

LIFE SENTENCE

A REPORT BY THE EUROPEAN ROMA RIGHTS CENTRE



Romani Children in State Care in the Czech Republic

JUNE 2011

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Kateřina Hrubá conducted the legal and policy review for this study. A team of researchers spent nine weeks performing field research: interviews were performed by Anna Pokorná in the Karlovarský region, Barbora Spalová and Petr Matoušek in the Ústecký region, Kateřina Wildová in the Středočeský region, Kateřina Vojtúšková in the Moravskoslezský region and Štěpán Helešic in the Zlínský region. Štěpán Ripka and Eliška Ripková analysed the data and produced a comprehensive field research report, which was further commented on by Marek Hojsik and Kateřina Hrubá.

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2 Introduction

This study aims to map the current position of Romani children within the system of socio-legal protection of minor children in the Czech Republic, with special emphasis on their potential discrimination and segregation within the institutional care system.

High numbers of children up to 18 years of age do not live with their biological families in the Czech Republic, including high numbers of children living in institutional care. The numbers have not decreased over the last ten years. According to a Report on the State of Human Rights in the Czech Republic in 2009, approximately 22,000 children live in state-run institutions.¹

Romani children under three years of age form about 3% of the total population of children under three. Data disaggregated by ethnicity on the institutionalisation of children is available only for children under three years of age. The latest official data found 419 out of 1,391 (30%) Romani children under three years of age living in infant institutions and homes for children under three years of age. Neither the proportion nor the absolute number of Romani children living in these institutions has significantly varied since 1995.²

The Czech socio-legal protection system has been strongly criticised by foreign experts over the last ten years. The Committee on the Rights of the Child (CRC) expressed its deep concern about the disproportionately large numbers of children placed into institutional care and the related data collection, which has not been sufficiently developed nor focused on vulnerable and disadvantaged groups.³ The Committee for the Elimination of All Forms of Racial Discrimination (CERD) articulated deep concern that excessively high numbers of Romani children are separated from their families and placed into institutional care and recommended that the Czech Republic eliminate indirect discrimination against Romani children on the grounds of their cultural identity.⁴ The lack of relevant official statistical data about the representation of Romani children in institutional care was confirmed by Eurochild during research in 2009.⁵

1 Nearly 8,000 were institutionalised by court decision; in the remaining cases parental requests led to institutionalisation. Government of the Czech Republic, Report on the State of Human Rights in the Czech Republic in 2009 (2009), p. 85, 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/>.

2 The absolute number was at its lowest in 2007 (392 Romani children) and highest in 1996 (537 children) and the rate of Romani children varied around 29%. Source: Institute of health information and statistics of the Czech republic (IHIS), *Table of the distribution of Romani children in infant homes and homes for children under three years of age, 1995 – 2009*. Data provided in response to researcher request.

3 Committee on the Rights of the Child, *Concluding Observations: Czech Republic* (18 March 2003), paras 20 and 44, available at: <http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/8d1d33234e16f309c1256d2b004a7845?Opendocument>.

4 Committee on the Elimination of Racial Discrimination, *Concluding observations: Czech Republic* (11 April 2007), para 17, available at: <http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/ae54ef3262cacae6c12572ed04a2b20?Opendocument>.

5 Eurochild, *Children in Alternative Care*, (January 2010), pp. 33-42, available at: <http://www.eurochild.org/en/policy-action/children-in-alternative-care/index.html>.

INTRODUCTION

This report presents the results of desk and field research conducted in 2010 and 2011. It provides a picture of the current situation of Romani children within the socio-legal protection system of children in the Czech Republic, with special attention to the situation of Romani children within the system of institutional care.

3 Methodology

The research for this study was conducted in three stages.

During the first stage, a desk review of all relevant Czech legislation, policies and literature related to child protection and Roma in the Czech Republic was undertaken. Interviews were conducted with professionals involved in the preparation of legislation and concepts and/or their practical application. This research mapped the child protection and adoption system in the Czech Republic, seeking to identify whether the existing legal and policy framework encouraged or discouraged the disproportionate placement of Romani children in institutions.

During the second stage, field research was conducted by six researchers in five regions of the Czech Republic. Four regions with a significant Romani population – the Karlovarský region, Ústecký region, Středočeský region and Moravskoslezský region – and one region with a smaller Romani population, the Zlínský region, were included. A total of 230 interviews were conducted involving representatives of state institutions, NGOs, Romani children in institutional care and Romani families who had their children removed and placed into state care (or were threatened with such measures). Forty-one primary interviews with Romani parents living in diverse places (in rural areas, in socially excluded urban communities and in reception centres for mothers with children) were carried out, and 60 Romani children living in 14 different state-run institutions were interviewed. In addition, available statistical data from relevant state institutions and secondary sources were gathered during the field research.

During the third stage, the main research findings were presented and discussed at four roundtables in November 2010 in Ostrava, Prague, Ústí nad Labem and Aš. The results of roundtable discussions were considered in the finalisation of this report.

This report is based on the analysis of the results of this work. This research is not representative. Rather, it aims to present an accurate description of the situation of Romani children vis-à-vis State care in the Czech Republic based on a wide range of interviews with relevant stakeholders. The research focuses on the situation of children in children's homes: visits were not made to children in foster care or placed with extended families.

4 Executive Summary

Research has shown that the socio-legal system of child protection is full of flaws and gaps preventing its effective functioning and leading to excessive institutionalisation of children. Problems were found in the work performed by socio-legal protection authorities and courts in preventing the institutionalisation of children and supporting family reunification. Despite broad, conceptual efforts toward reform by the Czech state, changes to the socio-legal protection system to date have had minimal impact in terms of reducing child endangerment or the number of children institutionalised in the country.

Research for this study has shown that Romani children are overrepresented in institutional care in the Czech Republic. According to official data, the number of Romani children under three years of age among all children under three in institutional care ranged from 27% to 32% between 1999 and 2009.⁶ According to unofficial expert estimates, the total number of Romani children in institutional care amounts to 30 - 60%.⁷ In 17 out of 22 children's homes visited during research, Romani children were reported to comprise 302 of 776 (39%) children living in institutions. Czech authorities do not collect official data disaggregated by ethnicity concerning children above the age of four in institutional care.

The socio-legal protection system has several weaknesses, as revealed by the legislative, policy and field research. These include: the fragmentation of the socio-legal protection agenda among three central ministries leading to insufficient coordination,⁸ insufficient numbers of duly qualified social workers leading to the lack of effective primary prevention efforts and the unnecessary placement of children in institutional care; the absence of measurable progress indicators for the transformation efforts; and a lack of common quality standards or supervision for the provision of care to at-risk children.

During the research, poverty-related factors were most frequently reported as the reason for child removal in the case of Romani families. Housing problems, particularly the lack of emergency housing and social housing, were noted to be the most frequent factors leading to the removal of children from their families. Financial challenges faced by Romani families often lead to loss of housing and the inability of Romani families to send their children to school. Low school attendance was also reported to be a frequent source of referral to socio-legal protection authorities to justify close observance of families and eventual child removal.

⁶ Institute of health information and statistics of the Czech republic (IHIS), *Table of the distribution of Romani children in infant homes and homes for children under three years of age, 1995 – 2009*. Data provided in response to researcher request.

⁷ Interview with a representative of the Centre for Alternative Family Care, Prague, Czech Republic: 7 June 2010. Interview with a representative of the Ministry of Education, Youth and Sports, Prague, Czech Republic: 21 June 2010.

⁸ "Analysis of Current State of Institutional Provision of Care for At-Risk Children" and related conceptual documents available at: <http://www.mpsv.cz/cs/9447>. Interview with a representative of the Ministry of Labour and Social Affairs, Prague, Czech Republic: 18 June 2010.

In the Czech Republic, there is a general lack of preventative measures which would lower the number of Romani children entering institutional care. Socio-legal protection authorities often do not intervene until at-risk families reach a crisis point that results in the institutionalisation of their children.

Parental interests and concerns are not adequately represented in courts during the relevant proceedings. Courts rely heavily on the socio-legal protection authority's assessment of the family situation, without further detailed investigation of individual cases.

Romani parents who are insufficiently informed of their rights and their children's rights often become resigned to separation and do not request the return of their children.

In practice, after a child is institutionalised, socio-legal protection and other authorities do not work systematically with families to improve their situation and facilitate the return of children to the family. Therefore, the rate of reintegration of institutionalised Romani children with their families is low. Some exceptions to this rule can be found in NGO-led programmes.

Many adoptive and foster parents are reportedly unwilling to accept Romani children, which also leads to the overrepresentation of Romani children in institutional care.

The development of a Romani identity is not supported by state care institutions. The overall concept is the re-education of Romani children and integration into the majority society. This approach does not prepare children for the outside world, as educators within institutions duly acknowledge.

5 The Situation of Roma in the Czech Republic

Roma constitute the largest minority in the Czech Republic. In the Czech Republic, Roma are estimated to constitute approximately 3% of the total population.⁹ Roma are in a particularly vulnerable position in the Czech Republic because individual and systemic discrimination against members of this group has not been addressed properly. According to the results of a statistical survey on minorities and discrimination in the European Union published by the European Union Agency of Fundamental Rights (FRA), 64% of Roma in the Czech Republic reported having experienced discrimination based on their ethnicity in the 12 months prior to the survey. The same survey found that 66% of Czech Roma do not report the vast majority of discrimination experiences.¹⁰

The recent wave of violence and demonstrations by neo-Nazis has been the strongest in the extreme right's post-communist history.¹¹ The majority population continues to hold predominantly negative perceptions of the Romani minority; 82% of Czechs perceive relations between the majority population and the Romani minority to be bad.¹² A high level of discrimination against Roma persists especially in the areas of education, housing, employment and access to other social goods,¹³ which leads to high levels of poverty and exclusion.

The World Bank has reported that 25% of Roma in the Czech Republic live below the poverty line¹⁴ and that over 50% of working-age Roma are unemployed.¹⁵ In socially excluded

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

10 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.

11 In November 2008, 1,000 police officers were deployed to keep order as rampaging neo-Nazis tried to march against Roma at the Litvinov Janov housing estate, setting fire to police vehicles and pelting the police with rocks and bottles resulting in injuries to 17 people. In subsequent months, extremists continued to drum up pressure against the Romani community in Litvinov and elsewhere in the country. Anti-Roma violence and vitriol in the Czech Republic have continued unabated in 2009. In April 2009, attackers firebombed the home of a Czech Romani family, causing severe injury to a two-year-old girl, suffering third-degree burns over 80% of her body. See: ERRC, „ERRC Calls on Canada to Press Czech Republic on Anti-Romani Discrimination“, press release, 15 July 2009, available at: <http://www.errc.org/cikk.php?cikk=3043>.

12 According to research published in April 2010 by the Center for Public Opinion Research (CVVM), relations with Roma were rated “poor” by 82% of respondents, of whom 33% rated relations with Roma as “very poor”. Only 13% of Czechs rated relations with Roma as “good”. According to the CVVM, the results of similar research conducted between 1997 and 2010 show that the current level of negative sentiment toward Roma is the worst in the last 14 years. See: <http://www.cvvm.cas.cz/index.php?lang=0&disp=zpravy&r=1&shw=101037>.

13 See: Government of the Czech Republic, *Reports on the State of Human Rights in the Czech Republic*, (2008 and 2009), available at: <http://www.vlada.cz/scripts/detail.php?pgid=302>. Government Council for Roma Community Affairs, *Reports on the Situation of Romani Communities in the Czech Republic* (2008 and 2009), available at: <http://www.vlada.cz/scripts/detail.php?pgid=490>.

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

15 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>.

Romani communities, the level of unemployment can reach 70 – 100%.¹⁶ According to the FRA's 2009 statistical survey findings, 45% of Roma in the Czech Republic reported discrimination in access to employment.¹⁷

Starting from an early age, Roma are subjected to systemic discrimination through different forms of segregation and discriminatory treatment in access to equal education: 26.7% of all Romani pupils attend segregated elementary schools with a reduced curriculum for children categorised as having a light mental disability whereas only 2.17% of non-Romani pupils follow this substandard curricula.¹⁸ According to a 2008 report of the Open Society Institute, only 1.2% of Romani children complete secondary school in the Czech Republic.¹⁹

Discriminatory practices by private landlords and municipalities are an obstacle to the equal access of Roma to adequate housing; at least 300 socially excluded Romani communities with substandard housing exist in the Czech Republic.²⁰ Substandard housing negatively impacts the health conditions of the Romani population.²¹

The stagnation or gradual worsening of the situation of Roma is apparent when current figures are compared to similar data from the previous ten years, indicating that instruments implemented by the Czech Government to encourage integration are not sufficient.²²

16 The average unemployment rate amounted to only 8% in 2009 in the Czech Republic. Government Council for Roma Community Affairs, *Report on the Situation of Romani Communities in the Czech Republic* (2009), p. 51, available at: <http://www.vlada.cz/cz/ppov/zalezitosti-romske-komuniti/dokumenty/zprava-o-stavu-romskych-komunit-v-ceske-republice-za-rok-2009-73886/>.

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

18 Monitoring by the Institute for Information in Education in 2009 confirmed persistent segregation and unequal opportunities for Romani children in the educational system. Government Council for Roma Community Affairs, *Report on the Situation of Romani Communities in the Czech Republic* (2009), p. 38–44, available at: <http://www.vlada.cz/cz/ppov/zalezitosti-romske-komuniti/dokumenty/zprava-o-stavu-romskych-komunit-v-ceske-republice-za-rok-2009-73886/>.

19 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.

20 GAC Ltd., *The Analysis of Socially Excluded Romani Localities in the Czech Republic and the Absorption Capacity of the Participants Involved in this Field* (2006), available at: <http://www.esfcr.cz/mapa/index.html>. GAC Ltd., *Longterm Monitoring of the Situation in Romani Localities – Czech Localities* (2009), available at: <http://www.vlada.cz/cz/ppov/zalezitosti-romske-komuniti/dokumenty/dlouhodoby-monitoring-situace-romskych-lokalit-ceske-lokality-70628/>.

21 Government Council for Roma Community Affairs, *Romani Population and Health – The Czech Republic* (2009), available at: <http://www.vlada.cz/assets/ppov/zalezitosti-romske-komuniti/dokumenty/Sastipen.pdf>.

22 Government statement on the occasion of the adoption of The Concept on Romani Integration for the Time Period 2010 – 2013, available at: <http://www.vlada.cz/cz/ppov/zalezitosti-romske-komuniti/dokumenty/koncepce-romske-integrace-na-obdobi-20102013-71187/>. UN News Centre, „UN human rights chief voices concern about abuses in Iran, Sri Lanka“, press release, 5 March 2010, available at: <http://www.un.org/apps/news/story.asp?NewsID=33967&Cr=pillay&Cr1>.

6 The Czech Legislative, Policy and Institutional Framework for Child Protection

6.1 Relevant Law and Policy

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.²³ 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 an upbringing and care by their parents. It also establishes that the State should provide assistance to parents who are raising children. In 2007, the Czech Government officially expressed a preference for childcare within the family environment and its intention to limit the scope of institutional care.²⁴

Act No. 94/1963 Coll. on Family (Family Act), Act No. 359/1999 Coll. on the Socio-Legal Protection of Children (SLP Act) 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 (Institutional Care Act) further elaborate the Constitutional norms.²⁵ There are no special protections against discrimination within the Family Act, the SLP Act or the Institutional Care Act; therefore relevant international legal instruments,²⁶ constitutional norms and Act No. 198/2009 Coll. on Anti-Discrimination²⁷ apply.

The Family Act regulates the rights and duties of family members and the basic elements of family life, as well as the various forms of alternative family and institutional care. The SLP Act functions as a procedural norm, regulating the responsibilities of the relevant authorities and the rights and duties of children/parents in the socio-legal protection system. The Institutional Care Act regulates the operation of institutional care and the rights and duties of institutionalised children and their biological parents. As of today, a special Children's Rights Act has not been adopted in the Czech Republic.

23 *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.

24 *Policy Statement of the Czech Government (2007)*, available at: <http://www.vlada.cz/scripts/detail.php?id=20780>.

25 *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_1=94/1963&PC_8411_ps=10#10821. *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=. *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*, available at: http://portal.gov.cz/wps/portal/_s.155/701?number1=109%2F2002&number2=&name=&text=.

26 Above all: United Nations, *International Convention on the Elimination of All Forms of Racial Discrimination*, available at: <http://www2.ohchr.org/english/law/cerd.htm>; and United Nations, *Convention on the Rights of the Child*, available at: <http://www2.ohchr.org/english/law/crc.htm>.

27 *Act No. 198/2009 Coll., of 23 April 2008, Act on equal treatment and on the legal means of protection against discrimination and on amendment to some laws (the Anti-Discrimination Act)*, available at: <http://www.ochrance.cz/en/discrimination/anti-discrimination-act/>.

Act No. 99/1963 Coll., the Civil Procedure Code and Act No. 500/2004 Coll., the Code of Administrative Procedure establish relevant court and administrative procedures and procedural legal norms. A decision by a civil court is required in all cases in which a child is placed into institutional or other forms of alternative family care during special court proceedings.²⁸

Relevant laws are implemented through regulations²⁹ adopted by various ministries which are binding on all authorities. For some issues, ministries adopt official recommendations, instructions and opinions intended to unify and improve the quality of application but which are not legally binding.

The SLP Act defines the socio-legal protection of children as protecting the child's right to positive development and a proper upbringing, protecting the child's justified interests, including protection of his/her property, and efforts aimed at restoring the impaired functions of a family. As a rule, all children residing in the Czech Republic are protected.³⁰

The "child's interest" is used in relevant legislation although there is no detailed definition of this concept.³¹ The concept of an "at-risk child" is not explicitly defined in Czech law. The meaning of this term derives from the legal definition within the scope of the SLP Act through examples of children who shall be supervised by socio-legal protection authorities.³²

The SLP Act does not reference children from particular minority groups that are in need of special protection. Nor does it explicitly ban the institutionalisation of children on the basis of poverty or material reasons. However, the Czech Constitutional Court has confirmed that economic and social material conditions are not acceptable as the exclusive grounds for family separation.³³ In January 2011 the Czech Supreme Court issued an official opinion which all Czech courts must comply with, finding that material shortages, poverty and insufficient housing conditions can not be reasons for placing a child into institutional care.³⁴

28 *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.*

29 *Decree of the Ministry of Health No. 242/1991 Coll., on the system of health facilities founded by district authorities and municipalities; Decree of the Ministry of Education, Youth and Sports No. 438/2006 Coll., implementing Act No. 109/2002 Coll.; Decree of the Ministry of Education, Youth and Sports No. 458/2005 Coll., regulating organisational details of social-educational care in care centres; Decree of the Ministry of Education, Youth and Sports No. 60/2006 Coll., on assessment procedures of psychological capability of pedagogical workers in school institutions for preventive upbringing care; Decree of the Ministry of labour and social affairs No. 505/2006 Coll., implementing some provisions of the Social Services Act. Available at: www.mzcr.cz, www.msmt.cz and www.mpsv.cz.*

30 *SLP Act*, Section 1.

31 *SLP Act*, Section 5. *Family Act*, Sections 27, 31, 45 and 46.

32 According to Section 6 of the SLP Act, attention shall be paid to children in cases when a) the child's parents have died; they fail to meet their obligations arising out of parental responsibility; they fail to exercise or abuse rights of parental responsibility; b) the child leads a truant or immoral life; c) a crime was committed against the child that threatened his or her life, health, freedom, human dignity, moral development or property, or there is a suspicion such a crime was committed; d) children, repeatedly placed by parental request into institutions providing constant childcare or placement for more than 6 months.

33 Constitutional Court of the Czech Republic, Ruling II. ÚS 838/2007 (10 October 2007), available at: www.concourt.cz.

34 See: 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.

In practice, a child at-risk has come to be defined as a child whose basic biological, physical or social needs are not sufficiently met.³⁵ A Methodical Recommendation from the Ministry of Labour and Social Affairs provides social workers with a more detailed overview of factors to evaluate when performing socio-legal protection work with families, including the physical, social and emotional state of a child, the parental capacity to care for the child and broader family relations and environment (explicitly including housing, employment and financial situations).³⁶

Three ministries are responsible for child protection matters in the Czech Republic: the Ministry of Labour and Social Affairs (MoLSA), the Ministry of Education, Youth and Sports (MoEYS) and the Ministry of Health (MoH).³⁷

MoLSA prepared the National Action Plan for Transformation and Unification of the System of Care for At-Risk Children 2009-2011 (NAP),³⁸ which is currently the main policy for child protection in the Czech Republic. Its main targets for transformation include improvement of the quality and accessibility of services for at-risk children and families,³⁹ unification of procedures applied by SLP workers in addressing an at-risk child's situation,⁴⁰ reduction of the numbers of children placed in any type of long-term institutional care through enhanced preventative social work and increased numbers of qualified social workers, and supporting the development of the child's personality. All planned measures apply to all professionals involved within the SLP system and all elements of the system. MoLSA is responsible for implementing and coordinating the transformation process. Since 2007 MoLSA has also implemented the Process of the Transformation of Social Services,⁴¹ focusing on the individualisation and deinstitutionalisation of the social care system, which should reduce the number of children placed in institutions operated under the MoLSA.

The Ministry of Education, Youth and Sports prepared its Framework Concept for the Transformation of the Alternative Care System for At-Risk Children in School Institutions

35 The *Report on the State of Human Rights in the Czech Republic* (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. The *National Action Plan of Transformation and Unification of the System of Care of At-Risk Children 2009 – 2011*, available at: <http://www.mpsv.cz/cs/7259>, defines an at-risk child as a child whose basic needs are not met sufficiently and is endangered by risky behaviour.

36 Methodical Recommendation No. 2/2009, on Evaluation of the Situation of Children in Complicated Social Situations, Methodical Recommendation No. 3/2009, on Individual Plan of Care for a Child, Methodical Recommendation No. 9/2009, on Social Work with At-Risk Families, all available at: <http://www.mpsv.cz/cs/9084>.

37 *Act No. 2/1969 Coll., on the establishment of ministries and other central state administration authorities in the Czech Republic*. The Ministry for Local Development and the Ministry of Finance influence the care of children with their activities.

38 Government Resolution No. 883 of 13 July 2009. All MoLSA materials on the transformation process are available at: <http://www.mpsv.cz/cs/7259>. The NAP points to fragmentation, insufficient coordination and disjointed concepts as the main weaknesses of the SLP system.

39 By establishing common quality standards of care for at-risk children, life-long education for social workers, shifting the emphasis to primary prevention to prevent the unnecessary placement of children into institutional care, optimising the supervision and funding of the SLP system.

40 By case conferences and individual work plans with clients.

41 Information available at: <http://www.mpsv.cz/cs/7058>.

for Institutional Care, which aims at deinstitutionalisation of the system and the improvement of conditions for institutionalised children in homes under the MoEYS. This Concept uses the NAP as its starting point and summarises planned activities within the MoEYS's area of responsibility.⁴²

Romani children have not been explicitly mentioned in any policy materials as a group in need of increased attention or special protective measures.

In November 2009, the Czech Committee on the Rights of the Child⁴³ set its priorities for 2009 – 2012, including the effective implementation of the participative rights of children and respect for the rights of institutionalised children. The establishment of the position of Defender of Children's Rights has been identified as a goal, but this has not yet happened.

6.2 The Institutional Framework for Child Protection

The Ministry of Labour and Social Affairs (MoLSA) is responsible for the greatest share of activities within the socio-legal protection system. MoLSA oversees the system of social work for at-risk children under the Socio-Legal Protection Authority, the social service system and alternative family care,⁴⁴ regardless of whether the child lives with his/her own family, in alternative family care or in institutional care, responsibility for which is split between MoLSA, MoEYS and MoH.⁴⁵ MoLSA is responsible for social care homes for children with health disabilities and facilities for children requiring immediate assistance. MoLSA also monitors the work of regional socio-legal protection authorities, functions as the second instance during intermediation of foster care and domestic and international adoption and keeps a national register of non-State actors providing socio-legal protection for children.⁴⁶

The Ministry of Health is responsible for the care of the children up to one year of age in infant institutions and homes for children under the age of three.⁴⁷ No new infant institutions are established in practice; with the introduction of child care centres, the partial transformation of infant institutions and homes for children under three is taking place, providing more comprehensive services to the whole family. Child centres function in several regions as pilot

42 Available at: <http://www.msmt.cz/socialni-programy/transformace-institucionalni-vychovy?lang=1>.

43 The Czech Committee on the Rights of the Child sits within the Czech Government Council for Human Rights, an advisory and working body of the Czech Government. See: <http://www.vlada.cz/cz/ppov/rlp/vybory/pro-prava-ditete/uvod-55932/>.

44 Alternative family care includes foster care, adoption, care of a natural person other than the parent or guardianship in cases when a guardian takes care of a child personally.

45 Interview with a representative of MoEYS, Prague, Czech Republic: 21 June 2010. The MoH can not influence how many children are placed into institutions within its competency, nor can it influence how many of those children may return home. Interview with a representative of the MoH, Prague, Czech Republic: 11 June 2010.

46 The SLP Act allows non-state entities, natural or legal persons authorised by a regional authority to perform particular tasks within the socio-legal protection system.

47 Act No. 20/1966 Coll., on Care of People's Health, Decree of Ministry of Health No. 242/1991 Coll.

projects and are more focused on family re-unification. Legislation on this type of institution has not yet been adopted.⁴⁸

The Ministry of Education, Youth and Sports (MoEYS) is responsible for diagnostic institutions, children's homes and residential educational institutions for children between the ages of three and 18 years (collectively referred to as school institutions).⁴⁹ Institutional care under the MoEYS is regulated by the Institutional Care Act. Comprehensive analysis of a child's situation and problems should take place within eight weeks in a diagnostic institution, and an individual plan for each child should be prepared, after which a child is placed into a children's home or residential educational institution.⁵⁰ Children placed in residential educational institutions have major behavioural problems and cannot be educated in schools outside the home. MoEYS works with the families of children placed in these institutions and monitors the observance of children's rights.⁵¹

The Ministry of Interior, responsible for the Czech police forces, is also responsible for preventing socio-pathological phenomena in families and detecting and addressing criminality against children.⁵² The Ministry of Justice oversees civil and criminal court proceedings, including those related to decisions on alternative care. Following decisions concerning institutionalisation, the court should examine the child and the family's situation at least once every six months and remove the child from institutional care if the reasons that led to institutional care have been resolved.

Supervised by the MoLSA, local SLP authorities are obliged to monitor protection of the rights of children in State care and evaluate whether there are still reasons for the child to remain in the institution.⁵³ Local SLP authorities are required to visit institutionalised children and their families every three months to help resolve family difficulties and enable the child's return to the family.⁵⁴ Regional and municipal authorities are also involved in the socio-legal protection of children.⁵⁵ Regional authorities are responsible for monitoring and providing methodological support to local SLP authorities, and work with the MoLSA in the intermediation process for alternative family care.⁵⁶ Municipal authorities perform the majority of the responsibilities set out in the SLP Act: in

48 Interview with a representative of the MoH, Prague, Czech Republic: 11 June 2010.

49 *Act No. 561/2004 Coll., on Pre-School, Primary, Secondary, Further and Other Education (School Act)*.

50 There are indicators that the practise is different. For example, between 2006 – 2007 the average duration of a diagnostic stay was 5.5 months. Ministry of Interior, *Evaluation of the Care of At-Risk Children* (June 2008), available at: <http://web.mvcr.cz/archiv2008/dokument/2007/prevence/mladez1016.html>.

51 *Institutional Care Act, School Act*, and their implementing regulations.

52 The MoI is implementing the project "The System of Timely Intervention and the Team for Youth" (STI) elaborated by the MoI in cooperation with the Probation and Mediation Service. It seeks interconnection between relevant entities involved in protecting children at any kind of risk (SLP authorities, police forces, probation and mediation officers, schools, physicians, NGOs) to solve cases of at-risk children in time. See: <http://www.mvcr.cz/clanek/seznamte-se-odbor-prevence-kriminality.aspx>.

53 *SLP Act*, Section 29.

54 *SLP Act*, Section 12(2).

55 *SLP Act*, read together with *Act No. 128/2000 Coll., on Municipalities* and *Act No. 129/2000 Coll., on Regions*.

56 *Act No. 129/2000 Coll., on Regions*.

particular, they work directly with families and perform preventative and counselling activities.⁵⁷ Municipalities and regions provide cultural, sports and other special-interest and educational activities and may establish childcare counselling resources and social and recreational resources for children, as preventative and supportive measures for families with children.⁵⁸

Commissions for Socio-Legal Protection operate as special administrative municipal bodies with municipalities that have extended powers to coordinate SLP implementation, propose and evaluate preventative programmes and assess individual cases of at-risk children.⁵⁹

Non-governmental organisations, natural or legal persons authorised by a regional authority can perform particular tasks within the socio-legal protection system.⁶⁰ They may establish socio-legal protection facilities and provide services within the alternative family care intermediation process. They are subject to the same control and evaluation as State-provided services.

Institutional care facilities (falling under the MoLSA, MoH and MoEYS) are established by regional authorities, municipalities or NGOs; very exceptionally do the competent ministries directly establish institutions.

All national SLP authorities are financed directly through the national budget. Activities implemented by municipalities and regions under their autonomous powers are financed through the budgets of the respective municipality or region. In principle, other persons authorised to provide socio-legal protection should self-finance their activities, with NGOs primarily using grants from public budgets and/or private donors.

6.3 Child Protection Processes

When the SLP authority reaches the conclusion that it is not in the child's interest to stay with the biological family, they propose the placement of the child in an alternative family or in institutional care to the court. As a rule, courts seek the opinion of the SLP authority concerning the appropriateness of the intended or proposed measures.⁶¹ Courts should also appoint a child's guardian to represent the child's interests, usually exercised by the SLP authority.⁶²

57 *Act No. 128/2000 Coll., on Municipalities; Act No. 314/2002 Coll., on Municipalities with Delegated Municipal Office and on Municipalities with Extended Powers; Decree No. 388/2002 Coll., regulating the administrative districts of municipalities set by Act. No 314/2002 Coll. Municipalities with extended powers.* A list of municipalities with extended powers is available at: <http://www.czso.cz/csu/2010edicniplan.nsf/p/1302-10>.

58 *SLP Act*, Section 10(2) and Section 39.

59 Section 38 of the *SLP Act* in conjunction with *Act No. 128/2000 Coll., on Municipalities*. Commission members include mainly municipal assembly members, pedagogues, psychologists, health workers, representatives of legal or natural persons authorised by the SLP and representatives of civic associations or churches.

60 *SLP Act*, Sections 48-50.

61 *Civil Procedural Code*, Section 178/2.

62 *Family Act*, Section 37. Some judges have assigned Roma advisors or NGOs to act as the child's guardian. Interview with a judge from the District Court of Prague 8, Prague, Czech Republic: 17 June 2010.

The court may rule in favour of institutional care⁶³ if the child's situation is seriously risky or impaired and other measures have not remedied the situation, or if, for other serious reasons, parents are unable or unwilling to support the child's well-being. The court must first examine whether the child can be protected in alternative family care or family care in facilities for children requiring immediate assistance, which should take precedence over institutionalisation.⁶⁴ Children are placed into different types of institutions depending on their age and health status.

If it is in the child's best interest, the court may place an endangered child in the following forms of alternative family care: care by another natural person, generally prioritising placement with the child's relatives;⁶⁵ foster care⁶⁶ and adoption.⁶⁷ SLP authorities must undertake an intermediation process prior to issuing any court decision in favour of foster care or adoption.⁶⁸ The court may also place a child in a facility for children requiring immediate assistance⁶⁹ when his or her life or positive development is seriously endangered, in cases of physical or mental ill-treatment or abuse or when his or her fundamental rights are seriously threatened.

Court decisions may be appealed within 15 days from the date the decision is delivered.⁷⁰ Decisions by the court of second instance may be appealed within two months of the date of the decision through an extraordinary appeal process for cases of irrevocable adoptions; this option is not available for other placement decisions.⁷¹

Parents are obliged to contribute to their child's maintenance while in institutional or other forms of alternative care.⁷² Only in cases of adoption do the maintenance duties of biological parents

63 See: *Family Act*, Section 46; *SLP Act*, Sections 28-30; and the *Institutional Care Act*.

64 *Family Act*, Section 46(2); *SLP Act*, Section 42.

65 The court must explicitly specify the rights and duties that the person exercises concerning a child. Parents maintain parental rights. Parental consent to placement is not necessary. Parents may maintain contact with the child unless limited or banned by court decision. Persons caring for the child are not financially supported.

66 *Family Act*, Sections 45(a-d); *SLP Act*, Sections 19(a)-27 and 44-47. Foster care is financially supported by the State social system. Children in foster care receive a monthly allowance and foster parents receive a monthly allowance. Parents must pay a maintenance fee for their child. Parent must consent to the placement of their child in foster care unless limited or banned by court decision. Parents maintain parental rights; foster parents represent the child and manage his/her arrangements in routine, day-to-day matters.

67 *Family Act*, Sections 63-77; *SLP Act*, Sections 19(a)-27. If parents maintain parental rights, their consent to the adoption is obligatory. No parental consent is required when parents have not shown consistent interest in the child for at least 6 months, have shown no interest in the child for at least 2 months after the child's birth, or have given an open written consent to the adoption of their child without consideration of the prospective adopters.

68 *SLP Act*, Sections 19(a)-27. Obligatory intermediation is not necessary when parents provide open consent to the adoption, when the applicant is the husband/wife/widow/widower of biological parent or when foster care applications are submitted by the child's relative.

69 *Family Act*, Section 46; *SLP Act*, Sections 42-42(n).

70 *Civil Procedural Code*, Sections 201-226.

71 *Civil Procedural Code*, Sections 236-243(d).

72 *Family Act*, Section 85. Courts play a crucial role in determining the level of parental maintenance duty: between 11 and 25% of the parent's salary is generally recommended. See: <http://portal.justice.cz/Justice2/ms/ms.aspx?o=23&j=33&k=5224&d=310739>.

cease to exist. When a child is institutionalised, his/her parents are obliged to pay a contribution towards the costs of institutional care. Courts also regulate the extent of the parents' maintenance duties unless the child's needs are fully covered by the aforementioned contribution.⁷³

6.4 Gaps in the Czech Child Protection System

6.4.1 LACK OF, OR INADEQUATE, PREVENTATIVE MEASURES

The Socio-Legal Protection Act only regulates cases where the upbringing of a child is impaired by an action of the biological parent or other responsible person. Obligatory preventative support is not foreseen in the law in situations where external problems impact on a family, such as forced evictions or discrimination in access to housing, employment, or health care, which affect many Roma in the Czech Republic. Social housing facilities for at-risk families are absent or very scarce. There is no legal obligation to pay increased attention to children from minority backgrounds to prevent systemic discrimination against them. SLP authorities should pay particular attention to children from socially vulnerable families and help children overcome unfavourable social conditions;⁷⁴ however, there are no concrete obligations for SLP authorities to provide this assistance.

Some preventative programmes for children with behavioural problems are offered on a voluntary, fee-based basis in diagnostic centres. The enrolment of Romani children in such programmes is, in practice, about ten times less frequent than for non-Romani children, in part because impoverished Romani parents can not afford the cost.⁷⁵ This was reported to contribute to higher rates of institutionalisation among Romani children.

There are an insufficient number of social workers working for local SLP authorities, which is a direct obstacle to effective preventative work with families in the field.⁷⁶ According to MoLSA, SLP authorities are understaffed, and SLP workers do not have enough time to work in-depth with families.⁷⁷ There is no legal restriction on the number of cases a social worker can handle at one time. In 2009, 1,460 SLP workers were working with 582,203 families, indicating an average of 399 families per SLP worker.⁷⁸ Due to a lack of time, SLP workers do not visit children in

73 *Family Act*, Section 103; *Institutional Care Act*, Sections 27-28.

74 *SLP Act*, Section 32(d) and 31, respectively.

75 *Institutional Care Act*, Sections 7 and 16. Meaning that Romani youth enter the State correction system after committing a minor offence ten times less frequently than non-Romani youth. Instead they are left without intervention until they are eventually institutionalised. Kazimír Večerka et al., *Problémové děti ve školských výchovných zařízeních* (Prague: Knok, 2000). Cited in Karel Červenka, "Skupinová solidarita a etnizace deviantního chování ve výchovných institucích. Poznámky k etnický definovaným aspektům inkluze tzv problémové mládeže" in *Etnická různost a občanská jednota.*, ed. Marada, Radim. (Brno: CDK, 2006), p. 256-277.

76 "Analysis of the Current State of Institutional Provision of Care for At-risk children" and related conceptual documents available at: <http://www.mpsv.cz/cs/9447>, Interview with a representative of MoLSA, Prague, Czech Republic: 18 June 2010.

77 Interview with Miloslav Macela, MoLSA. Prague: Czech Republic: 25 October 2010

78 MoLSA, *Statistical yearbook in the area of work and social affairs 2009* (Prague: MoLSA, 2010), pp. 99 and 111.

children's homes regularly and do not work preventatively with families, as outlined in the law. Field research showed that SLP workers often do not enter socially excluded Romani communities or ghettos at all. This means SLP social workers do not intervene until it is too late and the child must be removed from the family.⁷⁹ The dual roles of SLP social workers were also seen to be in conflict and may negatively impact the effective provision of social support to families at risk of separation or in need of reintegration support: while they are expected to take preventative measures and assist the family to prevent the child's institutionalisation, they are also the controlling body which proposes the withdrawal of the child from the family.

The same social worker who stood against a Romani father in court and proposed that his children be removed now comes to his household and checks whether he cares adequately for his children. It seems there is a conflict of interests and motivations - instead of assisting the man to raise his children on his own, the SLP social worker proposed they be removed. While the court rejected the proposal, the social worker still comes and checks and waits for the man to make a mistake.⁸⁰

SLP workers were also noted to provide an inadequate level of information to Romani parents about their rights and duties within the SLP system, or what should be done to keep the child with the family: "Due to the lack of information and misunderstandings, Romani families believe their children were removed [while only taken on the basis of a preliminary measure] and they lose any motivation to solve the issue. Then the children are logically removed [totally]."⁸¹

6.4.2 PROBLEMS IN THE COURT PROCESSES

In most cases, parents are not legally represented during court proceedings concerning their child's institutionalisation. No legal regulation explicitly requires any particular body to inform parents about their rights or provide them with legal support. Conditions for the provision of legal aid are established by a complex set of laws, which may be difficult to navigate.⁸² Participants in civil court proceedings shall be appointed a representative if it is deemed necessary for the protection of his/her legal interests, at the participant's request and upon fulfilment of conditions for the exemption of court fees.⁸³ There are no facilities for legal counselling and support for families in the regions or municipalities.

According to field research results, the experience of Romani families is not uniform: there were cases when the family was very well informed about the procedure and cases when the court would follow the suggestions of SLP authorities without further investigation. Numerous Romani respondents provided accounts of very formal court assessments in which there

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

80 Interview with a 37-year-old Romani respondent. Karlovarský region, Czech Republic: 21 September 2010.

81 Interview with a social worker from the NGO Kotec. Aš, Karlovarský region, Czech Republic: 9 August 2010.

82 Czech NGOs have special projects to prepare free legal aid legislation which led to a draft Act on Free Legal Aid, which was discussed at the Ministry of Justice. The law has not been adopted to date.

83 *Civil Procedural Code*, Sections 30(1-2) and 138.

was no questioning of the SLP authority's opinion and no opportunity for the parents to defend their position. As one woman recalled:

The last court hearing was quite a heavy one. The judge treated me like dirt; I wanted to explain my reasons but the judge did not let me speak and just read the documentation [...] In the beginning the judge said she was clear about the case. During the judgment justification my partner lost his temper and said the whole thing was a mockery, he even told the [NGO] social worker off, so he was ordered out. It was undignified, humiliating [...].⁸⁴

⁸⁴ Interview with a 31-year-old Romani woman whose six children were removed. Moravskoslezský region, Czech Republic: 24 August 2010.

7 The Overrepresentation of Romani Children in State Care

7.1 Availability of Data and Data Protection

The legal basis for processing personal data within the child protection system is Act No. 101/2002 Coll., on the Protection of Personal Data (PPD Act).⁸⁵ Sensitive personal data as a special legal sub-category includes data concerning nationality, racial or ethnic origin, conviction for a criminal act and health status.⁸⁶ Sensitive personal data may be processed, when the individual person has consented, if such processing is related to health care (which may be relevant for institutions operating under the MoH), or if the legal norms regulating the child protection system define this as necessary for the child's socio-legal protection.

There is no legal provision in the SLP Act requiring the processing of data concerning the ethnicity of children in the SLP system. The documentation kept by SLP authorities contains personal data on the children and their parents, information on the children's family conditions and the results of monitoring visits performed directly with the families.⁸⁷ The wording of relevant regulations⁸⁸ does not exclude the possibility of collecting information about the child's ethnicity. SLP authorities can make audio-video records of the child and his/her family environment as necessary, which would provide information about the child's/parents' (perceived) ethnicity.⁸⁹

While there is no explicit legal basis for recording the child's ethnicity in the files maintained by institutions, some respondents confirmed situations when available information about the parents' ethnicity is often recorded in the child's personal documentation: when parents may "explain a situation by their Romani ethnicity, they claim their ethnic belonging. Everything is written down in the child's documentation."⁹⁰

We record ethnicity on the child's personal list, which we open for each child that arrives. They state their own ethnicity. Among other things, there is also the address, parents, SLP authority contact, doctor and nationality. Sometimes the box for ethnicity is blank; it depends on the family and the child. The social guardian fills in the form at the family's home together with the parents.

Source: Interview with a representative of an infant's home. Bystřice pod Hostýnem, Czech Republic: 30 August 2010.

⁸⁵ Available in English from the Office for Personal Data Protection: <http://www.uoou.cz/uoou.aspx?menu=4&submenu=5>.

⁸⁶ *PPD Act*, Section 4.

⁸⁷ *SLP Act*, Sections 54-57.

⁸⁸ *SLP Act*, Section 57(3).

⁸⁹ Interview with a representative of MoLSA. Prague, Czech Republic: 18 June 2010.

⁹⁰ Interview with a child and youth guardian. Ostrava, Czech Republic: 19 August 2010. In infant homes, it was reported that the child's ethnicity is deduced from its name and visual appearance or by asking the SLP authority. Interview with the director of a children's home. Most, Czech Republic: 25 August 2010.

It was also reported that, for children eligible for adoption or foster care, some regional SLP offices require local SLP social workers to specify the child's ethnicity.⁹¹ In practice, unified procedures for processing a child's ethnicity are lacking in the Czech socio-legal protection system, and ethnicity is often recorded informally and unofficially, without following a clear methodology.⁹²

7.2 The Proportion of Romani Children in State Care

Based on figures from the 2001 census data and general population figures from 2009, Romani children should account for around 3% of all children under the age of three in the Czech Republic.⁹³ Official data about the ethnicity of children is available for infant homes and homes for children under the age of three. The Institute of Health Information and Statistics of the Czech Republic (IHIS) publishes disaggregated statistical data annually.⁹⁴ According to the IHIS, the ratio of Romani children in infant institutes and homes for children under three rose from 27% to 32% between 1999 and 2009.⁹⁵ Data available as of 31 December 2009 indicates that 419 out of 1,391 (30.1%) children living in infant homes and homes for children under the age of three were Roma. Accordingly, ten times more Romani children under the age of three are in institutional care than should be based on their proportion of the population. The proportion of Romani children under the age of three in institutional care varies significantly between regions, and available statistics indicate that that in the last ten years, the most significant factors for the placement of children in infant institutions are social.⁹⁶

Comparing the proportion of Romani children in institutional care under the age of three to the estimated number of socially excluded Roma in the region, it is less likely that a Romani

91 Interview with a representative of the SLP authority, Karviná, Czech Republic: 25 August 2010. Other home director's claimed that they had never seen ethnic data in relevant documentation. Interview with a representative of the children's home Na Vizině, Ostrava, Czech Republic: 24 September 2010.

92 To date, no official methodology for determining the child's ethnicity has been developed. Interview with a representative of the MoH, Prague, Czech Republic: 11 June 2010.

93 An estimated 188,000 Roma lived in 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 354079 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.

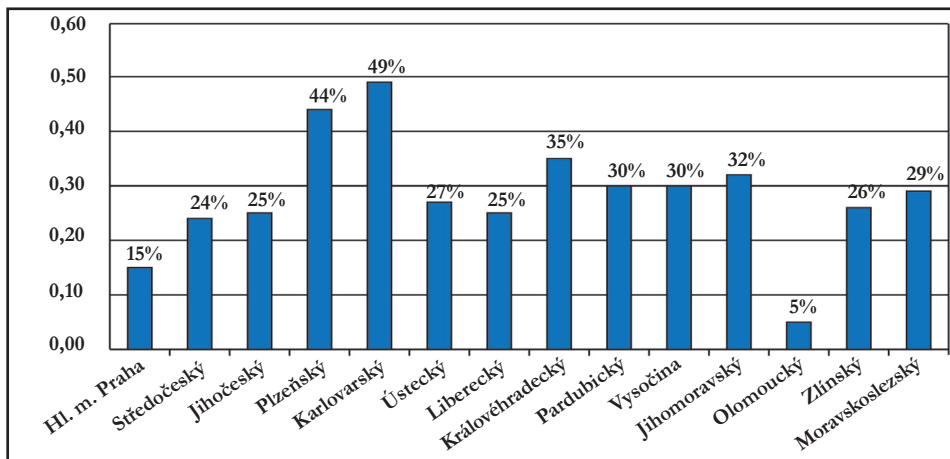
94 In its report: *Current Information - Activity of Institutes for Infants and Homes for Children up to 3 Years of Age and Other Institutions for Children*. Annual reports for the time period 1997 – 2009 available at: http://www.uzis.cz/download.php?ctg=20&search_name=kojeneck®ion=100&kind=21&mnu_id=6200.

95 Of the children in institutions under the MoH, Romani children accounted for : 26.9% in 1999, 31.5% in 2000, 28.6% in 2001, 29.9 % in 2002, 30.5% in 2003, 28.3% in 2004, 31.8% in 2005, 28.7 % in 2006, 27.9% in 2007, 28.3% in 2008 and 30.1% in 2009. Institute of Health Information and Statistics of the Czech Republic (IHIS), *Table of the Distribution of Romani Children in Infant Homes and Homes for Children Under Three Years of Age 1995-2009*. Summarised data available at: http://www.uzis.cz/download.php?ctg=20&search_name=kojeneck®ion=100&kind=21&mnu_id=6200.

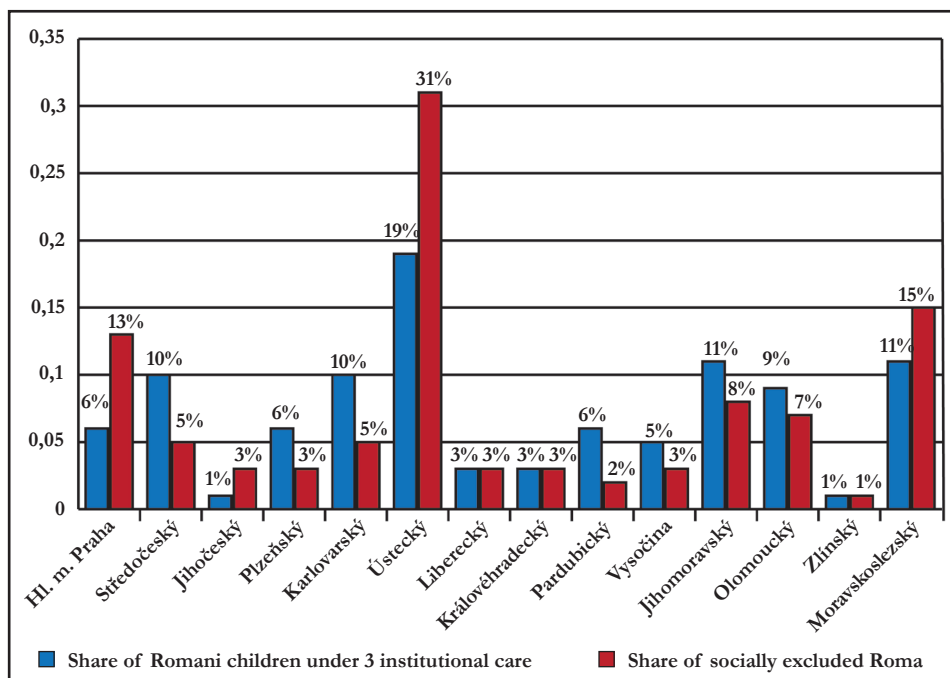
96 Selected data from annual information sheets available at: http://www.uzis.cz/download.php?ctg=20&search_name=kojeneck®ion=100&kind=21&mnu_id=6200.

child will be placed in institutional care in the three regions with the highest population of socially excluded Roma (Prague, Ústecký and Moravskoslezský regions) than in other regions.⁹⁷

Graph 1: Proportion of Romani children in infant homes and children's homes under 3 years according to the region. Czech Republic, 2006. Source: IHIS ČR.



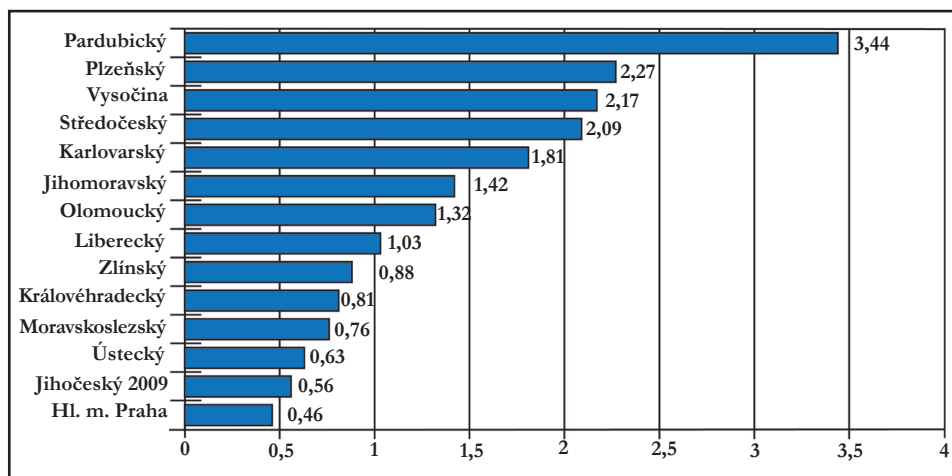
Graph 2: The population of Roma children under 3 years in institutional care and the population of socially excluded Roma in CR, shares by regions. Source: IHIS CR 2006 and 2009, GAC 2006. N1 = 428; N2 = 69 700



⁹⁷ Comparing the data set from 2006 at Institute of Health Information and Statistics of the Czech Republic (IHIS), *Table of the Distribution of Romani Children in Infant Homes and Homes for Children Under Three Years of Age 1995-2009.*

The following graph shows regional differences concerning the probability that Romani children enter institutional care compared to the average. It may also indicate a regional difference in the practices of SLP authorities and coverage of social services, which can strongly affect the likelihood that a child will be removed from his or her family.

Graph 3: Chance of Romani children under 3 living in the given region to live in institutional care compared to the average. Average=1.
Source: ÚZIS 2006 and 2009; GAC 2006



For children over the age of three in institutional care, estimates provided by representatives of State authorities and NGOs indicate that Romani children account for between 30 – 60% of all children in State care institutions. Social workers estimate that Romani children account for 50% of the children in institutional care, while Romani experts provide estimates of up to 60%.⁹⁸

Seventeen out of 22 children’s homes visited during the research provided relevant data: 302 of 776 (39%) children living in institutions were reported to be Romani.⁹⁹ 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.

Summarised data available at: http://www.uzis.cz/download.php?ctg=20&search_name=kojeneck®ion=100&kind=21&mnu_id=6200 and GAC 2006 data cited in Ivan Gabal, Karel Čada and Jan Snopek, *Klíč k posílení Integrovaní politiky obcí – sociální vyloučení Romů a česká společnost* (Otevřená společnost: Prague, 2008).

⁹⁸ Interview with a judge of the District Court of Prague 8, Prague, Czech Republic: 17 June 2010. Interview with a representative of the MoH, Prague, Czech Republic: 11 June 2010. Interview with a representative of the Romodrom, Prague, Czech Republic: 20 July 2010. Interview with a representative of the MoEYS, Prague, Czech Republic: 21 June 2010. Interview with a representative of the Institute for Alternative Family Care, Prague, Czech Republic: 7 June 2010. Interview with a representative of MoLSA, Prague, Czech Republic: 18 June 2010.

⁹⁹ Figures based on information provided by home directors and staff.

7.3 Factors Contributing to the Overrepresentation of Romani Children in State Care

7.3.1 INADEQUATE PREVENTATIVE SERVICES FOR ENDANGERED CHILDREN AND FAMILIES

SLP workers should actively seek out vulnerable families and assist them with their problematic situations, but the system often fails in this regard and preventative measures are not applied often enough for Romani families. According to some respondents, SLP social workers often do not regularly enter the socially excluded Romani communities or ghettos to provide effective preventative services for at-risk families. As representatives of several infants' homes recalled:

An SLP social worker from XX called to ask if we have vacancies for two and three-year old children because she had a doctor's report stating that the children were not vaccinated in time. [...] I asked what kind of horrible thing was happening in the family; she told me she would not go to their home without the police. She had not even visited them and already proposed institutional care. Fortunately the judge was enlightened and did not allow it. For an SLP authority, this is sometimes the fastest way to solve the issue. The judges should be more rigorous. SLP authorities are afraid of children dying in "their department".¹⁰⁰

It was reported that investigations initiated by the SLP authority without external "signals" are very rare. The general failure to provide timely preventative measures to Romani families leads to situations where the child's placement in State care is the first measure proposed by SLP authorities, not the final. There is also a general problem with the quality of human resources among SLP authorities and a lack of supervision (see Section 6.3.1 for more information). It was also reported that some SLP workers label all children in a family the same, not having enough time and/or making sufficient efforts to assess all children individually. The mother of the family reported on the effects of this:

The social authority picks on me. They took all of my [four] children away; because I have one naughty son, they told me that they are all alike. I did not want this. I explained to them that I was a good mother. I live in poverty but I have a place to live, even in lodgings, but I lodge. It is just that she [the social worker] disliked his behaviour and she thought the rest would end up doing the same. She simply made a case for him and then the others one by one. [...] She insisted that they learn from each other so she made a case for all of them.¹⁰¹

A certain level of stereotyping of Romani families by SLP workers was also noted during the research. This was mostly related to opinions about the way in which Romani families, often referred to collectively, spend money which was thought to lead to child removal. As several SLP workers noted: "It is characteristic of Romani families that they are unable to handle

¹⁰⁰ Interview with infant home representatives. Ústecký Region, Czech Republic: 25 August 2010.

¹⁰¹ Interview with a 36-year-old Romani woman, Karlovarský region, Czech Republic: 21 August 2010.

money properly, they get into huge amounts of debt and everything related to that. They take a taxi, go shopping and are unable to manage their expenses. They play gambling machines.”¹⁰² This may influence work and decisions connected to families who allegedly spend money “immorally” as families who are unable to raise their children properly.

Researchers also documented a difference in the standard applied to Romani versus non-Romani families among child protection workers. Some social workers and a judge reported 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 the same for everyone.¹⁰³

Others explained this by way of cultural sensitivity, stating: “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 [...]”¹⁰⁴ This “cultural sensitivity”, however, was seen as very problematic by many respondents from children homes, NGOs and schools, particularly because the requisite preventative support that would be necessary to help the family actually redress the situation is generally not forthcoming. Numerous respondents also noted that the lack of SLP intervention may be attributed to fear of the family or fear of being blamed for discrimination.¹⁰⁵ A Romani man working with an NGO as a social field worker recounted his difficult experiences in trying to get SLP social workers to intervene with various Romani families. Despite his attempts, the SLP social worker would not intervene out of fear of the families; only when he signed a document that he had reported the family and took responsibility for it did the social worker react.¹⁰⁶

7.3.2 POVERTY AND RELATED FACTORS

The reported factors related to the situation of the family differed substantially between respondent groups during the research. Romani families whose children had been removed reported housing and economic conditions as the most common reasons for removal, followed by family problems, school absenteeism and health issues. SLP authorities interviewed during the research

¹⁰² Interviews with three SLP workers. Karviná, Czech Republic: 25 August 2010.

¹⁰³ Interview with a judge who requested anonymity. Czech Republic: 10 July 2010.

¹⁰⁴ Interview with an SLP social worker. Ústí nad Labem, Czech Republic: 29 August 2010

¹⁰⁵ Interview with a representative of the Dětský domov Horní Slavkov. Horní Slavkov, Czech Republic: 9 September 2010

¹⁰⁶ Interview with a representative of Poradna pro občanství, občanská a lidská práva. Středočeský region, Czech Republic: 30 August 2010.

reported school absenteeism to be the main reason for removal in the case of Romani families, followed by child neglect, child abandonment and finally housing problems and poverty.

According to Romani parents whose children had been placed in State care, poor housing conditions, including the loss of housing in the context of evictions and a lack of water or electricity, is the most common reason for child removal. This is closely connected to the poor economic situation of the family; unemployment, indebtedness and a general lack of money can lead to the loss of housing and utilities. Social housing facilities for at-risk families are absent or very scarce.¹⁰⁷ This is extremely problematic given that the Czech Constitutional Court and the Czech Supreme Court have both confirmed that poverty and material reasons should not be the sole or primary basis for child removal (see Section 6.1).

SLP workers often fail to help socially excluded Romani families sufficiently improve with their housing situation. Most often, it was reported that if a serious housing problem appeared and SLP workers learned about it, the children were automatically placed in an institution. Very few cases were encountered during research in which housing assistance was provided to the family; when this was provided, it was not part of any systemic measure but based on the dedication of a given individual.¹⁰⁸ In some cases a reception centre was found for mothers with children, leading to family separation as fathers are generally excluded from such accommodations.¹⁰⁹

Substandard housing conditions were often seen during research to be connected to parental status. Most cases encountered when children had been removed were related to single-parent (generally single-mother) households. In these cases, single Romani mothers were coping with inadequate housing conditions, problems with the father or imprisonment of the father. Parental separation often starts a chain of events that leads to placement of children in institutional care.

A 25-year-old Romani woman lost her flat. Her partner left her for another woman, and left her indebted to usurers. The woman found herself together with three children in such a bad situation that when the SLP social worker proposed institutionalisation of the children, she agreed and signed a paper. She did not keep a copy and is unable to read. Afterwards she reunited with the father of the children and they tried to visit the children in the institution but were not allowed in.

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

¹⁰⁷ Social housing is not legally regulated by the Czech Republic.

¹⁰⁸ Interview with a 45-year-old Romani woman, Ústecký region, Czech Republic: 16 September 2010. Interview with a 40-year-old Romani woman. Ústecký region, Czech Republic: 16 September 2010.

¹⁰⁹ The shortage of reception centres was reported to be a reason for migration by some families – for example from the Ústecký region to Liberec where the reception centre had openings. Interview with a 40-year old Romani woman. Ústecký region, Czech Republic: 16 September 2010. One example of how an SLP authority can positively work to reunite parents and therefore prevent the institutionalisation of the children was found in the Moravskoslezský region: “One social worker was good, she helped us. She was a young girl. She communicated with both of us (parents), and she visited the children’s father in a different household – she brought us (the couple) together again. She helped, she got along well with the children, she even carried a child and ate with us.” Interview with a 38-year-old Romani woman. Ostrava, Czech Republic: 24 August 2010.

A 26-year-old Romani woman had been abused by her partner who later went to prison for other reasons. She did not have money to pay the rent for her flat so she went to live in a reception centre. After she was found using drugs she was ordered out of the centre and her children were taken away from her, placed in an institution and in the care of her relatives.

Source: Interview with a 26-year-old Romani woman. Karlovarský region, Czech Republic: 21 August 2010.

Poverty also negatively affects the ability of parents to purchase tickets for the transportation of their children to school, leading to problems with school absenteeism: “It happened from time to time that I didn’t have money to send them to school, for the bus, snacks at school, generally before the social benefits came.”¹¹⁰ It prevents some Romani families from voluntarily placing children in diagnostic institutions where they would receive various types of support given that fees apply. In addition, poverty also prevents some Romani families from visiting their institutionalised children regularly or from taking them home regularly for visits, which decreases the chances of family re-unification. Romani parents who are unable to pay obligatory contributions for involuntary institutional care expenses (see Section 6.2) also face criminal proceedings for neglect of maintenance obligations, which further decreases the chance of family re-unification.¹¹¹

7.3.3 LOW RIGHTS AWARENESS AND LACK OF LEGAL REPRESENTATION

In addition to the problems identified concerning court processes outlined in Section 6.3.2 of this report, research revealed that Romani families are often not aware of their rights and responsibilities and do not know what should be done to prevent their child’s placement in State care. Romani parents, living in conditions of social exclusion, do not have experience with procedures that are routine for authorities and may at times be coerced into agreeing to certain decisions without adequate information. In two cases documented during the research, mothers signed documents indicating that they were abandoning their children but the husbands and extended family had not agreed; in both cases the mothers later regretted signing the papers. Five Romani mothers reported that they had been persuaded by SLP social workers to sign a consent form authorising the adoption of their children. Some Romani parents reported being coerced by SLP workers to sign documents that they did not understand, with consequences that they did not expect:

I did not go to school a lot; I only finished six years of school. My parents married me off when I was 15. I cannot read much. When my children were removed the SLP social worker told me it was only for a few months, until it gets better at my home. I signed the paper but afterwards I learned that I had signed [an agreement] for adoption. I have not seen my children since then.”¹¹²

Romani families are often not represented in child protection proceedings in the Czech Republic. While some NGOs that are authorised to provide SLP services provide families with

¹¹⁰ Interview with a 36-year-old Romani woman, Karlovarský region, Czech Republic: 21 August 2010.

¹¹¹ *Czech Penal Code*, Section 196.

¹¹² Interview with a 27-year-old Romani woman. Středočeský Region, Czech Republic: 18 September 2010.

legal advice and appoint lawyers to act as a plenipotentiary for parents in the courtroom (for example, in the Moravskoslezský region or some parts of the Ústecký region), in other regions covered by the research, this type of support was noted to be lacking, which reduces the chances of court decisions in favour of the family.

7.3.4 REFUSAL OF FOSTER PARENTS TO ACCEPT ROMANI CHILDREN

Foster parents are able to decide whether or not to accept a Romani child in the Czech Republic. While the SLP Act does not regulate inquiries into the child's ethnic background, it is standard procedure to ask the foster care applicants whether they would "accept a child of a different ethnicity" in official questionnaires issued by municipal and regional authorities.¹¹³ According to the research respondents, prospective foster or adoptive parents avoid Romani children (and children of other ethnicities).¹¹⁴ The director of a children's home reported that some potential foster parents, although ready to accept a child of a different ethnicity, face pressure and prejudice from their extended family or neighbours, and thus give preference to non-Romani children.¹¹⁵ Barriers to alternative forms of placement such as this also contribute to the overrepresentation of Romani children in institutional care.

7.3.5 LOW RATE OF RETURN TO THE FAMILY

Research in this study confirmed that once a child has been placed in institutional care, it is very unlikely that she or he will return to his or her family. The SLP Act establishes some responsibilities for SLP workers as regards family re-unification. However, these are not detailed and there is a lack of monitoring of their implementation. There are also no sanctions for SLP workers that do not provide sufficient support to families to facilitate re-unification with their children.

Some institutional representatives noted that they do not apply any measures for family re-unification, stating that their primary objective is to educate children and that anything else is beyond their staff's capacity.¹¹⁶ It is reportedly left exclusively to the individual institution's initiative to implement programmes supporting the return of children to their families, by themselves or in partnership with NGOs. Communication between the staff in children's homes and the parents of children placed in the institutions can be quite poor, which can also negatively influence the child's chances of return to the family environment. Employees in

113 For example, see p. 11 of the Municipality of Plzeň's questionnaire to prospective foster care parents at: http://www.google.cz/url?sa=t&source=web&cd=1&ved=0CBcQFjAA&url=http%3A%2F%2Fpodatelna.plzen.eu%2Fforms%2Fprint%2Fdocs%2FDotaznik_nahradni_rodinna_pece.doc&rct=j&q=p%2C%29bstounsk%C3%A1%20p%2C%29%2C%20%20dotazn%C3%ADk&ei=m9EqTfizC4K38QPlnaH-DQ&usq=AFQjCNHtBcxOu2wt3xnWTPyRRbnj1tprlw&sig2=Y79KeXhy-nvJVFpRBhzDvg&cad=rja.

114 Interview with a representative of MoLSA, Prague: Czech Republic: 25 October 2010. Interview with the director of a children's home, Karlovy Vary, Czech Republic: 27 August 2010. Interview with a representative of the SLP authority, Vsetín, Czech Republic: 11 August 2010. Interview with a former MoEYS deputy minister, Prague, Czech Republic: 16 August 2010.

115 Interview with the director of a children's home, Karlovy Vary, Czech Republic: 27 August 2010.

116 Interview with the director of the children home Paprsek, Mariánské lázně, Czech Republic: 2 September 2010.

state institutions typically evaluate Romani parents very critically, viewing them as the root of the children's bad situation:

In a children's home, Romani kids learn normal customs but when they become teenagers they forget them immediately. They join a gang; find their Roma [...] they fall into the same lifestyle, into the system of abusing social support. The system of Romani families with many children living off social benefits. In the children's home they behave well and they are clean but it is just that the notion of responsibility and order is imposed on them from outside while they are supervised. When they return to their environment they also return to their lifestyle.¹¹⁷

In addition, it was noted that judges who are required to review cases every six months are not able to stay in touch with institutions personally so they mainly monitor cases through reports provided by SLP workers; decisions are therefore influenced by the quality of work of the SLP authorities.¹¹⁸ SLP guardians from the Moravskoslezský region claimed that they never witnessed the return of an institutionalised child to their family although everything went well with the family and the situation had improved.¹¹⁹

Most child protection workers interviewed during the research thought that the return of Romani children to their biological families was unlikely. Some representatives of children's homes made statements such as, "We work with the family if they express interest,"¹²⁰ rather than indicating that they work with families because it is an important part of their function. Others reported: "Families who regularly take their children home for holidays are unable to secure an environment that the children could return to. Each family would need special social care, which would mean too many social workers. There will never be enough social workers so it is easier for the State to leave the children in the institution."¹²¹

Some respondents noted that because Romani children enter institutional care due to serious material problems they are unlikely to return to their families. It is very difficult to help the family overcome structural poverty and improve their situation to a level where they can adequately provide for the child. In particular, the substandard housing situation of many families was noted to prevent the return of children to their families. The family's impoverished financial situation was also found to be insurmountable at times. It was also reported that this may prevent children living in institutional care from visiting their families regularly to maintain family relationships, which negatively affects family re-unification.¹²²

117 Interview with a teacher in a children's home. Karlovarský region, Czech Republic: 4 September 2010.

118 Interview with a judge of the District Court of Prague 8. Prague, Czech Republic: 17 June 2010.

119 Interview with child guardians with the Magistrate of Karviná. Karviná: Czech Republic, 25 August 2010.

120 Interview with the director of an infant home. Bystřice pod Hostýnem, Czech Republic: 27 August 2010.

121 Interview with SLP social workers. Karviná, Czech Republic: 25 August 2010.

122 Interview with a 42-year-old Romani woman. Radvanice, Moravskoslezský region, Czech Republic: 18 August 2010.

8 Treatment of Romani Children in Institutional Care

8.1 Ill-treatment and Discrimination against Romani Children

The Czech system of socio-legal protection for minor children does not include direct discriminatory elements at the legislative and conceptual level. Nevertheless, considering its general deficiencies, attention should be focused on potential indirect, systemic discrimination. Romani children, as members of the most vulnerable and marginalised minority in the Czech Republic, are disproportionately and negatively impacted by the shortcomings of the SLP system.¹²³

Research results indicate that some Romani children are subjected to different forms of discrimination while in institutional care, and cases of ill-treatment of Romani children by their caregivers were also documented during the research.

Discrimination based on ethnicity in terms of the material conditions in institutions and ethnic segregation within the institutions was not detected during the research. Children are ethnically mixed, sharing all of the institutions' resources. However, respondents in the Czech Republic reported that Romani children in institutional care experience ethnic discrimination.

Romani children from numerous homes reported that home workers make openly racist remarks about Roma and some Romani children said that they were harassed about their ethnic identity by their peers in the children's homes. For example, during focus group discussions with Romani children living in institutional care it was reported: "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."¹²⁴ 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.

The systemic discrimination faced by Romani children in educational settings is closely linked to the placement of institutionalised children into schools connected to the institution. A disproportionate number of children residing in the homes visited attended special schools for children with mental disabilities. 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."¹²⁵

¹²³ Interview with a representative of the Institute for Alternative Family, Care. Prague, Czech Republic: 7 June 2010.

¹²⁴ 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.

¹²⁵ Interview with a Romani boy living in an institution. Moravskoslezský Region, Czech Republic: 23 October 2010.

Most Romani children in institutional care have suffered inaction on the part of institutional workers in response to such incidents and do not see any way of standing up to their ill-treatment.¹²⁶ One group of Romani children recalled that a group of predominantly Romani children were beaten by a couple of teachers who got drunk on a school trip. They reported it to the home director but nothing happened. They were then reportedly beaten again because they knew “the dirty stuff” about the teachers.¹²⁷

8.2 Loss of Ethnic Identity

The SLP Act does not explicitly include respect for the child’s ethnicity, although this obligation derives from other relevant legal norms.¹²⁸ A Methodical Recommendation of MoLSA stipulates that when assessing the child’s situation, the child’s cultural, religious and racial background should be taken into account.¹²⁹ The relationship between children’s homes, parents and the way Romani children learn about their family and ethnic background are not adequately addressed.

Development of a Romani identity is not systematically supported by children’s homes. Children do not learn about Romani culture, history or language; they do not encounter respectable Roma in children’s homes. The absolute majority of staff in children’s homes are non-Roma: indeed only one Romani educator was encountered in the 21 homes visited during field research, which may be a barrier to the development of a positive ethnic identity of Romani children in the homes.

One children’s home director described how the children’s home supports Romani cultural awareness: “The home supports readings of Romani journals and we offer music therapy. The children also take part in a competition about Romani song and dance. As to the children’s knowledge of Romani culture and language, it conflicts a little with our objective, which is full integration. We want to include them with other children and not separate Romani and Czech kids.”

Source: Interview with the director of a children’s home. Horní Těrlícko, Czech Republic: 23 August 2010.

Most children hear about Roma from teachers when they are discouraged from acting like “Cikáni (Gypsies)” after they leave the institution. Based on interviews in the field, the overall focus in this respect appears to be on the re-education of Romani children toward their full integration into the majority society. One Romani child living in an institution recalled: “I know many Roma; some of them behave well and some mess up everywhere. We had a group session in the evening with our teacher and he was telling us about Roma: how they behave and how we should not behave.”¹³⁰

126 Interview with a group of Romani children aged 15 – 18 from children home. Karlovarský Region, Czech Republic: 9 September 2010.

127 Interview with a group of Romani children aged 15 – 18 from children home. Karlovarský region, Czech Republic: 9 September 2010.

128 Article 7(1) of the Charter of Fundamental Rights guarantees the inviolability of the person and his or her private life, which may be limited only in cases provided for by law. According to Article 10(1) everyone has the right to demand his human dignity be respected. Respect for one’s ethnicity and culture is the precondition of a basic right to human dignity, personality and private life.

129 MoLSA, Methodical Recommendation No. 2/2009, p. 1.3.

130 Interview with a 15-year-old Romani woman. Ústecký region, Czech Republic: 26 August 2010.

9 Adoption and the Influence of Ethnic Identity

For many children who enter institutional care, adoption is the only avenue for getting out of an institutional setting. The rate of family reintegration for institutionalised children is generally low. For Romani children, the chance of adoption is significantly diminished as a result of anti-Roma racism and discrimination. During research, adoption authorities reported that many prospective adoptive parents are not willing to adopt Romani children. In addition, a children's rights advocate noted that Romani couples tend to separate if they do not have biological children and therefore do not seek to adopt children.¹³¹

The low number of Romani children adopted domestically was also attributed to their reportedly low representation in the adoption system on the basis that they often stay legally bound to their biological parents. One respondent noted: "Their parents do not abandon them. The mother disappears somewhere; she might be chasing some money but she plans to take her children back. This is why most of them stay in the children's homes."¹³²

The Czech Office for International Legal Protection of Children reports that children adopted by families outside of the country are often of Romani origin.¹³³

¹³¹ 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.

¹³² Interview with an NGO social worker. Prague, Czech Republic: 17 August 2010.

¹³³ As reported by media, the Office facilitated the international adoption of 323 children in last 10 years, majority of whom are reportedly Romani. See: "Ochránce bíléhé 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.

10 Institutionalised Romani Children and Disability

Homes for people with a health disability are included in the social services network, and children with disabilities can be placed in homes for persons with health disabilities. Local socio-legal protection authorities should inform parents about services in direct support to families with disabled children to enable the child to stay in his/her family as part of their preventative work.

The parents of a child with a health disability who are unable to meet the needs of their child may request the placement of their child into a home for persons with health disabilities. According to the information available, the majority of children stay in homes for persons with health disabilities on a voluntary basis.¹³⁴ During research for this study, a representative of MoLSA confirmed: “There are very low numbers of children with ordered institutional care in the homes for persons with a health disability. In the majority of cases, children stay there after the request of their parents, above all when a child is mentally/physically handicapped in a serious way and it is not possible for parents to manage the care of the child.”¹³⁵

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.¹³⁶ The prevailing estimate of disabled Romani children in the institutions was around 50% of the total number of disabled children, which is about 10% more than the estimated overall Romani child proportion in the state care.¹³⁷ Most of the children have been diagnosed with psycho-social disabilities (light mental disability, behaviour disturbances, emotional or social deprivation) which, according to a considerable amount of the institutional representatives can be closely connected with non-stimulating social conditions provided by biological families or a long stay in institutional care at an early age. Light mental disability is the most common diagnosis, together with Attention Deficit Hyperactivity Disorder, and other psychiatric problems.¹³⁸

Based on discussions during the research, disability in itself does not seem to be the direct reason for the child’s placement into the institution; rather, it is when a family is unable to take care of their disabled child according to the standards of SLP authorities. Disability is just one of the factors that makes childcare excessively demanding and beyond the capacity of families living in poor economic and social conditions to manage on their own without adequate assistance. The kind of assistance needed is often beyond the capacity of SLP social workers.

¹³⁴ In 2008, between 11,000 and 12,000 children stayed in homes for persons with health disabilities, the majority of them by request of their legal representatives. See: <http://www.mpsv.cz/cs/7513>.

¹³⁵ Interview with a representative of MoLSA. Prague, Czech Republic: 18 June 2010.

¹³⁶ Interview with a judge. Ostrava-Poruba, Czech Republic: 16 August 2010.

¹³⁷ Interview with a representative of a children home. Horní Slavkov, Czech Republic: 9 September 2010.

¹³⁸ *Ibid.*

Child protection professionals in the Czech Republic 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. Child protection professionals stated that the only placement options practically available to disabled children are institutional care and international adoption; domestic adoption and foster care do not happen in practice. A Romani 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,¹³⁹” noting that the most likely solution for a disabled child is international adoption.

¹³⁹ Interview with a Roma coordinator in the Ústecký region. Ústí nad Labem, Czech Republic: 29 July 2010.

11 Conclusions

Romani children are disadvantaged within the Czech child protection system and highly over-represented within the system of Czech institutional care.

A myriad of factors contribute to this. Czech legislation regulating the socio-legal protection of children is scattered among several relevant laws, and responsibility for the socio-legal protection of children is also shared among several ministries. Relevant legislative and conceptual terminology is not unified or sufficiently defined. A legal definition of child endangerment, legally binding guidelines for assessing child endangerment, a legal definition of unacceptable reasons for placing a child outside his/her family and measurable preventative responsibilities of local socio-legal protection authorities are lacking.

Transformative policy efforts are generally focused on the socio-legal protection system, without considering the situation of Romani children as a highly overrepresented and disadvantaged group in the child protection system. To date, state monitoring bodies have not focused sufficiently on the situation of Romani children in institutional care.

There is no systematic collection of data disaggregated by ethnicity of children over the age of three in the child protection system and an absence of adequate monitoring and processing of data that is gathered.

Preventative social work is inadequate to address the problems experienced by marginalised Romani families and to avoid child removal. The supervision of SLP social workers is neither legally regulated, nor properly functioning. There are an inadequate number of social workers compared to the number of families in need of support. Currently, the preventative work of SLP authorities is focused exclusively on identifying insufficient parental competency or a child's behavioural problems, and potentially counselling for basic material issues (social benefits). There is no system of sanctions in place for social workers, judges or state care institutions for their failures to work with families in order to return a child to his/her family as soon as possible.

Significant problems experienced by a great number of Romani families in the Czech Republic, such as structural poverty, inadequate housing, unemployment and indebtedness and problems coping with single parenthood, are very rarely addressed effectively and often form the basis for child removal. This is alarming because the Czech Constitutional Court and the Czech Supreme Court have both confirmed that child removal on these grounds is not permissible.

No authority is explicitly obliged to inform parents of children who potentially will be or are institutionalised about their rights and to provide them with legal support. The low awareness of rights negatively affects the position of Romani families during related court proceedings.

CONCLUSIONS

Social work with Romani families while their children are in State care is highly inadequate and many social workers do not give any priority to this work. As such, the position of the affected families rarely improved enough for their children to return home.

Although the material conditions provided to Romani and non-Romani children in children's homes were reported to be equal, Romani children were noted to 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 was reported during the research. Ethnic discrimination against Romani children in the form of racist remarks and harassment by caregivers was also documented. 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.

There is no explicit legal obligation to promote the positive development of a child's ethnic identity in the SLP system, and very few children's homes were found to offer such programmes. Romani children are less likely to be adopted than non-Romani children in the Czech Republic due to their ethnicity. More Romani children are adopted internationally. In addition, many Romani children in the child protection system have been diagnosed with some form of disability, which negatively affects their educational opportunities and opportunities for adoption.

It is difficult if not impossible for many Romani children to escape the existing system, which means that most Romani children that enter State care will remain there until they reach 18 years of age.

12 Recommendations

On the basis of the findings of this research, the Czech Government is recommended to:

- Amend current legislation to define important concepts such as child endangerment and the prohibited reasons for institutionalisation;
- Adopt detailed methodological guidelines for assessing child endangerment;
- Systematically and annually collect and analyse data disaggregated by ethnicity as a basis for identifying concrete and tangible patterns of indirect discrimination against Romani children and measuring positive developments;
- Improve cross-ministerial and interdepartmental cooperation based on a more ambitious transformative plan, with explicit consideration for Romani children;
- Oblige municipalities to pay a portion of the financial costs of institutional care;
- Introduce obligatory legal representation for parents during court proceedings concerning a child's institutionalisation free of charge when needed; financially support NGOs and other legal bodies to provide such support; ensure the full participation of parents, teachers and other relevant actors in court proceedings to ensure a balanced assessment;
- Prioritise funding to increase the number of local level SLP social workers to enable them to provide effective preventative and counselling services for the whole family;
- Assess whether splitting the supervisory and supporting roles of SLP social workers between different actors would improve the objectivity and effectiveness of family support measures and act accordingly;
- Mandate the life-long professional education of social workers;
- Introduce expert supervision and assessment of social workers;
- Closely monitor school absenteeism and inform parents when their children fail to attend school;
- Establish obligatory programmes to promote and facilitate the return of children to their families in all State care institutions and allocate adequate financial resources for their implementation; individualised plans should include measurable targets, concrete actions and a timeline for each actor involved (including SP authorities, parents, social workers, municipal representatives responsible for social housing, etc.); consider making such plans a part of binding court removal judgments;
- Provide financial and other support to impoverished Romani families to enable them to improve their home situation and maintain contact with institutionalised children; allocate social benefits to families for each day that institutionalised children spend at home; allocate resources to support families wishing to make use of available preventative placement programmes to address behavioural issues;
- Implement positive action programmes to increase the proportion of Romani professionals employed in the SLP system to equal their proportion within the Czech population;
- Conduct an awareness-raising campaign targeting children in institutional care to broaden their knowledge of public and other bodies (Ombudsman, NGOs, Ministerial, etc)

RECOMMENDATIONS

able to assist with problems that cannot be solved by their caregivers; properly investigate and sanction all acts of ill-treatment and discrimination of Romani children;

- Provide Romani and non-Romani children education on Romani culture, history and language, and the opportunity to meet Romani professionals who promote a positive identity;
- Recruit foster parents who are willing to take care of Romani children as a priority; promote foster care and adoption among Romani families;
- Provide mandatory anti-discrimination and multi-cultural awareness training to all prospective foster and adoptive parents, SLP social workers and institutional caregivers; and
- Regularly review all diagnoses of Romani children with light mental disabilities in state institutional care and integrate them into standard schools following standard curriculum.

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Romani children are disadvantaged within the Czech child protection system and highly overrepresented within the system of Czech institutional care. Relevant legislative and policy is not unified or sufficiently defined. A legal definition of child endangerment and legally binding guidelines for assessing child endangerment are lacking. Preventative social work is inadequate to address the problems experienced by marginalised Romani families. Significant problems experienced by a great number of Romani families in the Czech Republic, such as structural poverty, inadequate housing, unemployment and indebtedness are rarely addressed effectively and often form the basis for child removal, although the highest Czech courts have confirmed that this is not permissible. Low rights awareness negatively affects the position of Romani families during related court proceedings. Social work with Romani families while their children are in State care rarely results sufficient improvements to enable the return of affected children to their families. Romani children experience various problems while in institutional care, including physical abuse, ill-treatment and ethnic discrimination. Very few children's homes offer programmes to support the development of positive ethnic identity. Romani children are less likely to be adopted than non-Romani children in the Czech Republic due to their ethnicity, and Romani children diagnosed as having a disability have limited educational and adoption opportunities. It is very difficult if not impossible for many Romani children to escape the existing system.



CHALLENGING DISCRIMINATION PROMOTING EQUALITY