juvenile detention systems and psychiatric facilities were not covered in the research.

Table 3: Research Locations by Country

	Bulgaria	Czech Republic	Hungary	Italy	Romania	Slovakia
Locations selected	Sofia, Pazardzhik, Plovdiv, Sliven and Varna	Moravskoslezský region, Středočeský region, Ústecký region, Karlovarský region and Zlínský region	Budapest, Szabolcs-Szatmár-Bereg county, Borsod-Abaúj-Zemplén county, Baranya county, and Győr-Moson-Sopron county	Puglia region (Bari), Campania region (Naples), Lazio region (Rome), Autonomous Province of Bolzano and Lombardia region (Milan)	Bucharest, Brasov, Constanța, Iași, and Timișoara	Trnava, Banská Bystrica, Košice and Prešov

Researchers aimed to:

- map the placement (institutional care, foster care, adoption) and status (temporary or permanent guardianship) of Romani children entering institutional care and whether this differs from non-Roma;
- map the reasons for the placement of Romani children in institutional care and removal of parental rights from Romani parents, as well as the process leading to the placement of Romani children in state institutions;
- assess whether there is differential treatment of Romani children in institutional care; and
- explore how State appointed guardians protect the interests of Romani children during disability assessment procedures and the impact of this categorisation on their placement (institutional care, foster care or adoption).

Roundtable review. Following the field research period, roundtable discussions were held in four research locations with Government officials, child protection professionals, Romani representatives and other civil society actors that participated in the research. The aim of the roundtables was to discuss and gather input on the preliminary research findings, to begin formulating recommendations for Government action and to commence a dialogue on reform opportunities.

4 For the purpose of this study the term abandonment refers to the voluntary and involuntary (for example, due to a lack of contact with the child while s/he is in State care) relinquishment of parental rights and duties by the parents or legal guardians.

5 As defined in national law (see Section 6.2.1).

Limitations of the study

The research on which this report is based is qualitative in nature and is not representative. Data disaggregated by ethnicity on child protection is not systematically collected in any of the target countries: therefore the data presented on the number of Romani children in institutional care are based on the limited official data that is available and on the perception of respondents working in the field and children living in the homes. Child protection professionals in Bucharest, Romania, refused to provide estimates about the representation of Romani children in institutional care.

In Italy, the research team only visited children's homes in three of the five locations (Puglia region (Bari), Campania region (Naples) and Lazio region (Rome)). Numerous children's homes contacted in the Lombardia region (Milan) refused or did not respond to researcher requests, and the Autonomous Province of Bolzano was selected as a good practice location for its strong focus on in-family solutions.

The research team did not attempt to interview Romani children in foster care or other forms of alternative placement: where information is presented on these topics it is based on information provided by professionals during interview.

Due to the sensitive nature of this topic, the names of respondents are not included in this report.

5 Roma Exclusion in the Target Countries

Discrimination against Roma is a widespread phenomenon throughout Europe and is strongly manifested in the countries examined in this study. High levels of discrimination against Roma persist, especially in the areas of education, housing, employment, health care and access to other important public social services, including discrimination not only on the part of private persons and entities but also on the part of public authorities.

According to the results of a statistical survey on minorities and discrimination in the European Union published by the European Union Agency for Fundamental Rights (FRA), Roma are the most discriminated of seven minority groups in the EU in access to employment, housing, health care, education, social services and bank services.⁶ Twenty-six percent of Roma in Bulgaria, 64% in the Czech Republic, 62% in Hungary, 25% in Romania and 41% in Slovakia reported having experienced discrimination based on their ethnicity in the 12 months prior to the survey. The same survey found that Roma do not report the vast majority of discrimination experiences: in Bulgaria, 92% of Romani respondents did not report instances of discrimination that they had experienced; in the Czech Republic 66%, in Hungary 82%, in Romania 81% and in Slovakia 80% of Romani respondents reported such.⁷

According to the FRA's 2009 statistical survey findings, 29% of Roma in Bulgaria reported discrimination in access to employment, 45% in the Czech Republic, 47% in Hungary and 38% in Slovakia.⁸ Twenty-three percent of Roma in Romania reported discrimination while looking for work or at work.⁹ Prejudice and negative stereotypes towards Roma and Sinti in Italy form a key structural obstacle to their employment.¹⁰ Due in part to widespread discrimination against Roma, unemployment rates among Roma are very high and a significant proportion of Roma live below the poverty line in the countries of this study.

6 European Union Agency for Fundamental Rights, *European Union Minorities and Discrimination Survey: Main Report* (2009), available at: http://fra.europa.eu/fraWebsite/attachments/eumidis_mainreport_conference-edition_en_.pdf.

7 European Union Agency for Fundamental Rights, *Data in Focus: The Roma* (2009), available at: http://www.fra.europa.eu/fraWebsite/eu-midis/eumidis_roma_en.htm.

8 European Union Agency for Fundamental Rights, *European Union Minorities and Discrimination Survey: Main Report* (2009), available at: http://fra.europa.eu/fraWebsite/eu-midis/eumidis_main_results_report_en.htm.

9 European Union Agency for Fundamental Rights, *Data in Focus: The Roma* (2009), available at: http://www.fra.europa.eu/fraWebsite/eu-midis/eumidis_roma_en.htm.

10 European Union Agency for Fundamental Rights, *The situation of Roma EU citizens moving to and settling in other EU Member States* (November 2009), available at: http://fra.europa.eu/fraWebsite/attachments/ROMA-Movement-Comparative-report_en.pdf.

Table 4: Unemployment and Poverty among Roma in the Target Countries

	Unemployment rates	Living below the poverty line (income based, below \$4.30 per day)
Bulgaria	60% ¹¹	49% ¹²
Czech Republic	Over 50% ¹³	25% ¹⁴
Hungary	45.5% ¹⁵	48% ¹⁶
Italy	Not available	Not available
Romania	44% ¹⁷	67% ¹⁸
Slovakia	46% ¹⁹	Not available

According to a 2008 report of the Open Society Institute, in Bulgaria only 46.2% of Romani children complete primary education and only 7.2% finish secondary school.²⁰ The same report found that only 1.2% of Romani children complete secondary school in the Czech Republic, and that only 60.8% of Romani children in Hungary complete primary education while 12.9% complete secondary school. In Italy, drop-out rates among Roma and Sinti children are reportedly very high: the EU Fundamental Rights Agency reported figures reaching 73% in primary school and 84% in lower secondary education.²¹ There are cases of schools refusing to enrol Romani children or asking them to spend time out of the classroom while classmates are attending regular lessons. In Romania, 2008 data reveals that only 31.7% of Romani children complete primary school and only 9.6% finish secondary school. While 76.8% of Romani children in Slovakia are reported to finish primary school, only 15% complete secondary school.²²

11 World Bank, *Roma at a Glance*, available at: http://siteresources.worldbank.org/INTROMA/Resources/Roma_at_a_Glance.pdf.

12 *Ibid.*

13 World Bank News Release No. 2008/ECA, available at: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/CZECHEXTN/0,,contentMDK:21953611~menuPK:304639~pagePK:2865066~piPK:2865079~theSitePK:304634,00.html>.

14 World Bank, *Roma at a Glance*, available at: http://siteresources.worldbank.org/INTROMA/Resources/Roma_at_a_Glance.pdf.

15 *Ibid.*

16 United Nations Development Program, *Avoiding the Dependency Trap – a Human Development Report on the Roma Minority in Central and Eastern Europe* (2002), available at: <http://www.arab-hdr.org/publications/other/undp/hdr/regional/avoiding-dep-trap-03e.pdf>.

17 World Bank, *Roma at a Glance*, available at: http://siteresources.worldbank.org/INTROMA/Resources/Roma_at_a_Glance.pdf.

18 *Ibid.*

19 *Ibid.*

20 Open Society Institute, *International Comparative Data Set on Roma Education, A Statistical Baseline for Central, Eastern, and South Eastern Europe* (2008), available at: http://www.soros.org/initiatives/esp/articles_publications/publications/monitoring_20061218/table_2008.pdf.

21 European Union Agency for Fundamental Rights (at the time, EUMC), *Roma and Travellers in Public Education: An overview of the situation in the EU Member States* (2006), available at: http://www.fra.europa.eu/fraWebsite/attachments/roma_report.pdf.

22 Open Society Institute, *International Comparative Data Set on Roma Education, A Statistical Baseline for Central, Eastern, and South Eastern Europe* (2008), available at: http://www.soros.org/initiatives/esp/articles_publications/publications/monitoring_20061218/table_2008.pdf.

Starting from their earliest ages, Roma are subjected to systemic discrimination through different forms of segregation and discriminatory treatment in access to equal education. One of the most damaging forms of discrimination experienced by Romani children is the segregation of non-disabled Romani children in special schools and classes intended for children with mental disabilities. In the Czech Republic 26.7% of all Romani pupils are educated in special schools and classes for children with mental disabilities whereas only 2.17% of non-Romani pupils are educated in this environment.²³ In Romania, data from a 2001 report indicated that Roma make up as many as 80% of the children in special schools in Romania.²⁴ Those that attend integrated schools are routinely bullied by non-Romani students and placed in the back of classrooms, where they are ignored by teachers.²⁵ In Slovakia sources indicate that the proportion of Romani children in special schools is between 80 to 100%.²⁶ The spatial segregation of Romani pupils in education is also pervasive: in Bulgaria there are at least 65 schools in Romani neighbourhoods, exclusively attended by Romani children.²⁷ Approximately 30% of Romani children attend completely segregated schools while 10% do not attend school at all.²⁸ In Hungary, the schools are segregated in 170 towns and villages; separate Roma-only classes persist in 700 more communities.²⁹

A 2010 study by the ERRC found that in many European countries Roma housing does not meet adequate living standards.³⁰ The study confirmed that racism and discrimination pose obstacles to adequate housing for Roma, many of whom live in segregated communities, and that the forced eviction of Roma continues in the absence of adequate alternative solutions. The housing situation of Roma and Sinti in Italy is the most visible sign of their social exclusion. Many Roma and Sinti (around one third) live in segregated housing areas on the periphery of cities and towns, as a matter of policy and not necessarily choice, with substandard conditions.³¹

23 Institute for Information in Education (Ústav pro informace a vzdělávání), *Monitoring of Framework Educational Programmes* (2009), available (in Czech original) at: <http://spolecnedoskoly.cz/wp-content/uploads/monitoring-uiv.pdf>.

24 Save the Children, *Denied a Future? The right to education of Roma/Gypsy and Traveller children, Volume 1: South-eastern Europe* (December 2001), available at: http://www.savethechildren.org.uk/en/54_2317.htm, p. 325.

25 U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *2008 Human Rights Report: Romania* (25 February 2009), available at: <http://www.state.gov/g/drl/rls/hrrpt/2008/eur/119100.htm>.

26 Roma Education Fund, *Advancing Education of Roma in Slovakia* (2007), 38-44, available at: http://demo.itent.hu/roma/portal/downloads/Education%20Resources/Slovakia_report.pdf.

27 Council of Europe, *Second Report Submitted by Bulgaria Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities* (23 November 2007), available at: http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_SR_Bulgaria_en.pdf.

28 U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *2008 Human Rights Report: Bulgaria* (25 February 2009), available at: <http://www.state.gov/g/drl/rls/hrrpt/2008/eur/119072.htm>.

29 Chance for Children Foundation, available at: http://www.cfcf.hu/celok-feladatok_hu.html.

30 European Roma Rights Centre, *Standards Do Not Apply: Inadequate Housing in Romani Communities* (2010), available at: <http://www.errc.org/cms/upload/file/standards-do-not-apply-01-december-2010.pdf>.

31 European Union Agency for Fundamental Rights, *The Housing conditions of Roma and Travellers in the EU* (October 2009), available at: http://fra.europa.eu/fraWebsite/attachments/ROMA-Housing-Comparative-Report_en.pdf.

6 Child Protection Law and Policy

6.1 International Legal Standards

Children's rights are protected in numerous international human rights treaties of the Council of Europe, the European Union and the United Nations.

Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia are all bound by the Charter of Fundamental Rights of the European Union (EU Charter), which states, at Article 24, "Children shall have the right to such protection and care as is necessary for their well-being" and that "in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration." In addition, Article 33 of the EU Charter ensures that families "shall enjoy legal, economic and social protection."³²

The United Nations Convention on the Rights of the Child (CRC) establishes comprehensive protection of the rights of children.³³ The Convention establishes four core principles that States must consider in the fulfilment of children's rights, including protection against discrimination and all forms of neglect and exploitation, the best interests of the child, the right to life, survival and development and participation in decision-making processes. As concerns child protection, the CRC states at Article 9:

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

Article 18(2) further provides that "States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children." With a view to preventing the removal of children from their families, Article 19(1) of the CRC

³² European Union, *Charter of Fundamental Rights of the European Union* (30 March 2010), available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:EN:PDF>.

³³ United Nations, *Convention on the Rights of the Child*, available at: <http://www2.ohchr.org/english/law/crc.htm>.

establishes that “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child [...]”³⁷

The International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Covenant on Civil and Political Rights (ICCPR) require State parties to ensure protection and assistance to families.³⁴ The ICESCR and the ICCPR also establish the right of children to measures of protection and assistance without discrimination.³⁵

At the Council of Europe level, Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia are all party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).³⁶ The protection of children’s rights falls within the scope of the ECHR, including articles 3 (freedom from torture, degrading and inhuman treatment), 6 (fair trial),³⁷ 8 (respect for private and family life), 13 (legal remedy)³⁸ and 14 (non-discrimination). Jurisprudence of the European Court of Human Rights has established various principles concerning the placement of children in institutional care,³⁹ family reunification,⁴⁰ contact between children and parents⁴¹ and other child protection related issues.

The Revised European Social Charter (RESC) establishes at Article 17 the right of children and young persons to social, legal and economic protection to encourage “the full development of their personality and of their physical and mental capacities.” To achieve this, State parties “undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

- a. to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;
- b. to protect children and young persons against negligence, violence or exploitation;

³⁴ Article 10, *International Covenant on Economic, Social and Cultural Rights*, available at: <http://www2.ohchr.org/english/law/cescr.htm>. Article 23, *International Covenant on Civil and Political Rights*, available at: <http://www2.ohchr.org/english/law/ccpr.htm>.

³⁵ Article 10, *International Covenant on Economic, Social and Cultural Rights*, available at: <http://www2.ohchr.org/english/law/cescr.htm>. Article 24, *International Covenant on Civil and Political Rights*, available at: <http://www2.ohchr.org/english/law/ccpr.htm>.

³⁶ Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, available at: <http://conventions.coe.int/treaty/en/Treaties/Html/005.htm>.

³⁷ *Costello Roberts v UK*, (application no. 13134/87) and *A v UK*, (application no. 25599/94).

³⁸ *T.P. & K.M. v. United Kingdom*, European Court of Human Rights, unreported, 10 May 2001.

³⁹ *W v United Kingdom* (1987) 10 E.H.R.R. 29.

⁴⁰ See for example, *K and T v. Finland* (2003) 36 E.H.R.R. 255; *Olsson (No. 2) v. Sweden* (1994) 17 E.H.R.R.; *Eriksson v. Sweden* (1989) 12 E.H.R.R. 183; and *Johansen v. Norway*, (1997) 23 E.H.R.R. 33.

⁴¹ See for example, *Andersson v. Sweden, Seria A, No. 226* (1998) 14 E.H.R.R. 615 or *Olsson v. Sweden, Series A, No. 130*, (1989) 11 E.H.R.R. 259; *Couillard Maugery v. France*, 1 July 2004.

- c. to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support.⁷⁴²

At Article 16, the RESC also protects the right of the family to social, legal and economic protection, including through social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.

Recommendation (2005) of the Council of Europe's Committee of Ministers on the rights of children living in residential institutions points out that parents have the primary responsibility for the upbringing and development of children. The separation of children from their families should be the last resort and only happen when it is unavoidable, as a temporary measure. States are obliged to identify family based solutions, to address the root causes of family separation and to ensure contact between parents and children.⁴³

6.2 Protection of Children and the Family in National Law

The Constitutions of all target countries of this study guarantee the protection of the child and the family without discrimination. Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia have all adopted specific laws which govern child protection matters. The best interest of the child is the prevailing legal principle in all six countries of this study.⁴⁴

If parents fail to fulfil their obligations towards the child as proscribed by law, parental rights may be temporarily restricted or permanently removed. Court orders are required prior to the suspension or termination of parental rights and the placement of children in institutional care on a temporary or permanent basis in Bulgaria,⁴⁵ the Czech Republic,⁴⁶ Italy,⁴⁷ Romania⁴⁸ and Slovakia.⁴⁹ In Hungary children can be placed in institutional care on a temporary or long-term

42 Council of Europe, *Revised European Social Charter* (May 1996), available at: <http://conventions.coe.int/treaty/en/treaties/html/163.htm>.

43 Council of Europe, Committee of Ministers, *Recommendation Rec(2005)5 of the Committee of Ministers to member states on the rights of children living in residential institutions* (16 March 2005), available at: <https://wcd.coe.int/wcd/ViewDoc.jsp?id=835953&Site=CM>.

44 In the Czech Republic, Section 5 of *Act No. 359/1999 Coll. on the Socio-Legal Protection of Children*. In Hungary, Section 2(1) of *Act No XXXI of 1997 on the Protection of Children and Guardianship Administration*. In Romania, Article 6 of *Law 272/2004 the Protection and Promotion of Child's Rights*. In Slovakia, Article 1(2) of *Act No 305/2005 Coll. on Social and Legal Protection of Children and Social Guardianship*.

45 Bulgaria, *Child Protection Act*, as amended in July 2010 (13 June 2000), Article 26, available at: <http://lex.bg/bg/laws/ldoc/2134925825>.

46 Czech Republic, *Charter of Fundamental Rights and Freedoms as a part of the constitutional order of the Czech Republic, No. 2/1993 Coll., as amended by constitutional act No. 162/1998 Coll.*, Article 32, available at: <http://spcp.prf.cuni.cz/aj/2-93en.htm>.

47 Italy, *Law 184/83 relating to the Rules for Adoption and Foster Care of Children*, Article 2.

48 Romania, *Family Code*, Article 109, available at: <http://legal.dntis.ro/>.

49 Slovakia, *Act No 36/2005 Coll. on the Family*, Article 37, available at: <http://www.zakon.sk/Main/lwDefault.aspx?Template=~/Main/lwTArticles.ascx&phContent=~/ZzSR/lwShowPDF.ascx&RuleId=29995&Version=-1>.

basis by an administrative decision by guardianship authorities;⁵⁰ only in case of extreme endangerment when child protection authorities seek the permanent removal of parental rights is a court decision required.⁵¹ This is very problematic in practice given that most children are formally under temporary protection in institutional care while many end up spending their entire childhood in an institution.

In Bulgaria, Article 14 of the Constitution states that the family, motherhood and children shall enjoy the protection of the State and society. Article 47 establishes that the raising and upbringing of children until they reach legal age of majority shall be a right and obligation of their parents and shall be assisted by the State.⁵² In 2000, Bulgaria adopted its Child Protection Act.⁵³ Article 10 stipulates that every child has a right to protection with a view to his/her normal physical, intellectual, moral and social development and to protection of his/her rights and interests. The parents of children placed in institutional care in Bulgaria retain guardianship and parental rights; State-appointed care-givers do not acquire guardianship rights and duties.⁵⁴

Article 3 of the Charter of Fundamental Rights and Freedoms, as the part of the Czech constitutional order, guarantees that everyone shall enjoy fundamental rights and basic freedoms without discrimination.⁵⁵ Article 32 establishes the legal protection of parenthood and the family, the special protection of children and adolescents, the right of parents to care for and raise their children and the right of children to upbringing and care by their parents. It also establishes that the State should provide assistance to parents who are raising children. Act No. 94/1963 Coll. on Family, Act No. 359/1999 Coll. on the Socio-Legal Protection of Children (SLPA) and Act No. 109/2002 Coll. on the Provision of Institutional Care or Protective Care in School Facilities and on Preventive Educational Care in School Facilities (Institutional Care Act) further elaborate the Constitutional norms.⁵⁶ The Family Act regulates rights and duties of family members and basic elements of family life, as well as the forms of alternative family care. The SLPA regulates the responsibilities of relevant authorities and the rights and duties of children and parents in the socio-legal protection system. The Institutional Care Act

50 Hungary, *Act No XXXI of 1997 on the Protection of Children and Guardianship Administration*, Article 72(1), available at: http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99700031.TV×hift=1.

51 *Ibid.*, Articles 80(1) and 88.

52 Bulgaria, *Family Code*, Article 2(1), available at: <http://archive.bild.net/legislation/docs/4/civil5.html>.

53 Bulgaria, *Child Protection Act*, as amended in July 2010 (June 2000), available at: <http://lex.bg/bg/laws/ldoc/2134925825>.

54 Bulgaria, *Family Code*, Article 137.

55 Czech Republic, *Charter of Fundamental Rights and Freedoms as a part of the constitutional order of the Czech Republic*, No. 2/1993 Coll., as amended by constitutional act No. 162/1998 Coll., available at: http://www.concourt.cz/view/czech_charter.

56 Czech Republic, *Act No. 94/1963 Coll. on Family*, available at: http://portal.gov.cz/wps/portal/_s.155/701/.cmd/ad/.c/313/.ce/10821/.p/8411/_s.155/701?PC_8411_number1=94/1963&PC_8411_l=94/1963&PC_8411_ps=10#10821. Czech Republic, *Act No. 359/1999 Coll. on the Socio-Legal Protection of Children*, available at: http://portal.gov.cz/wps/portal/_s.155/701?number1=359%2F1999&number2=&name=&text=. Czech Republic, *Act No. 109/2002 Coll. on the Provision of Institutional Care or Protective Care in School Facilities and on Preventive Educational Care in School Facilities*, available at: http://portal.gov.cz/wps/portal/_s.155/701?number1=109%2F2002&number2=&name=&text=.

regulates State care institutions and sets out the rights and duties of institutionalised children and their biological parents.

The Constitution of the Republic of Hungary establishes the general framework for the protection of children in the country. It stipulates that “in the Republic of Hungary, every child has the right to enjoy the care and protection on the part of their families and by the State and society that is necessary for satisfactory physical, mental and moral development.”⁵⁷ Special attention should be paid to securing the existence, education and training of youth and the protection of their interests.⁵⁸ The Constitution also protects the institution of marriage and the family.⁵⁹ Hungary’s Act No XXXI of 1997 on the Protection of Children and Guardianship Administration was adopted in 1997. It elaborates children’s rights, the rights and duties of parents, defines the institutional structure of the child protection and lays down the rules of the guardianship system. It defines child protection as a State and local government responsibility whose primary aim is “to promote the upbringing of the child within the family, prevent and eliminate the endangerment of the child and ensure the substitute protection of a child leaving care of parents or other relatives.”⁶⁰

In Italy, the Constitution contains important principles concerning child and family protection. In particular, Article 30 establishes that “It is the duty and right of parents to support, raise and educate their children, even if born out of wedlock. In the case of incapacity of the parents, the law provides for the fulfilment of their duties.” At Article 31, the Italian Government commits to assisting in “the formation of the family and the fulfilment of its duties, with particular consideration for large families, through economic measures and other benefits.”⁶¹ Law 328/2000 on the Implementation of an Integrated System of Social Intervention and Services⁶² and Law 149/2000 on the Rules for the Adoption and Foster Care of Children⁶³ establish the system of child protection and social services in Italy. They set out the responsibility of the regions and local authorities to prevent child abandonment, assist families at risk, establish family-based and foster care facilities, facilitate adoption, establish standards for child care and monitor their implementation. The law provides that child removal and placement in alternative care is a temporary measure aimed at supporting the relationship between the minor and the parents:

57 Hungary, *Act No XX/1949 on the Constitution of the Republic of Hungary*, Article 67(1). In January 2012 a new Constitution will enter into force in Hungary. Important provisions include protection of children and women with special measures (Article XV), the right of every child to physical, mental and moral development, an obligation on parents to care for their children (Article XVI) and protection of the family (Article L). Available at: <http://kozlony.magyarorszag.hu/pdf/8946>.

58 *Ibid.*, Article 16.

59 *Ibid.*, Article 15.

60 Hungary, *Act No XXXI of 1997 on the Protection of Children and Guardianship Administration*, Article 1(1), available at: http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99700031.TV×hift=1.

61 Italy, *Constitution of the Italian Republic*, available at: www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf.

62 Italy, *Law 328/2000*, available at: <http://www.parlamento.it/parlam/leggi/003281.htm>.

63 Italy, *Law 149/2000 amending Law 184/83 relating to the Rules for the Adoption and Foster Care of Children* (28 March 2001), available at: <http://www.camera.it/parlam/leggi/011491.htm>.

the final goal is the reintegration of the minor in the original family.⁶⁴ However, the law does not specify the maximum length of time a minor can temporarily be placed outside his/her family. The only basis for permanent removal of parental rights is adoption.

The Romanian Constitution, as revised in 2003, stipulates, at Article 49, that “Children and young persons shall enjoy special protection and assistance in the pursuit of their rights.” It also recognises the duty of the State to provide social protection, including “state allowances for children and benefits for the care of sick or disabled children” and states that “other forms of social protection for children and young people shall be established by law.”⁶⁵ It guarantees that the State will take measures of economic development and social protection to ensure a decent living standard for its citizens, and protects the “right and duty of the parents to ensure the upbringing, education and instruction of their children.”⁶⁶ Law 272/2004 on the Protection and Promotion of Child’s Rights transposes the legal protections of the Convention on the Rights of the Child into national law.⁶⁷ It is the key law ensuring the protection and promotion of children’s rights and child protection in the country. It sets out the protection of children from abuse and exploitation, establishes the rights and duties of parents, the primary responsibility of parents in ensuring and guaranteeing the rights of the child and elaborates the child protection system.

The Constitution of the Slovak Republic guarantees special protection of children and minors and the protection of parenthood and the family at Article 41. It establishes that childcare is the right of parents and that children are entitled to parental upbringing and care. The State is obliged to provide assistance to parents taking care of their children.⁶⁸ The legislative framework on the rights of the child, the rights of parents and child protection is set out in a group of legal acts including Act No 36/2005 Coll. on the Family (Family Act)⁶⁹ and Act No 305/2005 Coll. on Social and Legal Protection of Children and Social Guardianship.⁷⁰ The Family Act defines the principles of family law, relations between parents, children and other relatives, alternative care, guardianship and adoption. The Act on Social and Legal Protection of Children and Social Guardianship regulates child protection and social guardianship to prevent crisis situations in the family, to protect the rights and the interests of the children, to ensure the full mental, physical and social development of children and to eliminate anti-social behaviours.

64 *Ibid.*, Article 2.

65 Romania, *Law No. 429/2003 on Constitution of Romania*, Article 49, available at: http://www.cdep.ro/pls/dic/site.page?den=act2_2&par1=2#t2c2s0a49.

66 *Ibid.*, Articles 47 and 48, respectively.

67 Romania, *Law 272/2004 on the Protection and Promotion of Child’s Rights* (January 2008), available at: http://www.cdep.ro/proiecte/2004/200/20/4/leg_pl224_04.pdf.

68 Slovakia, *Constitution of the Slovak Republic*, available at: http://www.vop.gov.sk/en/legal_basis/constitution.html.

69 Slovakia, *Act No 36/2005 Coll. on the Family*, available at: <http://www.zakon.sk/Main/lwDefault.aspx?Template=~ /Main/lwTArticles.ascx&phContent=~ /ZzSR/lwShowPDF.ascx&RuleId=29995&Version=-1>.

70 Slovakia, *Act No 305/2005 Coll. on Social and Legal Protection of Children and Social Guardianship*, available at: <http://www.zakon.sk/Main/lwDefault.aspx?Template=~ /Main/lwTArticles.ascx&phContent=~ /ZzSR/lwShowPDF.ascx&RuleId=30284&Version=-1>.

6.2.1 LEGAL DEFINITION OF CHILD ENDANGERMENT

State interventions to remove children from their families and place them in institutional or other forms of alternative care is generally in response to a situation of perceived child endangerment. Legal definitions of child endangerment are defined slightly differently in Bulgaria, the Czech Republic and Hungary: overall the definitions which are provided are quite general.

In Bulgaria, Article 1 of the Child Protection Act defines “children at risk” as children whose parents are diseased, unknown, deprived of parental rights or who cannot take care of the children; children who are victims of abuse, violence, exploitation and any other inhuman and degrading treatment or punishment within and outside the family; children whose physical, mental, moral, intellectual or social development is at risk; children who suffer from a disability or a hard-to-treat disease; and children who are at risk of dropping out of school or who have already dropped out of school.

In the Czech Republic the concept of “a child at risk” is not explicitly defined in Czech law. The content of this term is derived from the scope of the SLPA which provides that children who shall be supervised by the socio-legal protection authorities includes children whose basic biological, physical, educational or social needs are not sufficiently met.⁷¹ Section 6 of the SLPA states that particular attention shall be paid to children a) whose parents have died; whose parents fail to meet their parental obligations or who fail to exercise or abuse rights arising from parental responsibility; b) who lead a truant or immoral life (fail to attend school, do not work even though they have insufficient resources for living, drink alcohol or use other addictive substances, make their living as prostitutes, commit a crime or in case of children under 15 years of age an act that would otherwise be a crime, repeatedly commit offences or otherwise threaten public order); c) against whom a crime is committed that threatens their life, health, freedom, human dignity, moral development or property, or there is a suspicion of such a crime having been committed; or d) children, who upon request of the parents are repeatedly placed into institutions providing constant childcare.

Hungarian law broadly defines child endangerment as “conditions - as a result of certain behaviour, failure, or circumstances of the child or other person - blocking or hindering the child’s physical, intellectual, emotional, and moral development.”⁷²

Romanian law does not explicitly define child endangerment. However, the Family Code establishes that parental rights may be suspended or removed if the physical, mental, moral,

71 Government of the Czech Republic, *The Report on the State of Human Rights in the CR in 2009*, available at: <http://www.vlada.cz/cz/ppov/rlp/dokumenty/zpravy-lidska-prava-cr/zprava-o-stavu-lidskych-prav-v-cr-v-roce-2009-74864/>, sets this definition, stipulating that the level of risk is to be evaluated individually, corresponding to basic principals of the Convention of the Rights of the Child. The Government’s conceptual materials use similar terminology. For example, *The National Action Plan of Transformation and Unification of the System of Care of Children at Risk 2009 – 2011* defines “a child at risk” as a child whose basic needs are not met sufficiently and is endangered by risky behaviour.”

72 Hungary, *Child Protection Act as amended by Act LXXIX of 2009*, Article 5(n).

spiritual and social development of the child is endangered by “abusive behaviour or grave negligence in the fulfilment of parental duties, or if the education or professional instruction of the child is not done in the spirit of devotion to Romania.”⁷³

Italian and Slovak⁷⁴ law also do not define child endangerment. Detailed descriptions of child endangerment and clear methodological guidelines for assessing it are lacking in Bulgaria, the Czech Republic, Hungary,⁷⁵ Italy, Romania and Slovakia. This creates significant opportunities for subjective interpretation or mis-application of child protection provisions by child protection and social workers, and may have a particularly negative impact on Romani children and families.⁷⁶

73 Romania, *Family Code*, Article 109.

74 Instead, Slovak law elaborates a series of actions or behaviours by the child that would warrant intervention, including: involvement or suspected involvement in a criminal act; membership in groups with a negative influence; substance abuse, gaming, Internet or computer addictions; and behavioural disorders. Slovakia, *Act No 305/2005 Coll. on Social and Legal Protection of Children and Social Guardianship*, Article 16.

75 Creating a detailed description and guidelines for determining child endangerment was a key recommendation stemming from ERRC research in 2007 and one on which the Government promised action at that time. As of 2011, several experts were working to prepare methodological guidelines for use by child protection workers in assessing child endangerment.

76 Countries such as Canada and the United Kingdom provide good examples of more developed definitions and methodological guidance to child protection workers in the assessment of child endangerment. For example, in Ontario, a child is in need of protection where: “(a) the child has suffered physical harm, inflicted by the person having charge of the child or caused by or resulting from that person’s, (i) failure to adequately care for, provide for, supervise or protect the child, or (ii) pattern of neglect in caring for, providing for, supervising or protecting the child; (b) there is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person’s, (i) failure to adequately care for, provide for, supervise or protect the child, or (ii) pattern of neglect in caring for, providing for, supervising or protecting the child; (c) the child has been sexually molested or sexually exploited, including by child pornography, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child; (d) there is a risk that the child is likely to be sexually molested or sexually exploited as described in clause (c); (e) the child requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child’s parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, the treatment; (f) the child has suffered emotional harm, demonstrated by serious, (i) anxiety, (ii) depression, (iii) withdrawal, (iv) self-destructive or aggressive behaviour, or (v) delayed development, and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child’s parent or the person having charge of the child; (f.1) the child has suffered emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) and the child’s parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm; (g) there is a risk that the child is likely to suffer emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) resulting from the actions, failure to act or pattern of neglect on the part of the child’s parent or the person having charge of the child; (g.1) there is a risk that the child is likely to suffer emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) and that the child’s parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to prevent the harm; (h) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child’s development and the child’s parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition; (i) the child has been abandoned, the child’s parent has died or is unavailable to exercise his or her custodial rights over the child and has not made adequate provision for the child’s care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child’s care and custody; (j) the child is less than twelve years old and has killed or seriously injured another person or caused serious damage to another person’s property, services or treatment are necessary to prevent a recurrence and the child’s parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, those services or treatment; (k) the child is less than twelve years old and has on more than one occasion

6.3 National Policy for the Protection of Children

Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia have policies on children's rights and child protection in place. Only in Hungary, Italy and Romania do the policies specifically recognise Romani children as a vulnerable group.

Bulgaria's National Strategy for Child Protection 2008-2018 envisages a reduction in the number of institutionalised children by developing effective and sufficient community-based services for families and children, improving the quality of life for institutionalised children and the restructuring of alternative childcare institutions.⁷⁷ An important step forward in the process of providing better care for children in Bulgaria was the adoption of the national strategy entitled Vision of Deinstitutionalization of Children in Bulgaria in February 2010.⁷⁸ In November 2010 the action plan of the strategy was approved, which foresees the implementation of projects for the deinstitutionalisation of children from homes for children with disabilities, from homes for medico-social care and from homes for children deprived of parental care, for the development of foster care and for the professional development of social workers.

In the Czech Republic, the main state policy concerning child protection is the National Action Plan for the Transformation and Unification of the System of Care for Children at Risk 2009-2011.⁷⁹ It focuses on the unification of procedures used by SLP workers in their work with children at risk, reducing the number of children in long-term institutional care through improved prevention, increasing the number of qualified professionals and supporting the development of the child's personality.

Hungary adopted a long-term National Strategy on Children's Rights 2007-2032 focusing on combating child poverty and inequalities⁸⁰ with a short-term action plan for the years 2007-2010 which outlines concrete goals supervised by relevant ministries.⁸¹ Romani children are

injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately; or (l) the child's parent is unable to care for the child and the child is brought before the court with the parent's consent and, where the child is twelve years of age or older, with the child's consent, to be dealt with under this Part. R.S.O. 1990, c. C.11, s. 37 (2); 1999, c. 2, s. 9." See: Ontario, *Child and Family Services Act*, available at: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90c11_e.htm#BK113. Methodological guidelines for child protection workers in Ontario are available at: <http://www.children.gov.on.ca/htdocs/English/documents/topics/childsaidsaid/childprotectionstandards.pdf> and <http://www.children.gov.on.ca/htdocs/English/documents/topics/childsaidsaid/childprotectionmanual.pdf>.

77 Bulgaria, *National Strategy for Child Protection 2008-2018* (February 2008), available at: <http://www.strategy.bg/StrategicDocuments/View.aspx?lang=bg-BG&Id=464>.

78 Bulgarian Council of Ministers, *Vision of Deinstitutionalization of Children in Bulgaria* (24 February 2010), available at: <http://sacp.government.bg/programi-dokladi/strategii-programi-planove/>.

79 Czech Republic, *Government Resolution No. 883* (13 July 2009). All ministerial materials on the transformation process are available at: <http://www.mpsv.cz/cs/7259>.

80 Hungary, *Resolution of the Parliament No. 47/2007* (V. 31). Further information available at: <http://www.childpoverty.hu/docs/Parliament%20decision%20children.pdf>.

81 Hungary, *Government Resolution No. 1092/2007* (XI.29), available at: http://www.complex.hu/jr/gen/hj-egy_doc.cgi?docid=A07H1092.KOR. As of June 2011, no new action plan had been adopted.

included as a priority group in the Strategy, which recognises them as especially vulnerable to poverty due to long-term unemployment of parents, housing and educational segregation and ethnic discrimination.

In Italy, the Government adopted a new National Action Plan on Childhood and Adolescence in January 2011, which acknowledges the importance of taking a holistic approach to the situation of Romani children.⁸² Between October 2007 and October 2009, various working groups met to discuss an Action Plan for 2009-2011 which was not adopted; the meetings resulted in a document concerning Roma, Sinti and Travellers which recommended the use of social work to support children and their families in overcoming difficult situations.

In Romania the National Strategy for Protection and Promotion of Children's Rights 2008-2012 aims to ensure effective cooperation among all stakeholders to promote and protect children's rights and to prevent the separation of children from their parents by supporting parents to fulfill parental obligations. Romania also adopted an Operational Plan 2008 – 2013 on implementation of the strategy.⁸³ It aims at the decentralisation of child protection services, the harmonisation of existing child protection policies and funding structures and community involvement in prevention activities. Romani children are included as a specific target group.

Slovakia adopted a National Action Plan for Children 2009-2012, which is a tool for the implementation of the Convention on the Rights of the Child and EU strategies on children's rights.⁸⁴ The action plan does not include Romani children as a specific target group but various objectives and activities reference Roma, including actions concerning child protection and disaggregated data collection, and the involvement of the Government Plenipotentiary for Roma Communities in many activities is foreseen.

82 Italy, *National Action Plan on Childhood and Adolescence*, published on 9 May 2011 in the Gazzetta Ufficiale. Before that, Italy's last *National Action Plan on Childhood and Adolescence* was for the period 2002-2004. According to Presidential Decree 103/2007, the National Observatory on Childhood and Adolescence is supposed to draft a *National Action Plan on Childhood and Adolescence* every two years, which should be adopted by a Decree of the President of the Republic. Available at: <http://www.minori.it/dpr-103-2007>.

83 Romania, *Decision 860 of 13 August 2008*.

84 Slovakia, *National Action Plan for Children 2009-2012*, available at: <http://www.employment.gov.sk/index.php?id=18038>.

Table 5: Key National Laws and Policies on Child Protection

	Constitutional provisions	National legislation	National policy
Bulgaria	Articles 1,14,47	Child Protection Act	National Strategy for Child Protection 2008-2018; Vision of Deinstitutionalization of Children in Bulgaria
Czech Republic	Article 3, 32	Act No. 94/1963 Coll. on Family, Act No. 359/1999 Coll. on the Socio-Legal Protection of Children and Act No. 109/2002 Coll. on the Provision of the Institutional Care or Protective Care in School Facilities and on Preventive Educational Care in School Facilities	National Action Plan for the Transformation and Unification of the System of Care for Children at Risk 2009-2011
Hungary	Article 15, 16, 67	Act No XXXI of 1997 on the Protection of Children and Guardianship Administration; Government Decree No. 331/2006 (XII.23) on the Duties, Competences and Structure of the Guardianship Authority; Government Decree No. 149/1997. (IX. 10.) on the Guardianship Authorities and Child Protection and Guardianship Procedures	Parliamentary Resolution 47/2007 (V.31) OGY on the National Strategy 2007-2032 “Making Things Better for Our Children”
Italy	Articles 2, 3, 30, 31	Law 328/2000 on the Implementation of an Integrated System of Social Intervention and Services and Law 149/2000 on the Rules for the Adoption and Foster Care of Children	National Action Plan on Childhood and Adolescence
Romania	Article 47, 48, 49	Law 272/2004 on the Protection and Promotion of Child’s Rights	National Strategy for Protection and Promotion of Children’s Rights 2008-2012; Operational Plan 2008 – 2013 for the Implementation of the National Strategy
Slovakia	Articles 12, 41	Act No 36/2005 Coll. on the Family and Act No 305/2005 Coll. on Social and Legal Protection of Children and Social Guardianship	National Action Plan for Children 2009-2012

7 Romani Children in the Child Protection System

7.1 Data Protection and the Availability of Data Disaggregated by Ethnicity

Several mechanisms are in place to regulate the collection and protection of personal data in the European Union. The Charter of Fundamental Rights of the European Union under Article 8 safeguards the right of everyone to protection of their personal data, setting out that such data must be processed fairly for specified purposes and on the basis of consent or some other legitimate basis stipulated by law. Individuals have the right to access data which has been collected, and to correct it if necessary.⁸⁵ EU Directive 95/46/EC regulates the conditions under which the processing of personal data, including special personal data such as ethnic background, is legal and permissible.⁸⁶ The wilful misinterpretation of EU and national data protection laws as a blanket prohibition of the collection of ethnic data is one of the key obstacles in all six target countries to developing targeted policies to effectively reduce child endangerment in Romani communities.

In Bulgaria, the Protection of Personal Data Act prohibits the collection and processing of data on racial or ethnic origin; however if the data subject gives his or her consent it is permissible.⁸⁷ The Child Protection Act does not contain any provisions which would enable the collection and processing of ethnic data.

In the Czech Republic, Act No. 101/2002 Coll. on the Protection of Personal Data prohibits the collection and processing of sensitive data, including data on ethnic origin, unless the expressed consent of the individual has been given or if SLP authorities define this data to be necessary for the socio-legal protection of children.⁸⁸ Socio-legal protection authorities shall keep records and documentation about children in their services. Despite the lack of an explicit obligation to record ethnicity, ethnicity may be recorded if necessary to improve the

⁸⁵ European Union, *Charter of Fundamental Rights of the European Union*, available at: http://www.europarl.europa.eu/charter/pdf/text_en.pdf.

⁸⁶ European Parliament and the Council, *Council Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data* (24 October (1995), available at: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31995L0046&model=guichett). Ethnic data can be gathered in accordance with the law and with the consent of the data subject, processed fairly and lawfully, and collected for specified and explicit legitimate purposes; it must be adequate, relevant, non-excessive and accurate, and kept in a form that permits the identification of the subject no longer than is necessary.

⁸⁷ Bulgaria, *Personal Data Protection Act*, Article 5(2) (November 2006).

⁸⁸ There is no legal provision stating that ethnic data is necessary for socio-legal protection, so it is up to the individual discretion of the relevant authorities. MoLSA Methodological Recommendations do not list ethnicity among the data to be recorded. See: *Methodological Recommendation No. 2/2009 on Evaluation of the Situation of Children in Complicated Social Situations*; *Methodological Recommendation No. 3/2009 on Individual Plan of Care of a Child*; and *Methodological Recommendation No. 9/2009 on Social Work with Family at Risk*.

child's situation.⁸⁹ Unified procedures for processing data disaggregated by ethnicity are lacking and it is often recorded informally and unofficially, without a clear methodology.

In Hungary, Section 2 of Act LXIII of 1992 on the Protection of Personal Data and the Publicity of Public Interest Data lists "affiliation to a national or ethnic minority" as a special form of protected data. As a general rule special data can only be handled if the person concerned gives their written consent, or if this is prescribed by law.⁹⁰ The Child Protection Act does not contain specific provisions which would authorise child protection officials to handle ethnic data.

In Italy, the Personal Data Protection Code prohibits the collection and processing of sensitive data, including data about racial or ethnic origin, unless expressly authorised by law or if there is a substantial public interest.⁹¹ The written consent of the data subject is not required when such data is gathered by public bodies in the exercise of their functions.

In Romania, Law No. 677/2001 on the Protection of Individuals Regarding the Processing of Personal Data and Free Movement of Such Data prohibits the processing of data concerning racial or ethnic origin, unless the data subject has expressly given his or her consent or where there is a specific legal provision regarding the protection of an important public interest.⁹²

In Slovakia, the Law on Personal Data Protection prohibits the collection of data on ethnic or racial origin, unless the data subject provides written consent, or if it is required by a special law or if it is necessary to protect the vital interests of the data subject.⁹³

Data disaggregated by ethnicity in the area of child protection is not systematically gathered in any of the target countries. While the relevant agencies interpret the law as prohibiting ethnic data collection in this area, some data from official sources does exist in Bulgaria and the Czech Republic concerning the ethnicity of the children in their national child protection systems (see Section 7.2 for further information).

7.2 Overrepresentation of Romani Children in Institutional Care

Some data about the representation of Romani children in institutional care is available from official sources in Bulgaria and the Czech Republic. In Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia, Government representatives, child protection authorities and other

⁸⁹ Czech Republic, *Act No. 101/2000 Coll.*, as amended, available in English from the Office for Personal Data Protection at: <http://www.uouu.cz/uouu.aspx?menu=4&submenu=5>.

⁹⁰ Hungary, *Act LXIII of 1992 on the Protection of Personal Data and the Publicity of Public Interest Data*, Article 3.

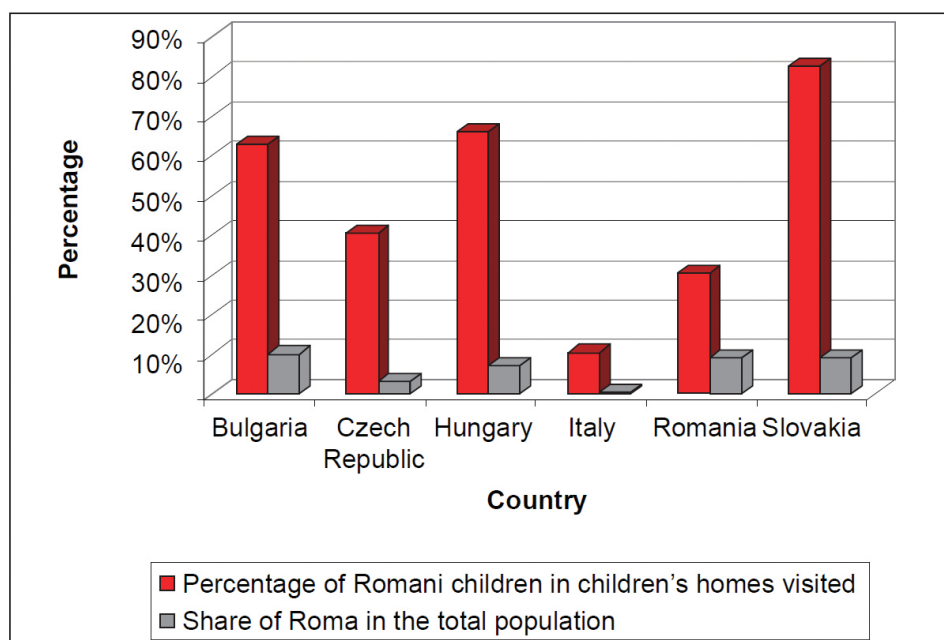
⁹¹ Italy, *Legislative Decree 196/2003 Personal Data Protection Code*, Article 20.

⁹² Romania, *Law No. 677/2001 on the Protection of Individuals Regarding the Processing of Personal Data and Free Movement of Such Data*, Article 7, available at: http://ec.europa.eu/justice/policies/privacy/docs/implementation/ro_law_677_2001_en_unofficial.pdf.

⁹³ Slovakia, *Law 428/2002 on Personal Data Protection*, Article 8.

experts were asked to provide estimates about the proportion of Romani children in institutional care based on their experiences and perceptions. In addition, researchers in each country visited a selection of children’s homes and gathered data about the ethnicity of the children in the home from caretakers and the children. The evidence gathered indicates a significant overrepresentation of Romani children in institutional care in all countries of this study.

Graph 1: Roma Representation in Children’s Homes in Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia
(based on information from field research)



In Bulgaria, Roma constitute approximately 10% of the total population;⁹⁴ estimates of Roma among the child population are not available. Here, the State Agency for Child Protection provided data about the number of Romani children living in institutional care in response to our inquiry. According to official data, as of 31 December 2009 1,705 of 3,440 (49.6%) children in Homes for Children Deprived of Parental Care (HCDPC) were Romani; 1,190 of 2,334 (51%) children in Homes for Medical-Social Care of Children aged 0 to 3 (HMSSC) were Romani; and 314 of 956 (32.8%) children in Homes for Children with Intellectual Disabilities (HCID) were Romani.⁹⁵ In the 15 children’s homes visited during research for this study, 510 of the 809 (63.0%) children resident in the homes were Romani.

Data forms provided to social workers by the State Agency for Child Protection include a space to report ethnic data. The majority of social workers interviewed during research

⁹⁴ Claude Cahn and Professor Elspeth Guild, *Recent Migration of Roma in Europe* (OSCE/CoE, December 2008), available at: <http://www.osce.org/hcnm/78034>.

⁹⁵ Response number 05-00-5 by Nadya Shabani, Chair of Bulgaria’s State Agency for Child Protection: 1 June 2010.

stated that they record ethnic data if families explicitly provide such information, but that it is not obligatory. Some regional differences were apparent in this regard, with social workers in Pazardzhik, Plovdiv and Sofia less regularly recording such data while in Sliven and Varna it seemed that most social work reports contain such data. Some social workers in Sliven and Pazardzhik recorded the ethnicity of families at risk although the families did not explicitly provide this information.⁹⁶

In the Czech Republic Roma constitute approximately 3% of the total population;⁹⁷ based on figures from 2001 census data and general population figures from 2009, Romani children would account for around 3% of all children under the age of three in the Czech Republic.⁹⁸ At the end of 2009, the Institute of Health Information and Statistics of the Czech Republic reported that Romani children constituted more than 20% of institutionalised children aged 0-3 in the Czech Republic.⁹⁹ The same figure ranged between 20% and 28% since the 1990s. The highest proportions were found in the regions of Most, Teplice and Olomouc. Analysis of available data reveal regional differences: the proportion of Roma under the age of three is lower in regions with a higher number of socially excluded Roma (Prague, Ústecký and Moravskoslezský regions) than in other regions with fewer socially excluded Roma.¹⁰⁰ In 2010 the Ministry of Education, Youth and Sports (MoEYS) attempted to collect estimates of the proportion of Romani children in institutional care. The former director of the MoEYS Department of Institutional Care reported that very rough estimates based on the results showed the proportion of Romani children in institutional care to be around 33%.¹⁰¹

96 Interview with the director of the Social Assistance Department. Pazardzhik, Bulgaria: 5 July 2010

97 Claude Cahn and Professor Elspeth Guild, *Recent Migration of Roma in Europe* (OSCE/CoE, December 2008), available at: <http://www.osce.org/hcnm/78034>.

98 An estimated 188,000 Roma lived in the Czech Republic in 2009. Assuming that their age structure was similar to that during 2001 census (when 5.53% of the population was under three years) there were 10,592 Romani children under three in 2009; overall there were 354,079 children under the age of three in the Czech Republic in 2009. See: Czech Statistical Office, available at: [http://www.czso.cz/csu/2010edicniplan.nsf/t/0C001BB2A3/\\$File/400310007.xls](http://www.czso.cz/csu/2010edicniplan.nsf/t/0C001BB2A3/$File/400310007.xls). See also: Open Society Foundations, No Data No Progress: Data Collection in Countries Participating in the Decade of Roma Inclusion 2005 – 2015 (New York: Open Society Institute, 2010), available at: http://www.soros.org/initiatives/roma/articles_publications/publications/no-data-no-progress-20100628.

99 Institute of Health Information and Statistics of the Czech Republic, “Activity of institutes for infants and homes for children up to 3 years of age and other institutions for children in 2009”, *Actual Information* 13, Prague (11 May 2010).

100 Information based on a comparison of official data on the number of Romani children under three in State care with research commissioned by the Government on social exclusion in Romani communities. See: Open Society Foundations, No Data No Progress: Data Collection in Countries Participating in the Decade of Roma Inclusion 2005 – 2015 (New York: Open Society Institute, 2010), p. 40, available at: http://www.soros.org/initiatives/roma/articles_publications/publications/no-data-no-progress-20100628; Czech Statistical Office, available at: [http://www.czso.cz/csu/2010edicniplan.nsf/t/0C001BB2A3/\\$File/400310007.xls](http://www.czso.cz/csu/2010edicniplan.nsf/t/0C001BB2A3/$File/400310007.xls); and Ivan Gabal, Karel Čada and Jan Snopek, *Klíč ke posílení Integrovaní politiky obcí – sociální vyloučení Romů a česká společnost* (Otevřená společnost: Prague, 2008), p. 100, available at: <http://www.osf.cz/download/files/brozura-klic.pdf>.

101 However, another Ministry representative reported that the data may not be accurate. Email communication with Pavla Doležalová, formerly MoEYS Department of Special Education: 19 October 2010.

Seventeen out of 22 children's homes visited during research provided relevant data: 314 of 773 (40.6%) children living in institutions were reported to be Romani.¹⁰² In the four regions Ústecký, Karlovarský, Moravskoslezský and Středočeský where Roma constitute a higher proportion of the population, 279 of 632 (44.1%) children were reported to be Romani; in the Zlínský region where Roma constitute a lower proportion of the population, 35 of 141 (24.8%) children living in the homes visited were Romani.

In Hungary Roma constitute approximately 7% of the total population;¹⁰³ Romani children are estimated to account for 13% of the child population in Hungary.¹⁰⁴ On the basis of the interviews conducted in 24 children's homes in Budapest, Szabolcs-Szatmár-Bereg County, Borsod-Abaúj-Zemplén County, Baranya County and Győr-Moson-Sopron County an estimated 65.9% of the children in children's homes were Romani.¹⁰⁵ This figure was consistent with detailed information provided by 13 of those homes on the ethnic breakdown of the child population, where 89 of 135 (65.9%) children were reported to be Romani. Regional differences were revealed in the data, with the lowest proportion in Győr-Moson-Sopron County (at 35.83%) and the highest proportions in Borsod-Abaúj-Zemplén County (at 83.8%) and Baranya County (at 79.27%). ERRC research in 2007 concluded that 58% of the children in homes visited at that time were Romani.¹⁰⁶

In Italy, Roma and Sinti account for around 0.23% of the total population; migrant Roma from the countries of the former Yugoslavia and Romania account for around half of those (or around 0.12% of the total population); estimates of Roma among the child population are not available. During research, 22 children's homes were visited in research 3 locations (Naples, Rome and Bari and surrounding areas): 15 of 144 (10.4%) children in the homes visited were migrant Roma.

In Rome, a representative of one family-based centre reported that, on average, Romani migrant children represent 45% of the total minors received at the centre. In Naples, municipal authorities reported that Romani minors constitute a very small proportion of the children in permanent out-of-family care or placed for adoption, while they represent around 35-40% of children temporarily placed in institutional care (mostly Romanian Romani children).¹⁰⁷ While ethnic data is not officially collected and processed in the area of child protection in Italy, interviews indicate that some such data is in fact collected: for example, a municipal authority in Scampia, Naples, reported that ethnic origin is not officially recorded because they "do

¹⁰² Figures based on information provided by home directors and staff.

¹⁰³ Claude Cahn and Professor Elspeth Guild, *Recent Migration of Roma in Europe* (OSCE/CoE, December 2008), available at: <http://www.osce.org/hcnm/78034>.

¹⁰⁴ ERRC, *Dis-Interest of the Child: Romani Children in the Hungarian Child Protection System* (Budapest, 2007), available at: <http://www.errc.org/cms/upload/media/02/8F/m0000028F.pdf>.

¹⁰⁵ Figures based on information from guardians, caregivers, child supervisors and children residing in the homes.

¹⁰⁶ ERRC, *Dis-Interest of the Child: Romani Children in the Hungarian Child Protection System* (Budapest, 2007), available at: <http://www.errc.org/cms/upload/media/02/8F/m0000028F.pdf>.

¹⁰⁷ Interview with an officer of the Servizio Politiche per i Minori, l'Infanzia e l'Adolescenza of the Municipality of Naples. Naples, Italy: 20 September 2010.

not make a distinction among ethnic groups” but that such information is included in internal reports and documents.¹⁰⁸ In Milan, respondents noted that Romani migrant children are often excluded from the child protection system because social services ignore the residents of informal camps¹⁰⁹ but that 40 out of 93 Romani minors placed in institutional care in 2009 by Milan authorities had escaped; some of them having been placed up to 20 times in one year.¹¹⁰

In Romania, Roma constitute approximately 9% of the total population;¹¹¹ estimates of Roma among the child population are not available. Thirteen out of 22 children’s homes visited during research provided relevant data:¹¹² 28% of the children residing in the homes were reported by caregivers to be Romani; discussions with the children in the home indicated that 49% of the children were Romani. Social workers reported that 71 of 104 (68.3%) children interviewed in children’s homes were Romani, while only 18 (17.3%) of the children identified themselves as Romani. One social worker explained: “Romani children refuse to identify themselves [as Romani] because they suffer from rejection in school on the ground of being Romani or because they are living in a children’s home.”¹¹³

Representatives of the General Directorates for Social Assistance and Child Protection (DGASPC) estimated that Romani children account for 80% of the children in institutional care in Brasov County, around 10% in Constanta County, around 20% in Iasi County and 40% in Timis County.¹¹⁴ Based on information provided by caregivers, the average representation of Romani children in the homes visited during research was 32% in Brasov County, 18% in Constanta County, 17% in Iasi County and 45% in Timis County. A DGASPC representative in Timis County reported that Roma represent around 30-35% of all children in foster care and 60-65% of all children placed with extended family members.¹¹⁵ Research in Romania revealed that assessment forms used by social workers include a specific space to record ethnicity and that this information is reported to regional authorities. However, national authorities do not collect and analyse this data.¹¹⁶

In Slovakia Roma constitute approximately 9% of the total population;¹¹⁷ estimates of Roma among the child population are not available. Based on interviews with the institutional

¹⁰⁸ Interview with the head of Social Services. Scampia. Naples, Italy: 20 September 2010.

¹⁰⁹ Interview with a representative of the Casa della Carità Receiving Centre. Milan, Italy: 30 September 2010.

¹¹⁰ Interview with a representative of the Comunità di Sant’Egidio. Milan, Italy: 29 October 2010.

¹¹¹ Claude Cahn and Professor Elspeth Guild, *Recent Migration of Roma in Europe* (OSCE/CoE, December 2008), available at: <http://www.osce.org/hcnm/78034>.

¹¹² Representatives of the homes visited in Bucharest refused to provide such information.

¹¹³ Interview with a social assistant at the Centre for Support, Family and Professional Integration of Young People. Timisoara, Romania: August 2010.

¹¹⁴ See: http://www.copii.ro/alte_categorii.html.

¹¹⁵ Interview with a representative of DGASPC Timis. Timisoara, Romania: August 2010.

¹¹⁶ Interviews with child protection workers. Iasi, Romania: July 2010.

¹¹⁷ Claude Cahn and Professor Elspeth Guild, *Recent Migration of Roma in Europe* (OSCE/CoE, December 2008), available at: <http://www.osce.org/hcnm/78034>.

caregivers and social workers, Romani children represent between 70% to 95% of children in institutional care in Slovakia.¹¹⁸ During research, 12 children's homes were visited in five locations: 518 of 628 (82.5%) children in the homes visited were reported to be Romani. Children living in the homes or who had previously lived in a children's home indicated that there were more Roma than non-Roma in institutional care. Institutional workers claimed that Romani and non-Romani children are present in equal numbers when institutionalised as a temporary measure based on a court order; but Roma and non-Roma are not present in equal numbers in the population as a whole.¹¹⁹ They also indicated that, as concerns children placed in institutional care by a decision of the parents, Romani children are significantly overrepresented, constituting 90% of children in this category.¹²⁰ Interviews with professionals indicated that the number of children temporarily institutionalised by court order is low compared to the number of children who are placed in institutions voluntarily by parents: all 92 children in the Michalovce children's home and 172 of 175 children in the Veľké Kapušany children's home¹²¹ visited during research were reported to be in permanent care based on the decision of their parents.

118 Interview with the director of a children's home. Michalovce, Slovakia: 3 September 2010. Interview with a pedagogical worker. Pozdišovce, Slovakia: 3 September 2010. Interview with a field social worker. Michalovce, Slovakia: 7 September 2010. Interview with a community worker. Banská Bystrica, Slovakia: 18 October 2010. Interview with child protection workers: Humenné, Prešov, Trnava and Banská Bystrica, Slovakia: September – October 2010.

119 Interview with a social worker at a children's home. Mlynky, Slovakia: 24 October 2010 .

120 Interview with the director of Pro Familia. Humenné, Slovakia: 14 September 2010. Interview with a child protection worker. Prešov, Slovakia: 16 September 2010.

121 Interview with the director of a children's home. Michalovce, Slovakia: 3 September 2010. Interview with the director of a children's home. Veľké Kapušany, Slovakia: 8 September 2010.

8 Factors Contributing to the Overrepresentation of Romani Children in Institutional Care

Research across Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia revealed a myriad of factors contributing to the overrepresentation of Romani children in institutional care. Said factors can broadly be broken down into two main categories: those related to the situation of the family and those related to the child protection system itself.

8.1 Factors Related to the Family's Situation

Widespread discrimination against Roma in all spheres of life interacts with structural poverty to influence deeply the familial factors that contribute to the overrepresentation of Romani children in institutional care. As one respondent in Romania noted:

[...] the main problem is that society rejects Roma and their children, pushing them very easily into the trap of the child protection system. It is well-known that Roma are discriminated against [...] if they want to work, [...] no one will give them a job and they are forced into poverty. [...] No one gives them a chance to get out of misery. Then the child protection people come and tell them that they need to give their children up because they are incapable of taking care of them and that they can take them back later [...] without knowing that emotionally and physically they will lose them [the children] forever.¹²²

8.1.1 POVERTY AND MATERIAL CONDITIONS

In Hungary, Italy and Slovakia, current law prohibits the removal of children from their families based solely on financial conditions or material poverty.¹²³ In the Czech Republic, court decisions have confirmed this principle.¹²⁴ Nevertheless, Romani parents at risk of child removal and child protection workers in the Czech Republic, Hungary and Romania reported that poverty among Romani families is the most common reason for child removal.

For example, one Romani family from Hungary reported that their new-born child had been removed and placed with foster parents because their “house was in bad condition because the storm in the summer damaged the roof. One of the rooms got damp and the child welfare service told us that it was no place to receive a new-born baby.”¹²⁵ This family received no financial help

¹²² Interview with the head of the Iustina Charity Association. Brasov, Romania: October 2010.

¹²³ Hungary, *Act No XXXI of 1997 on the Protection of Children and Guardianship Administration*, Article 7(1). Italy, Law 149/01, Article 1(2). Slovakia, *Act No 36/2005 Coll. on the Family*, Article 54(2).

¹²⁴ Czech Republic, *Supreme Court Decision* (January 2011), available at: http://www.nsoud.cz/JudikaturaNS_new/ns_web.nsf/web/Proverejnostamedia~Tiskovezpravy~Stanovisko_Nejvyssiho_soudu_v_Brne_k_narizovani_ustavni_vychovy_deti_soudy_z_duvodu_chudoby_ci_nevyhovujicich_bytovych_podminek~?openDocument&lng=CZ.

¹²⁵ Interview with a Romani family. Szabolcs-Szatmár-Bereg County, Hungary: October 2010.

from the local government despite their request to repair the damage and had since repaired the roof from their own means. However, they had not been able to get their child back, nor had there been a home environment assessment although the family had reported the change to the guardianship office. A month and a half had passed since the baby was taken into care. The family believed that the removal decision was made hastily and before any other solution had been investigated. In Romania, a Romani parent reported:

The child protection people came to tell me that my children are at risk because I do not have windows or heating and the winter was coming. They told me to fix the problems or they would take all five of my children. I asked them: “if you give me a job or some money I will fix the windows, install a woodstove and buy some wood.” She was very upset and replied that she can not do that because the Mayor should provide me with all of this. I went to the Mayor’s Office and I asked him for a job or a heater. He replied that he was not an employment officer and asked me why I want to work because usually “Gypsies are lazy and do not like to work.”¹²⁶

In the Czech Republic, inadequate housing conditions resulting from poverty and indebtedness were the factors most frequently mentioned by Romani families as leading to the removal of their children. Often, Romani children are removed from their parents’ care after household electricity and water are cut or in the context of forced eviction from rental accommodation, when SLP workers are reported to accompany eviction executors. According to interviews, it is very rare in the Czech Republic that social workers actually assist Romani families in improving their housing situation: the “solution” is more often the placement of affected children in an institution. In rare cases, social workers help Romani mothers and children at risk of child removal access reception centres.¹²⁷ As one Romani woman testified, at one point she lost her flat and her partner left her, indebting her with usurers in the process. She and her three children were living in such a bad situation that a social worker proposed placement of her children in institutional care. In desperation, she agreed and signed some documents that she could not read.¹²⁸

Some positive examples of NGO interventions to help Romani families avoid child removal were documented. For example, in the Czech Republic, a Romani mother at risk of child removal reported that she lived alone with her children in bad housing conditions. One winter, the water froze in their house and an SLP social worker told her that her children would be removed unless she found better housing within three days. She approached a local Romani NGO which helped her to get into a reception centre for mothers and children in another region. In this way, she was able to avoid the placement of her children in institutional care, but the solution was by no means permanent.

Source: Interview with a 40-year-old Romani woman. Ústecký region, Czech Republic: 16 September 2010.

¹²⁶ Interview with a Romani parent. Cobadin, Romania: September 2010.

¹²⁷ Interview with 40-year-old Romani woman. Ústecký region, Czech Republic: 16 September 2010.

¹²⁸ Interview with a 25-year-old Romani woman. Moravskoslezský region, Czech Republic: 18 August 2010.

In Hungary, social workers, guardianship officers, guardians and children's home workers reported that in most cases material reasons (inadequate housing and poverty), play a role in the entrance of children in institutional care.¹²⁹ "The children that are removed from their families are always poor children."¹³⁰ The director of a children's home in Szabolcs-Szatmár-Bereg County, for example, stated that the overwhelming majority of the children, around 90% of whom were of Romani origin, ended up in institutional care due to material reasons stemming from unemployment "leading to other deviances."¹³¹ Some of the children interviewed in the homes visited reported that they had been removed from their family due to poverty: "we were taken from our family because there was little food and no proper clothing in our family."¹³² Several child protection professionals reported that families have become poorer in the past few years due to the economic crisis and that the number of child removals has increased.¹³³ Some professionals reported that poor material conditions are more likely to prevent Romani parents than non-Romani parents from finding other family members with whom to place endangered children as an alternative to institutional care.¹³⁴ Child protection professionals interviewed during research listed limited employment opportunities among Roma in Hungary as contributing to the inability of Romani parents to financially support their children and hence to placement in institutional care.¹³⁵

Child protection workers in Romania noted that the general framework of underemployment and low earnings among Roma means that Romani children are more likely to be removed from their parents' care on the grounds of negligence: "if parents [...] are forced to leave their children at home alone or not feed them on time [...] this will provoke charges that they are neglecting their children."¹³⁶ In some cases it was reported that as a result of poverty Romani parents give up one child to be able to raise others.¹³⁷ Social workers and Romani parents also reported that substandard housing constitutes one of the main factors bringing Romani children

129 Interview with a child welfare worker. Budapest, Hungary: September 2010. Interview with a child welfare worker. Budapest, Hungary: September 2010. Interview with the head of a child welfare office. Győr-Moson-Sopron County, Hungary: November 2010. Interview with the director of a children's home. Szabolcs-Szatmár-Bereg County, Hungary: October 2010. Interview with a care worker in a children's home and the director of another children's home. Győr-Moson-Sopron County, Hungary: November 2010. Interview with the head of a receiving center and the director of a children's home. Borsod-Abaúj-Zemplén County, Hungary: October 2010. Interview with a child welfare worker. Borsod-Abaúj-Zemplén County, Hungary: October 2010. Interview with the director of children's home. Szabolcs-Szatmár-Bereg County, Hungary: October 2010. Interview with the head of a child welfare service. Szabolcs-Szatmár-Bereg County, Hungary: October 2010. Interview with a family support worker. Baranya County, Hungary: November 2010.

130 Interview with a professor at Janus Pannonius University. Pécs, Hungary: November 2010.

131 Interview with the director of a children's home. Szabolcs-Szatmár-Bereg County, Hungary: October 2010.

132 Interview with a child in a children's home. Borsod-Abaúj-Zemplén County, Hungary: November 2010.

133 Interview with a child welfare worker and a guardianship officer. Győr-Moson-Sopron County, Hungary: November 2010. Interview with a director of a children's home. Budapest, Hungary: October 2010.

134 Interview with a guardianship officer and a caregiver in a receiving centre for children aged 0-3. Győr-Moson-Sopron County, Hungary: November 2010.

135 In Budapest, for example, it was reported that 90% of the Romani children in the home were taken into State care due to their parents' lack of employment. Interview with a caregiver in a children's home. Budapest, Hungary: September 2010.

136 Interview with a representative of DGASPC. Timis County, Romania: August 2010.

137 Interview with a representative of the Bethany Foundation. Iasi, Romania: July 2010.

into the child protection system: 20% of Romani parents interviewed stated that the removal of their children was due to the lack of or poor housing. One Romani woman testified:

I have seven children; two in foster care, one adopted and four with me. I lost my children because I did not have a house or a job. I received social housing after 10 years but meanwhile I lost three of my children and I can not get them back because they asked me to have a bed for each child. [...] For ten years I have tried to get this house in order to fulfil the conditions to be reunited with my children [...]. I am still waiting for my children to come back to me. They said that if I have a house they will give them to me, but now they ask me to have three beds when I have only one bed for all children.¹³⁸

In Slovakia, Romani children and youth in institutional care asked about the reason for their placement in institutional care most often cited the inability of their parents to take proper care of them and their siblings as a primary reason; frequently this related to lack of adequate housing and financial problems or having a large number of children. During interviews with Romani parents, many described being pressured by social workers to allow their children to be admitted into institutional care due to homelessness or substandard housing.¹³⁹

In Italy, some respondents also pointed to material conditions, and particularly to the living conditions in the camps, as contributing to the removal of Romani children from their families. As one respondent noted:

The main problems are begging and the fact of living in the camps. Over the years, there have been tens of decisions of suspension of parental authority due to begging and afterward due to the fact of living in the camps. There also have been preventative suspensions; as soon as the children were born the court decided that once the children went to live in the camps they start to beg and pre-emptively suspended parental authority. This is a human rights violation.¹⁴⁰

8.1.2 SCHOOL ABSENTEEISM

School absenteeism and the lack of school enrolment were noted to be significant factors influencing the institutionalisation of Romani children in all countries of this study. For example, in the Czech Republic, school absence often prompts schools to inform SLP authorities that Romani children are at risk of endangerment.¹⁴¹ Romani mothers confirmed that poor school attendance of the children was among the reasons for child removal.¹⁴²

¹³⁸ Interview with a Romani parent. Iasi, Romania: August 2010.

¹³⁹ Interview with a Romani parent. Banská Bystrica, Slovakia: September 2010.

¹⁴⁰ Interview with a lawyer and guardian of Romani children and families. Naples, Italy: 20 September 2010.

¹⁴¹ There is no explicit legal requirement on schools to do so in Czech law, but the Methodical Recommendation No. 10194/2002 of the Ministry of Education, Youth and Sports recommended that schools should immediately inform SLP authorities if a child misses more than 25 hours of class without proper notice. Czech Ministry of Education, Youth and Sports, *Methodical Recommendation No. 10194/2002*, issued on 11 March 2002.

¹⁴² Interview with a Romani woman whose children were removed. Karlovarský region, Czech Republic: 21 August 2010.

In Hungary, child protection authorities are most frequently notified about potential endangerment by school authorities with regard to Romani children and school absenteeism is typical of teenage children removed from their families. If a school age child misses more than 50 classes without due justification, schools must notify the guardianship authority and child protection workers begin monitoring the family.¹⁴³ Child protection authorities monitored many Romani families interviewed during research as a result of this change¹⁴⁴ and several Romani children interviewed in children's homes had been placed in institutional care due to school absenteeism, which was in part the result of harassment by peers or a teacher on the basis of their ethnicity.¹⁴⁵ Child protection workers expressed the view that the legal regulations do not effectively address the root causes of school absenteeism among Roma which include harassment, humiliation, segregation, poverty and marginalisation, being too old for their class, repeat failures, or, in contrast, finding school too easy and boring, and later, a lack of motivation to study the trade to which students have been pushed. One Romani mother remarked that "they [authorities] expect the child to go to school but they do not ask why the child does not go."¹⁴⁶

During research in Slovakia, Romani parents who were at risk of child removal cited irregular school attendance as the primary source of perceived endangerment. As in Hungary, Slovak schools are required by law to report any children with attendance problems (missing more than 15 lessons in one month without excuse) to the local Bureau of Labour, Social Affairs and Family, who must then investigate the case.¹⁴⁷ Some parents noted that even if they do their best to ensure that their children attend school, they are not always able to fulfil the conditions communicated by the social workers, especially in the case of older children.¹⁴⁸

8.1.3 SINGLE PARENTHOOD AND UNWANTED PREGNANCY

Across the countries of this study, single parenthood, particularly single motherhood, and unwanted pregnancy were reported to contribute to the overrepresentation of Romani children in institutional care; there was particular focus on these factors in Bulgaria, the Czech Republic and Romania.

In Bulgaria, social workers, service providers and children's home workers reported that single Romani mothers or Romani girls who give birth before the age of 16 may leave

¹⁴³ Hungary, *Act 84 of 1998 on Family Allowances as amended by Act L16 of 2010*, Article 15.

¹⁴⁴ Interviews with Romani families. Szabolcs-Szatmár-Bereg County, Hungary: October 2010. Interviews with Romani families. Borsod-Abaúj-Zemplén County, Hungary: October and November 2010. Interview with a Romani family. Baranya County, Hungary: November 2010.

¹⁴⁵ Interviews with four Romani children living in children's homes. Borsod-Abaúj-Zemplén County, Hungary: October and November 2010. Interviews with two Romani children living in a children's home. Szabolcs-Szatmár-Bereg County, Hungary: October 2010; Interview with a Romani girl living in a children's home. Baranya County, Hungary: November 2010.

¹⁴⁶ Interview with a Romani mother. Szabolcs-Szatmár-Bereg County, Hungary: October 2010.

¹⁴⁷ Slovakia, *Act 596/2003 on State Administration at Schools and Schools Self-Administration*, Article 15, available at: <http://zbierka.sk/zz/predpisy/default.aspx?PredpisID=17603&FileName=03-z596&Rocnik=2003>.

¹⁴⁸ Interview with a Romani woman. Rožňava, Slovakia: 21 October 2010.

their children in institutions voluntarily or may be targeted for child removal by child protection departments.¹⁴⁹

Ms D. is a 30-year-old single Romani mother. She completed second grade and was registered as unemployed in 2005. She could not accept any job offer because there is not anyone to take care of her seven children. Five of them (aged 12, 11, 10, 8 and 5) live with her in a house without access to electricity and water. She receives 110 EUR per month in social assistance for the children and 100 EUR for the integration of her disabled son. Some of her children attend school. She also has a 3.5-year-old daughter and a 6-year-old son with disabilities that she placed in institutional care. Ms D. signed a declaration renouncing her parental rights and registered the children for adoption because she did not think she could provide adequate care, financial support or living conditions. She did not know of services to help with their care. Child protection workers visit Ms D. almost every week as she is considered to have children at risk.

Source: Interview with Ms D. Varna, Bulgaria: 5 August 2010.

In the Czech Republic many of the Romani children taken into institutional care or families at risk were those of single mothers. Single Romani mothers were found to be in worse housing and financial situations as a result of family break-up or were less able to support their children following their partners' imprisonment. Single parenthood also meant in some cases that Romani women could not stay in touch with the school authorities and participate in school meetings because they had to look after the children. One Romani respondent reported that when her son had problems with school attendance and she could not attend school meetings and show she was interested enough in his education; this led to his removal by authorities.¹⁵⁰

It was reported in Bulgaria and Romania that some Romani parents leave their children in paediatric or maternity hospitals due to poverty, lack of information, low education, marital status and the age of the mother. Child abandonment was reported to affect Romani girls more than Romani boys.¹⁵¹

8.1.4 MIGRATION

In both Bulgaria and Romania, respondents reported that some Romani children enter institutional care in the context of migration. Respondents in Bulgaria noted that some Romani women over the age of 18 move abroad to work and leave their children with their mothers or mothers-in-law. During the time that they are away family members sometimes ask child protection departments

¹⁴⁹ Interview with the director of the Child Protection Department. Sliven, Bulgaria: 26 July 2010. Interviews with Romani families at risk and families whose children live in institutions. Nadezhda Romani neighbourhood, Sliven, Bulgaria: 28- 29 July 2010. Interview with a senior expert at the Child Protection Department. Varna, Bulgaria: 2 August 2010. Interviews with Romani families at risk and families who have children in institutions. Vladislavovo Romani neighbourhood, Varna, Bulgaria: 5 August 2010. Interview with a representative of the Home for Medical-Social Care of Children aged 0 to 3. Plovdiv, Bulgaria: 14 July 2010.

¹⁵⁰ Interview with a Romani woman. Karlovarský region, Czech Republic: 21 August 2010.

¹⁵¹ Interview with a social worker. Iasi County, Romania: September 2010. According to a 2005 study by UNICEF, over 60% of children abandoned in medical institutions are of Romani origin. UNICEF, *The Situation of Child Abandonment in Romania*, (Bucharest, March 2005), p. 77.

to place the children in institutional care due to financial, health or other problems. Often, the women in such situations are reported to lose contact with their children completely but maintain parental rights.¹⁵² A similar pattern was reported in Romania (primarily around Bucharest and Brasov) but here the rate of reunification of these children with their families is greater than for other institutionalised Romani children because their “placement is considered to be temporary until parents return home or take the children abroad.”¹⁵³

8.1.5 CHILD ABUSE

Child abuse as a factor leading to the institutionalisation of Romani children was only documented during research in Romania and Italy. Respondents in Italy stated that procedures of permanent out-of-family placement of Romani children are initiated only in case of grave abuse of the child, such as physical violence, paedophilia, prostitution, trafficking or when the child commits a crime.¹⁵⁴

Child protection authorities and children’s home workers in Romania indicated that child abuse is the most insignificant of the factors contributing to the placement of Romani children in institutional care, and is low in comparison to non-Romani children. All interviewees underlined that “Roma have strong family values and for them children are the most important thing. If they leave the children in institutional care it is because of poverty. Rarely are cases of violence by Romani parents against their children identified, especially sexual abuse.”¹⁵⁵ Several cases of such abuse and eventual child removal referenced by authorities during interviews related to the involvement of Romani children in begging,¹⁵⁶ while the controversial practice of early marriage in some Romani communities was not identified as a reason for child removal by child protection professionals in Romania because it was perceived as a cultural issue that is thus tolerated or ignored.¹⁵⁷

152 Interview with the director of the Social Assistance Department. Pazardzhik, Bulgaria: 5 July 2010. Interview with a social worker at the Home for Children Deprived of Parental Care Dragalevci. Sofia, Bulgaria, 16 June 2010. Interview with the director of the Child Protection Department. Sliven, Bulgaria: 26 July 2010.

153 Interview with a children’s home worker. Brasov, Romania: October 2010.

154 Interview with a representative of the Federazione Rom e Sinti Insieme. Milan, Italy: 27 September 2010.

155 Interviews with representatives of the General Directorate for Social Assistance and Child Protection in Iasi, Brasov, Constanta, Timis and Bucharest districts; the head of Specialised Services Complex Gavojdia in Timis County; the head of the Specialised Services Complex Lugoj in Timis County; the head of the Specialised Services Complex Coltea in Brasov; social workers at the Ion Holban Centre in Iasi; a social worker at the Bogdana Centre in Iasi; the head of the Antonio Placement Centre in Constanta County; and the head of the Delfin Placement Centre in Constanta County. Romania: July - October 2010.

156 Interviews with the head DGASPC Bucharest District 6 and the head of the Specialised Services Complex Coltea in Brasov: July - October 2010. As amended by Law 286/2009, Articles 214 and 215 of the Romanian Criminal Code which will enter into force from 1 October 2011 prohibit violence and abuse against children, such as begging or using children for the purpose of begging. As a form of violence against children, involvement in begging is a ground for child removal by a judge through Presidential Ordinance (Articles 581 and 582 of the Civil Procedural Code). See case law of the Timis Appeals Court: Decision no. 10 from 15 January 2008, available at: <http://jurisprudencedo.com/Admiterea-recursului-astfel-cum-a-fost-formulat-aratand-ca-doreste-ca-cei-doi-copii-sa-fie-dati-in-plasament-intr-un-centru-din-Judetul-Parata-intimata.html>.

157 Interviews with representatives of the General Directorate for Social Assistance and Child Protection. Iasi, Brasov, Bucharest, Constanta and Timis Counties, Romania: August, September and November 2010.

8.2 Factors Related to the Child Protection System

8.2.1 DISCRIMINATION, STEREOTYPES AND A CULTURE OF BLAME

Interviews with Romani families in Hungary and Romania indicate that some families perceive discrimination against them on the part of child protection actors, and in Hungary, Italy and Romania research findings indicate the existence of discriminatory attitudes and prejudice amongst child protection actors.

In Hungary, interviews with child protection professionals revealed a wide range of attitudes, from highly understanding and socially aware of how the treatment of majority society impacts the disadvantaged situation of a disproportionate number of Roma, to that of blaming “Romani subculture,” or “Romani culture” or the “thinking, attitude and customs” of Roma for the endangerment of Romani children and their placement in institutional care,¹⁵⁸ stating: “Poverty is mixed with the family’s unsuitability to care for the child. Crime is common too – these Romani families have not learnt how to work although they do not get work either. And this is topped with the subculture.”¹⁵⁹

Similarly, in Italy social mediators explained that child protection authorities assume that Romani families are not able to raise and educate their children, which may negatively influence their interactions with the families.¹⁶⁰

Numerous Hungarian social workers expressed negative opinions blaming Romani families for their poor housing conditions, lack of cleanliness, their children’s school absenteeism, giving birth at an early age, having too many children and for “living on welfare, being unwilling to work, and for expecting free welfare provisions without anything in return.”¹⁶¹ The impact of this on relations between child protection workers and Romani families is palpable and to the disadvantage of Romani children.

One Romani family in Hungary reported that the local government and the child welfare service rejected their requests for support to purchase furniture or clothes, arguing that the family had caused their own problems by taking a loan from usurers and should solve it on their own. This family reported they had not been able to find any work, even informal work, for a long time.

Source: Interview with a Romani family. Borsod-Abaúj-Zemplén County, Hungary: October 2010.

¹⁵⁸ Interview with the head of a children’s home. Budapest, Hungary: October 2010. Interview with a child welfare worker. Szabolcs-Szatmár-Bereg county, Hungary: October 2010.

¹⁵⁹ Interview with the director of a children’s home. Budapest, Hungary: October 2010.

¹⁶⁰ Interview with a social mediator from Save the Children. Rome, Italy: 13 July 2010.

¹⁶¹ Interviews with a primary school director, a primary school child protection worker and a guardianship officer. Szabolcs-Szatmár-Bereg County, Hungary: September and October 2010.

In Romania, research findings reveal the presence of discriminatory attitudes in the Commission for Child Protection and in court proceedings concerning the removal of Romani children from their families. Romani parents reported that some judges are dismissive and disrespectful of them and most parents felt pre-judged due to their ethnicity, noting that judges lacked any understanding of their situation. As one parent recalled:

One day people from the Mayor's Office and the police came to my house and asked me to give them the birth certificates for my two oldest children. I have 4 children: two from my first marriage and two with my current husband. I did not want to give them the papers so they took all four of my children and told me to go to the Mayor's Office with the papers and that they would make some pictures of my children and then release them. They left with the car and I walked to the Mayor's Office. I could not see anyone there and I realised what happened [...] in that moment I wanted to kill myself. Later, I found out that my previous husband who was incarcerated for rape made a complaint against me to have my children taken away. Later, I got my younger children back and I was called by the court to present myself when the case concerning my older children was to be decided. At the trial no one talked to me. The judge never told me what was happening, in fact she did not allow me to talk and she shouted at me that if I did not stop talking she would throw me out of the court. I stayed quiet because I did not know what to do and what to say. I did not have a lawyer nor could I understand anything. Later, the judge asked me if my child was 10 years old and I said "Yes". Then she asked my son if he wanted to stay with me; he said "Yes" and that he wanted to come home. The judge told him that he would return soon. But, my children never come back to me. They took them without asking me if I agreed or at least letting me know why.¹⁶²

Similar problems were reported in the Czech Republic and Slovakia.

8.2.2 INADEQUATE PREVENTION MEASURES

In all countries of this study, researchers documented the inadequacy of preventative measures by child protection authorities in relation to the needs of Romani families at risk of separation.

Romani families reported that many social workers do not offer or help to identify solutions to their problems; rather they mostly order certain changes and then leave disadvantaged families to fend for themselves in implementing them. For example, in the Czech Republic, one impoverished Romani woman reported that the social worker would come to her flat and tell her to increase the heat inside or the child would be removed. Another reported that social workers told her that her children would be removed if she did not improve inadequate living conditions, the family's financial problems and substance abuse issues. In both cases the social worker did not provide assistance to the families to actually make the required changes. Similarly, in Slovakia Romani parents who disagreed with the removal of their children often indicated that they did not have any support from the many actors providing social work in their community and that they were not satisfied with the work of social workers.¹⁶³

¹⁶² Interview with a Romani mother. Periam, Romania: September 2010.

¹⁶³ Interview with a Romania woman. Banská Bystrica, Slovakia: 8 October 2010.

In the Czech Republic it was reported that social workers do not actively search for clients in need of preventative measures.¹⁶⁴ In Italy many respondents reported that child protection workers lack knowledge about the real situation of Romani families because they rarely go to their communities and they also rely on experts such as ethnic guardians¹⁶⁵ and mediators: “Social workers do not enter the camps, formal or informal. They do not know how and where these children live. [...] the institutions delegate almost everything to Catholic associations.”¹⁶⁶ Legal professionals indicated that judicial procedures for child removal are often initiated due to a lack of direct intervention by social services and are reported by law enforcement officers that get in touch with Roma for reasons different from the mandate of social services including during forced evictions or ordinary streets patrols when Romani children are found begging.¹⁶⁷ As a result, judicial authorities often intervene in situations that would rather require a social intervention:

A number of issues that should not arrive here are instead shifted on judges since obviously, if there is a lack of social, economic and political intervention of behalf of Italians they are far less so on behalf of Roma [...]. The lack of intervention prevents actions on aspects of the lives of children that should be modified and it results in [judicial] measures [being] adopted without previous preventative actions [...].¹⁶⁸

In most countries under examination the lack of skilled social workers prevented the provision of adequate support to Romani families at risk of child endangerment. In Bulgaria some social workers stated that they do not have the capacity and resources to work with all Romani children at risk.¹⁶⁹ As a result, researchers identified many Romani children at risk of endangerment across the research locations who had not been identified as such by the child protection system. In the Czech Republic some respondents identified the shortage of social workers as the main obstacle to effective prevention work.¹⁷⁰ Similarly, in Hungary, inadequate funding limits the ability of the child welfare service to conduct effective prevention work due to heavy caseloads: most social workers reported during research being responsible for at least double the amount of cases prescribed in law.¹⁷¹ In Slovakia, respondents noted: “One or two workers can hardly do prevention activities when they have 1800 endangered families in their region. It is impossible. The only things they can do is record statistics and take the children away [...]”¹⁷²

¹⁶⁴ Interview with a representative of Poradna pro občanství, občanská a lidská práva. Středočeský region, Czech Republic: 30 August 2010.

¹⁶⁵ Ethnic guardians are professionals who act in the interest of the minor, playing a consultancy role in hospitals, courts, police stations, etc. Ethnic guardians can be, but are not always, of the same ethnicity as the community with which they work.

¹⁶⁶ Interview with a representative of the Federazione Rom e Sinti Insieme. Milan, Italy: 27 September 2010.

¹⁶⁷ Interview with a lawyer who represents Romani clients. Rome, Italy: 25 July 2010.

¹⁶⁸ Interview with a judge of the Juvenile Court of Naples. Naples, Italy: 7 October 2010.

¹⁶⁹ Interview with the director of the Child Protection Department. Plovdiv, Bulgaria: 12 July 2010. Interview with the director of the Child Protection Department. Sliven, Bulgaria: 26 July 2010.

¹⁷⁰ Interview with a representative of the Ministry of Labour and Social Affairs. Prague, Czech Republic: 25 October 2010.

¹⁷¹ Interview with a child welfare worker. Baranya County, Hungary: November 2010. Interview with a child welfare worker. Szabolcs-Szatmár-Bereg County, Hungary: October 2010. Interview with a child welfare worker. Borsod-Abaúj-Zemplén County, Hungary: October 2010.

¹⁷² Interview with an independent activist. Bratislava, Slovakia: 5 October 2010.

Child protection workers reported that prevention services are lacking at the community level. In Hungary it has been reported that basic prevention services which are prescribed by law such as day-care services, after-school activities, child and family counselling, temporary homes for families, kindergartens and nurseries are not always provided by local governments or made available to the extent they are required; nor is there any sanction for the failure to provide such services.¹⁷³ In Romania, community level prevention services such as financial support, parental counselling, maternal centres which assist mothers in difficult situations, day-care centres, etc., were found during research to be practically nonexistent. In Bulgaria it was noted that Romani children cannot benefit from community-based services such as therapy, educational services and trainings because such services are not located in Romani neighbourhoods and the available services do not provide the material, healthcare or social assistance most urgently needed.

Once Romani families come to the attention of child protection authorities, they can rarely avoid the removal of their children. This is especially true when the main reason is poverty which most families can not escape and where little to no prevention work is done. Only in exceptional cases are Romani families able to avoid child removal:

“The child protection people came to tell me that my children are at risk because I do not have windows or heating and the winter was coming. They told me to fix the problems otherwise they would have to take my five children away. I said, “if you give me a job or some money I will fix the windows, make a wood stove and buy some wood.” The woman answered, very upset, that she could not do this because the Mayor should provide me with all of this. I went to the Mayor and I asked him for a job or a heater. He said that he was not an employment officer and asked why I wanted to work because usually “Gypsies are lazy and do not like to work.” No one came to help me or to talk with me until a few months later when child protection ladies came and asked me why my children were in the cold and why I did not do anything. I told them what happened but they did not believe me. The woman from the mayor’s office [social worker] told them that she came regularly. I could not believe that in front of me she was lying, so I called my neighbours and asked them to say if they saw this woman coming to me. Only when these people told them the truth did they believe me. I do not know what they did but later the social worker from the Mayor’s Office called me to fill in some papers to receive the child allowance. When you are Roma, no one will help you; we are not human and not mothers. I could have lost my children because how could I buy a heater when we do not have money even for eating.”

Source: Interview with a Romani parent. Constanta County, Romania: September 2010.

On the other side of this issue, researchers documented a difference among child protection workers in terms of the standards applied to Romani versus non-Romani families at risk of endangerment. For example, in the Czech Republic some social workers and a judge reported

¹⁷³ Zsuzsanna Erdős, “Legislative changes affecting child poverty and families between 2005 and 2009”, *Gyerekesélyek Magyarországon*, a report by the Monitoring Committee of the “Let it be better for children” National Strategy (2009), available at: <http://www.gyerekmonitor.hu/>.

that in their efforts to avoid discrimination against Roma, they apply different standards to the living conditions of Romani children:

It is not true that we remove their [Romani] children more often or different measures are applied. Perhaps on the contrary. If there are ten persons in one flat I am more likely to keep the child in the family than with a non-Romani family. The problem is that they [Roma] do not educate the children, they do not give them knowledge, and they put off the things for some other time. As some would put it, “it is their nature.” But the rules are same for everyone.¹⁷⁴

Others stated: “what families should comply with is not set exactly; the boundary is set differently for Romani families, we take into account their traditions, habits, they pay attention to other things than the majority [...]”¹⁷⁵ This “cultural sensitivity”, however, was seen as problematic by many respondents because it does not address the difficulties of the families.

Similarly, in Italy school absenteeism that would normally lead to social or judicial intervention is accepted in the case of Romani children and families:

Italian institutions are accustomed to Gypsy groups; that means that at school minors who are enrolled but attend a little or do not attend classes at all are tolerated, without the information being communicated to competent authorities. [...] sometimes prejudices about cultural elements which are different from ours shield parental inadequacies. [...] There is a culture and then there are objective elements [...].¹⁷⁶

Respondents noted that despite numerous requests for intervention by child protection authorities, Romani children in situations of endangerment are at times left to their own devices following the refusal of authorities to intervene.

I worked with a [Romani] child, an Italian citizen living in a regular camp, who suffers from violence within his own family. His mother also suffers from violence from the father who is drug-addicted and a criminal. The mother is not able to manage the situation. The child at 10 years of age was using psychotropic drugs and did something dreadful; he set fire to the neighbour’s caravan. I tried everything to start a procedure for out-of-family placement, reporting the situation to social services. A psychologist and a psychiatrist gave advice but after four or five years the child has become a criminal as his father, the social services have done nothing, passing the child off as hopeless.¹⁷⁷

¹⁷⁴ Interview with a judge. Czech Republic: 10 July 2010.

¹⁷⁵ Interview with an social worker. Ústí nad Labem, Czech Republic: 29 August 2010.

¹⁷⁶ Interview with a representative of Association Padri Somaschi. Milan, Italy: 24 September 2010.

¹⁷⁷ Interview with a representative of the Federazione Rom e Sinti Insieme. Milan, Italy: 27 September 2010.

9 Treatment of Romani Children in Institutional Care and Barriers to Family Reunification

9.1 Ill-Treatment and Discrimination

Child protection experts in Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia expressed the opinion that child protection workers do not treat Romani children and non-Romani children differently.¹⁷⁸ Many Romani children also denied any distinction in their treatment as compared to non-Romani children across the countries of this study. However, research results indicate that some Romani children are subjected to different forms of discrimination while in institutional care. Cases of ill-treatment of Romani children were also documented during research.

In the Czech Republic and Romania the physical abuse of Romani children in institutional care by their caregivers was documented. In Romania, all children interviewed during research for this study experienced at least one incident of physical abuse by other children in the home or physical punishment by children's home workers. According to one Romani child interviewed during research: "Once I was beaten by a children's home worker when I complained about some children bullying me. She started to hit me and shout at me that she had so many problems because of Romani children and that if she could she would shoot all Romani children."¹⁷⁹ Ill-treatment of children residing in institutional care was reported in Bulgaria¹⁸⁰ and similar incidents were reported in Slovakia, although here ethnic discrimination was not perceived to have influenced the situation.¹⁸¹

"He [the director of the home] didn't like Gypsies. He beat small kids. He called fat children names saying they just ate and shit and did nothing. He called them "Cikáni z Wolkrovky" ["Gypsies from Wolkrovka"]; Wolkrova street is a ghetto in the city of Cheb known for prostitution and drug dealing]. He cast slurs on their mothers, calling them hookers."

The children reported during interviews that they complained about the director to another home worker but nothing happened. They then reported turning to a social worker who promised to solve the problem but nothing happened. The institution was also visited by NGO workers, but nothing changed. According to the children interviewed, the situation only improved when the director retired.

Source: Interviews with a group of Romani children aged 15-17 and another group aged 17-20 in a children's home. Karlovarský region, Czech Republic: 3 September 2010.

¹⁷⁸ Interview with the director of a children's home. Budapest, Hungary: September 2010.

¹⁷⁹ Interview with a group of Romani children from the children's home C.A. Rossetti. Iasi County, Romania: August 2010.

¹⁸⁰ Interview with the director of a home for babies. Pazardzhik, Bulgaria: 7 July 2010.

¹⁸¹ Interview with a child who was raised in institutional care. Trnava, Slovakia: 24 September 2010.

Respondents in the Czech Republic, Hungary, Italy and Romania reported that Romani children in institutional care experience ethnic discrimination. It was also reported that they experience discrimination due to their status as an institutionalised child, which also affects non-Romani children in institutional care.

In the Czech Republic, Romani children from numerous homes reported that home workers make openly racist remarks about Roma. In Italy, numerous children's home workers made negative statements about Romani culture during interviews,¹⁸² and respondents reported that children's home workers refuse to let migrant Romani children communicate with their parents in their native language.¹⁸³ One Romani mother whose three children had been taken temporarily into care several times reported: "I called every day with my husband but we could not see them [our children]. I do not know why. When I called the head of the home he told me that I could only speak in Italian with my daughter. I am not able to speak Italian and nor is she. We could only talk just a little."¹⁸⁴

In the Czech Republic and Hungary, some Romani children said that they were harassed about their ethnic identity by their peers in the children's homes. In Hungary, several non-Romani children interviewed in the homes visited expressed negative attitudes about Roma such as, "luckily I am not Romani" or "they [Roma] are OK but a little worse than other people."¹⁸⁵ In Romania, child protection workers reported that children in their care are often most negatively affected by anti-Romani jokes by their peers in the homes: "they do not like [...] the jokes of their colleagues, which hurt the most."¹⁸⁶

In Hungary and Italy, some children's homes were reported to differ in terms of who they receive and welcome. In Hungary, certain homes are reportedly "collectors" of difficult cases - children who are not welcome by other homes. In Italy, some children's homes, particularly those run by religious groups, were reported to refuse the placement of Romani children,¹⁸⁷ while some homes in Rome are reportedly known among professionals to specialise in working with Romani children.¹⁸⁸ In the Czech Republic, some child respondents reported differential responses by home workers to medical and other problems experienced by Romani and non-Romani children in their care: "When my sister was sick none of the workers believed she was really sick. They later discovered it was angina. However, when a white child feels sick the workers immediately run to get them medicine."¹⁸⁹

¹⁸² One social worker stated, "Romani culture is not suitable for learning" and that any learning difficulties experienced by Romani children "is not a matter of intelligence, it is a deficit in their DNA." Interview with a social worker in a children's home. Rome, Italy: 9 July 2010.

¹⁸³ Interview with a lawyer and guardian of Romani children and families. Naples, Italy: 20 September 2010.

¹⁸⁴ Interview with a Romani woman. Naples, Italy: 29 September 2010.

¹⁸⁵ Interviews with children in a children's home. Szabolcs-Szatmár-Bereg County, Hungary: October 2010. Interviews with children in a children's home. Győr-Moson-Sopron County, Hungary: November 2010.

¹⁸⁶ Interview with representative of the Bogdana Centre. Iasi County, Romania: August 2010.

¹⁸⁷ Interview with a guardian. Rome, Italy: 21 June 2010.

¹⁸⁸ Interview with the head of a children's home. Rome, Italy: 8 July 2010.

¹⁸⁹ Interview with a 15-year-old Romani girl. Ústecký region, Czech Republic: 1 September 2010.

In general, in Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia the material conditions provided to Romani and non-Romani children in children's homes was reported to be equal.

The majority of Romani children that reported experiences of discrimination reported such in access to public services outside the home. For example, in Hungary, Romani children reported experiences of harassment on ethnic grounds at school;¹⁹⁰ this was also reported in Romania.¹⁹¹ Caregivers in some children's homes confirmed that children in their care are often treated differently at schools by teachers and peers or both,¹⁹² and that, at times, they hide the child's ethnic identity "in order to protect them from the negative image the Romani population has; at least they will have the chance to be treated better in school, like any child."¹⁹³ Others reported that schools sometimes pick and choose which children they will accept and that as soon as they learn that a child is from a children's home (Romani or non-Romani) there is no longer space available for new students (who were previously invited by phone to visit the school).¹⁹⁴ Children's home representatives in Bulgaria also reported that education professionals often display a poor attitude towards the children in their care.

In the Czech Republic, Hungary and Romania a disproportionate number of children residing in the homes visited attended special schools for children with mental disabilities. In the Czech Republic, many Romani children in institutional care are placed in schools which operate within the institution and offer a reduced curriculum for children with mild mental disabilities. As one Romani child reported: "We barely learned anything there. [...] If I was to go to a normal elementary school I would fail."¹⁹⁵ Research in Bulgaria found that in some cities, such as Plovdiv, institutionalised children (Romani and non-Romani) study in segregated schools (i.e. the majority of the pupils are from children's homes).

In Romania, respondents also reported that Romani children in foster care experience discriminatory treatment in access to medical services. In Brasov, for example, one respondent reported: "A maternal assistant with two Romani children in her care complained that the children are not received at school or enrolled by family doctors. She went to five family doctors [...] all of them refused because they are children of Roma ethnicity and are institutionalised."¹⁹⁶

190 Interviews with children in a children's home. Budapest, Hungary: October 2010. Interviews children in two homes. Szabolcs-Szatmár-Bereg County, Hungary: October 2010. Interviews with children in a children's home. Baranya County, Hungary: November 2010.

191 Interview with a group of Romani children living in the Ion Holban Centre. Iasi County, Romania: August 2010.

192 Interview with the head of a home. Szabolcs-Szatmár-Bereg County, Hungary: October 2010. Interview with children living in a children's home. Szabolcs-Szatmár-Bereg County, Hungary: October 2010. Interview with a children's home worker. Győr-Moson-Sopron County, Hungary: November 2010.

193 Interview with a representative of the General Directorate for Social Assistance and Child Protection. Brasov, Romania: September 2010.

194 Interview with a caregiver and the head of a children's home. Győr-Moson-Sopron County, Hungary: November 2010.

195 Interview with a Romani boy living in an institution. Moravskoslezský Region, Czech Republic: 23 October 2010.

196 Interview with representative of the General Directorate for Social Assistance and Child Protection. Brasov, Romania: September 2010.

Research in the Bulgaria and the Czech Republic revealed that most Romani children in institutional care do not see any way of standing up against their ill-treatment.¹⁹⁷ The majority of Romani children that experienced harassment in Hungary stated that they had not reported their experience to anyone and that their guardians do not know about it. Only a few children reported this treatment to their guardian or the head of their home: in several cases the situation reportedly improved after the guardian or the head of the home went into the school and talked to a teacher or director.¹⁹⁸ Other children that had asked for help said that the situation did not change.¹⁹⁹

9.2 Loss of Ethnic Identity

Across the countries of this study, researchers sought to assess the extent to which children's homes foster a positive ethnic identity among Romani children in institutional care or generally promote a positive image of Roma among all children in institutional care, thereby contributing to the reduction of anti-Roma discrimination. Across the countries of the study, Romani and non-Romani children expressed negative sentiments about Roma during interviews, making statements such as "Roma are more dangerous and criminal than others" and "Roma do not care about anything."²⁰⁰ Research in Romania revealed a high level of stigmatisation amongst Romani children in institutional care: when asked who Roma are, 83% of the Romani children stated that Romani people are people with dark skin, "thieves", "beggars", "criminals", "bad people", "without education" and "liars".²⁰¹ Romani and non-Romani children are reported to use derogatory references to Roma among themselves as an offence.²⁰²

In Bulgaria, Hungary, Italy and Romania it was reported that some Romani children residing in institutional care and young Romani adults that have left institutional care are reported to reject their ethnic identity and distance themselves from other Roma; especially those living in extreme poverty or who are unemployed.²⁰³

¹⁹⁷ Interview with a group of Romani children aged 15-18 from a children's home. Karlovarský Region, Czech Republic: 9 September 2010.

¹⁹⁸ Interview with the head of a children's home. Szabolcs-Szatmár-Bereg County, Hungary: October 2010.

¹⁹⁹ Interview with a group of Romani children at the Ion Holban Centre in Iasi County; the Specialized Services Complex Mihail Sadoveanu in Iasi County; the Specialised Services Complex Lugoj in Timis County; the C.A. Rossetti home in Iasi; the Ioan Rupea Centre in Brasov County; and the Specialised Services Complex Fagaras in Brasov County. Romania: August and September 2010.

²⁰⁰ Interview with children in a children's home. Borsod-Abaúj-Zemplén County, Hungary: November 2010.

²⁰¹ Interview with a group of children from the Specialised Services Complex. Herman in Brasov County; the Ion Holban Centre in Iasi County; the Specialized Services Complex Mihail Sadoveanu in Iasi County; the Specialised Services Complex Lugoj in Timis County; the Bogdana Centre in Iasi County; the C.A. Rossetti home in Iasi; the Sf. Spiridon Targu Frumos in Iasi County; the Specialised Services Complex Gavojdia in Timis County; the Ioan Rupea Centre in Brasov County; the Specialised Service Complex Magura-Coltea in Brasov County; the Specialised Services Complex Fagaras in Brasov County; the Antonio Centre in Constanta County; the Ovidiu Centre in Constanta County; the Robin Hood Placement Centre in Bucharest's District 4; and the Sf. Nicolae Placement Centre in Bucharest's District 1. Romania: August, September and November 2010.

²⁰² Interview with the director of a Home for Children Deprived of Parental Care. Plovdiv, Bulgaria: 12 July 2010.

²⁰³ Interview with children in a children's home. Szabolcs-Szatmár-Bereg County, Hungary: October 2010. Interview with the head of Social Services VIII. Naples, Italy: 20 September 2010.

Most children's homes visited in Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia did not offer programmes to support the development of Roma ethnic identity or a positive attitude towards Roma. In Hungary, home directors reported that "being Roma is not an issue in [our] home and every child is a child [and should be treated the same]."²⁰⁴ This may contribute to the denial of their ethnicity by Romani children.²⁰⁵

Some home workers in Romania reported that they try to hide the ethnic identity of Romani children in their care to protect them from discriminatory treatment and prejudice.²⁰⁶ Only a few home directors reported speaking informally with Romani children in the home to prepare them for the difficulties they may face due to common prejudices against Roma.²⁰⁷

In the Czech Republic,²⁰⁸ Hungary²⁰⁹ and Romania²¹⁰ very few Roma were employed in the homes visited. This was noted to be a barrier to the development of a positive ethnic identity among Romani children in the homes and also at times a barrier to communication for some children.²¹¹

One children's home visited in Hungary offered a good example as concerns the development of a positive Romani identity. The director places significant importance on strengthening Romani identity through specific programmes, inviting Romani activists and artists for discussion with the children and young adults in the home and organises other activities that strengthen a positive image of Roma.²¹² In Hungary, the recent introduction of the "family tale book" was also viewed by research respondents as a step forward in enabling Romani and non-Romani children in institutional care to embrace their backgrounds, their differences and the fact that they were raised in institutional care. Family tale books explain the context of the child's placement in institutional care and should provide as much information as possible including family photos to help children develop a positive sense of their own life history and bring the family closer to the child.²¹³

204 Interview with caregivers in a children's home. Győr-Moson-Sopron county, Hungary: November 2010. Interview with the head of a regional home centre. Szabolcs-Szatmár-Bereg County, Hungary: October 2010.

205 Interview with an expert from the National Institute for Family and Social Policy. Hungary: November 2010.

206 Interview with social assistants from the Ion Holban Centre. Iasi County, Romania: August 2010. Interview with social assistants of the Specialized Services Complex Mihail Sadoveanu. Iasi County, Romania: August 2010.

207 Interview with the head of a children's home. Budapest, Hungary: October 2010. Interview with the head of the Specialised Services Complex Gavojdia. Timis County, Romania: September 2010. Interview with the head of the Delfin Centre of Agigea. Constanta County, Romania: September 2010.

208 Only one Romani worker was identified in the homes visited in the Czech Republic.

209 Only four Romani workers were identified in the homes visited in Hungary.

210 Only two Romani workers were identified in the homes visited in Romania and one worker in the General Directorates for Social Assistance and Child Protection.

211 The director of a receiving center for children aged 0-3 recalled the case of one child in their care who could only speak Romani and no one except the cleaning lady could understand the child. Interview with the head of a children's home. Budapest, Hungary: September 2010.

212 Interview with the head of a children's home. Szabolcs-Szatmár Bereg County, Hungary: October 2011.

213 Interview with an expert of the National Institute for Family and Social Policy. Budapest, Hungary: October 2010.

9.3 Low Rate of Return to the Biological Family

In Bulgaria, Hungary, Romania and Slovakia, child protection professionals reported that the rate of return of children to their families is extremely low: one exception was Italy which does not provide for permanent placement in institutional care. Several child protection workers observed that “It is very easy to enter institutional care but it is almost impossible to leave it.”²¹⁴

Respondents in Hungary noted that, because Romani children enter institutional care due to serious material problems more often than non-Roma, they are less likely than non-Roma to return to their families. It is very difficult to help the family improve their situation to a level where they can adequately provide for the child.²¹⁵ In Romania, it was underlined that some Romani families lose their children forever after they enter State care because changes required prior to reintegration are impossible to meet. Some child protection professionals claimed that some Romani children refuse to be reunited with their families, especially children from more traditional families, because they do not want to wear traditional clothing or are afraid of early marriage.²¹⁶ Researchers were not able to verify this claim with affected children.

Efforts to facilitate, and the rate of success of, reintegration of Romani children in their biological families are low. The reasons for this include ineffective social work with the families to improve their conditions.²¹⁷ At times it was noted that this is influenced by feelings of failure due to the removal²¹⁸ or an insufficient number of social workers to work with families post-removal.²¹⁹ Good working relations between social workers and families are difficult to achieve after the removal of their children,²²⁰ at times because families blame social workers and refuse to cooperate, which applies to both Roma and non-Roma. Poor relations between parents and social workers also negatively affect the assessment by the social worker. A long period of stay in institutional care also appears to negatively affect the return of Romani children to their families. One social worker noted that after awhile, some families accept that their children live in a children’s home and

²¹⁴ Interview with the head of a Regional Child Protection Professional Service. Szabolcs-Szatmár-Bereg County, Hungary: October 2010. In 2009 in Brasov, Iasi and Timis Counties in Romania only 101 of 9044 institutionalised children were reintegrated within their families. Interview with representatives of General Directorate for Social Assistance and Child Protection in Brasov and 2009 activity reports of the General Directorate for Social Assistance and Child Protection in Iasi and Timis Counties, provided during research.

²¹⁵ Interview with a caregiver in a children’s home. Budapest, Hungary: October 2010.

²¹⁶ Interviews with representatives of the General Directorate for Social Assistance and Child Protection and children’s homes. Iasi, Timis and Brasov Counties, Romania: July- October 2010.

²¹⁷ Interview with the head of a Regional Child Protection Professional Service. Szabolcs-Szatmár-Bereg County, Hungary: October 2010.

²¹⁸ Interview with a child welfare worker. Budapest, Hungary: September 2010.

²¹⁹ Interview with a head of a children’s home. Borsod-Abaúj-Zemplén County, Hungary: October 2010.

²²⁰ Interview with a child welfare worker. Budapest, Hungary: September 2010.

may also view the change as alleviating their poor financial situation.²²¹ Families may also be unable to afford maintaining contact with their children if they are placed far away, which may be interpreted as disinterest in the child.²²²

²²¹ Interview with a social worker. Győr-Moson-Sopron County, Hungary: November 2010.

²²² Interviews with child welfare workers. Budapest, Hungary: September 2010. Interview with child welfare workers. Győr-Moson-Sopron County, Hungary: November 2010.

10 Discrimination against Romani Children in Adoption Processes

For many children who enter institutional care, adoption is the only avenue for getting out an institutional setting because the rate of family reintegration for institutionalised children is low in most countries of this study.²²³ For Romani children, however, the chance of adoption is significantly diminished as a result of anti-Roma racism and discrimination both inside and outside the child protection system. In Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia, adoption authorities reported that many prospective adoptive parents are not willing to adopt Romani children.²²⁴

In Bulgaria respondents noted that prospective adoptive parents are generally willing to adopt Bulgarian children or “white” children, often expressing that they are willing to adopt a child “who does not have the typical characteristic features of Roma.”²²⁵ Also in Bulgaria, research revealed that Romani parents may be particularly affected by legal amendments from 2009 on the adoption of children who show no interest in their children for up to six months after institutionalisation. In such cases, children can be registered for adoption and adopted without the consent of the biological parents.²²⁶ While parents have the right to be notified and challenge the initiation of this procedure, research revealed that some Romani parents cannot be notified due to migration or the fact that they do not reside at the address where the notification is sent.²²⁷

In Hungary respondents reported that approximately 60-65% of the prospective adoptive parents indicate reservations concerning the ethnic origin of the child. Only 7% of the prospective parents indicate no reservation at all.²²⁸ Prospective adopters often list among their child preferences physical traits, such as blond hair, blue eyes and light skin colour which

223 Interview with representatives of General Directorate for Social Assistance and Child Protection in Brasov and 2009 activity reports of the General Directorate for Social Assistance and Child Protection in Iasi and Timis Counties, provided during research.

224 Interview with a representative of the Institute for Alternative Family, Care, Prague, Czech Republic: 7 June 2010. Interview with a representative of the Ministry of Labour and Social Affairs, Prague, Czech Republic: 18 June 2010. Interview with a representative of the Ministry of Health, Prague, Czech Republic: 11 June 2010. According to the Family Act Commentary: “In some cases there is no interest in adoption of children because of their ethnic origin.” See: M. Hrušáková, *The Family Act. The Act on the Registered Partnership. Commentary*. 4th Edition (Praha: C.H. Beck, 2009), p. 305.

225 Interview with the director of the Child Protection Department, Plovdiv, Bulgaria: 12 July 2010. Interview with the director of the Social Assistance Department, Pazardzhik, Bulgaria: 5 July 2010. Interview with the director of the Child Protection Department, Sliven, Bulgaria: 26 July 2010. Interview with a senior expert of the Child Protection Department, Varna, Bulgaria: 2 August 2010. Interview with the director of the Social Assistance Department, Sofia, Bulgaria: 24 June 2010.

226 Bulgaria, *Family Code*, Article 93(1 and 2).

227 Interview with the director of the Child Protection Department, Sliven, Bulgaria: 26 July 2010.

228 Interview with a representative of the Department of Child and Youth Protection, Ministry of Labour and Social Affairs, Budapest, Hungary: 19 May 2010. It is not illegal for prospective adoptive parents to indicate that they do not wish to adopt children from disadvantaged groups, which often includes Romani children or children with disabilities.

are not often associated with Roma. According to ERRC research in Hungary, adoption workers facilitate choices based on ethnicity by prospective adoptive parents despite the fact that it is prohibited by law.²²⁹

Direct evidence of discrimination by adoption workers leading to the interference in adoption processes involving Roma was not documented during research because the sample did not include adoptive parents, but the ERRC has received such information from other sources. For example, a couple approved for adoption reported trying to adopt a Romani child. Throughout their process, the couple reported an official making negative comments about people who are open to adopting Romani children. At one point the couple was told outright that the case worker would attempt to delay the process for at least three years. Other times, adoption workers told them that adopting Romani children is not wise.

Source: Email communication with a prospective adoptive parent: 13 June 2011. On file with the ERRC.

In the case of Italy, respondents noted a widespread reluctance by prospective parents to adopt Romani children, judging them to be nomadic and without roots while naturally tending toward involvement in criminal activity and begging.²³⁰ In a recent judgment the Court of Cassation declared the indication of a preference concerning racial or ethnic origin when a couple applies for adoption to be discriminatory.²³¹

In Romania child protection workers and NGO representatives reported that prospective adopters exclude Romani children from those that they are willing to adopt by indicating physical features, such as skin colour, they are willing to accept. However, it was also reported that once the adopters meet candidate children “they refuse even if you introduce them to a Romani child with blue eyes.”²³² Some adoption workers stated that adoptive families refuse children that look Romani because they believe that Roma are genetically predisposed to criminality.²³³

Slovak professionals reported that the level of adoption of children perceived to be Romani is relatively low, at around 30% of all adoptions²³⁴ while overall Romani children are estimated to account for between 70 and 95% of children in institutional care.

²²⁹ ERRC, *Dis-Interest of the Child: Romani Children in the Hungarian Child Protection System* (Budapest, 2007), available at: <http://www.errc.org/cms/upload/media/02/8F/m0000028F.pdf>.

²³⁰ Interview with a representative of AiBi (Amici dei Bambini). Bari, Italy: 28 October 2010.

²³¹ Italy, Court of Cassation, Sentence n.13332 of 1 June 2010, available at: <http://www.cortedicassazione.it/Notizie/GiurisprudenzaCivile/SezioniUnite/SchedaNews.asp?ID=2746>. The association AiBi filed the case following a decree of the Court of Catania confirming the suitability for adoption of a couple which declared that they were “not available to receive children with black skin or different from the European one.” The legal principle established in this case is equally applicable in the case of Roma.

²³² Interview with a representative of the Iosif Foundation. Iasi, Romania: July 2010.

²³³ Interview with a representative of the General Directorate for Social Assistance and Child Protection. Timisoara, Romania: August 2010.

²³⁴ Interview with a social worker. Humenné, Slovakia: 14 September 2010.

It was also reported during research that some prospective parents refuse to adopt Romani children on more compassionate grounds, such as their belief that they are not able to protect the child from negative societal attitudes.²³⁵

In some countries, more Romani children are adopted internationally.²³⁶ For example, in the Czech Republic the Office for International Legal Protection of Children reports that children adopted by families outside of the country are often of Romani origin.²³⁷ In Slovakia respondents highlighted the interest of international adoptive parents in Romani children, particularly newborn babies or very young children.²³⁸

Given that a disproportionate number of Romani children are in institutional care and that many are passed up for adoption, a great proportion of Romani children are likely to spend their whole youth in an institutional setting because suitable adoptive parents could not be identified.

²³⁵ Interview with a representative of the General Directorate for Social Assistance and Child Protection. Constanta, Romania: September 2010.

²³⁶ There are significant debates among professionals about whether inter-country adoption of Romani children should be allowed or not taking into consideration their best interests and the child rights perspective.

²³⁷ As reported by media, the Office facilitated the international adoption of 323 children in the last 10 years, majority of whom are reportedly Romani. See: “Ochránce bíléh Česka: Rasismus je přirozený (Protector of white Czech Republic: Racism is natural)”, *Lidovky.cz*, 15 July 2010, available at: http://www.lidovky.cz/ochrance-bileho-ceska-rasismus-je-prirozeny-fz9-/ln_domov.asp?c=A100715_170556_ln_domov_kim.

²³⁸ Interview with the director of the children’s home Srdiečko. Banská Bystrica, Slovakia: 26 October 2010.

11 Institutionalised Romani Children and Disability

Research for this study aimed to map the impact of disability on the representation of Romani children in institutional care and any links between disability and institutional care placement. Information was gathered in all countries of the study except for Italy where disability was not considered to be a factor in regard to institutionalisation. In all other countries, including Bulgaria, the Czech Republic, Hungary, Romania and Slovakia, the research findings indicate a correlation between disability and placement in institutional care and the combination of disability status and ethnic identity was found to be an insurmountable barrier to adoption.

11.1 Representation of Disabled Romani Children in Institutional Care

More than 50% of the residents of Homes for Children Deprived of Parental Care visited during research were Romani. In the homes visited Romani children accounted for more than 40% of all children with behavioural problems, special education needs and different types of disabilities (mostly intellectual disabilities, sensory disabilities, etc.). Among the homes for children aged 0 to 3 visited, 50% of the residents were Romani: Romani children who are born with a disability are often placed in institutional care for at least one or two years because of the constant medical care provided and inability of the family to care for the child at home due to lack of space, lack of utilities, poverty, lack of knowledge and many other children in the family. In all research locations, Romani families reported that one or several of their disabled children had spent at least several months after birth in an institution.²³⁹ Research indicated that disability status alone was not the direct reason for placement in institutional care: institutional placement is more likely when the family is not able to take care of their disabled child according to the standards of the authorities.

Respondents in the Czech Republic reported that it is more common for Romani mothers to place their infants in institutional care than non-Romani mothers due to their limited possibilities to care for disabled children.²⁴⁰

In Hungary, the current research confirms ERRC research findings from 2007 that “Romani children were an absolute majority among those children labelled with disability amongst the institutionalized children in Hungary.”²⁴¹ The heads of five children’s homes provided data on

²³⁹ Researchers interviewed an average of 12 families in each of the five visited Romani neighbourhoods and residential services. Altogether the families had around 180 children of whom around 60 had healthcare problems or disabilities. Interviews with Romani families at risk and families whose children live in institutions in the Sliven’s Nadezhda Romani neighbourhood, Pazardzhik’s Iztok Romani neighbourhood, Plovdiv’s Stolipinovo Romani neighbourhood, Sofia’s Fakulteta Romani neighbourhood and Varna’s Vladislavovo Romani neighbourhood. Bulgaria: July and August 2010.

²⁴⁰ Interview with a judge. Ostrava-Poruba, Czech Republic: 16 August 2010.

²⁴¹ ERRC, *Dis-Interest of the Child: Romani Children in the Hungarian Child Protection System* (Budapest, 2007), available at: <http://www.errc.org/cms/upload/media/02/8F/m0000028F.pdf>.

the percentage of children in their care categorised as having a mental disability and some child care workers underlined the high percentage of Romani children among children categorised as having mental disability. In three of the five homes where data on disability and ethnicity were provided, all mentally disabled children were reported to be Romani.²⁴² One director estimated that 90% of all children categorised as having a disability are of Romani origin.²⁴³

In line with international and national legal standards on children's rights and child protection, guardians, as the legal representatives of the child, should represent the best interests of the child during the disability assessment procedure. One home director explained that when children in their care are tested for a disability, they are not present because they are not the legal guardian,²⁴⁴ and noted that two of the three children in that home diagnosed with mental disability do not appear to be disabled. Several Romani children categorised as having a mental disability told researchers that they found the special school curriculum too easy²⁴⁵ and, in one case, limiting: after attending special school the only trade available for her to study was sewing, which was, as she said, "not for me. I cannot sit still, I always want to move," showing a large collection of medals won in athletic competitions.²⁴⁶

According to Romanian law, there are four levels of disability for children: mild, medium, accentuated and severe.²⁴⁷ Representatives of the institutions visited during research in Romania estimated that the proportion of Romani children among institutionalised disabled children was between 10% and 63%; the highest percentage was identified in Timis County while a representative of the General Directorate for Social Assistance and Child Protection in Constanta County estimated that Romani children account for 30% of all disabled children in the county.²⁴⁸ Twenty percent of Romani children respondents declared that they were studying in special schools. Romani parents interviewed during research who had left their children in institutional care reported that an important factor in this decision was the lack of available services for disabled children in rural areas; most services and disability professionals are located in cities.²⁴⁹

242 Interview with children's home representatives. Szabolcs-Szatmár-Bereg County, Budapest and Baranya County, Hungary: October and November 2010.

243 Interview with the head of a children's home. Szabolcs-Szatmár-Bereg County, Hungary: October 2010.

244 Interview with the head of a children's home. Szabolcs-Szatmár-Bereg County, Hungary: October 2010.

245 Interviews with children in children's homes. Szabolcs-Szatmár-Bereg County, Budapest and Borsod-Abaúj-Zemplén County, Hungary: October and November 2010.

246 Interview with a child in a children's home. Szabolcs-Szatmár-Bereg County, Hungary: October 2010.

247 See Ministry of Health Order No. 725 and NACPA Order No. 12709/2002 on the criteria used to establish the level of disability of children and to establish specialised care measures.

248 Interview with a representative of the General Directorate for Social Assistance and Child Protection. Constanta, Romania: September 2010.

249 According to the Academic Network of European Disability Experts, 84.1% of the special education units are located in urban areas. See: Academic Network of European Disability Experts, *Facts and Figures – Romania* (2009), available at: <http://www.disability-europe.net/content/aned/media/Romania%20-%20ANED%20country%20profile.pdf>. See also: interview with a Romani woman. Targu Frumos, Romania: August 2010: "I took care of my child for 14 years but his illness got worse every year. I tried to make his life easier but it was so difficult because there was no money for the medicine, no specialised doctor and no centre for rehabilitation. I have five other children. I had to give him up to take care of others. I try at least once a month to meet him, but I cannot go anymore because I need the money to buy bread for the other children."

In Slovakia, the level of mental ability/disability of a person is distinguishable mainly through the type of school attended. Child protection workers, school representatives and social workers interviewed during the research generally agreed that more Romani children than non-Romani children are diagnosed with a mental disability: 10 of 46 (21.7%) of the Romani children interviewed during research attended school for children with mental disabilities. However, information provided by some of the children's home directors indicated much higher representation of Romani children labelled with a disability.²⁵⁰ Past research indicates that among the general Slovak population only around two percent are diagnosed with a disability.²⁵¹ Most child protection professionals and teachers interviewed during research believed that diagnostic procedures are correctly followed, and in some cases institution workers have initiated re-testing when they believe that the child is more capable than shown test results: "sometimes it is only social deprivation, diagnosed as a mental disability."²⁵² However, research by the Roma Education Fund demonstrates that the student population of special schools in Slovakia is disproportionately Roma, and that a far larger number of Roma are placed in special schools than would be suggested by the prevalence of developmental disability in the population as a whole. As in the Czech Republic, Hungary and other countries with a similar pattern of enrolment, this suggests a discriminatory bias that places Romani children in special education.²⁵³

11.2 Placement Barriers for Disabled Romani Children

Child protection professionals in Bulgaria, the Czech Republic, Hungary and Romania reported that the placement options for children categorised as having a mental disability, and particularly Romani children categorised as having a mental disability, are seriously limited. Placement in foster care is rare as is the adoption of such children domestically.

In Bulgaria, child protection professionals stated that the only placement options practically available to disabled children up to three years of age are institutional care and international adoption: domestic adoption does not happen in practice.²⁵⁴ Children over the age of three with a disability can stay in these institutions until the age of seven. If they are not adopted or reintegrated with their families by that time they are then moved to institutions for disabled children.

²⁵⁰ For example, in Veľké Kapušany, 90% of the children in one home visited were reported to be Romani, among whom 70% were categorised as having a mental disability. Interview with the director of the home: 8 September 2010.

²⁵¹ DK Daily, HH Ardinger and GE Holmes, "Identification and evaluation of mental retardation", *Am Fam Physician* 61/4 (2000): 1059–67, available at: <http://www.ncbi.nlm.nih.gov/pubmed/10706158>.

²⁵² Interview with the director of a children's home. Veľké Kapušany, Slovakia: 8 September 2010.

²⁵³ Roma Education Fund, *School as Ghetto: Systemic Overrepresentation of Roma in Special Education in Slovakia* (September 2009), available at: http://www.romaeducationfund.hu/sites/default/files/documents/special_education_slovakia.pdf.

²⁵⁴ Legislation and practice in Bulgaria lead to this conclusion, which was supported during interviews. Interviews with directors and senior experts of Child Protection Departments. Plovdiv, Sliven and Varna, Bulgaria: July and August 2010. Interview with the director of the Social Assistance Department. Pazardzhik, Bulgaria: 5 July 2010.

This opinion was also prevalent in the Czech Republic, as a Roma coordinator from the Ústecký region summarised: “No one wants to adopt a disabled child, no matter if it is Romani or not. [...] Everyone wants a healthy, white, blue-eyed, blond-haired baby if possible,”²⁵⁵ noting that the most likely solution for a disabled child is international adoption.

Experts in Hungary confirmed that children under the age of three are usually adopted within the county, while older children and children with any form of disability are very unlikely to be adopted by Hungarians.²⁵⁶ The current 21-hours of pre-adoption training provided to potential adoptive parents was noted to be insufficient to address all of the issues connected with adoption including non-discrimination matters.²⁵⁷ Furthermore, it is not illegal for prospective adoptive parents to indicate that they do not wish to adopt children from disadvantaged groups, which may include Romani children or children with disabilities. Children with disabilities or psychological problems are placed in special residential institutions if the placement of the child with foster parents is not possible.²⁵⁸

Romanian law provides that children under the age of two should not be placed in institutional care, except children with disabilities.²⁵⁹ Data provided by the General Directorate for Social Assistance and Child Protection indicates that the majority of disabled children are in institutional care, while a small number are in foster care.²⁶⁰ As concerns adoption, available information suggests that children with disabilities are less likely than Romani children to be adopted²⁶¹ and that Romani children with a disability have very little chance of being adopted. According to the child workers, the rate of reintegration of children with disabilities with their biological families is low, and is only possible in the case of children with mild forms of disability.²⁶²

²⁵⁵ Interview with a Roma coordinator in the Ústecký region. Ústí nad Labem, Czech Republic: 29 July 2010.

²⁵⁶ Interview with a representative of the Department of Child and Youth Protection, former Ministry of Labour and Social Affairs (now Ministry of National Resources). Budapest, Hungary: 19 May 2010.

²⁵⁷ *Ibid.*

²⁵⁸ Hungary, *Act No XXXI of 1997 on the Protection of Children and Guardianship Administration*, Article 53(6).

²⁵⁹ Romania, *Law 272/2004 on the Protection and Promotion of Child Rights*, Article 60(2).

²⁶⁰ For example, data provided by representatives of General Directorate for Social Assistance and Child Protection in Iasi County indicates that 1122 of 1615 (69.5%) children placed in children’s homes compared to 281 of 1240 (22.7%) children in foster care are disabled.

²⁶¹ Data provided by the representatives of Romania Adoption Office during a June 2010 interview show that 61% of adoptive parents refuse to adopt children with health issues and 16% refuse children of a specific ethnicity (Romani).

²⁶² Interview with the director of a children’s home. Brasov County, Romania: October 2010: “Parents do not want to see their children if they are [severely] disabled; they are called many times to come to see them but they refuse to do so. [...] They only come when they are dead.”

12 Conclusions

According to the limited data available from official sources, NGO estimates and the results of field research for this study in children's homes in Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia, Romani children are overrepresented in institutional care compared to their proportion of the population as a whole. Experts in this field purport that they are less likely to be reunited with their families and less likely to be adopted than non-Romani children. For these reasons, they are likely to remain in State care for longer than non-Romani children.

With the exception of limited data from official sources in Bulgaria and the Czech Republic, across the countries of this study State, regional and local bodies responsible for child protection do not collect, process and publish data about children in State care disaggregated by ethnicity and other criteria. Relevant authorities in the target countries wilfully misinterpret EU and national data protection laws as providing a blanket prohibition of the collection of ethnic data.

The lack of data disaggregated by ethnicity and other relevant factors is a key problem which renders existing policy ineffective in reducing the overrepresentation of Romani children in institutional care in all countries of this study. It is of the utmost importance that disaggregated ethnic data is gathered and used to develop, fund and monitor the success of targeted prevention and protection measures to improve the conditions in Romani families and ensure that Romani children are not deprived of a family upbringing. It is also necessary to ensure that Romani children who are placed in institutional care are able to access programmes to foster and develop a strong ethnic identity and to ensure that they are placed with adoptive or foster families of the same ethnicity, where possible and beneficial. It is also necessary to allow for proper monitoring of direct and indirect discrimination against Romani children in the child protection system and the implementation of programmes to counter such.

The Constitutions of Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia guarantee the protection of the child and the family without discrimination. All six countries have adopted specific laws which govern child protection matters, with the best interests of the child as the prevailing legal principle.

Court orders are required prior to the suspension or termination of parental rights and the placement of children in institutional care on a temporary or permanent basis in Bulgaria, the Czech Republic, Italy, Romania and Slovakia. However, in Hungary children can be placed in institutional care on a temporary or long-term basis through an administrative decision by guardianship authorities. Only in the case of permanent removal of parental rights is a court decision required in Hungary: this is very problematic because many children remain formally under temporary or long-term protection and end up spending their entire childhood in institutional care on the basis of only an administrative decision made by local authorities.

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Very general definitions of child endangerment as a basis for child placement in State care are provided by law in Bulgaria, the Czech Republic and Hungary. Legal definitions of child endangerment do not exist in Italian, Romanian or Slovak law, although situations that may lead to the remove of parental rights are described in the case of Romania and Slovakia. Detailed descriptions of child endangerment and clear methodological guidelines for its assessment are lacking in all countries. This provides significant opportunity for the mis-application or subjective interpretation of relevant provisions by child protection and social workers, and may negatively impact Romani children and families in particular.

Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia all have policies on children's rights and child protection in place. Romani children are not recognised as a particular target group of the relevant policies in Bulgaria, the Czech Republic or Slovakia: only in Hungary, Italy and Romania do the policies specifically recognise Romani children as a vulnerable group. No information is available on implementation or outcomes.

Research in Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia revealed many factors contributing to the overrepresentation of Romani children in institutional care. These can be broken down into two main categories: those related to the situation of the family and those related to the child protection system itself. Discrimination is a factor in both categories.

In general, the Romani population has lower access to quality education, healthcare, social services and employment than the general population due to discrimination and other factors, making Romani children more vulnerable to removal from their families and being placed in State care. This is not adequately assessed by relevant authorities in any of the target countries and systemic measures targeting Romani children to effectively prevent their institutionalisation have not been developed.

Poverty and material conditions (including unemployment, indebtedness and inadequate housing) are very often the decisive factors that lead to the suspension of parental rights and placement of children in State care, for both Romani and non-Romani families. This is true despite legal bans on such criteria as a basis for separating a child from the family in the Czech Republic, Hungary, Italy and Slovakia. Given that Roma experience social exclusion, disadvantage and discrimination in most if not all spheres, including housing, education, healthcare, employment, to a much greater level than non-Roma, they are also disproportionately affected by child removal procedures and the placement of their children in State care.

Numerous other factors concerning the situation of Romani families were highlighted during research which also contributed significantly to institutionalisation of Romani children, including school absenteeism, single parenthood (especially single motherhood) and unwanted pregnancies and migration. Child abuse was noted in some cases, but overall this was considered a very small factor in the placement of Romani children in institutional care.

Research also demonstrated gaps and problems in the child protection systems of all countries of this study that particularly affect Roma. With respect to the child protection system,

some Romani families perceived discrimination against them, which is supported by other evidence of discriminatory attitudes and prejudice on the part of child protection actors. Social workers may assume that Romani families are not able to raise and educate their children. During research, some social workers blamed Romani families for their poor housing conditions, lack of cleanliness, their children's school absenteeism, giving birth at an early age, having too many children and for being unwilling to work. Such opinions no doubt negatively influence interaction between social workers and Romani families.

In Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia, preventative measures by child protection authorities to address the needs of Romani families at risk of separation were inadequate. Romani families reported that social workers order them to make various changes under the threat of removal of their children, but that they do not help to identify or realise solutions to the problems. Instead, disadvantaged Romani families are left to find and implement changes on their own, often without success. In addition, an insufficient number of social workers to cover caseloads and a lack of skilled social workers were reported, as was the absence of community level prevention services. In Bulgaria, the Czech Republic, Hungary, Romania and Slovakia the number of cases per social worker was reported to be much higher than legally prescribed limits. Insufficient funding for preventative social work and community-based services was also noted to be a problem and it was reported that such services are often not made available in isolated or segregated Romani neighbourhoods.

Romani children also experience various problems while in institutional care, some of which are the result of discriminatory attitudes and prejudice among children's home workers. Physical abuse and ill-treatment of Romani children by caregivers were reported in Bulgaria, the Czech Republic, Romania and Slovakia. In general, in Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia the material conditions provided to Romani and non-Romani children in children's homes was reported to be equal. However, ethnic discrimination against Romani children in the form of racist remarks and harassment by caregivers and peers was reported in the Czech Republic, Hungary, Italy and Romania. Multiple discrimination against Romani children due to their ethnicity and their status as institutionalised children also was reported in some countries in accessing public services outside the homes, such as education and health care. Romani children often do not report their experiences of discrimination or ill-treatment and when they do, it rarely leads to an improvement in their situation.

Romani and non-Romani children expressed negative sentiments about Roma during interviews. It was reported that some Romani children residing in institutional care and young Romani adults that have left State care are rejecting their ethnic identity and distancing themselves from other Roma. Most children's homes do not offer programmes to support the development of Roma ethnic identity or a positive attitude towards Roma, and very few Roma are employed in State-run children's homes.

The rate of return of Romani children to their families is extremely low across the countries of this study, with the exception of Italy which does not provide for the long-term placement of children in institutional care. The rate of return of Romani children to their families is

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low because they often enter institutional care due to poverty and material concerns which are rarely overcome. Social interventions to facilitate the return of Romani children to their biological families are largely ineffective.

For many children who enter State care, adoption represents the only option to an entire childhood in an institutional setting. For Romani children, however, the chance of adoption is significantly diminished as a result of anti-Roma racism and discrimination both inside and outside the child protection system. In all countries, adoption authorities reported that many prospective adoptive parents are not willing to adopt Romani children. There are also reported cases of adoption workers preventing the adoption of Romani children. Romani children are more likely to be adopted internationally.

Disabled children have very low chances of being adopted or placed in foster care. Romani children are much more likely than non-Romani children to be labeled as mentally disabled, and as such they are multiply disadvantaged regarding the identification of suitable adoptive families. If not adopted by persons from western countries, which is prohibited in Romania, Romani children with a disability have almost zero chance of exiting the child protection system once they get in.

Given that a high and disproportionate number of Romani children are in institutional care, that they are unlikely to return to their biological families, and that many are passed up for adoption, a great proportion of Romani children spend their whole childhood in an institutional setting.

Romani children are disadvantaged on multiple grounds when it comes to child protection placement, in-care treatment and leaving, including on the basis of their ethnicity, poverty, disability and institutionalised child status.

The existing system creates a cycle from which it is hard if not impossible to escape. Children growing up in institutions are generally forced to leave when they reach 18. In most cases they have with few or no support networks in the outside world. They again face multiple forms of discrimination as Roma, as persons raised in institutions and as persons perceived to have a disability, which result in poverty and socio-economic exclusion and may lead to multi-generational institutionalisation.

13 Recommendations

On the basis of the findings of this study, the European Roma Rights Centre, the Bulgarian Helsinki Committee, osservAzione and the Milan Šimečka Foundation offer the following recommendations:

The European Commission, Council of Europe and the Organization for Security and Cooperation in Europe should:

1. Set standards for the collection of comparable data about the number of Romani children in State care (including in institutions, foster care, other forms of alternative care and adoption), including data disaggregated by ethnicity, gender, disability and other relevant factors, with appropriate measures to protect the personal data of children and families;
2. Develop or revise children's rights and other relevant policies to ensure that Romani families and children are included as target groups in need of special protection;
3. Earmark funding for local governments and NGOs to provide prevention services in Romani communities to enable Romani children to stay with or return to their families;
4. Encourage national Governments to identify child protection as an issue that should be addressed in national Roma integration strategies;
5. Encourage national Governments to set policy objectives, benchmarks and indicators, targeted programme plans, and monitoring and evaluation systems to prevent the separation of Romani children from their families;
6. Work with national authorities to develop and fund programmes such as access to employment, health care services, quality education and housing to improve the conditions of Romani families and eliminate factors that contribute to institutionalisation;
7. Encourage national authorities to develop and use detailed definitions and methodological guidance in assessing child endangerment; and
8. Encourage national authorities to provide free legal support to families at risk of child removal, especially those endangered by discrimination and social exclusion.

National, regional and local Government actors should:

1. Amend domestic legal standards to provide full and adequate protection to Romani children and families at risk of separation, including to:
 - a. Define child endangerment in Italian, Romanian and Slovak law;
 - b. Ensure that child removal on the basis of poverty or material concerns is prohibited in Bulgaria and Romania;
 - c. Ensure regular court review of administrative decisions to place children in State care in Hungary;
 - d. Create a legal obligation to regularly collect data disaggregated by ethnicity and other relevant factors in the area of child protection;
 - e. Provide free legal support to families at risk of child removal, especially Romani families endangered by discrimination and social exclusion;

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2. Revise national child protection policy to include Romani children and families as at particular risk of endangerment in Bulgaria, the Czech Republic and Slovakia. All national policies should be reviewed for specific objectives, benchmarks and indicators, targeted programme plans, and monitoring and evaluation systems for assessing the impact of policies on Roma;
3. Annually collect comparable data disaggregated by ethnicity, gender, disability and other relevant factors, in the areas of child protection, education, housing, employment and health care, with appropriate measures to protect the personal data of children and families;
4. Develop a set of objective criteria and methodological guidance by which to define and assess child endangerment, accounting for all aspects of parental and familial contribution to the development of the child (not only material concerns), against which adequately trained social and child protection workers, guardians, notaries, judges and other competent authorities can make objective recommendations and decisions regarding the removal of children from their families;
5. Develop measures and target funding to support families who are unable to provide their children with adequate conditions and to prevent the removal of their children on material grounds. Review child protection policy with anti-poverty policies with a view to identifying any gaps and programming needs;
6. Implement positive action programmes to support Roma to access employment and quality education in line with the targets established in the Europe 2020 Strategy (75% employment, below 10% school drop-out rate and at least 40% completion of tertiary education) and relevant national policies;
7. Implement positive action programmes to facilitate the employment of Romani professionals in child protection services;
8. Make anti-discrimination and multi-culturalism training an obligatory component of school curricula for child protection and social work professionals;
9. Prioritise national funding for preventative social work programmes to reduce the number of Romani children in State care;
10. Oblige and adequately finance social work and child protection authorities to implement programmes for the return of children in State care to their families; and
11. Increase the number of preventative social workers, enabling improved community social work by reducing the caseload per worker.

Child protection services should:

1. Participate in policy making processes to ensure adequate targeting and financing of programmes;
2. Collect data disaggregated by ethnicity and other factors on all children in their care;
3. Cooperate effectively with other public services such as schools, employment offices, housing authorities and public health facilities to enable Romani families at risk of separation to improve their conditions;
4. Bring local prevention services to marginalised Romani neighbourhoods as support for Romani families at risk of separation due to poverty;
5. Promote the active participation of Romani families in all processes concerning the protection of their children;

6. Provide adequate information to Romani families about their rights and duties;
7. Conduct programmes (such as promoting Romani culture and language) and create an environment in which Romani children in institutional care feel confident to embrace their ethnic identity;
8. Attend or implement professional education and training of social and child protection workers on anti-discrimination, cultural awareness and cross-cultural communication;
9. Make anti-discrimination and multi-culturalism training an obligatory component of training programmes for prospective foster and adoptive parents;
10. Regularly review all institutional care placement decisions and decisions concerning the disability of Romani children in State care with a view to their return to family and standard education; and
11. Actively facilitate the integration of young Romani adults that leave the child protection system into society and the labour market.

Romani and pro-Romani organisations and activists should:

1. Develop strategic partnerships with social workers and child protection authorities to improve programming for Romani children and families;
2. Develop and implement campaigns targeting Romani parents to educate them about the child protection system and their rights;
3. Monitor the provision of preventative support and the process of removal of Romani children by the child protection authorities; notify relevant authorities of any cases of discrimination;
4. Help Romani children in State care to access educational (scholarship programmes, etc.) and other programmes targeting Roma outside the child protection system to increase their opportunities in adult life; and
5. Implement trainings on non-discrimination and Romani language, history and culture for child protection workers and children in State care.

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The European Roma Rights Centre (ERRC) is an international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma through strategic litigation, international advocacy, research and policy development and training of Romani activists. The Bulgarian Helsinki Committee is an independent non-governmental organisation promoting respect for the human rights of every individual, stimulating legislative reform, triggering public debate on human rights issues and carrying out advocacy for the protection of human rights. The Milan Šimečka Foundation is one of the oldest Slovak non-governmental organisations, established back in 1991. It has been involved in human rights education and democratisation since its beginning. osservAzione is a non-governmental organisation engaging in a range of activities aimed at combating racism and human rights abuse of Roma and Sinti in Italy.

Romani children are overrepresented in institutional care compared to their proportion of the population as a whole in Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia. All six countries have adopted specific laws which govern child protection matters, with the best interests of the child as the prevailing legal principle. Detailed descriptions of child endangerment and clear methodological guidelines for its assessment are lacking in all countries, which provides significant opportunity for the mis-application or subjective interpretation of relevant provisions by child protection and social workers. Many factors contribute to the overrepresentation of Romani children in institutional care, including discrimination, poverty and material conditions (such as unemployment, indebtedness and inadequate housing), school absenteeism, single parenthood and unwanted pregnancies and migration. Child abuse was considered a very small factor in the placement of Romani children in State care. Preventative measures are often inadequate, there are an insufficient number of skilled social workers and an absence of community level prevention services in isolated Romani neighbourhoods due to insufficient funding. Romani children experience physical abuse, ill-treatment and ethnic discrimination in and out of the homes. Most homes do not offer programmes to support the development of Roma ethnic identity. Given that a disproportionate number of Romani children are in institutional care, that they are unlikely to return to their biological families, and that many are passed up for adoption, a great proportion of Romani children spend their whole childhood in an institutional setting. Romani children are disadvantaged on multiple grounds when it comes to child protection placement, in-care treatment and leaving, including on the basis of their ethnicity, poverty, disability, and institutionalised child status. The existing system creates a cycle from which it is hard if not impossible to escape.



CHALLENGING DISCRIMINATION PROMOTING EQUALITY



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