

CAUSE OF ACTION

A SERIES BY THE EUROPEAN ROMA RIGHTS CENTRE



Families Divided: Romani and Egyptian Children in Albanian Institutions

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CHALLENGING DISCRIMINATION PROMOTING EQUALITY



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Introduction

There's a high percentage of Romani and Egyptian children in children's homes in Albania – a disproportionate number. These children are often put into institutions because of poverty, and then find it impossible ever to return to their families.

Because of centuries of discrimination Roma and Egyptians in Albania are less likely to live in adequate housing, less likely to be employed and more likely to feel the effects of extreme poverty. As a result, authorities may take children into care - some parents even ask for this, as they can't support their family. But under human rights law, poverty shouldn't be a reason to deny children their right to family life. States must step in to support families to stay together.

We've researched the situation, and on 6 July 2016 we made our case to the Commissioner for Protection from Discrimination in Albania claiming indirect discrimination against Roma and Egyptian children being taken into State care because of their economic situation and ethnicity. The case (and this report) focuses on one institution, the School Children's Home in Shkodra, but it reflects the wider situation across the country.

What we've seen is that authorities don't effectively prevent children going into institutions. They don't support families enough before or after their children are taken into care. They don't return children to their families, or find them a foster or adoptive family.

This failure has a very human cost.

Growing up in an institution denies children their right to respect for family life. More than that, it sets them up for a life on the margins – less likely to get an adequate education or find work. The institutions themselves vary wildly in terms of how they treat the children in their care. Roma and Egyptians may face discrimination or abuse. The institution we focus on, for example, is well known in Albania for a child abuse scandal in recent years. That's not the focus of this research, but it's a clear sign that placement in institutions is never the solution to help children living in poverty.

We want to see real change for Roma and Egyptian children who deserve a full family life. We made our complaint with national organisations: the Centre for Legal and Civil Initiatives (CLCI), the Children's Human Rights Centre of Albania (CRCA) and the Tirana Legal Aid Society (TLAS). By working together, we hope to find a better outcome for all these families.

Executive Summary

We researched the School Children's Home in Shkodra, a residential institution where children taken into care are looked after. This is what we found.

Roma Children are Overrepresented in Care

In Shkodra 20 out of the 34 children were Romani or Egyptian at the time of our research. Roma and Egyptians make up less than one per cent of the total population in Albania, so this is clearly disproportionate. Nationally, the number of children in homes, including Romani and Egyptian children, is decreasing as part of the process of deinstitutionalising child care.

Authorities Don't Prevent Children Going Into Institutions

Romani and Egyptian families in Albania earn well below the average, and adults are much more likely to be unemployed. As a result, parents may ask for their children to go into an institution because they can't support them financially. In Shkodra, most of the children were there because of economic reasons. There are other options, though. Authorities should be looking at alternatives such as providing support and turning to other family members instead of placing children into institutions because of poverty. Economic and social problems are a part of the problem at every stage.

Once in Care, It's Very Difficult for Children to Return to Their Families

No Romani or Egyptian children in the Shkodra institution had been returned to their families in the years just before our research. The length of their stay depends on their families' individual conditions. The 20 Romani and Egyptian children in this institution had all been there for at least two years, and up to six years in some cases. If the parents don't have adequate housing or a job, it becomes impossible for children to return to their families. Institutions may not allow even temporary visits home, making it hard for children to keep up a relationship with their parents. None of the Romani or Egyptian children in the institution found foster or adoptive families either.

The System is Failing Romani and Egyptian Children

There are gaps in the system and the division of responsibilities isn't clear between the different institutions. The municipality makes most decisions and the State Social Service monitors service standards. Funds are provided to the institution from the State Social Service which is run by the Ministry of Social Welfare and Youth. When there are complicated

family problems – poverty, inadequate housing, and unemployment – it’s clear that any solutions need a joined-up approach. This is just one of the factors that leads to negative effects, especially for Romani and Egyptian children.

What this report is for

We’ve created this brief report to introduce some of our litigation work to people who are interested in the actions we’re taking. We have more details available on request, including full citations for data we have quoted here.

The ERRC exists to take the cases that will improve the situation for Roma across Europe.

If you know of similar cases happening where you are, get in touch. We know that change doesn’t happen overnight, but step by step, we are determined to uncover human rights issues and to improve things.

Essential Context

The 2011 census identified only 8,301 Roma and 3,368 Egyptians in Albania, a country of around 2.8 million people.

Shkodra is a large region in the north of Albania. In 2011, Shkodra had a population of 328,607 inhabitants, of whom 82,886 were children aged 0-18 years old. There are an estimated 85 Romani families, with around 407 people in the city of Shkodra, around 0.1 % Shkodra's population.

The School Children's Home in Shkodra is a state care institution for children aged six to eighteen.

Roma in Albania: What's Happening at the National Level

ROMA AND EGYPTIAN COMMUNITIES FACE SHARP SOCIAL AND ECONOMIC PROBLEMS

Roma and Egyptians in Albania often have low levels of education, and struggle to get a job. This means they rely on state support and live in extreme poverty. As a result, they can't access social housing and live in shelters, tents or barracks. It's a vicious circle. In this context, it's not surprising that some parents ask for their children to be taken into care – they simply can't afford to look after them. But this is not a solution. It doesn't allow children their right to family life. Instead it's a failure of the local and central government to empower families to stay together, and it is incompatible with human rights principles.

MANY ROMANI AND EGYPTIAN FAMILIES LIVE IN POVERTY

The national minimum wage in Albania is 19,000 lek, as of 2014 (equivalent to around 140 EUR). Research shows that just under half of Romani families earn less than 10,000 lek, and another 35% of the families report that their monthly incomes are less than 20,000 lek.

Families don't get enough economic aid to ensure their children's wellbeing. According to the National Action Plan for the Integration of Roma and Egyptians in the Republic of Albania, 2016-2020, far too few Romani and Egyptian families are receiving the social support that they should get.

When Romani families do get economic aid, it's not enough. Families who live on economic aid can't access social housing programmes, for example, as they don't meet minimum income requirements.

THE STATE DOESN'T PROVIDE SUITABLE HOUSING FOR ROMA AND EGYPTIANS

According to the 2011 Census, 15% of Romani families lived in 'unusual' houses, which includes shelters, tents, shacks, barracks, or other types of insecure constructions. Around two thirds (67%) live in one-story private houses, 5% in adopted former warehouses, dormitories, 15% in barracks, and only 13% in apartment blocks.

In 38% of the cases, all the members of the family live in one room. A UNDP study found that many Roma live in damaged buildings (38.4%) or in barracks (20.8%); for Egyptians the percentages are 45.8% and 10.9% respectively. Romani and Egyptian families have no chance of benefiting from social housing programmes, because they usually do not meet the eligibility criteria.

The People's Advocate (Ombudsman) looked at the exclusion of Roma from social housing and recommended that Roma be exempt from the minimum-income criterion. The People's Advocate also recommended introducing local quotas so Roma can benefit from social housing. This has yet to happen.

ROMA ARE MORE LIKELY TO BE UNEMPLOYED

The unemployment rate by ethnicity is 29.4% for Albanians, 49.7% for Roma and 67.5% for Egyptians, according to a 2011 study. Almost three-quarters (74%) of Romani adults able to work are unemployed. A UNDP/World Bank study found that 38% of the Romani population aged 15-64 hadn't attended school. The authorities have not been able to help Roma families, especially parents, into work.

How We Did the Research

The report presents some key findings from a large research project in Albania.

Our desk study included an assessment of the legislation and policies on child protection with a focus on Romani and Egyptian children and families.

Our field study included interviews with heads of the State Social Service, representatives of that body's regional departments, senior management and staff members of social care institutions, parents of Romani children who had or currently have children in such institutions, and Romani and Egyptian children, as well as visits to Shkodra and other social care institutions.

Some names in the report have been changed to protect anonymity.

Our Findings, Theme By Theme

Failure to Prevent Institutionalisation

Twenty children out of 34 in the School Children's Home in Shkodra come from Romani and Egyptian families. This is massively disproportionate. Most of them are there because of social and economic problems.

Staff members at the institution told us that three of these children were found on the street and admitted by order of the State Social Service. The rest of the children were admitted following a decision of the same body.

When children's parents can't take care of them, Albania's Law on the Protection of Children's Rights shows a clear hierarchy of options:

- placing the child with other members of his/her family, i.e. members of the extended family;
- placing the child in an alternative family;
- placing the child in a social care institution.

In Shkodra, the local government and social services didn't respect this hierarchy, and placed children directly into the School Children's Home.

Families are often in desperate situations when they ask authorities to help.

"Mum brought us [to the institution] out of misery, because she does not own a house and is very sick. Mum tells us to have patience until she can get a house, but I'm fed up. Please help my mum, because she is too ill and weak to go out and beg with my little brother".

A Romani girl writing to the Prime Minister for help from the School Children's Home in Shkodra

Failure to Return Children to Their Families

When Romani and Egyptian children go into an institution, it's very hard for them to leave. Of the seven children from the School Children's Home in Shkodra who returned to their families in 2015 and the first three months of 2016, none of them were Romani or Egyptian. No Romani or Egyptian children were returned to their biological families in 2014 either.

INSTITUTIONS AREN'T FOCUSED ON RETURNING CHILDREN TO THEIR FAMILIES

Most of the Romani and Egyptian children in the institution have parents or other relatives who continue to show an interest and want to maintain a relationship with them. There's a

clear procedure the authorities should follow to return children to their families if their parents show an interest. A government instruction from 2015 says the authorities should prepare the documentation to return children within 12 months and support these families to live together.

When children go into care, the institution should draft a plan for their future, including their return to their family. But when we asked the School Children Home of Shkodra about how long children stayed in the institution they told us: from age 6 to age 18. This suggests showing that returning children to their biological families is not seen as a priority.

SOCIAL AND ECONOMIC ASSESSMENTS AREN'T WORKING

For children to go back to their biological families, the authorities need to do a social and economic assessment and to see improvements. The authorities haven't carried these out for the Romani and Egyptian children in the School Children's Home on a regular basis.

Even if they do an assessment, the situation of the families is unlikely to have changed unless the authorities have offered support. This means children are may be stuck in institutions indefinitely.

Romani and Egyptian families have asked to take their children back permanently or temporarily, but haven't been successful. Courts hesitate to transfer custody from the institution back to the child's biological parents or relatives without a better assessment of their social and economic situation at the local level. When it comes to court, Romani and Egyptian families may find it hard to get the information they need and can't access free legal aid. This is another barrier to the right to respect for family life, and it is incompatible with human rights law.

CHILDREN CAN'T GO BACK, EVEN FOR TEMPORARY STAYS

The social and economic assessment also stops children from making temporary visits to their families. Children can't go back for any length of time unless the authorities have seen that the situation has improved. The state social services reminded social care institutions this was the case in a letter in September 2015. According to this letter:

“When children are under the legal custody of their parents, but receive services at a Care Centre, they may leave the institution temporarily or permanently only when the socio-economic assessment done by the CPU/social administrator shows an improvement of the conditions of their biological family. Upon temporary/permanent departure of a child for his/her biological family, the Chief of the Social Sector/Social Worker notifies the respective CPU/Social Administrator of the need to monitor the child in his/her family. The CPU/Social Administrator must have information about the child at any time this might be necessary”.

In some cases, children have not been allowed to stay with their families for holidays like the New Year or birthdays because of the risks they would potentially face. This is a disproportionate approach. The Child Protection Unit has a legal obligation to monitor the situation of children at risk under Albania's Law on Protection of Children's Rights, but it could do this

by supervising visits, not preventing them. The social administrator or local NGOs could also contribute to monitoring. Staff from the institution could easily inform the relevant institutions of any family visits.

FAMILIES HAVE TO TRAVEL TO STAY IN TOUCH WITH THEIR CHILDREN

Local authorities have an obligation to provide social services to the community. When these services are not provided, and children end up in institutions such as the one we looked at in Shkodra, families have to travel frequently to see their children, far from where they live. These families are living in poverty and have other children, so this is not a sustainable way for them to stay in touch.

The School Children's Home has invited Romani and Egyptian families to the institution, and, in cooperation with the Hope for the World Foundation, reimbursed their transport costs. But this isn't enough. One mother had to travel from Tirana some 90 minutes to Shkodra to see her three children in the institution. She was not able to take her youngest child with her every time, so the siblings did not see each other. Another mother travels two hours from Fier with her youngest children.

The social and economic difficulties of the families shouldn't be a reason to stop children from staying temporarily with their families. Temporary stays are an important way to establish or maintain relationships with siblings and other family members.

STREET CHILDREN HAVE NOWHERE TO GO

In some cases, street children have stayed for two years in this institution under an urgent admission order. Authorities should empower their families and manage the case, or else find alternative options, but this isn't happening.

According to an international study on street children in Albania, 74.3% (581 out of 782) of the street children are Romani or Egyptian. So the effects of institutionalisation on these children are clear, regardless of the intention.

Failure to Find Foster Families

If children can't return to their families, there should be an option to stay with a foster family. This is a legal obligation for the local government. Between 2013 and 2015 no Romani or Egyptian children left the School Children's Home to stay with foster families.

The municipality department for social aid and care or legal professionals should choose suitable families. The municipality should establish a multi-disciplinary custody committee to check that families meet the criteria. This evaluation is meant to be sent to the section for social aid and care at the municipality, so that they can proceed with the further procedures before the district court in the jurisdiction where the child's family lives.

It's concerning that Romani and Egyptian children aren't being given the option to live with foster families, at least temporarily. And for children who don't have families to go back to, there have been no cases of adoption either.

CHILDREN ARE TRAPPED IN INSTITUTIONS INDEFINITELY

Romani and Egyptian children aren't able to return to their own families. They're not leaving the institution for foster families. And they're not being adopted. In other words, these children have no options for a family life outside this institution. All of them have been at the School Children's Home in Shkodra for at least two years, some as long as six years.

When deciding on whether to call a place an "institution", UNICEF looks at "whether the children have regular contact and enjoy the protection of their parents or other family or primary caregivers, and whether the majority of children in such facilities are likely to remain there for an indefinite period of time".

There's no evidence that the School Children's Home and other state care institutions and especially the relevant local authorities are seriously looking at deinstitutionalisation. By placing poor Romani and Egyptian children in institutions, and especially by not undertaking effective measures to strengthen their biological families or provide alternative options where appropriate, the authorities are denying these children the right to respect for their family life.

LAW IN ACTION: WHAT WE ARE DOING

We already mentioned that we put a case to the Commissioner for Protection from Discrimination in Albania, along with other NGOs, about the School Children's Home in Shkodra. On 30 December 2016, the Commissioner made a series of recommendations to the authorities, particularly the Ministry of Social Welfare of Youth and the State Social Service. She recommended that they undertake better monitoring and that they intervene immediately to ensure respect for the family life of the children in the institution, including providing support for the families and ensuring that the children can see their families more often. The Commissioner also recommended that the authorities take steps to ensure that children are returned to their families.

We've been also supporting two families to get their children back. These are cases that are pending before the civil courts. They are difficult cases and the ERRC does not have sufficient resources to take cases on behalf of and follow up with all of the families, who need social support in addition to legal aid. What is needed is systematic change. In Albania, it is not possible for an NGO to bring a case in its own name to challenge a pattern of discrimination, like in some other countries. But we are also helping these families bring separate legal cases in Albania's administrative courts claiming that the authorities discriminated against them by placing their children in an institution where there is a disproportionate number of Romani and Egyptian children. We hope this will ensure not only that this and other institutions are closed, but that the authorities take the steps needed to make sure that Romani and Egyptian families have the support to which they have a human right, so their families can stay together.