

CAUSE OF ACTION

A SERIES BY THE EUROPEAN ROMA RIGHTS CENTRE



Family Life Denied: Overrepresentation of Romani Children in State Care in Serbia

DECEMBER 2017

CHALLENGING DISCRIMINATION PROMOTING EQUALITY



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Introduction

Romani children in Serbia are being removed from their families at an alarming rate. The ERRC carried out in-depth research on the situation.

We found there are disproportionate numbers of Romani children in foster care – a third of children in care in Belgrade come from Romani families, for example, yet Roma make up less than two per cent of the city's population. Although Serbia is closing down its institutions for residential care, Romani children are overrepresented there as well. And once Romani children are removed from their families, it's rare that they return.

Why is the right to family life being denied to so many Roma in Serbia? We don't believe that authorities remove children maliciously. But we do believe that Romani families are victims of indirect discrimination and stereotyping. After centuries of discrimination against Roma, Romani children are more likely to live in inadequate housing, less likely to have parents in employment and may find it hard to access mainstream education. This plays a part in the decision to remove children from their families. As so many children are removed, and so few are able to return, this calls into question the support that these families receive to stay together.

The professionals we spoke to told us that children were not removed because of poverty alone, but that this is frequently a factor. Of course, each case varies and some removals are absolutely necessary; children sometimes need to be removed from their families, Roma and non-Roma alike. But the numbers tell a disturbing story. That the authorities are willing to invest in foster care, for example, but less willing or able to tackle the structural discrimination that leaves Romani families worse off and less able to provide materially for their children.

When authorities make decisions about Romani families, wider prejudice and discrimination against Roma inevitably inform what happens. Speaking to professionals who work in child protection and social care, we found many who were committed to their work and to finding the best outcomes for the children. But we also uncovered a layer of assumption and prejudice. That Romani families don't want to stay together. That Romani parents don't care about their children. That Roma are nomadic and their children have different needs to non-Roma. These are stereotypes, not the truth.

Meanwhile, the Romani families we spoke to for this study wanted to stay in touch with their children but could not afford to visit them, or were told by the foster parents not to be in touch.

There are no simple fixes to this situation. But respecting these families' rights means providing more support to families to stay together or to allow children to return. Making sure that children who are removed from their families are able to stay in touch should also be a priority.

What this report is for

We've created this report as one in a series to introduce some of our litigation work challenging structural discrimination to people who are interested in the action we're taking. We have longer, fully-referenced versions which are available on request.

The ERRC exists to take cases that will make things better for Roma.

Children's rights and the right to respect for family life are key issues we work on. Romani children are disproportionately removed from their families across Europe, facing the trauma of separation and the uncertainty of life in care.

If you know of similar cases happening where you are, get in touch. We want to challenge this unlawful practice. We know that change doesn't happen overnight, but step by step, we are determined to uncover human rights issues and to improve things. If you want to be in touch, please email office@errc.org.

Dorđe Jovanović
President

Executive Summary

We researched the situation of Romani children who were taken away from their families in Serbia. We looked at the data – where it was available – and we spoke to professionals working in the field, as well as the families and foster families involved.

Romani Children are Overrepresented in State Care

Based on the numbers that are available, it appears Romani children are much more likely to be separated from their families than children of other ethnicities. In Belgrade, for example, around 30% of the children in foster care are Romani, yet Roma make up 2% of the population. It's hard to judge the full scale of the problem, because not all centres record the ethnicity of the children in their care. But when we asked professionals to estimate the percentage of children in care who come from Romani families, their answers averaged out at around 60% - a wildly disproportionate number. Of course, not all removals are wrong. Social workers have a duty to protect children. But Roma should be no more or less likely than non-Roma to end up in the system.

Poverty is a Factor

According to professionals, children aren't taken into care because of poverty alone. But poverty and prejudice are clearly factors. Roma are more likely to be living in poor housing conditions in segregated communities. Parents are less likely to be in work. Conversely, we heard sometimes Romani children are left to live in conditions that other children would be taken away from.

Families Don't Get the Support They Need

Families have a human right to support from the State to enable them to stay together. In theory there is support available to help children stay with their biological families. In practice, resources are stretched and services aren't joined up. The reality is that children should stay with their families if they possibly can. And the money that goes into foster care and residential care could – in many cases – be better spent by supporting biological families.

There's No Real Exit Strategy for Romani Children Who Go Into Care

An estimated one in ten Romani children return to their families. And other studies have shown that Romani children are twice as likely to stay in long-term foster care. There's a real shortage of Romani foster parents, and very few non-Roma are willing to adopt Romani children. Children become disconnected from their family and their community. Some are placed far away from their families, with limited opportunities to visit. This has devastating consequences.

Essential Context

Demographics and the Social Care Context

There are 147,604 Roma in Serbia, according to official census data, or 2.05% of the total population. Unofficial estimates put the number closer to half a million people. The Roma population includes those who have always had their permanent home in Serbia, as well as displaced persons who fled Kosovo in 1999 and Roma who have returned to Serbia from other countries, such as countries in Western Europe where they unsuccessfully sought asylum.

Around 85% per cent of Romani families were designated as “permanent residents of observed settlements” in the period before 1991. Most new residents of Romani neighbourhoods (8.1%) arrived after the Kosovo conflict in 1999. There are almost 750 Romani communities identified as such in the country, many of which are in city centres. The Roma population in Serbia is usually excluded and ghettoised.

According to an international household survey, MICS4, about 78.2% of Romani families have children. This survey shows that children (under 18) make up 39.9% of the Roma population and children aged 0 - 14 make up 14.4%.

How We Did the Research

Between September and November 2016, we conducted 42 interviews with social protection professionals, Romani families, foster carers, representatives of local self-government and civil society organisations. We also spoke to the Ministry for Labour, Employment, Veteran and Social Affairs.

The professionals we spoke to had on average 13 years of experience in the field of child protection/social work and had been employed about five to six years in their current positions.

We also sent freedom of information (FOI) requests to centres for foster care and adoption, homes for children and youth, and children and youth education institutions. This was to try and find out how many Romani children were in foster and institutional care, and why they'd been separated from their biological families.

The FOI requests asked four questions:

- What is the total number of children in foster care in the territory covered by your centre?
- What is the total number of Romani children in foster care in the territory covered by your centre?

- What are the main reasons for referring children to foster care?
- What are the main reasons for referring Romani children to foster care?

All the centres responded to our request, but they could not all provide disaggregated data.

About the Institutions We Spoke To

Social Welfare Centres (SWCs) are responsible for child protection, which includes making the decision to take children into care; that decision has to be confirmed by a court. To make their decisions, staff from Social Welfare Centres assess children's needs and the risks they face and may work with a wider expert team. They're also responsible for keeping records of their beneficiaries.

Centres for Foster Care and Adoption (CFCAs) find foster care or adoptive parents for children who are removed from their families by the SWC. They prepare, assess and train future foster carers and adoptive parents, provide support to foster carers and adoptive parents and report to the SWC about the work of foster carers.

There are six CFCAs in Serbia right now, out of eight centres planned under the *Decree on the network of social protection institutions*. There should be 207 employees, but there were only 113 employees in all six centres at the time we did this research.

A Brief Note on the Legal Framework

In 2008 Serbia adopted a special by-law: *The Rulebook on Foster Care*. The Rulebook specifies the requirements for providing foster care and placing children into another family. Article 16 of the Rulebook sets out how children's living conditions should be assessed. It includes looking at the socio-economic conditions in which the child's family lives. But this is one of six factors, which also includes the family structure and the institutional support they're able to receive.

The Law on Family is the basis for separating children from their biological families. It sets out the reasons that parents can lose their parental rights. This includes child abuse and abandonment. But it also includes vague categories such as "misusing parental rights" – which can be loosely interpreted.

The European Court of Human Rights has made clear in several judgments that poverty alone cannot be a legitimate basis for taking children away from their families and into care.

Our Findings, Theme By Theme

Overrepresentation – the Data

ROMANI CHILDREN ARE OVERREPRESENTED IN FOSTER CARE

We asked all six CFCAs for data on the number of Romani children in foster care. The centres in Belgrade and Čuprija responded with disaggregated data – both showed a high proportion of Romani children in care. Their responses were received in September, October and November 2016. The centres in Niš, Kragujevac, Novi Sad and Miloševac replied that they did not keep information on the ethnicity of children in their care.

The Belgrade CFCA told us they had 1,020 children in care at the time of their response. Of these, 306 were Romani children – 30% of the total.

They told us the reasons that children had been taken into care.

| Reason for placement | Total number of children | Number of Romani children |
|---|--------------------------|---------------------------|
| Improper parental care | 627 | 237 |
| Other reasons | 45 | 10 |
| Parents are partially deprived of parental rights | 54 | 19 |
| Parents are partially deprived of legal capacity | 5 | 2 |
| Parents have not acquired legal capacity | 3 | 3 |
| Parents are completely deprived of parental rights | 19 | 9 |
| Parents are prevented from exercising their parental rights | 177 | 19 |
| Parents deceased | 90 | 7 |
| TOTAL | 1,020 | 306 |

Date of response: 2 September 2016

The Belgrade CFCA finds foster placements for children from a number of different places, including outside Belgrade. If we look at the numbers of children referred from the City of Belgrade alone, the percentages of Romani children are slightly higher.

CAUSE OF ACTION

In Belgrade, of the 584 children referred for foster care, 200 are Romani – almost 35%. This means that in Belgrade over a third of the children referred for foster care are Romani, even though Roma make up less than 2% of the city's population. This table shows the number of children by referring SWC (i.e. where the children are from in Belgrade):

| Referring social welfare centre | Total number of children | Number of Romani children |
|---------------------------------|--------------------------|---------------------------|
| Belgrade - Voždovac | 44 | 10 |
| Belgrade - Vračar | 10 | 6 |
| Belgrade - Grocka | 45 | 21 |
| Belgrade - Zvezdara | 59 | 24 |
| Belgrade - Zemun | 42 | 17 |
| Belgrade - Lazarevac | 35 | 9 |
| Belgrade - Mladenovac | 29 | 8 |
| Belgrade – Novi Belgrade | 34 | 11 |
| Belgrade - Obrenovac | 74 | 33 |
| Belgrade - Palilula | 102 | 49 |
| Belgrade - Rakovica | 26 | 1 |
| Belgrade – Savski Venac | 16 | 3 |
| Belgrade - Sopot | 12 | 3 |
| Belgrade – Stari Grad | 12 | 2 |
| Belgrade - Surčin | 20 | 5 |
| Belgrade - Čukarica | 51 | 8 |

Date of response: 2 September 2016

In the Obrenovac and Zvezdara districts of Belgrade, the proportion is even higher than average. Here almost two-thirds of children referred for foster care are Romani – 64.95% and 61.54% respectively.

In the municipalities covered by CFCA Ćuprija (in Central Serbia), a quarter (25.79%) of the children in foster care are Romani; Roma make up just 1.34% of the population.

| Cities and towns covered by CFCA Ćuprija | Total number of children in foster care | Number of Romani children in foster care |
|--|---|--|
| Ćuprija | 61 | 20 |
| Jagodina | 110 | 14 |
| Paraćin | 57 | 7 |
| Despotovac | 30 | 4 |
| Zaječar | 78 | 36 |
| Bor | 31 | 3 |
| Knjaževac | 44 | 22 |

| | | |
|--------------|------------|------------|
| Total | 411 | 106 |
|--------------|------------|------------|

Date of response: 18 October 2016

ROMANI CHILDREN ARE OVERREPRESENTED IN INSTITUTIONAL CARE

Serbia is in the process of closing its institutions for residential care. In the centres that remain, there are high proportions of Romani children, according to the freedom of information responses we received. These data might of course be even higher in reality, given that not all Romani children are necessarily registered as Roma.

| Location | Name of institution | Total number of residents | Number of Romani children |
|------------------|---|----------------------------------|----------------------------------|
| Belgrade | Centre for Protection of Infants, Children and Youth “Zvečanska” | 321 | 91 |
| Niš | Home for Children and Youth “Duško Radović” | 21 | 8 |
| Pančevo | Home for Children and Youth without Parental Care “Spomenak” | 23 | 8 |
| Aleksinac | Institution for Children and Youth “Hristina Markišić” | 16 | 5 |
| Sremska Kamenica | Institution for Children and Youth Children’s Village “Dr Milorad Pavlović” | 84 | 20 |
| Knjaževac | The Youth and Children Education Institute | 20 | 8 |

Date of response: institutions responded between 25 October and 30 November 2016

WE RECEIVED RESPONSES FROM OTHER CENTRES

The Home for Children and Youth “Petar Radovanović” told us they had 290 beneficiaries. However, 270 of these are boarding students of secondary schools and nine are children and youth doing vocational training. They have 11 residents who are children deprived of parental care – that includes two Romani children.

The Home for Children and Youth “Stanko Paunović” in Negotin told us they have 12 beneficiaries with severe and very severe disabilities. They did not provide data on whether any of their residents were Romani.

The Youth and Children Education Institute in Belgrade and the Youth Education Institute in Niš told us they did not have disaggregated data.

THERE ARE VARIED REASONS CHILDREN ENTER RESIDENTIAL CARE

Residential care services have traditionally been used for children and young people without parental care, or who are in conflict with their parents or guardians. Children with disabilities may also be placed in residential care. This is also the case for unaccompanied children who do not have residence status in Serbia or who are stateless.

Most centres generally didn't distinguish the reasons why Romani children had been placed in residential care compared to other children. They told us that children were there because their parents were unable to care for them. Some take children whose placements with fosters families have come to an end.

PROFESSIONALS ESTIMATE TWO-THIRDS OF CHILDREN REMOVED FROM FAMILIES COULD BE ROMANI

We asked professionals what percentage of children separated from their biological families were Romani, based on their insights and experience. The estimates of the CFCA and SWC professionals varied from around 33% to 80%. The average estimate was that 60.5% of the children separated from their biological families are Romani. There's clearly a disproportionate number of Romani children in care.

Overrepresentation – a View From the Families

We spoke to two parents who had children in care. We have changed their names to protect their identity.

“I want all my children to be with me and to be happy”.

Mina lives in Belgrade, in a Romani neighbourhood. She's a single mother of six, with five children from her first marriage and one from her second marriage. Mina lives with three of her children – her 14-year old daughter, 4-year old son and her youngest daughter, who is 6 months old. Her three other children (aged 13, 9 and 7) are in foster care. She is not able to have regular contact with them.

She told us, *“My children were taken away from me two years ago and since then I have seen them once - a year ago. The foster carer has forbidden me to contact them”.*

Mina told us that the SWC Niš was involved in the process of removing her children. She said that she had signed papers for her children to be taken away as their father had told her to, and he threatened her. She didn't remember whether the social worker had clearly explained why the children were being taken into care.

She says the children faced problems with their first foster family.

The children are now in a village in Southern Serbia. Before that, they were in another family where my son was attacked by the foster carer. My daughter fled to her relatives. The Social Welfare Centre tried to find another family, but nothing happened, and nobody did anything about the attack on my boy”.

Mina told us she had received some social assistance, but at the time of interview she was not getting either social assistance or child allowance. She was told that she was not entitled to it because she had three children in foster care. She has never been offered any legal assistance.

We asked whether she was regularly informed about how her children were doing, for example if they were sick or had a problem at school. She said no.

Mina said, *“I don’t know anything. It is very hard for me. I would like to find a lawyer to get my children back. There is nothing else I want. I want all my children to be with me and to be happy”.*

Asked whether she knew of other Romani families whose children were also placed with foster families or institutions, or whether she thought that it was happening more often with Romani families and Romani children, Mina said: *“My brother’s children are placed in a foster family. Yes, I think it happens like that. Especially when we have more children. As soon as they see that we have many children, they take some children away. They say that parents can’t manage”.*

“I know plenty of [Romani children in care]. It’s poverty”

Ivan is a displaced person from Kosovo, the father of three children. His older son is 7, his daughter is 5 and his younger son is 3.

“My son goes to kindergarten. That’s what social services told me. My son and daughter are in one family, and the youngest son is in the other”.

During a period when Ivan was away, his brother took the children, and then they were taken into care. His wife does not have contact either with him or with their children. Ivan is in contact with the SWC. He says he was told he has the right to see his children, but in reality he can’t. His children are in a place 90 kilometres away, and he can’t afford to travel.

Ivan was not given legal aid or assistance from social services. He hasn’t been able to create conditions to be able to welcome his children. He has no contact with the foster family and only finds out about his children through phone conversations with the social worker. He told us he knows many Romani families whose children are in care and that the main reason for that is poverty: *“I know. There are plenty of them... It’s poverty”.*

OVERREPRESENTATION – ON THE GROUND

We spoke to 31 professionals from SWCs and CFCAs. The answers they gave to our questions depended on their experience in their region. Some answers were contradictory. Despite this, some common themes emerged.

POVERTY IS A FACTOR IN REMOVING CHILDREN FROM THEIR FAMILIES

Professionals gave conflicting answers on how important economic conditions were when deciding to remove children from their families.

We asked about the main reasons for the separation of Romani children from their biological families. All the professionals we spoke to said that the reasons were the same as for the separation of children from the general population, focusing on the neglect and abandonment of children. However, some interviewees said, without prompting, that while poverty was not the main reason for separation, it could lead to a child being removed in combination with other elements.

Employees from the SWCs also told us that Romani children could be removed because of poor housing conditions and financial status, “lack of personal hygiene”, neglect, lack of safety, or child abuse (which they said could include begging or child labour). In this way, poverty can be seen as a significant factor in the decision to separate families, alongside stereotypical views about Roma.

REPORTS ON REMOVING CHILDREN ARE INCONSISTENT AND MAY LACK DETAIL

We asked professionals about how they decided to separate children from their families – whether they had looked at all the options available to protect the child. All the professionals from the SWCs agreed that all options are carefully assessed and that the child’s best interests always come first. They perform a detailed needs assessment of the child’s current situation, assessing the risk to the child and looking at the parental skills in the family. However there are no clear criteria for what a “sufficiently detailed description” means.

Once SWCs have completed a report, it gets passed on to the CFCAs. CFCA professionals told us there isn’t an established report template, and that they would like to get more comprehensive reports, including as much detail as possible about the children. They told us that the reports submitted by the SWCs are often incomplete, and they then have to send requests for missing data.

Most of the SWC employees we spoke to are guardians of the children in care, including Romani children. The guardian performs all the tasks related to the protection of the child. That includes being part of the needs assessment for placing the child into care. Almost none of the SWC professionals were able to tell us the exact number of children in their guardianship, let alone provide any specific information about these children. This raises the question of whether the children’s best interests are served by having the SWC as a guardianship authority.

FAMILIES DON'T GET ENOUGH SUPPORT TO PREVENT REMOVALS

Working with parents is crucial to help empower families, to prevent separation if possible or to allow children to return to their families. SWC professionals told us that advisory work with parents happens before and after the separation, as long as the parent is not deprived of parental rights.

One SWC psychologist told us that there are not enough prevention programmes and that the families' needs are only addressed if there's a risk, and only after a report has been made. CFCA representatives agreed that the current work with parents is insufficient. Parents often don't understand what their role is after the separation of the child.

THERE'S NOT ENOUGH SUPPORT FOR CHILDREN TO STAY IN TOUCH

Romani children may also be sent far away from their families. The SWC in the Belgrade district of Palilula had, at the time of the data we received, 102 children they had referred to foster care. Half of these children – 49 – were Romani, and of these only 12 of them had been placed in the district. The others were somewhere else, probably quite far from their biological families. A worryingly large number of Romani children are also placed in foster care in the West of Serbia – Šabac, Koceljeva, Bogatić and Vladimirci. In this region, Romani children make up one third of the total number of children in foster care.

Some professionals believe that children should not stay in touch with their biological family, or hold the stereotypical view that Roma do not wish to stay in touch. SWC professionals told us that keeping up contact depends on the interests of family, and that this is regulated by a plan or by a final court decision. Some SWC professionals told us that Roma are “different”, because their interest in visits decreases over time. One psychologist points out that she is not personally satisfied with the “motivation” of Romani parents. All of these stereotypes are cause for concern.

CFCA representatives believe it's important for children to keep their identity and that maintaining contact with the family is essential. Recently, CFCA staff have started organising events for brothers and sisters. They hold seven-day camps for siblings where they run workshops on identity.

There's no exit strategy for Romani children from state care

Very few children return to their biological families. Instead, they are stuck in long-term foster care (or residential institutions). For example one SWC told us that only about 10% of Romani children return to their primary families.

Research suggests that long-term foster care is two times more likely for Romani children than for other children. The professionals tended to agree.

CFCA professionals believe that there are a larger number of Romani children in institutional care because there's only a small number of families who are willing to be foster carers for

Romani children and an even smaller number of people willing to adopt Roma. Potential adoptive parents often stop communication as soon as they find out that the child is Romani. This kind of racism is not surprising, but means that the large number of Romani children in care are even worse off.

Some SWC professionals told us that Romani children stayed in care for longer because after children are removed, their parents may have to focus on subsistence, they may move abroad or they may lose interest. These stereotypes, combined with concerns about poverty, call into question the level of support Romani families receive to help them reunite. Romani children are missing out on the chance to return to their biological families and have fewer options for foster care or adoption. We believe this cycle must be broken.

What we're doing next

We're taking a case against the authorities in Serbia for **indirect discrimination** based on the data described above. Indirect discrimination based on ethnicity exists when a seemingly neutral policy or practice has a disproportionate effect on a particular ethnic group, unless that policy or practice is justified. The practice of placing children in care – which is neutral on its face – has a disproportionate impact on Roma. We don't think it's justified.

The evidence we have collected suggests that the authorities are placing children in care instead of supporting the families to stay together – which they have a human rights obligation to do. And we think stereotypical approaches to Roma are worsening the problem. Under anti-discrimination laws, the defendant has to show that the different treatment of Roma – their disproportionate placement in the care system – is justified.

The ERRC can't, unfortunately, support the many individual families whose children have been taken into care to get their children back. But under Serbian anti-discrimination legislation, we can bring legal cases like this to challenge patterns of discrimination. With this approach, we want to create lasting, structural change for all Romani children and their families.