

# Romani Children and the Hungarian Child Protection System

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**T**HE United Nations Convention on the Rights of the Child (hereafter “CRC”), ratified in 1991 and incorporated in Hungarian legislation two years later, along with the Child Protection Act (Act No. XXXI on the Protection of Children and the Administration of Public Guardianship) that came into force in 1997, represent a real breakthrough with respect to the perception and practice related to the roles, tasks and scope of child protection in Hungary. The switch of perspectives, consisting of bringing the child and the family to the forefront of child welfare and protection and emphasising the importance of preventive, local care and social work, was not only reflected in legislation: Ensuing practical changes also suggested that, thanks to the new regulation and structure, the Hungarian child welfare and protection system was hopefully undergoing a substantive transformation process. The number of children taken away from their families decreased,<sup>3</sup> children’s homes, previously accommodating a great number of children, were closed or converted into smaller group homes, and

therefore – due to the establishment of more intimate types of homes that better meet the developmental and psychological needs of children, and the increasing number of children placed in foster families – it became possible for institutionalised children to receive more family-type forms of care.

However, despite all these welcome novelties, the spirit, and even the letter of the law is disregarded in several fields of practice, as revealed by research and statistical data. Often, it still may take several times the period specified in the law until a decision is made about the placement of a child, and the preparation of assessment and care plans for the treatment ahead and institution of regular revisions failed to bring significant changes in terms of the length of time spent in the institution, which comes hard especially on young children.<sup>4</sup> The extreme territorial variation of the chosen form of care, and regional differences with regard to stressing the various forms of prevention, are also in contradiction with the law.<sup>5</sup> Furthermore, the evaluation of the reasons of

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<sup>3</sup> *Hungary being the only country in the region amongst the transition countries. See MONEE Report 4. UNICEF. Innocenti Research Center: Florence, 1994.*

<sup>4</sup> *Herczog, Maria. 1999. Gyermekvédelmi kézikönyv (Child protection manual). Budapest: KJK Kerszöv Kiadó.*

<sup>5</sup> *Hatvani, E. 2004. A hatósági intézkedések szerepe a gyermekvédelem rendszerében (The role of the measures taken by authorities within the child protection system). In: Gyermekvédelmi szakellátás. Budapest: NCSSZI.*

institutionalisation in the child protection system, determined by insufficient conditions rather than the children's needs, does not conform to a unified system of evaluation.

While an important section of the law provides that the child may not be taken away from his/her family on the grounds of insufficient material, financial conditions,<sup>6</sup> and that instead, the family should be assisted to take "good enough" care of their children so as to eliminate the factors endangering the child, research conducted in this area suggests that the poverty of the parents, as well as ensuing problems (like neglect, alcoholism, etc.), still represent a significant motive behind child institutionalisation. Another important section of the law provides that "the child has the right to know his/her origins and natural family", and that "his/her national, ethnic and cultural ties must be taken into account".<sup>7</sup> Nevertheless, the consideration of the child's ethnic identity – especially in case of their placement with foster or adoptive families – produces a dilemma for professionals involved in decision making that is difficult to solve. While the Data Protection Act<sup>8</sup> strictly limits the registration of identity, the suppression of such information – especially concerning a stigmatised minority group coping with prejudice, like Hungarian Roma – only postpones the conflicts that will erupt sooner or later, according to specialists.<sup>9</sup> (This should not be seen as a Hungarian specificity, since many countries, inside and outside the East and Central European region, report on similar experiences.)

Considering the above, we have formulated a hypothesis assuming that even if the system of child protection provision is seemingly unified – that is, detached from concrete situations – it still suffers characteristic

distortions. The structural traits of any given territorial unit (region, form of settlement, the socio-demographic relations of the settlement), as well as the professional conditions, competences and attitudes of local institutions and their personnel, obviously have a determining role as regards such distortions. On the other hand, the broader socio-psychological dimension, susceptible in the tendency of creating categories that often reveal prejudiced beliefs that characterise the social perception of concerned families and children, should also be taken into account. As a result of these conditions, the aim of objectivity and unity may be hindered and impaired, paradoxically putting welfare and protection of children at the service of discrimination and social exclusion, instead of being instrumental in promoting equal opportunities and enhancing social inclusion.

In justifying our assumptions, we have drawn on two recent research projects. The outcomes of a comprehensive quantitative analysis, relying on data provided by professionals involved in professional service provision of every age group nationwide, have been complemented by a qualitative study that inquired into the opinions of professionals working in child protection about the opportunities of Romani children in protective care in 7 different regions of Hungary. Numbers are not very telling insofar as the reason why we engaged in this research is concerned, yet everyday experience clearly suggests that, compared to their proportion in the population, Roma are significantly over-represented in child protection institutions. Therefore, it seemed indispensable to ask: Is it possible to justify this experience by means of sociological research, and, in case of an affirmative answer, what kind of causes and explanations can be singled out behind the phenomenon in question.

<sup>6</sup> Article 7(1).

<sup>7</sup> Article 9(1).

<sup>8</sup> Act LXIII of 1992 on the Protection of Personal Data and the Publicity of Data of Public Interest.

<sup>9</sup> Szilvási, L. 2005. Örökbefogadás – identitás – sajtó – botrány (Adoption – identity – press – scandal). In: *Család, Gyermek, Ifjúság*, No. 2/2005.

## Child protection and equal opportunities – as revealed by a research project

In 2005, we conducted comprehensive research on the situation of institutionalised children in protective care.<sup>10</sup> The analysis, based on data sheets filled out by professional service providers, included information on 1,866 children altogether who, having been institutionalised during the previous 2 years, were in institutional care at the time of completing the questionnaires. Thirty-six percent of the children in the sample were infants (0-1 years

old), 24% were just entering school (7-8 years old), and 40% were adolescents (14-16 years old).

Given that one of our main research questions inquired about potential differences due to the ethnic background of children, we felt compelled to find some solution to resolve the conflict between the demands of research and the requirements of data protection. Thus we came to the decision to rely on the presumptions of professionals filling the questionnaires, who had personal contact with the children concerned. Since the ethnic identity of children in institutional

### The rate of Romani children in the population and in the research sample<sup>11</sup>

Territorial unit	Rate of Roma in the population between the ages of 0 and 14	Research sample	Chance quotient of the institutionalisation of Romani children
<i>Baranya</i>	10.3	41	3.98
<i>Bács-Kiskun</i>	5.6	12	2.14
<i>Békés</i>	8.4	27	3.21
<i>Borsod-Abaúj-Zemplén</i>	27.6	73	2.64
<i>Csongrád</i>	3.6	17	4.72
<i>Fejér</i>	4.2	18	4.29
<i>Győr-Moson-Sopron</i>	2.3	26	11.30
<i>Hajdú-Bihar</i>	11.8	41	3.47
<i>Komárom-Esztergom</i>	6.5	10	1.54
<i>Nógrád</i>	24.3	42	1.73
<i>Somogy</i>	14.4	52	3.61
<i>Szabolcs-Szatmár-Bereg</i>	21.3	44	2.07
<i>Jász-Nagykun-Szolnok</i>	17	33	1.94
<i>Tolna</i>	10.3	34	3.30
<i>Vas</i>	4.4	20	4.55
<i>Zala</i>	9.8	47	4.80
<i>Total</i>	14.8 <sup>12</sup>	38	2.6

<sup>10</sup> Neményi, Maria and Vera Messing. 2007. *Gyermekvédelem és esélyegyenlőség (Child protection and equal opportunities)*. In: *Kapocs VI/1*, pp. 2-19.

<sup>11</sup> The first column shows the ratio of Romani children within the child population of the given county, according to the multi-source estimation provided by László Hablicsek. László Hablicsek is a senior researcher, and vice-director of the Demographic Research Institute of the Hungarian Central Statistical Office. The second column indicates the ratio of Romani children in the sample of our examination. The last column includes the chance quotients, revealing how many times the rate of Romani children in the child protection system is greater than the proportion of Roma within the child population of the given county.

<sup>12</sup> The column "total" indicates the averages of data coming only from the 16 counties that were "useful" for our research. The original figure in Hablicsek, referring to the entire country, is 13 percent.

care is to be seen mainly as the result of outside categorisation – in other words, a child defines himself or herself as Romani when he/she is perceived as Romani by the environment, i.e. by educators and fellow children – the environment’s definition of Romani origin seemed applicable in this study. However, with reference to the norms of data protection, our informants in Budapest and Heves County refused to provide ethnic categorisations, so we had to disregard relevant information coming from these places in the analysis. Based on the available data, we found that the proportion of Romani children within the entire sample was 32%, while they represented 38% in the sample reduced to the counties where Romani identity was marked on the data sheets.

Comparing the rate of institutionalisation in the individual counties and the size of the child population of the same age groups in the given region, we found that the chances of a child to become institutionalised were very different, depending on the geographical and administrative unit in question: Representing the variation on a scale, the extreme values corresponded to 261 per 1,000 and 78 per 1,000. We then examined the rate of institutionalised Romani children in the different counties, and compared the proportion of Romani children in the sample with their estimated rate in the child population between the ages of 0 and 14. The quotient calculated on the basis of taking into account both series of data at the same time allowed us to examine the relationship of the actual ratio of Romani children within the child population of a given county and the chances of becoming institutionalised in the child protection system – in other words, to see whether or not the over-representation of Romani children in the care system is related to the density of Roma within the population in the individual counties.

Our presumption about the significant influence of belonging to the Romani minority on the chances of institutionalisation in public care was strongly supported by the calculations. At the national level, the chances of a Romani child of becoming institutionalised are already high, being 2.6 times greater than their proportion of the population, and the

difference in their opportunities is even more striking in some of the counties. While the high proportion of Roma within the population seems to result in a greater number of Roma amongst the recipients of child protection services – representing an outstanding rate as compared to the national average – curiously, a Romani child has a greater chance of becoming institutionalised in counties in which the proportion of Roma in the population falls below the national average. It is essential to pay attention to a severe problem here, indicated not only by the more than 11 (!) times greater chances of institutionalisation in the case of Roma from Győr-Moson-Sopron County, but also by the 4 or 5 times greater probability that a Romani child will be taken into institutional care in Baranya, Csongrád, Vas, and Zala counties, in comparison to majority children.

As confirmed in various ways in our research, children are being taken into public – out of home – care in varying numbers, depending on the county of residence and the particular age group. Obviously, divergences can be partly traced back to the socio-economic context in the given region, county, or settlement, the demographic characteristics of the population and the proportion of disadvantaged families within the population. However, differences do not unfold in a linear manner, that is, it cannot be concluded that social deprivation, poverty, or, for that matter, the “density” of Roma within the population stand in direct ratio with the higher probability of the institutionalisation of children. With regard to the type of settlement, children coming from families that live in villages are the most endangered, their chances to be taken into professional care being greater even when compared with their proportion within the population, which definitely indicates that the poverty and the marginal situation of families, as it were, create difficulties in terms of providing children with satisfactory education. At the same time, deficiencies of professional staff, in terms of size and competences, and the low standard of administering services and professional control prescribed in the law, are also important factors behind this situation. As a result, owing to their insufficient expertise and personal biases, the decisions made by these professionals

are not founded on firm and unbiased grounds, i.e. devoid of any subjective judgments, so it is hard to determine whether children concerned are, in fact, victims of parental negligence, or just suffering from hopeless poverty. Understanding the behaviour of parents is decisive with regard to the future of children, since – as we have seen – often many or all of the children are taken away from parents that have many children, even when the family is really more in need of social assistance.

This is especially true in the case of Romani children, who are taken away from their family in even greater proportions, compared to non-Romani children of similar background – whether because of their greater distress, or due to the negative perception of Roma. We have seen that the over-representation of Roma in institutions providing protective care is greater precisely in counties where the proportion of Roma within the population is lower, and economic conditions are better. Another evidence that poverty and social deprivation form the actual basis of judgments with respect to these children, as opposed to negligent treatment, is inherent in the fact that the youngest age group is the most affected by this motive of institutionalisation which is so hard to define: Children who are often not even taken home from the hospital after birth, whose accompanying documentation therefore cannot include any detailed study of the environment, or negotiation with the family, and so there is nothing to support the belief that the decision in their case was made to actually serve the interests of the child.

The research proved that objective and subjective aspects both have a role when indicating the reason of children's institutionalisation. When it is a criminal act or drug addiction, of the parent or the child, or even the behaviour or psychological problems of the child that is in the background of taking the child into care, such statements are usually supported by verifiable documents. However, precisely the prominent reason of institutionalisation – parental negligence – is based on ambiguous and uncertain interpretations. Negligence in the

case of the majority of children – especially Romani children – corresponds to poverty, poor housing and a bad social situation, and only rarely means actual negligence, attributable to abusive parental conduct.

According to the outcomes of an international research project conducted in infant homes in 32 European countries, in Hungary 19 out of the 50 randomly selected children covered by the examination were considered Romani by their care takers – which provides yet another proof of our statement.<sup>13</sup> Separate research should be dedicated to the study of the kind of assistance received by those staying at home, as well as the damages caused by inadequate treatment.

It is not only the motives of institutionalisation, but also the placement of children, that shows characteristic differences according to the variables emphasised here. Success in providing a “family-like” placement for the child, or, alternatively, his/her placement in a children's home that does not respect individual characteristics that much, depriving the child from personal ties important for psychological development, is influenced by the child's sex, age, and even his/her ethnic background. We saw several signs, too, indicating that the way of treating children in protective care depends on the general social perception of the various groups of children. For instance, compared to majority children, children considered Romani are more likely to be regarded as mentally disabled by the educators, who, at the same time, fail to assure equal conditions for their improvement and education. This contradiction might be traced back to the traditional commitment to segregated institutional structures, characteristic of Hungarian institutions and especially of the education system, as well as to the attitude of society in general, which is not at all favourable with respect to the inclusion of persons seen as differing from the majority, that is, who are considered “Other” in the social psychological sense. By the same token, Romani children, especially when labelled mentally disabled tend to be relatively less accepted by foster families.

<sup>13</sup> Browne, Kevin, C. E. Hamilton-Giachritsis, R. Johnson et al. 2005. *Mapping the number and characteristics of children under three in institutions across Europe at risk of harm*. Birmingham: Birmingham University Press (in collaboration with EU/WHO).

All the findings of our analysis, without exception, supported the existence of differences in the opportunities of, and decisions concerning, Romani and non-Romani children. Knowing that the rights and needs of non-Romani children are not respected in accordance with legal provisions either, enforcement being an unresolved matter in general, we nevertheless maintain that discrimination against Romani children – even if unintentional – contributes to the reinforcement of the ethnic divide in society, and raises further obstacles hindering the desirable integration of Romani people.

### **Romani children in the public care system – from the professionals’ point of view**

Our research based on qualitative methods and focus group interviews dealt with the situation of Romani children within the child protection system.<sup>14</sup> We selected three areas of investigation: 1. adoption; 2. over-representation of Romani

children in the professional child protection system; and 3. the labelling of children in public care as mentally disabled. We examined how the opportunities of these children are influenced by their ethnic origins, and whether their life shows any differences when compared to non-Romani children living in the same institution.<sup>15</sup> We considered the method of focus group interviews appropriate to analyse the typical decision making situations faced by experts in their daily work, where the inter-relationship of motives, allowing for generalisations, in the background of decisions might remain unacknowledged in individual cases. The well-formulated dilemma situations, adjusted to the main research concerns, were expected to instigate the participants of focus groups to make a joint effort in interpreting the interconnected factors related to the social and economic forces, as well as to the influence of social policy and social psychology, behind the cases. We conducted one focus group discussion in each of the 7 regions<sup>16</sup> in Hungary, with the participation of altogether 68 professionals.

<sup>14</sup> *This research was conducted in 2007 by the authors and Dr Gabor Havas on behalf of the European Roma Rights Centre within the framework of a project entitled “Law and policy: Actions to achieve full respect of children’s rights in the Hungarian child protection system”. This project was supported by the European Commission and ERRC core donors Open Society Institute, The Sigrid Rausing Trust and the Hungarian National Civil Fund.*

<sup>15</sup> *The discussion the topics were supported by the following stories:*

*Adoption: A family that intends to adopt a child indicates on the personal data sheet that they do not want to adopt a Romani child by any means because they do not believe they would be able to raise the child as their own, and they also have aversions. Therefore, they would like to be assured that none of the children presented to them are Romani.*

*Institutionalisation: In order to reinforce family relations, a children’s home worker is trying to contact the parents and relatives of a Romani child in professional care, who might want to get in touch with the child after a long time. The 12-year-old girl has been raised from birth in state care. Her grandparents are identified and agree to visitation. With the consent of the local child welfare service, the girl is sent to spend a long weekend with the grandparents. Upon her return, she is very upset, crying heavily, and saying that she does not want to be Romani, that no one has ever told her before that she was Roma, and that she does not want to know about her family at all. The children in the home become interested in finding out who is Romani and who is not in the group. What professional solutions are available?*

*Mental disability: A Romani child, labelled as slightly disabled mentally by the expert assessment committee, who concluded the first grade in a special class is taken into state care and placed in a children’s home at the age of 7. Children living in the home attend the local school, where there is no class for students with special needs. With reference to professional reasons, the school refuses the integrated education of the child. Therefore, professional care representatives take initiatives to give the child to foster parents. However, as soon as the potential parents learn that the child is Romani and categorised as mentally disabled, none of them are willing to accept him. Is there any solution to this problem?*

<sup>16</sup> *Northern Great Plain, Western Transdanubia, Central Hungary, Central Transdanubia, Northern Hungary, Southern Transdanubia and Southern Great Plain.*

Romani origin constitutes an important issue with respect to professional care because – as revealed by the study described above – the institutionalisation of Romani children significantly exceeds their proportion of the population, and Romani children are more exposed to disadvantages in terms of schooling and treatment in general. The way the child protection system handles the problems with children's acceptance, and responds to the need of respecting their identity, culture and needs, represents an issue of equal magnitude. The most obvious difficulty in this regard consists in determining who is considered Romani, which, in turn, entails yet another problem related to the ways in which information is gathered in order to determine whether the person in question should be categorised as Romani. Finally, the question arises whether children, in general, need to know about their ethnic or religious background in those cases when they are institutionalised in the child protection system, or adopted, at a very young age, provided that their parents have not made any statements regarding their identity. Furthermore, one wonders who is in charge of ensuring the right to ethnic identity and in what form this should be guaranteed. Given that, as a rule, the family is responsible for the development of identity when the child lives with his or her biological parents, it must be determined how to proceed in case the family is replaced by some other kind of arrangement: According to uniform guidelines, or taking into account the ideas professed by specialists, or expressed by the concerned families?

As far as we know, the proportion of Romani children in child protection institutions is different in the 7 regions. Every focus group agreed that, independently from demographic and institutional variation, or the unequal supply of professionals, Romani children are taken into public care in great numbers, which is unjustified by their proportion of the population, and that, what is more, they represent an absolute majority among institutionalised children in certain types of institutions (primarily those dedicated to the disabled).

However, given the hypocrisy expressed in our laws and habits concerning Roma, discussion of

this subject matter was exceptionally hard. While, on the one hand, keeping track of, and registering, ethnic origin is not allowed in child protection, on the other hand – in case the parents have made a statement to this effect – professional service providers are obliged to grant Romani children the possibility to learn about their different culture and language. This deadlock is a particularly sensitive issue in the area of child protection, since the identity of children taken away from their families is greatly influenced by the ways people respond to them, as well as by the opinion of educators, caretakers and fellow children, with respect to the significance of belonging to the Romani minority in the given case. Arguments for and against both kinds of determination were expounded during the focus group interviews, reflecting awareness and recognition of the constitutional right concerning the free choice of identity by the participating experts, who, at the same time, consider the implementation of this right extremely difficult in the present Hungarian social context.

Every discussion group addressed the problem that belonging to the Romani minority, categorised as different from the majority on the basis of skin colour, outward appearance, and typical behaviours and customs, is not a matter of choice. Despite being raised by non-Romani foster parents or living in a children's home since birth, sooner or later the child will have to learn that he or she is perceived to be Romani. The responsibility of child protection authorities should thus be taken seriously in this matter, since the assumption of an understanding and sympathetic attitude by professionals seem to be a precondition of making the adoption of Romani identity a matter of free choice and will, and of avoiding that children internalise a negative image of Roma, presented to them by the school, the broader, non-Romani environment, and the media.

However, like the persons concerned, professionals have no illusions about what belonging to the Romani minority really means today: Being stigmatised, excluded, and discriminated. While acknowledging that children obviously want to know where they come from and where they belong, professionals must face the fact that, growing up in a non-Romani environment,

Romani children tend to incorporate the negative opinions of Roma held by the majority, and so they occasionally refuse to be categorised as Romani.

### **Adoption of Romani children**

Given that the registration of ethnic origin is only allowed on request of the parent according to the law, workers are not authorised to handle this according to the Child Protection Act without the expressed consent of the parents. The two ombudsmen responsible for ethnic minorities and data protection, however, expressed their concern on the registration and prohibited it, considering the registration discrimination. We can only rely on rough estimates as to the portion of Roma amongst adoptable children, the rates referring to final termination of parental care and qualification as adoptable in this group, and to determine whether these figures differ from those relevant for the majority. Nevertheless, the participants of focus groups discussed the opportunities of Romani children for being adopted without any reservations.

The difficulties of adoption, in it itself, caused by the lack of familiarity with the child's "legacy" and the challenges of bringing up a non-natural child, have been recognised by all of our respondents. It became clear that acceptance by the neighbourhood and the broader family was crucial, since the attitude of prospective parents is evidently influenced by the social environment. Strong anti-Romani prejudices were also acknowledged, as well as the difficulties of changing them – without ruling out this possibility. Opinions varied, in turn, with respect to recording ethnic origins, which is partly due to the perceived obstacles of reconciling the interests of adoptive parents and children in a number of cases.

The majority of professionals took it for granted that Romani origin was discernible, based on the name, skin colour, and outward appearance characterising the child, or considering the family's lifestyle. The gap between legal and professional regulations, on the one hand, and practice, on the other, nevertheless caused some perplexity: Once ethnic descent is discernible anyway, the prohibition

of registering it can not prevent professionals from providing information about origins when it comes to the adoption of a child. Opinions varied as far as keeping track of identity was concerned, depending on the kind of approach adopted by professionals: Legalistic, referring to data protection, child protection, or child's rights. Given the consensus regarding the possibility of excluding Roma from the group of adoptable children, their identification appears to be essential, while failure to do so is to be seen as mere hypocrisy.

According to the law, however, a child's identification as Romani may only be based on the parents' statement, which creates difficulties. The child protection specialists participating in the focus groups thought that parents are usually reluctant to identify themselves as Romani, reflecting their awareness of the negative consequences this decision entails in terms of disadvantaging their child. Putting parents under pressure was deemed unacceptable, while alternative means of eliciting information from them about, or encouraging them to assume, Romani identity – thereby potentially convincing many other foster and adoptive parents to accept Romani children – were not mentioned during the interviews.

There was almost unanimous consensus amongst our respondents about the viability and legitimacy of prospective adoptive parents' decision not to accept Romani children, or children with mental or physical disabilities. It was also agreed that the child's interests would not be served by giving them to parents who do not want them anyway. The majority, however, did not feel responsible for enhancing the acceptance of Romani children. In their opinion, frustrations, tensions, and crises – involved in upbringing children who are often adopted long after newborn age, and who therefore have already experienced a series of traumas and losses which strongly influence their later development – easily become conceived of in terms of the child's "dispositions and identity". The insufficiency of investigation and analysis also necessarily contributes to the perception of problems as arising due to the Romani background of the child. Our informants, however, did not feel competent in handling such problems.

It was consensually held by participants that for a Romani child, who was taken away from his/her family and went to live with adoptive parents, who has to come to terms with whatever has happened to him or her, ethnicity represents only one problem that is probably not even the most significant one. Obviously, optimal conditions are ensured when the persons involved in educating the child are sensitive, well informed, and prepared enough to intervene at the right moments, providing the appropriate kind of assistance, and to ensure a supportive environment that helps the child dealing with experiences of loss, pain and potential failures. However, child protection services are not really familiar with such methods, and this task is not considered a priority anyway.

### **Romani children in professional, out of family, care**

In every focus group, the majority of participants attributed the institutional over-representation of Romani children to external causes; that is, they assumed it was unrelated to the functioning of the child protection system. Thus it was claimed that it is not the origin of the child but the degree of endangerment that influences the decision about institutionalisation. In support of this view, participants referred to the generally poor social conditions of Roma, and the higher number of children in Romani families, and they also argued that, in comparison with non-Romani families, the conditions of temporary care are less available in the case of Romani families.

The focus group participants emphasised the problem that endangering Romani families are not tolerated by their environment: In certain cases, taking a Romani child into state care may be explained, in their view, by the low level of tolerance of the majority society towards Roma. Some of the professionals admitted that children raised in bad hygienic circumstances, often covered with dirt and lice and endangered by alcoholic parents are more readily taken away from their families when living in a relatively wealthy environment, compared to those equally problematical children coming from families that live in poorer settlements.

The inability of Romani families to enforce their interests was also mentioned. While wealthy families are able to suppress their problems, poor and under-educated Roma are more exposed to the authorities: The public notary, the public guardianship authority and the health care services.

In explaining over-representation, the tendency towards deviant behaviour amongst Roma as a cause of the higher level of institutionalisation among Romani children was also mentioned – again, an argument that refers to some external factor, outside of the scope of competence of child protection professionals. Avoidance of school, juvenile delinquency, the various forms of crime as a source of livelihood – into which, according to our respondents, young children are drawn by their parents – together with the parents' disinterest in, or hostility against, education, were all included in the list of deviant forms of behaviour.

Being aware that children, in general, should stay in institutional or foster care only for a limited period, professionals know that, during this time, all efforts should be made to help these children maintain a relationship with their natural families, as well as to make the families capable of resuming care of their children. Nevertheless, they face specific problems in the case of Romani children, particularly in the dimension of identity. We have seen their difficulties in formulating what it means to belong to this category, and in finding ways to assist the development of ethnic identity by children considered to be Romani. At the same time, professionals are convinced that, born as Romani, one cannot avoid the judgment by the environment, that is, the person will be regarded as Romani on the basis of outward characteristics and racial marks, independently from where and how he/she was raised. They, too, maintain that being Romani is equivalent with being disadvantaged: Social perception determining Romani identity leads to differential treatment, exclusion, and discrimination.

According to the experts taking part in the focus group discussions, another difficulty in the replacement of Romani children with their original family comes from their adaptation to the

hygienic and comfort conditions and the financial security provided by foster parents, children's homes or group homes, often being in sharp contrast with the circumstances at their parental home. The child is shocked and bewildered during family visits at seeing the circumstances of natural relatives, or the "strange" way of living of the parents. The refusal of the original family, however, may be attributed partly to the negative views and prejudices about Roma that the child has learned, or even internalised, while living in a non-Romani environment. Without being appropriately prepared for the visit of the natural family, the child may even develop self-hatred and a negative identity during adolescence.

### **The issue of special educational needs in child protection**

According to child welfare and protection statistics of 2004, the proportion of children categorised as having special educational needs, and therefore receiving special primary education provided to the mentally disabled, is overwhelmingly high amongst children in state care, and especially among those placed in child care homes. Amongst children in primary school, nearly 1/5 (19%) of children raised by foster parents, and 38% of children accommodated in children's homes, study in classes for the mentally disabled.

The definition and diagnosis of the varieties of special educational needs already fail to correspond to a unified system of rules, as revealed by focus group discussions. Besides the incoherence of categorisation, the absence of a unified and sound *modus operandi*, or protocol, in setting up diagnoses, or with respect to making decisions about the future of children qualified as problematic in order to solve their problems, produces severe difficulties. The lack of appropriate coordination between child protection services and educational institutions, in terms of the applied terminology and set of rules, constitute further problems.

As regards education, the category of special educational needs has recently become used

to include all cases considered problematic from the point of view of education, and thus requiring special treatment. Starting from more or less severe forms of mental disability and various kinds of physical disability, to partial impairment of learning abilities and so-called behaviour problems or misbehaviour, a host of different conditions were squeezed into the category of special educational needs. As a result of the elasticity of the term and the allocation of a particularly high normative allowance available for this category of children, the number of students labelled as slightly mentally disabled reduced somewhat, while the number of those labelled as having special educational needs drastically increased.

All professionals participating in the focus groups took it virtually for granted that, in a great number of cases, the qualification of children as slightly disabled in their mental capacities is not sufficiently established professionally, giving way to doubts as to the justification of diagnosis in the longer run. According to the participants, this stands both for children raised in children's institutions since birth, and for those who were institutionalised only after having been diagnosed with slight mental disability.

Romani children – that is, children considered Romani by professionals on the grounds of certain visible traits or characteristics deemed as appropriate for identification (like an assumedly typical Romani surname) – are clearly much more threatened by the risk of misdiagnosis, and the implied severe consequences, as suggested during the discussions. It seemed that a decision judged as improper with regard to a non-Romani child is considered acceptable when it comes to a Romani child.

Territorial disparities of the institutional structure, its specificities with respect to individual counties, forcible regulations and institutional constraints, factors that are independent from, or even contradicting to, the condition and abilities, and thus the interests, of the child – all influence the life of children labelled as having special educational needs in a very negative way. In such circumstances, there are absolutely no guarantees that the child will

receive the kind of services and treatment required for his/her development and at least some degree of improvement in his/her opportunities.

By being labelled as having special educational needs at a very young age, the child's fate is often sealed forever, constraining his/her future opportunities to the utmost degree, whatever the concrete situation is like, and even when the diagnosed condition changes later on. Cases when child protection professionals manage the re-categorisation of the child, motivated by certain institutional interests, or other factors having nothing to do with the child's interests, represent yet another, indirect, proof of the unreliability, or even frivolousness, of classification.

It was often stressed during the discussions that while the diagnosis of having special educational needs is frequently a result of symptoms of hospitalisation in the case of children raised in state care since birth, it is usually the multiply disadvantageous conditions, the socialisation deficit and under-development arising from hardships or "extreme poverty" suffered by the family, that is behind such decisions in the case of children taken away from endangering families. Many participants claimed that these children become institutionalised at some point because – due to professional incompetence, excessive burdens and the lack of resources – tasks related to the assistance of concerned families are not properly managed by basic care services, and concerned families are treated with a great deal of intolerance by the local society and institutions. Even though the law states that the child may not be taken away from his/her family and placed in protective care merely on the basis of social conditions, this is often the case in practice.

In theory, universal local care is responsible for co-operating with families to assure early enrolment and regular attendance of preschool by children suffering from multiple disadvantages. Nevertheless, the participants of the focus groups said that the problem with regard to children labelled as having special educational needs, and institutionalised while of school age, is precisely that they have never, or just hardly, attended pre-school, and so they have

not received developmental training at a young age to balance their socialisation deficit. Romani children living in poverty are disproportionately afflicted by the complete lack or insufficiency of pre-school attendance. This logically leads to the significantly higher probability of qualifying them as having special educational needs and, given the generally exclusionary attitude of institutions manifest with regard to this issue as well, Romani children have much greater chances of becoming institutionalised.

Many participants of the focus group discussions held that a significant part of the concerned children have been labelled as having special educational needs without any justifiable reasons, or on very unstable grounds. Our respondents also claimed that when, as a result, these children were enrolled in special schools and classes that operate in a segregated manner, individualised treatment and special developmental training – which they truly needed and the necessity of which was mentioned when justifying the decision about their special schooling – were most probably not available in fact. Considering the above, the introduction of corrective mechanisms, allowing for the replacement of children to normal educational institutions and classes whenever this is reasonable, would be highly recommendable so that these pupils receive integrated education. However, discussions also revealed the inadequacy of the currently available corrective procedures, for which reason there are hardly any cases of successful replacement of children in mainstream educational settings. Opinions were varied as far as whether necessary supervisions are conducted in an appropriate manner and with proper timing, complying with the law. Disagreement on this issue points, again, to the existence of significant territorial variation and differences among counties. While, in theory, having more expertise and a better position to enforce interests in comparison with parents, professionals providing special care are regrettably reluctant to represent the interests and rights of children. Notwithstanding the difficulties involved in enforcing children's interests against fellow institutions and staff, this should be seen as a serious institutional flaw.

## Problems revealed by the present research

The views of our respondents reflected the well-known topics, widespread in society, about what is meant by Roma as a category. There were people in almost every group who understood Romani origin as a genetic given, primarily manifested in visible traits, yet, as it was often claimed, also characterised by a particular temperament and culturally inherited habits (like early sexual maturation and thus the early start of sexual relationships and having children at a young age). Even some deviant forms of behaviour (such as aggression or criminality) were included in the list. The lack of a sense of time, and thus the inability to perform regular activities, were also regarded as a genetic trait, intrinsic to Romani people. Many of the participants came to the conclusion that, given the typical characteristics of Roma, determined by biology or by socialisation, Romani children need different kind of developmental training, as compared to non-Romani children. Some envisioned the possibility of cultural conflicts arising from differences of cultural values, for instance, due to the early start of having children by Roma, which constitutes a problem for education, and the encouragement of the so-called “macho” behaviour, leading to aggression and conflicts amongst children. Besides these “Roma characteristics”, seen as deviant and negative by the majority of respondents, positive traits were mentioned as well, which, however, also stressed the “otherness” of Roma. These included musical talent, temperament, and some elements of Romani culture, like strong family ties and the love of children.

These examples reveal that even the representatives of child protection are influenced by stereotypical notions about Roma. While the greater part of the respondents argued against genetic determination, they mostly accepted the view that culturally inherited Romani characteristics, internalised in the socialisation

process, make this social group essentially different from the majority, and that this otherness is the reason of deviant behaviour and the source of potential collisions, tensions, and conflicts, in the eyes of the majority society. Although the participants of the discussions emphasised all long, and often expressing their disapproval of, the intolerance of the social majority, they obviously have a role in sustaining such prejudiced beliefs. Projecting the problems faced day by day in child protection on “the society” is a form of self-defence, providing psychological support for professionals in performing their duties, yet ineffective in terms of holding back the growth of the social divide that separates majority and minority populations.

We have seen the daily struggle of child care professionals, and service providers in general, in handling problems that are outside of the scope of their competence. The professionals’ approach to Romani children appearing on the horizon of child protection institutions is necessarily influenced by the social exclusion of Roma, itself a result of complex social-historical processes and inseparable from the overwhelmingly prejudiced attitude towards Roma manifest in society at large in Hungary.

The authors of the present study refrain from calling the discriminating procedures with respect to the treatment of Romani children “racist”, since it is not assumed here that anti-Gypsy attitudes of the professionals providing care services should primarily be held responsible for the emergence of differences that put Romani children in a disadvantaged position. Instead, we think that it is the social climate and the deeply engrained set of ideas about Roma prevailing in public opinion, accounted for in several national studies and public opinion polls, which engender the conditions and the implicit structure and mechanisms preventing this important institution of child protection from treating its clients, regarding of their ethnic origin, without any bias.