



13 September 2005

Member, United Nations Committee on the Rights of the Child
Office of the High Commissioner for Human Rights (OHCHR)
Palais des Nations
8-14, Avenue de la Paix
CH-1211 Geneva 10
Switzerland

Dear Committee Member,

The *European Roma Rights Centre (ERRC)* is an international public interest law organisation, which monitors the situation of Roma in Europe and provides legal defence in cases of human rights abuse. Since its establishment in 1996, the *ERRC* has undertaken first-hand field research in more than a dozen countries, including Hungary, and has disseminated numerous publications, from book-length studies to advocacy letters and public statements. The *ERRC* publications about Hungary and other countries, as well as additional information about the organisation, are available on the Internet at <http://www.errc.org>.

The *ERRC* hereby submits its shadow report on the situation on Hungary. We would like to highlight some issues that affect particularly Roma children and worsen their situation. In the discussion of the above issues, we will refer to the points of the “Report of the government of the Hungarian Republic on the measures adopted in order to ensure the implementation of the rights set forth in the Convention of the Rights of the Child” (hereinafter referred as “Government Report”), which was submitted in September 2003 to the Committee on the Rights of the Child.

General overview

Since the submission of the Government Report, the following important laws regarding youth and minorities were adopted:

2003/L. Act	on the National Civil Basic Program
2003/LXXX. Act	on the Legal Aid
2003/CXXV. Act	on the Promotion of Equal Treatment and Equal Chances
160/2003. (X.7.) Government Ordinance	on Implementation of the Act on National Civil Basic Program
243/2003. (XII.17.) Gov. Ordinance	on the Publishment, Introduction and Implementation of the National Curriculum
289/2004 (X.28.) Gov. Ordinance	on the tasks and responsibilities of the Minister of Youth, Family, Social Affairs and Equal Chances
343/2004. (XII.22.) Gov. Ordinance	on the amendments of other government ordinances regarding the abolishment of the Government Office of Equal Chances
362/2004. (XII.26.) Gov. Ordinance	on the Equal Treatment Authority and the detailed rules of its procedures
1021/2004. (III.18.) Gov. Resolution	on the government program on promotion of the social integration of Roma and actions on it
1016/2005. (II.25.) Gov. Resolution	on the Scholarship Program called ‘Útravaló’

21/2004. (VII.27.) Ordinance of the Ministry of Education

on the amendments on the adoption of the „Directive of the Education of National and Ethnic Minorities in the Kindergarten“ and the „Directive of the School Education of National and Ethnic Minorities“ (32./1997. MKM Ordinance)

23/2004. (VIII.27.) Ordinance of the Ministry of Education

on the registration for school-books, on support for school-books and on the supply of school-books in schools

69/2003. (VI.19.), 61/2004. (VI.14.) Parliamentary Resolutions

on the adoption of the reports by the Parliamentary Commissioner for National and Ethnic Minority Rights

30/2003. (III.27.) Parliamentary Resolution

on the necessity to review the laws regarding minorities

115/2003. (X.28.) Parliamentary Resolution

on the National Strategy on Crime Prevention

Summary of the Shadow Report

The following report will focus on children's rights issues in Hungary which affect Romani children in a particularly negative way.

First we will describe the difficulties to get exact data on the situation of Roma children. According to the current data protection rules, we could only rely on data that was collected by our partner organizations and shared by experts who work on the field of rights of the children and anti-discrimination. We express our concerns about the recently adopted anti-discrimination law and the Equal Treatment Authority which was established to ensure the implementation of the provisions set forth in the Act on Promotion of Equal Treatment and Equal Chances.

When discussing the consideration of the child's best interest, we will describe the concerning phenomenon of removing children from their families because of a crisis situation in the family, instead of trying to find solutions to help them out from that crisis. We will highlight the findings of a very fresh research carried out among homeless people who came from the state care system, according to which, they believe that it is still better for a child to grow up in a poor family without proper food or accommodations than under relatively better circumstances but in a foster home.

We will describe our concerns about the operation of the child protection system. We draw the Committee's attention to the lack of exact terms on 'endangered children' and the subjective way this reason is applied when a child is removed from her/his family. We will highlight the findings of a national official evaluation on the state care system carried out by the State Audit Office in July 2004 and will be discussing the problems of the lack of professionals and social workers, enough places, and proper conditions for special care and the lack of infrastructural tools. We will present the results of a shocking research made by the Ministry of Education which shows directly how children from the state care system end up as homeless adult.

Identity plays a big role when it comes to adopting a child as well. Recently, there have been serious allegations concerning prejudices and discrimination by child protection officials. A test by the Roma Press Centre was carried out among child care officials which results are listed in this report. It seems that adoptive parent can choose to have a Roma or a non-Roma child based on the officials' registration which keeps record of children's skin colours whether it would be 'creol' or 'white'. We are also concerned that the large number of disabled children in the state care system is due to the higher financial support available for them. This, however, deprives them the opportunity to be adopted as few people want to adopt a disabled child if one can make a choice.

When discussing the health care situation of Roma families, we will mention a couple of sad statistics regarding the access of health care services for Roma which affect both children and parents. Almost 17% of the total Roma population lives in settlements where there is no general doctor. Twenty percent

of Roma reported the denial of ambulance coming on calls. Forty percent of Roma who live in segregated settlements with a large number of people together experienced the denial of ambulance visits. We will also mention data about discrimination experienced in hospitals and other health care institutions or by general practitioners.

Forced evictions, racial segregation and refusal to allocate social housing for Roma are practices that dramatically worsen the housing situation of Roma, besides their generally poor financial situation. In this report, we will mention concrete cases concerning the above phenomena and will report about surveys which concluded that many Romani settlements in Hungary are manifestly inadequate for living. According to the World Bank, 54.9% of Romani households in Hungary do not have access to hot running water, 34.7 % do not have access to cold running water. More than half of the houses do not have indoor toilets and 13.2% have one or more members sleeping on earthen floors in their homes.¹ We will describe here ERRC's efforts to litigate cases involving racial actions against Roma keeping them away from moving into town centres and ERRC's actions to strike down unlawful municipality decrees that disable the most needy people and Roma to get social housing.

Segregation in education is a wide phenomenon in the Central and Eastern- European region. ERRC has, therefore, carried out extensive research and published a book with the findings called 'Stigmata: Segregated Schooling of Roma in Central and Eastern Europe, a survey of patterns of segregated education of Roma in Bulgaria, the Czech Republic, Hungary, Romania, and Slovakia'². Given limited time and space in this report, we will highlight general information about the Hungarian education system and will examine in brief how it affects Romani children. We will mention how useful the profession might be that state care children learn in hope to maintain themselves after they leave the child protection system. We will give statistics about the chances in the secondary education for children who came from schools with smaller or larger number of Roma.

At the final part, we will introduce a Budapest-based hostel which provides permanent accommodation for minors in crisis situation (it is maintained by the Regional State Protection Service). We will highlight statistics about how children arrive to the hostel and how long they stay there. Although this was a hidden phenomenon so far, ERRC believes that the high number of children at the hostel raises deep concerns about the operation of the current child protection system and it has to finally be addressed.

At the end of our report, we will give our recommendations how the situation of Roma children in Hungary could improve in the future.

Paragraph 25-26 of the Government Report regarding non-discrimination

1. The ERRC welcomes the adoption by the Hungarian government in December 2003 of an anti-discrimination law. Hungary was among the first countries of the 2004 accession states to have adopted a comprehensive anti-discrimination law transposing the EU Directive banning discrimination on racial and ethnic grounds.³ The ERRC welcomes Hungary's demonstrated commitment to act to combat racism through the adoption of one comprehensive act. For the purposes of strengthening further Hungary's anti-discrimination law, the ERRC would note in relation to the adopted law, the following issues of detail, on which the ERRC hopes the Hungarian government will act during any subsequent efforts to amend the law:

2. There is a lack of an explicit ban on discrimination in access to housing under the scope the current law which is of particular concern in light of frequent allegations of discrimination in the field of housing in Hungary.

¹ See Revenga, A., Ringold, D., and Tracy W.M., "Poverty and Ethnicity: A Cross-Country Study of Roma Poverty in Central Europe". In Ringold, D., Orenstein, Mitchell A., and Wilkens, Erika. *Roma in an Expanding Europe: Breaking the Poverty Cycle*. The World Bank: Washington, D.C. 2003, p. 34.

² To be found at <http://www.errc.org/db/00/04/m00000004.pdf>

³ Council Directive 2000/43/EC "implementing the principle of equal treatment between persons irrespective of racial or ethnic origin" ("Race Directive").

3. It is particularly unclear why Hungarian lawmakers chose to muddy the regulatory waters by (i) dividing the public and private spheres for the purposes of regulating the ban on discrimination⁴ and (ii) blurring sectoral fields and service providers for the purposes of the lists at Article 4 and 5. A far more elegant resolution would have been to simply indicate which sectoral fields are covered by the ban on discrimination, following the approach of EU Directives in the field of anti-discrimination. The ERRC and local partner organisations brought this issue to the attention of Hungarian lawmakers on several occasions during the drafting of the law, apparently to no avail. We reiterate here our concern that the current structure may create confusion as to which sectoral fields are covered by the law.

4. The adopted law also does not make clear that racial discrimination constitutes a particularly serious harm. In light of (i) the very distinct threat to the social peace constituted by racial discrimination, (ii) its very powerful impact on the lives of individuals and (iii) the very serious problem of racial discrimination in Hungary today, noted in a number of reports by independent monitors and repeatedly acknowledged by members of the Hungarian government, this lacuna is unfortunate.

5. It is of concern that the types of evidence victims of discrimination and/or those acting on their behalf may bring in order to prove that they have suffered illegal discrimination are not made clear in the law. Introducing provisions rendering explicit that a broad range of evidentiary materials are admissible by law -- and enumerating specific types of evidence such as *inter alia* "testing to prove racial discrimination", pair-sampling, and statistical data as permissible for the purposes of demonstrating that illegal discrimination has taken place or is currently taking place -- would ensure that relevant evidence would not be blocked from playing a role in proving discrimination.

6. Due to the confusing wording of Article 19 of the anti-discrimination law, it is unclear whether Hungarian lawmakers have complied with Article 8 of European Council Directive 2000/43/EC, providing that "Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment." Subsequent amendments to the anti-discrimination law should aim to render provisions on shifting the burden of proof to the respondent in *prima facie* racial discrimination cases clear and accessible for members of the lay public.

7. The Equal Treatment Authority (ETA) was set up on 1 January 2005 with delay. (362/2004. Government Ordinance on the Equal Treatment Authority and the detailed rules of its procedures). The Equal Treatment Authority is a promising forum because of its short procedure compared to the regular court procedures (75 days which can be elongated once if needed) as well as because of its right to initiate and carry out investigations of its own. Besides the positive promises given by this today, ERRC would like to express its following concerns:

8. In the first place, the placement of the "authority" under the supervision of the "Minister for Equal Chances" gives rise to concerns that the Committee may not enjoy sufficient independence to be able to undertake its work effectively. It is very difficult to envision how the standard set by the Council of Europe's European Commission against Racism and Intolerance (ECRI) in its General Policy Recommendation No. 2 that specialised bodies "function without interference from the State" and be provided with "all the guarantees necessary for their independence including the freedom to appoint their own staff, to manage their resources as they think fit, and to express their views publicly" can be met under the adopted provisions.

9. Finally, provisions in Article 15(6) appear to limit the scope of the "authority" unnecessarily, in particular by excluding a range of public officials, including prosecutors, from the purview of its investigative powers. Also, the provisions of Article 15(5) appear to narrow very significantly the scope of the "authority" to undertake *ex officio* investigation.

10. Finally, Hungary has not yet ratified Protocol 12 to the European Convention on Human Rights, which once in effect will provide a comprehensive ban on discrimination in the realisation of any right

⁴ Issues and actors of the public sphere are addressed under Article 4 of the law, while discrimination in the private sphere is addressed under Article 5 of the law.

secured by law. The ability of individuals to have access to legal protections in the area of EU social inclusion policy depends in large part on the protections provided by these two instruments. Hungary should ratify them without delay.

Paragraph 27 of the Government Report regarding specific measures to prevent discrimination

11. The 1021/2004 (III.18.) Government Resolution contains a whole range of activities in order to promote integration of Roma. Section IV focuses on education. It describes the obligation for the Minister of Education to promote *inter alia* that:

1. The financial support for integration (integration grant) is given for the educational institutions for the purpose of integrating Roma children (para. 24.)
2. The professional background and the operational conditions of the Expert – and Reability Committees have to be strenghtened in order to decrease the number of Roma children being evaluated as disabled (para. 25.)
3. An anti-discrimination alert system has to be established in order to check effective integration processes (para. 27.)
4. To establish and maintain a support system which promotes the employment of professional, possible also Romaness speaking, Roma kindergarten teachers and nurses. (para. 29.)

While the plans are in place, the results of their implementation is not known. The government needs to make that information publicly available.

Paragraph 29 of the Government Report regarding the collection of disaggregated data

12. A major obstacle to measuring the magnitude of discriminatory treatment and social exclusion affecting Roma and formulating adequate policies to confront it is the Hungarian government's failure to date to generate and make available in a form readily comprehensible to the general public data on the situation of Roma and other weak groups in fields such as education, healthcare, housing, social services and the criminal justice system. Under the interpretation of Hungary's data protection law (Act 1992/LXIII) frequently promoted by the Hungarian government, gathering data according to ethnicity is illegal in Hungary.

13. The national and ethnic belonging is labelled to be „specific data“ which can be collected only based on the provisions of an act or based on a written permission by the person whos ethnical data is used (collected, registered, etc.). This regulation was adopted to guarantee the fundamental rights to the protection of personal data which is set forth in the 59. § of the Hungarian Constitution. Therefore, it is very difficult to get exact information on the percentage of Roma in a certain workplace, educational institutions or in criminal records. We understand that the tragic happenings in the 20th Century caused a lot of harm to people's physical and psychical life and certain groups of people are extremely scared of the consequences if their ethnic origin is registered. However, we believe that there are techniques that could be implemented in order to have reliable data and personal safety ensured. The registration of ethnic belongings without the registration of other personal data could be a solution as well as the legal presumption that certain actions mean the willingness to declare ethnicity as well (like the application for a minority educational program or for minority elections). Due to the lack of ethnic data, we have to use estimations and opinions of people involved whenever we will be discussing problems and difficulties, which especially affect the Roma community and Roma children in Hungary. The EU Network of Independent Experts on Fundamental Rights in their Thematic Comment No. 3 on The Protection of Minorities in the EU, 25 April 2005, outlined a very cogent argument on why such data must be gathered and how minorities can be protected from misuse of such data. We recommend the Hungarian government adopt the suggestions of that report.

Paragraph 35 and 38 of the Government Report regarding the best interest of the child

14. ERRC is particularly concerned about the consideration of a child's best interest when a child is removed from her/his family. The number of children and the rate of Romani children in the state care

system is alarming. In 2002, the number of children in the special state care was 17,813⁵. The current Hungarian legislation does not allow to take a child away from her/his family just because of the family's poor financial situation. However, based on social workers' testimonies, this is still a very common reason for the removal of children, labelled as 'crisis situation' which is indeed a legal reason for taking a child away. We believe that this is a bad practice because in our opinion, it is not guaranteed anyhow that a child in the state care system would be happier than in a poor family. This seems to be confirmed by the findings of a research called „From state care into homelessness“ which was carried out by the Office of Ministerial Commissioner for the Integration of Roma and Disadvantaged Children of the Ministry of Education. The research was carried out in homeless hostels with 113 persons who were in the state care system before. Fifty-two percent of the interviewees agreed with the statement „It is still better for a child in the family than in the foster home, if the family's house is in bad condition, the parents are poor and they are not even able to provide proper food for their children“. Note: interviewees above age 37 agreed in 86% rate! This clearly shows that it is an overwhelming majority which believes that it is even better to grow up with a seriously disadvantaged family than in a foster home.

15. According to the amendments to the Child Protection Act (amended by the Act 2002/58), an expert body has to be set up at county and Budapest level to determine the best state care format for a child. However, as it was also described in the State Audit Office's official examination, the decision where a child will be placed, is based on the availability of free spaces in the institutions and not on the result on the child's examination which also raises high concern.

16. Moreover, we would like to highlight the fact that according to the experts' estimations, the financial needs to keep one child in the state care for one year, costs about 1-1,5 million HUF. ERRC suggests that considerations should be made whether a removal of a child based on the family's poor financial situation is wise when the family's debts are below this cost and could be easily paid instead of paying the maintenance of a child in a state institution which, from many aspects, can be worse than the family environment.

Paragraph 61 of the Government Report regarding the right to not be subjected to torture or other cruel, inhuman or degrading treatment or punishment

17. ERRC believes that racial discrimination in and of itself may, in some instances, constitute a form of degrading treatment under international law. For instance, in a landmark decision against the United Kingdom, the European Commission of Human Rights ruled that "discrimination based on race could, in certain circumstances, of itself amount to degrading treatment" under Article 3 of the European Convention on Human Rights⁶. Therefore, we argue that schools that are segregating violate the right of the child not to be subjected to inhuman or degrading treatment. In addition, such segregated schools violate the European Convention on Human Rights and Fundamental Freedoms Protocol I, Article 2

⁵ Report on the Control of the Actions of Municipalities taken for the Child's Special Care, State Audit Office, June 2004, Available in Hungarian at [http://www.asz.hu/ASZ/jeltar.nsf/0/9407FD97C625445AC1256EC1004D5476/\\$FILE/0430J000.PDF](http://www.asz.hu/ASZ/jeltar.nsf/0/9407FD97C625445AC1256EC1004D5476/$FILE/0430J000.PDF)

⁶ See European Commission of Human Rights, *East African Asians vs. UK* 3 E.H.R.R. 76 (1981), para. 196. Ruling in the case in which East African Asian citizens of the United Kingdom and colonies challenged British immigration legislation which denied admission to UK passport holders of Asian descent resident in East Africa, the European Commission of Human Rights argued that "publicly to single out a group of persons for differential treatment on the basis of race might, in certain circumstances, constitute a special form of affront to human dignity" and that "differential treatment of a group of persons on the basis of race might therefore be capable of constituting degrading treatment when differential treatment on some other ground would raise no such question." The Strasbourg organs have confirmed this principle on several subsequent occasions. (See European Commission of Human Rights, *East African Asians vs. UK* 3 E.H.R.R. 76 (1981), para. 207.) See also *Abdulaziz, Cabales and Balkandali v. UK*, Commission Report, 6 E.H.R.R. 28 (1983), para. 113 (expressly affirming "its opinion in the East African Asians cases that the singling out of a group of persons for differential treatment on the basis of race might, in certain circumstances, constitute a special form of affront to human dignity"); *Hilton v. UK*, No. 5613/72, Admissibility Decision of 5 March, 1976 (allegation of racial discrimination by prison officers against prisoner raised an issue under Article 3); *Glimmerveen & Hagenbeek v. Netherlands*, 4 E.H.R.R. 260 (1979), Admissibility Decision, para. 19 (recalling holding of East African Asians that race discrimination could amount to degrading treatment). Additionally, the European Court of Justice has appropriated the reasoning of the Strasbourg organs: See *Vivien Prais v. Council of the European Communities*, Case 130/75, Decision of the European Court of Justice, 27 October 1976, p. 7 (referring to East African Asians).

right to education and also violate the right to education under the European Social Charter, Article 17 (2) as well as Hungarian law.

Paragraph 80-82 of the Government Report regarding children deprived from their family environment

18. We would like to call the Committee's attention to the official state examination on the operation of the child protection system at the Municipalities which was carried out by the State Audit Office. In the following, we would like to highlight some findings of the evaluation which confirm the concerns that were found by ERRRC during its research in 2005.

- ❖ Because of the lack of infrastructural tools and other conditions, the offices of the Regional Child Protection Service (Területi Gyermekvédelmi Szakszolgálat) cannot provide proper care.
- ❖ It is characteristic that the advisory service can not work properly because of the lack of professional staff members.
- ❖ Children's homes are not prepared to meet various needs of children and they are sometimes overcrowded which disables them from taking new children.
- ❖ Professional foster parents often chose the foster job because they have no other opportunities to work or they just want to help on their own financial existential needs and they are only taught by a 30 lesson long course for their job. Another problem is that although obligatory further courses should be completed, if a foster parent refuses to participate in those, there is no sanction for it.

19. More problem areas were highlighted by Ágnes Mészáros, the leader of a Budapest-based crisis centre for minors, called Róbert Crisis Hostel, where most of the clients are state care children who escaped from their home institutions. Reportedly, the ratio of Roma children in the crisis hostel is above 80% :

1. There is a lack of well educated professionals in the system (more social workers would be needed). Many of the current staff are previous pedagogues and are not familiar with social problems and cultures with other ethnic groups.
2. There are more people needed for the effective running of the system as in the recent system, the small number of foster parents are not capable of taking good care of all the children.
3. Many of the state children are private students and are not provided an adequate level of education; moreover, the professions that they learn are not useful for their future.
4. Financial difficulties exist for general operation. Institutions lack toys, televisions and other entertainment opportunities.
5. Lack of infrastructure (faxes, computers, copy machines etc.) remains a problem.
6. Most of the people involved in the decisionmaking process are local people who cannot be fully independent and are full with prejudice as well.
7. A great majority of the children in state care live in large foster homes instead of small apartment homes which is more like a family and in which the foster parents can look after the children better.
8. The lack of Roma foster parents who could be role models for Roma children exists.
9. Huge prejudice by people working in the state care system exists and there is a lack of adequate information on culture of Roma.

20. We would like to mention here the report called „From the state care system into homelessness“ which was carried out by the Office of Minister Commissioner for the Integration of Roma and Disadvantaged Children of the Ministry of Education. It has not been published anywhere as for the time being, we received it as the generous offer of the Ministerial Commissioner for the purpose to give the clearest possible picture to the Committee about the recent situation of Hungarian Roma children in the state care system. The research focused on people staying at the homeless hostels in order to figure out how many of them were previously in the state care system and what can be the link between the failures of a state care institution and the arrival into homeless places of those people. The methodology of the research was the following: 478 persons at six different homeless hostels were asked to fill out a questionnaire, 147 of them were previously in the state care system; 23.1% of the 478 were willing to answer the questions, so altogether 113 persons, who were raised by the state, answered. The results of the research can be summerized in the following findings:

1. There was an extremely high number of previous state care children among homeless people (in average, the ratio was 24%).

2. Among homeless people, Roma state care children deny their identity at a high rate. (24% of them denied Roma identity).
3. The homeless who were in state care system cannot use their financial means well, and they spend their money in the way which is described by the majority of the society as „wasting“.
4. The relationships that started during the state care years determines the child's future and the positive prejudice, group-consciousness is to be found among the eldest as well.
5. Most of the homeless who were in state care system would prefer a family with poor financial situation and very bad conditions than a foster home for the upbringing of a child (52%).
6. Most of the homeless in Budapest who were in state care before, came from countryside, i.e. outside of Budapest.
7. Most of the homeless who were in state care before, have no imagination of their future and therefore, only a few of them showed a strong interest to really step out from the system. Those who live under relative good financial circumstances have no future vision either (so this phenomenon does not strictly depend on financial situation).
8. The majority cannot use the vocational training that they gained during the state care.
9. The problem of state care children is reproducing itself. There is a significant number of those among the homeless who grew up in state care and their children are also in state care.

21. Given the above findings, we are particularly concerned about the large number of Roma children in state care. In the following table, we provide data on the number of endangered minors in the last years. Please note, that the term „endangered“ is not defined exactly so it gives room for subjectivity. It makes the system muddier that the Child Protection Act expresses among its principles that a child shall not be removed from her/his family just because of poor financial conditions (this can explain the decreasing number of children being financially endangered):

Endangered minors registered at the Public Guardianship Authorities

		1999.	2000.	2001.	2002.	Comparison Index 2002/1999 (%)*
Total registered endangered minors before 31 December previous year		380 341	298 500	264 981	249 928	65,7
Registered endangered minors in the year		51 032	43 437	44 889	39 340	77,1
Abolished endangerment in the year		132 873	76 956	59 942	53 595	40,3
Total registered endangered minors before on 31 December of the year		298 500	264 981	249 928	235 673	79,0
Endangered minors for reasons of	Environmental	44 539	43 612	50 700	46 875	105,2
	Behavioural	24 325	25 908	25 584	27 824	114,4
	Financial	222 628	185 868	166 363	153 297	68,9
	Health	7 018	9 593	7 281	7 677	109,4
Numbers of families where endangered children live		128 985	112 043	107 437	104 271	80,8

Note: 53% of the endangered minors live in 5 counties: Borsod-Abaúj-Zemplén County: 11%, Jász-Nagykun-Szolnok County 6%, Szabolcs-Szatmár-Bereg County 21%, Bács-Kiskun County 7%, Csongrád County 7%.

*Index above 100 shows increase, below 100 decrease in the number of children.

Paragraph 83 of the Government Report regarding adoption

22. Every year about 400-450 children get adopted⁷. ERRC is particularly concerned about the adoption procedure which is extremely long and difficult. It is also well-known data that only every 5th child is found to be adoptable which means that 80% of the children remain in the state care system. However, an even greater number of them are disabled so their hopes for an adoption are small (2001: 16%, 2002: 24%). We have a deep concern that the high rate of disability is due to the higher financial grants available, a practice that it is well known from the field of education where a large number of children (especially Roma) were found as disabled in order to get the highest financial support for them. It is also a worsening factor that only one, or sometimes two persons are dealing with adoption at the state services level so personal bias may enter into the system and play a big role in the adoption procedure

23. Another concerning issue is how the following regulations of the Child Protection Act can be met: "In the course of substitute protection of the child, the child's freedom of conscience and religion must be respected, in addition, attention must be paid to the child's national, ethnic and cultural affiliation" (para 7.). These data are all labelled as 'special data' in the Data Protection Act and can be collected, registered etc. only under very sensitive and strict rules. The Data Protection Act requires that permission be given by an act or from the person whose data it is. It is very difficult for example to ask a child to identify her/himself if s/he has been in the state care system since birth. Another problem is how to ensure the best placement for a Romani child when there is a large unwillingness among non-Roma (most of the adopting parents) to adopt a Roma child. These issues need to be discussed and resolved with the Roma community. Identity issues through the adoption procedure are not regulated at all in the current Hungarian legislation system.

24. In November 2004, the Roma Press Center (Roma Sajtóközpont – RSK), a Budapest-based NGO, carried out a research to discover possible prejudices among guardianship officials. The colleagues of the Press Centre went out with their hidden cameras to various guardianship offices and asked for information pretending that they want to adopt a non-Roma child. They actually tried to figure out what kind of 'guarantees' exist that the child will not be Romani. The press broadcasted the results of the action and the consequences that could be drawn were the following⁸:

1. The guardianship officials knew that the ethnic identity was sensitive data and they knew that cases were earlier examined by the minority ombudsman.
2. In order to seemingly follow the legislative regulations, officials follow the rules about keeping information about the child's skin, whether it would be 'creol' or white
3. An employee addressed also recognized that „there is almost no child of which they can guarantee that it's not... Roma“
4. In every case, formal or informal statements of parents are taken into account regarding ethnicity; otherwise, however, information is received from the social worker involved on the question of ethnic affiliation
5. The information given by guardianship officials regarding ethnicity is based on personal experiences and assumptions, and there are no 'ethnic statistics'. But they assume that it is possible to choose those Roma children which were returned to state care more times by their adoptive parents.

25. Although debates are still going on among experts and professionals, no concrete suggestions were made so far to solve the situation. The minority ombudsman is still investigating in the case and plans to come up with his conclusions soon.

Paragraph 92 of the Government Report regarding disabled children

26. ERRC is concerned about the large number of disabled children within the child protection and education system (described in detail in paragraphs 22 and 55 and in this report.) We would like to mention here the failure of appropriate care for disabled children in the state care system. As the government report mentions, there are specific regulations on the fulfillments of the needs of disabled children. However, as the above mentioned examination of the State Audit Office showed, the very

⁷ In 2002, 406 children were adopted according to the Regional Child Protection Service, 847 according to the Guardianship Office. Differences can be explained by the fact that new born babies who were immediately adopted do not get into the Regional Child Protection Offices' registration.

⁸ Parliamentary Commissioner for National and Ethnic Minorities Rights, Annual Report, 2004, page 113.

strict regulations on the special state care institutions led to a practice that several Municipalities abolished the available special places for disabled children and made them normal places.

Paragraph 93-95 of the Government Report regarding health and health services

27. The lack of public and official data on Roma in relation to access to health is particularly noteworthy in comparison with data on Roma in other sectoral fields in Hungary, for example education. It is unclear when -- if ever -- the Ministry has undertaken serious efforts to document issues Roma face while attempting to access healthcare in Hungary.

28. According to a recent research by the Delphoi consultant⁹, the most disadvantaged settlements also lack general practitioners. These are in those areas which are lacking other basic institutional infrastructure as well. Nearly 17% of the total Roma population lives in settlements where there is no general doctor. According to the findings of this research, structural poverty plays the main role that deprives most of the Roma people from the chance for a healthy life. Certain types of sicknesses are more characteristic for poorer families, but because of the family's poor financial situation, despite their sicknesses, they cannot afford to spend money on necessary drugs. According to the result of the research, a large number of doctors do not take into consideration the family's financial opportunities and prescribe too expensive medicines that the family is unable to purchase.

29. Another main problem concerning the Hungarian health care system is the phenomenon of extra gratitude money given to the doctors called „parasolvency“. Poor Roma families spend the same amount of money that average or rich families pay with the hope that they would receive a better level of treatment and larger attention. But in fact, in a paradoxical way, Roma give it to get the same service that non-Roma people receive otherwise, especially after they had experienced discrimination before.

30. In the following, we attach a table which shows the cost of the drugs, the given gratitude money and the ratio between the two amounts:

Income	Prices of drugs	Gratitude money	Ratio
Below 3500 Ft	805	1458	1,8
3500-9400	816	4320	5,3
9400-12000	935	1503	1,6
12000-16000	932	1924	2,1
16000-20000	1033	1852	1,8
20000-23000	1117	1975	1,8
23000-30000	1397	2179	1,6
30000-39000	1878	3056	1,6
39000-50000	2049	2513	1,2
Above 50000	4046	2366	0,6
<i>Average</i>	<i>1501</i>	<i>2315</i>	<i>1,9</i>

Conclusion: The cost of drugs counted for one person in average for one month is half of the gratitude money paid for only one occasion.

31. It was a shocking finding of the research that 20% of Roma reported the denial of ambulance coming on calls. The denial of visitations by an ambulance during night duty affects children and adults at the same ratio. Forty percent of the Roma who live in segregated settlements with a large number of people together, experienced the denial of an ambulance visit. When asked about discrimination experienced in hospitals and other health care institutions, 25% of the interviewed Roma reported having faced negative discrimination; this percent by general practitioners went up to 44,5%.

32. ERRC together with a Hungarian lawyer filed a complaint in the following case:

Mrs E. K. gave birth to her fourth child on 9 May 2004 at home since the ambulance did not arrive to the family's place in Jászladány on time. She was taken to hospital after the delivery and was allowed to return home -- without having any X-ray done -- 4 days later. On 25 May, she felt bad so she went to

⁹ Differences in access to basic health services. Structure, equal chances, prejudices. Delphoi Consulting, Budapest 2004

see her doctor, who gave her an injection. However, after she had arrived home, she was still feeling bad. The family called Dr. P. again, who refused to visit her at home. Then the relatives informed the other doctor in the village, Dr B. who went to check Mrs K. and called the ambulance. (According to the first doctor, he also informed the hospital but they arrived after the second doctor had called them as well.) When the ambulance arrived, the 21 years old woman had already died. According to the forensic expert's opinion, the reason for her death was a piece of placenta which had remained in her womb. The case is currently before the Supreme Prosecutor's Office after the prosecutor stopped the investigation due to the lack of crime.

Paragraph 103-104 of the Government Report regarding standard of living

33. Housing issues are currently an emergency in Hungary. In the field of housing, actions by the Hungarian government have not only been thoroughly inadequate to date, but indeed a number of the actions of the Hungarian government in recent years in both policy- and law-making have dramatically worsened the situation of many persons. Roma have been particularly affected, both because of powerful racial animus in Hungary, and because the Hungarian government has noticeably failed to provide adequate anti-discrimination law provisions in the field of housing. Indeed, amendments to Hungarian law and policy in the field of housing in recent years have arguably undermined all of Hungary's other efforts to develop and implement policy on the integration of Roma. Some aspects of the very troubling corpus of housing issues in Hungary as they relate to Roma follow:

34. Forced Evictions

Forced evictions are now widely and frequently reported in Hungary, apparently arising due to a number of factors, including changes to the legal regime which have significantly eroded the rights of tenants. Roma are particularly affected by forced evictions for a number of reasons, including raw racial discrimination. Roma in Hungary have been subjected to forced evictions with increasing frequency in recent years.¹⁰ According to one study monitoring the Hungarian media during the period January 1, 2003 through November 1, 2003, in 55% of eviction or threatened eviction cases reported, the victims were identified as Romani, although Roma account for probably around 6 percent of the total population of Hungary.¹¹ Further, local authorities often fail to provide alternative accommodation to forcibly evicted Roma, effectively rendering many homeless.¹² Forced evictions often lead to the removal of children from their families into state care system given that the family is in crisis situation and cannot take proper care of the child.

35. The obligations of States to prevent and remedy forced evictions are most clearly set out in General Comments of the UN Committee on Economic, Social and Cultural Rights (CESCR) concerning Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Hungary is a party. In its General Comment 4, CESCR, which monitors States' compliance with the ICESCR stated, at paragraph 18, "[...] instances of forced eviction are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law."¹³ In its General Comment 7 on forced evictions, the CESCR defined forced evictions as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection."¹⁴ Paragraph 16 sets out, "Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is

¹⁰ For a non-exhaustive list of forced evictions cases documented by the ERRC with support from the Norwegian Foreign Ministry and the British Embassy in Budapest, see "Comments of the European Roma Rights Center (ERRC) and the Centre on Housing Rights and Evictions (COHRE) on the occasion of the Article 16 Review of Greece, Hungary and Turkey under the European Social Charter supervision cycle XVII-1", December 1, 2003, available on the ERRC Internet website: <http://errc.org/publications/indices/housing.shtml>.

¹¹ Data from the European Parliament's Country Profile on Hungary. Available on the Internet at: http://www.europarl.eu.int/enlargement_new/applicants/pdf/hungary_profile_en.pdf.

¹² Except where otherwise noted, cases summarized are based on ERRC field research.

¹³ Committee on Economic, Social and Cultural Rights (CESCR). General Comment 4: The right to adequate housing (Art. 11.1 of the Covenant). December 13, 1991, paragraph 18.

¹⁴ CESCR. General Comment 7: The right to adequate housing (art. 11.1 of the Covenant): forced evictions. May 20, 1997, paragraph 3.

available.” The United Nations has further set out in its Fact Sheet 21 on the Right to Adequate Housing the duty of governments to respect and protect the right to adequate housing and specifically, refrain from and prevent the practise of forced evictions on their territory.

36. As the international community has strengthened its commitments to the right to adequate housing and the need to provide housing to the most vulnerable sectors of society, Hungary has dramatically weakened protections available to tenants. In particular, in May 2000, amended legislation entered into effect allowing the notary -- an employee of the municipality -- powers to order evictions absent a court procedure.¹⁵ The decision ordering the eviction must be implemented within eight days, and appeals do not suspend the eviction. Significantly, the amended law includes provisions to protect evicted furniture, but not tenants. Although the Hungarian judiciary has in a number of recent years attempted to ameliorate the impact of these rules and other pressures to evict through moratoria on forced evictions in winter, these stop-gap measures have not had durable impact overall. There is an urgent need for Hungary to provide protection against arbitrary evictions in particular by (i) bringing domestic law into conformity with the international housing rights acquis and (ii) providing policy measures to address the current crisis brought on by high numbers of arbitrary forced evictions in recent years.

37. Racial segregation in the field of housing

"In 1971¹⁶, nearly two-thirds of the Roma households (65.1%) lived in segregated areas called 'colonies' under unfavourable housing conditions. [...] Started in the 1960s and continued until 1988, the colony elimination programme had a very important role in improving the settlement and housing conditions of Roma people compared to their former situation. The 1993-94 survey pointed out that 13.9% of the Roma population (about 70 000 people) lived in segregated settlements or colony-type neighbourhoods with insufficient utility supply, and low infrastructure, or in urban colonies in poor conditions. Another study carried out in 2000¹⁷ found that approximately 20% of the Roma population (100 000 people) lived in segregated settlements. The difference between 1993-94 and 2000 can be explained by the increasing segregation and marginalisation of the poorest stratum of the population."¹⁸

38. Although the overall living conditions for the whole Romani population have, according to some surveys, improved in the last three decades¹⁹, many Romani settlements in Hungary are manifestly inadequate for living. According to the World Bank, 54.9 percent of Romani households in Hungary do not have access to hot running water, 34.7 percent do not have access to cold running water, 66.6 percent do not have adequate sewerage, 49.8 percent do not have bathrooms or showers in their homes, 50.1 percent do not have indoor toilets and 13.2 percent have one or more member sleeping on earthen floors in their homes.²⁰ According to another study, the homes in which Roma were found to be living in Hungary were disproportionately small, given the number of people per household. 32.8% of houses where Roma families live have only one room whereas this is 15.4% for the non-Romani population.²¹

39. Segregating forces in Hungary are extremely powerful. In recent years, non-Roma have on a number of occasions obstructed Roma from moving into certain areas. Roma have been prevented from moving into housing by physical force (e.g. Roma families bought houses which were subsequently damaged by locals such that the Roma could not or would not move in, or sometimes the families were prevented from moving into housing by the locals forming “human chains” – Aba-Belsőbáránd, etc.) as well as by local authorities as a result of petitions by inhabitants (Celldömölk-Alsóság, Eger Felnémeti).²²

¹⁵ The Housing Act 1993/LXXVII, as amended by Act 2000/XLI.

¹⁶ Sociological Institute of the Hungarian Academy of Sciences, 1971 survey.

¹⁷ Study commissioned by the Ministry of Agriculture and Rural Development, 2000.

¹⁸ Joint Inclusion Memorandum of Hungary, p. 14.

¹⁹ In 1971 61% of the Romani houses had earthen floors, in 1994 only 10.1% had earthen floors; 56.1% of Romani houses had electricity in 1971 and 97.9% of Romani houses reportedly had electricity in 1994. in Forray R. Katalin and Mohácsi Erzsébet (ed.), 2002, *Esélyek és korlátok, A magyarországi cigány közösségek az ezredfordulón*, Budapest-Pécs, p. 35.

²⁰ See Revenga, A., Ringold, D., and Tracy W.M., "Poverty and Ethnicity: A Cross-Country Study of Roma Poverty in Central Europe". In Ringold, D., Orenstein, Mitchell A., and Wilkens, Erika. *Roma in an Expanding Europe: Breaking the Poverty Cycle*. The World Bank: Washington, D.C. 2003, p. 34.

²¹ Forray and Mohácsi, p. 35.

²² Forray and Mohácsi, p. 36.

40. On 26 September 2003, the European Roma Rights Center (ERRC), together with the Legal Defense Bureau for National and Ethnic Minorities (NEKI), filed a pre-application letter against Hungary with the European Court on Human Rights in Strasbourg. The submission concerns racially-motivated threats and discrimination in access to housing, perpetrated by the local government officials and the non-Romani residents of Gyüre²³. Ms. Bertalan Nagy is a Hungarian citizen of Romani origin with six children decided to buy a house in Gyüre. After it became publicly known that Mr. and Mrs. Kahlík -- both Ukrainian citizens of Hungarian origin -- intended to sell their house to Ms. Nagy, several non-Romani inhabitants of Gyüre as well as a number of local government officials resorted to threats and coercion to try to block the upcoming real estate transaction. The mayor and the notary held a meeting at the local council office, on the day when the purchasing contract was finally signed, following which five men, driving a council-owned car, went to the Kahlík's family house and threatened them by saying that the whole village would rather gather and burn their house down than allow it to be sold to Roma. Later that day, Mr. László Herceg, the mayor of Gyüre, spared no effort and came personally to ask the Kahlíks to terminate the contract as "Roma cannot buy a house in Gyüre" and "no Gypsy may live on the main street". On 15 August 2001, Ms. Nagy was called to come to the Council office for a meeting. The mayor of Gyüre, the notary, a representative of the Ministry of Internal Affairs, the deputy mayor of Jánd (the village affected by the by floods where Ms Nagy escaped from) and a representative of the Minority Self-Government of Gyüre all took part. Ms. Nagy was told not to buy the house because the Kahlík family, being Ukrainian, could not sell the property. In addition, Ms. Nagy found out that, two days earlier, the notary of Gyüre had gone so far as to sequester the Kahlíks family house based on a debt that subsequently turned out to be non-existent. In view of the obvious inability and/or unwillingness of the Hungarian authorities to provide Ms. Nagy and the Kahlík family with a remedy domestically, ERRC and NEKI have decided to turn to the European Court of Human Rights on their behalf and request that international justice be served and their clients afforded adequate and comprehensive redress.²⁴ On 8 July 2005, ERRC with NEKI submitted an application to the European Court of Human Rights in a companion case to Kahlík in which the same local government tried to stop the sale of a house to a Romani family on racial grounds.

41. Denial of access to social housing

Local authorities in Hungary have in recent years sold off significant amounts of the public (including social) housing stocks, apparently in order to compensate for declining revenues, creating a situation in which Hungary may not be able in practice to meet the housing needs of the poor and/or extremely poor. In addition, as detailed below, a number of local authorities have adopted very arbitrary rules as to eligibility for public (including social) housing, rules which in practice may preclude many Roma from eligibility. Finally, widespread anti-Romani sentiment in Hungary means that unfortunately, allegations of racial discrimination in the allocation of public housing are often plausible.

42. In recent years, Roma in Hungary have often been blocked from accessing social housing, despite frequently manifest need. Many Roma are excluded from access to social housing in Hungary as a result of decisions taken by local authorities. There are very widespread allegations of discrimination in the allocation of public housing -- including social housing -- in Hungary. Also, according to ERRC research, many local governments have enacted provisions barring persons caught arbitrarily occupying property from having access to social housing for a number of years,²⁵ generally between 3 and 5 years, though in an extreme instance, a representative of the Debrecen local government stated that illegal occupants are denied access to social housing for a period of 10 years.²⁶ After the ERRC had challenged the above decrees on a number of grounds, on February 22, 2005, the Hungarian Constitutional Court

²³ The application asserts violations of Article 3 (freedom from inhuman and/or degrading treatment), Article 8 (right to family and private life), Article 1 of Protocol 1 (right to peaceful enjoyment of one's possessions), Article 13 (right to an effective domestic remedy) and Article 14 (right to non-discrimination) of the European Convention on Human Rights.

²⁴ For more information on the case, please go to <http://www.errc.org/cikk.php?cikk=327>

²⁵ For example, Decision 41/2003 of Budapest's 8th District Government on social housing states, at Article 6(1), "A new contract cannot be made with those persons who: [...] (b) occupied any flat arbitrarily or by trespass in the last three years [...]" (unofficial translation by the ERRC). Decision 41/2003 entered into force on September 1, 2003. Amongst the other districts in Budapest that responded to the ERRC's request for information, the term is 3 years in the 21st District and 5 years in Budapest's 1st, 3rd and 10th Districts.

²⁶ According to Ms Zsuzsa Feczák, Head of the Civis Ház Housing Department "[...] squatters have no chance at all to get a legal rental contract. Obviously, the local council would like to know that the flats it owns are in the hands of the rightful tenants. Squatters, as we all know, do not look after their surroundings or houses." (ERRC interview with Ms Zsuzsa Feczák, October 2003, Debrecen.)

struck down as unconstitutional provisions of Budapest 3rd district local government decree regulating social housing. After these developments, on 2 May 2005, the Parliamentary Commissioner for Civil Rights and the Parliamentary Commissioner for National and Ethnic Minority Rights officially requested the Minister of Interior to order the county-level administrative offices to examine the local self-government regulations on social housing, with the aim to ensure that criteria for allocating social housing are constitutional.

43. While on its face such provisions are not discriminatory, by proportion and also possibly even by number, many more Roma than ethnic Hungarians are apparently unable to afford even nominal housing costs, forcing a disproportionate number of Roma to occupy homes without legal permission. As a result, many persons with the greatest need for social housing are effectively denied access to such. For example, out of twenty-eight Romani families surveyed in segregated settlements in Ózd, seventeen (i.e., well over half) reported that they could not apply for social housing because they had previously been caught illegally occupying property in the city. In Budapest, Ms N.T., a 50-year-old Romani woman, told the ERRC that she had applied several times for social housing from Budapest's 8th District authorities, but was rejected because the family had occupied housing several times without permission. Ms N.T.'s 10-member family, including 6 children below the age 18, illegally occupied a 24-square-metre flat in Budapest's 8th District at the time of ERRC research. The family had also reportedly been rejected for financial aid by the local government. ERRC is concerned that the above refusals of social housing have a specially negative impact on the most needy families and can lead to the removal of children from their families.

44. Often, local governments place arbitrary conditions on eligibility for housing assistance, with the effect that Roma do not qualify to receive public housing, including social housing. For example, some local governments reportedly require applicants for social housing to possess large amounts of money before their applications for social housing are considered. The local governments of both Budapest's 8th District and Ózd impose such conditions. During interviews with members of the local government in Ózd, it was revealed that the local council gives preference to families who can prove savings in advance, and who will be able to fund their own housing in a few years, with the help of a state-subsidised loan. This all but excludes persons who are unemployed and/or relying on social welfare or otherwise in situations of poverty and/or extreme poverty -- including many Roma -- from accessing social housing. A similar situation has been documented in the eastern Hungarian city of Debrecen.

45. Roma in Hungary have also been denied access to social housing as a result of the distribution of social housing by local governments via public auction. Ms Ildiko Batizi, head of the Debrecen-based non-governmental organisation *Provisional Homes for Families* explained, "It is very hard to get a social flat in Debrecen because of the bidding. The person who offers the highest price gets the flat. Nowadays, social flats can cost up to 40,000 forints per month. Many Roma who most need such flats have no possibility to pay this amount."²⁷ In the eastern Hungarian town of Hajdúhadház, social flats are also let through public auction, though such auctions are often not advertised. Reportedly, many flat auctions are announced only to a select few, usually those with ties to the local government. Romani residents in Hajdúhadház report that they do not receive notification that social flats will be auctioned off, with the exception of those flats in poor condition and located near Romani settlement. There are currently around one hundred social flats in Hajdúhadház, according to Mr Levente Kis of the *Association for Hajdúhadház*, but not a single Romani family reportedly occupied a social flat in the town at the time of the ERRC research in April 2003.²⁸

46. Broadly, Hungarian lawmakers have failed to state explicitly that discrimination in access to housing is banned. Although Hungary importantly adopted a comprehensive anti-discrimination law in December 2003, the law is noteworthy for failing to include unequivocal provisions banning discrimination in access to housing. Despite comprehensive lists of service providers and areas covered by the ban on discrimination included under Articles 4 and 5 of the new law, housing is not explicitly included as covered by the ban. Although housing appears at Article 26 of the law under Chapter III in matters related to the implementation of justice, provisions in the key area of access to housing (Article 26(1)(b)) pertain only to housing provided by the state or local government, and are vaguely worded such that only "setting the conditions for the sale or rental of flats" are covered by the ban.

²⁷ ERRC interview with Ms Ildiko Batizi, April 2003, Debrecen.

²⁸ ERRC interview with Mr Levente Kis, April 2003, Hajdúhadház.

47. In the following, we show a table on the repartition of Roma living in different areas based on segregation (%)²⁹:

	Repartition	Budapest	City	Town	Village
Only Roma live together but not settlement	16,9	18,9	10,4	11,2	19,1
Ghetto, settlement lived only by Roma	27,8	4,0	32,1	28,4	29,4
Mixed environment	47,3	50,1	40,5	51,0	46,7
No Roma family lives in the neighbourhood	4,1	6,6	6,1	7,7	2,8
Cannot be determined	3,8	20,4	10,9	1,8	2,0

Paragraph 105-111 of the Government Report regarding education

48. It is crucial for a child's development that s/he is able to attend a kindergarten and prepare for the school years. There are no data available about the number of children who have never attended kindergarten and so there are no data about those children who dropped out after a short period of time. According to the Delphoi Consultant³⁰, there are 864 settlements in the country where there are no kindergartens. The average population of these villages is 401 persons, so they are the smallest settlements in Hungary. Most of these are to be found in Baranya County (182), in Borsod-Abaúj-Zemplén County (112), in Somogy County (94) and in Zala County (139). The average rate of Roma in the examined 864 villages is 13,7%. However, in the above countries where the situation is the worst, Roma are represented by 23,1 % (Baranya), by 25,6% (Borsod-Abaúj-Zemplén) or even by 31,5% (Somogy). The total number of Roma in the 864 settlements are 36,329, out of which 6,318 were in kindergarten age (in academic year 1999/2000). This is 19, 8% of the total number of children in kindergarten age, which means that one-fifth of the Roma children in kindergarten age live in a village where there is no kindergarten. Considering the infrastructural, geographical and economical conditions of these villages, we can assume that these children can hardly get to a kindergarten located in another settlement.

49. The segregation of Romani children in the Hungarian education system is pervasive. A wide range of mechanisms result in various forms of segregation at various levels of the school system. As elsewhere in Central and Eastern Europe, Hungary's system of remedial special schools for children with developmental disabilities has been used for about half a century as a repository for Romani children whom the regular primary schools could not or did not want to educate. Official statistics from 1993 -- the last year in which the state collected ethnically based data -- reveal that almost half of all children following the remedial special school program for the children with developmental disabilities were Roma. Follow-up research as reported in Stigmata indicates that the tendency of overrepresentation of Romani children over the following years remained stable.

50. We would like to draw the Committee's attention to the fact that schools get an almost three times higher financial support for children who are diagnosed to be mentally disabled. Therefore, it is an interest of the school to declare as many students as possible as such in order to be able to maintain the school and its facilities, which are many times not even available for Roma students as ERRC's research found several times. The financial support of the state after those children was 440.000 forint in the 2003/2004 academic year, whereas the available financial support after children in normal curriculum was only 180.000 (grades 1-4) and 190.000 (grades 5-8) forint. In the 2005/2006 academic year, these amounts will change into 464.000 (for special curriculum) and to 204.000 (grades 1-4) and 212.000 (grades 5-8) forint (for normal curriculum) (see paragraph 51 below).

51. Other Romani children are segregated within regular primary schools, in separate classrooms. A widespread practice of segregating Romani children in Hungarian mainstream schools is based on a Ministry of Education decree from 1997 on the education of the national and ethnic minorities. The

²⁹ Babusik Ferenc: Differences in Access to Primary Healthcare – Structure, Equal Opportunity and Prejudice (Hozzáférési különbségek az egészségügyi alapellátásban – struktúra, esélyegyenlőség, előítéletek). Delphoi Consulting, European Roma Rights Center, Bp. 2004.

³⁰ Delphoi research in Hungarian on "Kindergarten visitations among Roma children" is available on www.delphoi.hu

decree was used as a ground for segregating Romani children in all-Romani “catch-up” classes which are frequently substandard, offering poor quality education in spatially segregated areas. Most Romani children educated in “catch-up” classes are never mainstreamed into the normal school system, but rather finish their educational career in the separate system, often as early as the 5th class. Mainstream schools also rid themselves of Romani children by putting pressure on Romani parents to place their children in the so-called “private student status”, which in effect is used to release the child from compulsory school attendance and to end the school’s obligation to educate Romani children adequately. Thousands of Romani children are also being taught in segregated ghetto schools, where non-Romani children are barely to be found, located in or near Romani settlements.

52. In 2002, the ERRC conducted research in a city -- Pécs (Baranya county); towns -- Alsószolca (Borsod–Abaúj–Zemplén county), Komló (Baranya county), Nyíradony (Hajdú Bihar county), and Szentés (Csongrád county); and small towns/villages -- Forró (Pest county), Gönc and Szomolya (Borsod–Abaúj–Zemplén county) in five different counties with high numbers of Romani population according to the latest census data.

53. According to the 2001 census, 190,046 people identified themselves as Romani, or approximately 1.8% of the total population. (Népszámlálás 2001, Központi Statisztikai Hivatal, 2002, pp. 9–10) Estimates put the number of Roma in the range of 550,000–600,000 or 5.3–5.8% of the population. The most recent data about the educational status of Romani children in Hungary was gathered by the Ministry of Education in the school year 1992–1993. After the entry into force of data protection legislation in Hungary, official registers of the ethnic affiliation of students in the Hungarian schools were eliminated. A number of studies on Roma in the Hungarian educational system carried out in the years following 1993 were based on estimates.

54. According to a research in the school year 1998–1999 carried out by Delphoi Consulting³¹, there were 986 primary schools (28.7% of all primary schools in Hungary) in which the number of Romani students was above 8.5%. Around one third of these (361 schools) were researched. According to the research findings, over a six-year period between 1992 and 1998, the ratio of Romani students in schools with low percentage of Romani children has decreased, while the ratio of Romani children in schools with a high percentage of Romani children has increased. Also according to the Delphoi research, more than one quarter of the schools with a considerable percentage of Romani children (above 8.5%) are located in small settlements with a population below 1,000 people, while about 20% of these schools can be found in cities with a population over 10,000 people. With respect to the size of the schools, the research found that the majority of Romani children are educated in relatively small-size schools with a student body of between 120 and 200 students. The small-size schools are located in smaller towns and villages. The survey proposed the hypothesis, based also on previous research that the schools with a smaller number of students tend to be located on the outskirts because they are not considered to be elite schools. It could be concluded therefore, according to Delphoi, that the majority of the Romani children attend schools on the outskirts of towns and cities and in smaller towns and villages.

55. The research further examined the ratio of Romani students in special remedial programmes. It was established that the higher the ratio of Romani students in the school, the higher the likelihood that the schools would initiate a remedial education programme. Thus the schools which ran remedial programmes constituted 23.2% of the total number of schools where the percentage of Romani children was between 15% and 25%, 31% of the total number of schools where the percentage of Romani students was between 25% and 40%, and 36.6% of the total number of schools where the percentage of Romani students was above 40%. Further, the research established that the higher the ratio of Romani children in the school, the more Romani children participate in remedial education. Romani students constitute the majority of students in remedial special programmes. In almost all types of schools, regardless of the size of the school and the number of Romani students in it, Romani children comprise more than 50% of all students in remedial special education. In schools where the number of Romani children is more than 25%, the ratio of Romani children in special education exceeds 77%.

³¹ See Babusik, Ferenc. *Survey of Elementary Schools Educating Romani Children*. Delphoi Consulting, 2000, at: <http://www.delphoi.hu/aktual.htm>.

Table 3: School Size and Concentration of Romani Children in Special Education I

Size of the schools	Percentage of Romani children at school				
	0–9,99	10–14,99	15–24,99	25–39,99	40–100
	Percentage of Romani children in special education out of all Romani children in primary schools				
Under 120 pupils	83,3		85,7	100,0	92,6
121–200 pupils	27,8	72,7	86,5	77,0	83,5
201–320 pupils	87,0	50,0	62,5	82,1	94,6
Above 320	35,1	60,6	69,4	79,9	95,9

56. Furthermore, with the increase of the percentage of Romani children at school, the percentage of those Romani children who follow special education also increases. It was established that more than 80% of all Romani children following special remedial programmes were educated in schools where Roma were more than 25% of the student body (Table 4).

Table 4: School Size and Concentration of Romani Children in Special Education II

Size of the schools	Percentage of Romani children at school				
	0–9,99	10–14,99	15–24,99	25–39,99	40–100
	Percentage of Romani children in special education out of all Romani children in primary schools				
Under 120 pupils	1,1	0	0	0	2,4
121–200 pupils	0,3	0,3	2,8	6,1	23,8
201–320 pupils	1,4	0	3,1	10	15,8
Above 321	0	0,6	6,4	19	4,8
Total	2,7	0,9	12,3	35,1	46,8

57. In a 2001 study conducted by the Hungarian Institute for Educational Research, 192 Hungarian elementary schools were examined, where on average 40% of the school population was Romani³². In the examined schools, the researchers found 157 classes with only non-Romani children and 311 classes with only Romani children. This means that 15.7% of Romani students were attending homogeneous Romani classes. Estimates based on this study suggest that on the national level 10% of Romani children attend homogeneous Romani classes and another 6 to 7% attend classes where Romani children are the majority. Moreover, the study suggests that almost every sixth class (17.2%) was a homogeneous Romani class in schools where the rate of Romani students exceeded 40%.³³ Based on extrapolations from this survey, the researchers estimated that there are approximately 700 homogenous Romani classes in the country.³⁴ The well-documented phenomenon of homogeneous Romani classes suggests that anywhere between 6,000–8,000 Romani children studying in the regular schools study in a completely segregated environment.

³² See Havas, Gábor, István Kemény, Ilona Liskó. *Cigány gyerekek az általános iskolában*. Oktatáskutató Intézet. Budapest, 2001.

³³ *Ibid.*

³⁴ Officials of the Hungarian Ministry of Education, including Minister Bálint Magyar, have repeatedly made reference to this figure in recent months.

58. The above described research called „From the state care system into homelessness“ carried out by the Office of Minister Commissioner for the Integration of Roma and Disadvantaged Children of the Ministry of Education highlighted another alarming issue on the educational situation of state care children: although 92% of the interviewed Romani ex- state care children finished the primary school, only 10% of them finished the secondary school. 93% of the interviewed persons do not work in the profession that they learnt in the vocational schools which proves that the education which children in state care get does not enable them to enter and stay in the labour market. Ágnes Mészáros, the leader of the Róbert Crisis Hostel reported that some of the children who are brought up in state care institutions cannot even read and write which indicates the lack of attention by fosters to look after the school records and developments of the child. Ágnes even met a 14 years old boy from Miskolc and another 10 years old boy who both were illiterate.

59. In the following tables, we would like to highlight the rates to get into the secondary school system by non-Roma and Roma students after the primary school³⁵. It clearly shows that the more Roma pupils are in the school, the weaker type of secondary schools the students will attend (this is the same tendency by both Roma and non-Roma student). However, Roma will even have a lower type of schools at a higher ratio.

Non-Roma	Vocational School (szakmunkásképző) (carpenter, locksmith etc.)	Technical School (szakközépiskola) (trade, health)	Academic School (gimnázium)
10 - 25 % Roma in the primary school	38,6	39,1	22,4
25,1-38,5 % Roma in the primary school	38,2	38,3	23,6
38,51-62,5 % Roma in the primary school	52,0	27,7	20,4
Above 62,51 % Roma in the primary school	58,8	32,2	9,0
Average	46,8	34,7	18,5

Roma	Vocational School (szakmunkásképző) (carpenter, locksmith etc.)	Technical School (szakközépiskola) (trade, health etc.)	Academic School (gimnázium)
10 - 25 % Roma in the primary school	72,4	20,9	6,7
25,1-38,5 % Roma in the primary school	68,7	20,9	10,4
38,51-62,5 % Roma in the primary school	76,2	15,1	8,7
Above 62,51 % Roma in the primary school	78,4	18,3	3,3
Average	73,9	18,8	7,3

60. In order to desegregate Romani children, a new form of financial support was introduced by the Ministry of Education:

"A statutory **integration grant** financed by the State is being introduced (2003/2004 academic year) to promote the integration of disadvantaged children, especially Roma. In the case of settlements where the majority of the students in a school are socially disadvantaged, as a result of poverty, ethnic background, disability or any other cause, the integration grant encourages social integration by attracting better-off children who currently attend schools in other settlements."³⁶

61. According to Ministry officials, under the new system, schools must integrate at least 10% of the disadvantaged pupils from the segregated classes into the integrated classes every year. If they do not achieve this in the following year, they are not eligible for the grant.³⁷ Hungarian lawmakers also

³⁵ Delphoi Consultant, Babusik Ferenc: Késői kezdés, lemorzsolódás - cigány fiatalok az általános iskolában.

³⁶ JIM Hungary p. 31.

³⁷ Interview with Mohácsi Viktória, Hungarian Ministry of Education Ministerial Commissioner for Integration of Roma and Disadvantaged Children, www.romnet.hu, 7 April 2003.

amended the Law on Education in 2003, including a ban on segregation in schooling,³⁸ and a ban on direct and indirect discrimination in education is included in the anti-discrimination law adopted by Hungarian parliament in December 2003.

62. Another promising program is the so-called „Útravaló” program by the Ministry of Education, according to which disadvantaged and specially disadvantaged children and adults can apply for scholarships. The mentor and the pupil both receive scholarships aiming for the effective and successful preparation into higher education. The recent legal and policy amendments aiming to combat racial segregation in schooling in Hungary are to be welcomed. They constitute among the most far-reaching and innovative policies on Roma anywhere in Europe. Their impact has, however, yet to be seen and/or evaluated.³⁹

Paragraph 155-159 of the Government Report regarding drug abuse and sexual exploitation

63. As mentioned above, ERRC has followed upon the situation of Roma children in the Róbert Crisis Hostel in Budapest. The centre was set up to provide temporary accommodation and to help those children who were found on the streets or face a crisis situation and need immediate help. The findings are shocking. The experiences of the previous years show that the percentage of children (all under 18) taken to the crisis centre by the police were always above 70% (in the first half of 2004 it was even 78.1% -- see appendix for detailed information and statistics). According to the workers of the centre, most of the time the children are not brought to the centre by the police because they were caught committing a crime; however, almost all of the children get involved into a crime. Reportedly, 60-70% of the girls and 20-30% of the boys are caught on prostitution. The latter are the victims of homosexual and pedophile perpetrators. Many of these children are immediately picked up at the big train and bus stations after their arrival from the countryside by organized gangs and crime groups.

64. The workers expressed their concerns that even if they know who might be the criminals who are abusing these naive and ignorant children, the police have not been able to catch those perpetrators. According to the social workers of the hostel, the youth protection department of the national police department requires surprise in the act and cannot do anything based on their ‚allegations’. They also said that it happens several times that the police bring the children to the hostel under drug influence or with knives still in their pockets which indicates that the police do not take the job seriously enough.

65. The main reasons why children get into such crisis situation is the bad atmosphere in state care institutions. The staff members in the hostel know well which are the worst state care institutions where most of the children escape from. Not surprisingly, the geographical indicators show that most of the children arrive from Szabolcs-Szatmár-Bereg, Nógrád, Borsod-Abaúj-Zemplén and Somogy counties. Based on the interviews, the main problems are highlighted in this report under paragraph 19 above. We would like to highlight here the importance of employing more Romani staff in the state care system. The research ‚From the state care system into homelessness’ found a shocking phenomenon: when asked about their identity, 24% of the interviewed people answered ‚my parents are Roma but I am not’. ERRC believes that the lack of role models and foster parents of Roma origin leads to a confusion of identity which can be easily explained by the fact that within the system, most of the children are Romani and live under the same situation so identity might not be an issue. But when a Roma young adult grows up and leaves the system, s/he will face racial discrimination in all fields of life (public services, labour market etc.) which will be completely surprising and not understandable for her/him.

Recommendations

A. The Law

1. The on-going amendment process of the anti-discrimination law should be transparent and the input of NGO’s should be included. The Hungarian anti-discrimination law should be amended such that discrimination in access to housing is explicitly banned.

³⁸ 2003 amendment of the LXXIX. 1993 Law on Education.

³⁹ For more information on situation of Romani children in Hungarian education, please go to <http://www.errc.org/db/00/04/m00000004.pdf>

2. The Equal Treatment Authority must be fully independent which includes budgeting.
3. Hungary must ratify Protocol 12 of the European Convention on Human Rights.
4. Collection of ethnic data must commence in a way that protects privacy but allows knowledge by government efforts to end discrimination.
5. The opinion and suggestions of NGOs dealing with Roma issues should be requested when plans are made regarding the implementation of the Government Resolution on promotion to integrate Roma. Results and outcomes have to be made public.

B. Housing

1. There is an urgent need for Hungary to provide protection against arbitrary evictions in particular by (i) bringing domestic law into conformity with the international housing rights acquis and (ii) providing policy measures to address the current crisis brought on by high numbers of arbitrary forced evictions in recent years.
2. The Hungarian government should provide an effective framework for combating the social exclusion of Roma in Hungary and should also provide in detail how Hungarian officials intend to address the very serious issues currently hindering large numbers of Roma in Hungary from enjoying the right to adequate housing.
3. Hungarian law- and policy-makers should, without delay, act to end systems of distribution of social housing not based strictly on need. Local rules precluding persons previously caught illegally occupying housing from having access to social housing should be struck down, and national-level rules rendering this practice illegal should be adopted. Additionally, there is evidently a need to improve transparency in the distribution of social and other public housing.
4. Hungary must end housing discrimination, improve the available housing stock and improve procedures to obtain social housing so children are not homeless.

C. Health Care

1. There is a pressing need now for comprehensive data on issues related in particular to the ability of all segments of Romani society in Hungary to have real and effective access to health care in practice. Hungarian authorities should begin to remedy this major lacuna.
2. Ambulances shall not refuse visitations to Roma families or calls coming from Romani settlements.
3. Doctors should take into consideration the financial situation of their patients and prescribe medicines that are affordable for them.
4. The phenomenon of gratitude money has to be addressed and stopped.

D. State Care

1. Children must not be removed from Roma homes because of poverty or financial crisis.
2. For those in state care, the education and vocational training must be improved and tied to available jobs.
3. Adoption procedures must be improved and a discussion must be carried on with the Roma community regarding the issues surrounding cross-ethnic adoption.
4. Awareness of police on specially vulnerable children has to be raised, police protection of vulnerable children must improve.

5. Better initial and on-going training is needed for foster parents and social workers working in the state care system.
6. It has to be ensured that the ideal place for a child in state care system is chosen based on the child's needs and not on available places.
7. Well trained attorneys must be provided for children who are removed from the care of their parents or who are accused of criminal behavior.
8. More and smaller foster homes are needed for the state care system.
9. Roma foster parents and teachers should be involved in the work in state care institutions in order to strengthen the Roma identity of Roma children and serve as role models.
10. Independent evaluators have to be involved to examine the operation of state care institutions and the occurrence of abuse of children.
11. More engaging programs have to be established in state care institutions in order to keep the children safe and entertained inside of the building to prevent looking for amusement opportunities on the streets.

E. Education

1. Educational segregation, including the practice of inappropriately sending Roma children to classes for the disabled, must be stopped immediately.
2. Kindergartens have to be available for all child so that they will be able to do well in the primary school.
3. In the near term, the Hungarian government should monitor and make public the impact of desegregation policies to ensure that all schools are complying with requirements to desegregate. Furthermore, legal sanctions should be brought against schools and other local authorities refusing to implement desegregating measures. It should also be made explicit what measures the Hungarian government intends to undertake in cases where local authorities obstruct efforts to desegregate the school system.
4. Government programs on the promotion of better education for Roma children have to be made public.

Conclusion

Although the Hungarian government has made several efforts to improve the situation of Roma children, we believe that much more needs to be done. A significant number of Roma children live in extreme poverty and are even starving in the poorest areas. As we showed above, nearly 900 settlements lack kindergarten; therefore, one-fifth of the Roma children in kindergarten age are at risk to not be able to keep up with the others in the primary school and to be sent into special remedial classes which deprives them of future possibilities to get into higher education and get access to the labour market. Because of extreme poverty, children are also at risk to be removed from their families and be put in a state care institution which can lead to their homelessness. And then the vicious circle goes around. We believe that with complex programs and with wide social cooperation, positive changes can be achieved in the near future.

Should the Committee need any further information, ERRC would be glad to assist. Thank you for your attention.

Sincerely,

Dianne Post, Legal Director

Rita Izsák, dr, Hungarian Legal Monitor

APPENDIX

Repartition of cases at Crisis Hostel in 2003

	From Budapest				From countryside				Foreigners			Total	%	
	Boys	Girls	Total		Boys	Girls	Total		Boys	Girls	Total			
Children living in children's home	11	9	20	2,7%	440	151	591	79,3%				611	82	
Children living in family	8	8	16	2,1%	47	36	83	11,2%				99	13,3	
Foreigners									31	4	35	35	4,7	
Clients total	19	17	36		487	187	674		31	4	35	745		
Repartition (%)				4,8%				90,5%					4,7%	100

Repartition of cases at Crisis Hostel in 2004

	From Budapest				From countryside				Foreigners			Total	%	
	Boys	Girls	Total		Boys	Girls	Total		Boys	Girls	Total			
Children living in children's home	2	2	4	1,5%	154	57	211	81,2%				215	82,7	
Children living in family	1	2	3	1,2%	19	10	29	11,2%				32	12,3	
Foreigners									11	2	13	13	5,0	
Clients total	3	4	7		173	67	240		11	2	13	260		
Repartition (%)				2,7%				92,3%					5,0%	100

Repartition of cases at Crisis Hostel in 2005 (until 30 June)

	From Budapest				From countryside				Foreigners			Total	%	
	Boys	Girls	Total		Boys	Girls	Total		Boys	Girls	Total			
Children living in children's home	9	2	11	4,0%	120	63	183	67,3%				194	71,3	
Children living in family	7	4	11	4,0%	30	27	57	21,0%				68	25,0	
Foreigners									8	2	10	10	3,7	
Clients total	16	6	22		150	90	240		8	2	10	272		
Repartition (%)				8,1%				88,2%					3,7%	100

Repartition of ways getting into the Crisis Hostel in 2003

	Number of cases	Repartition
By the police	616	83,0%
By the Immigration Office of Ministry of Interior	27	3,6%
Voluntarily	86	11,5%
Children's home	4	0,5%
Parent, relative	5	0,6%
Other	7	0,9%
Total	745	100%

Repartition of ways getting into the Crisis Hostel in 2004

	Number of cases	Repartition
By the police	203	78,1%
By the Immigration Office of Ministry of Interior	13	5,0%
Voluntarily	31	12%
Parent, relative	5	1,9%

Other	8	3,1%
Total	260	100%

Repartition of ways getting into the Crisis Hostel in 2005 (until 30 June)

	Number of cases	Repartition
By the police	193	71,0%
By the Immigration Office of Ministry of Interior	9	3,3%
Voluntarily	63	23,0%
Parent, relative	6	2,2%
Other	1	0,4%
Total	272	100%

Repartition of clients based on age in 2003

Age	Number of clients	%
18 years old	74	9,9
17 years old	162	21,5
16 years old	164	22,0
15 years old	143	19,2
14 years old	85	11,4
13 years old	69	9,3
12 years old	21	2,8
11 years old	9	1,2
10 years old	2	0,3
9 years old	5	0,7
8 years old	5	0,7
7 years old	1	0,1
6 years old	0	0,0
5 years old	5	0,7
Total	745	100%

Repartition of clients based on age in 2004

Year of birth	Number of clients	%
18 years old	27	10,4
17 years old	53	20,4
16 years old	85	32,7
15 years old	43	16,5
14 years old	27	10,4
13 years old	13	5,0
12 years old	6	2,3
11 years old	3	1,2
10 years old	1	0,4
9 years old	1	0,4
8 years old	1	0,4
Total	260	100%

Repatriation of clients based on age in 2005 (until 30 June)

Age	Number of clients	%
18 years old	4	1,5
17 years old	82	30,1
16 years old	50	18,4
15 years old	34	12,5
14 years old	43	15,8
13 years old	29	10,7
12 years old	16	5,9
11 years old	5	1,8
10 years old	3	1,1
9 years old	1	0,4
8 years old	0	0,0
7 years old	3	1,1
6 years old	2	0,7
5 years old	0	0,0
Total	272	100%

Days spent by a child at the Crisis Hostel in 2003

Number of days spent	Number of clients
1	552
2	98
3	32
4	12
5	5
6	7
7	2
8	11
9	1
10	4
13	1
14	1
15	2
16	1
17	2
22	1
24	5
30	1
35	1
37	1
39	1
43	3
50	2
57	1
61	1
84	1
98	1
114	1
171	1
Total:	752
Average:	3days/person

Days spent by one child at the Crisis Hostel in 2005 (until 30 June)

Number of days spent	Number of clients
1	160
2	58
3	25
4	9
5	5
6	2
9	2
10	2
11	1
13	1
15	1
17	1
18	1
27	1
42	1
Total:	270
Avarage:	2days/person

ERRC would like to thank the following organizations and persons for their assistance:

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