

# CAUSE OF ACTION

A SERIES BY THE EUROPEAN ROMA RIGHTS CENTRE



## Romani Children in State Care in Nógrád County (Hungary)

NOVEMBER 2017

CHALLENGING DISCRIMINATION PROMOTING EQUALITY



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Disclaimer

This report is based on research the ERRC commissioned from the Chance for Children Public Benefit Association (Gyerekesély Közhasznú Egyesület) and which is available online (in Hungarian) at: [http://www.gyere.net/downloads/gyermekvedelem\\_final%20report\\_gyere\\_20160214.pdf](http://www.gyere.net/downloads/gyermekvedelem_final%20report_gyere_20160214.pdf).

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## Introduction

Six years ago, the ERRC conducted extensive research exposing discrimination in the State care systems in various countries in Europe.<sup>1</sup> Romani kids are disproportionately likely to end up being taken away from their families and are grossly overrepresented among foster children and other children in care.

The problem has not gone away, and the ERRC is determined to demonstrate, in court, that these care systems discriminate.

Litigating discrimination in the care system is not easy. While it is possible to litigate individual cases, taking a broader case makes it easier to expose the structural problems that have led to Romani children being so overrepresented in State care. However, resource limitations and rules about data protection can make it feel difficult to get the evidence that could expose the problem at a broader level.

We at the ERRC carried out this research to show that it can be done.

The Chance for Children Public Benefit Association (Gyerekesély Közhasznú Egyesület) in Hungary conducted a study for the ERRC of children in Nógrád County who have been removed from the care of their families and are in the public care system.<sup>2</sup> Nógrád County is located northeast of Budapest, on the border with Slovakia. The study specifically focuses on the county's child welfare and child protection systems. Through both quantitative and qualitative approaches, researchers collected data on the circumstances of and reasons for taking into care.

The research respected the privacy of the families concerned while providing a survey of how Romani children so frequently end up in care. By focusing at the county level, the study remained manageable while covering a broad enough area to demonstrate a pattern. The key finding in the study was quantitative: Romani children are vastly overrepresented in the care system. Yet there were other key findings too: in most cases taking children into care does not seem to have been justified. Interviews with key actors also revealed the prejudice that seems to be the main cause of the problem.

Hungary's legal system allows NGOs, such as the ERRC, to take legal action to challenge discrimination that affects large numbers. These data give us the basis to lodge such an action. The report that follows is an English-language summary of the full research, which is only available in Hungarian; an English version is available on request.

1 Details of that research can be found at: <http://www.errc.org/article/life-sentence-errc-research-finds-romani-children-overrepresented-in-state-care/3902>.

2 The full study is available at: [http://www.gyere.net/downloads/gyermekvedelem\\_final%20report\\_gyere\\_20160214.pdf](http://www.gyere.net/downloads/gyermekvedelem_final%20report_gyere_20160214.pdf). This document is intended to be an English-language summary of that longer report, which is only available in Hungarian.



## Executive Summary

The study consisted of two components. The first was a datasheet survey. For each of the over 300 children in State care in the county, officials filled out an anonymous data sheet indicating, among other things, the child's ethnicity and the reasons for taking her/him into care. The second were interviews with various professionals in the child protection system including social workers, guardians, and those responsible for taking children into care.

The data showed that Romani children are grossly overrepresented in the care system in Nógrád County: although they make up under 20% of the county's population, Romani children make up over 80% of those in care. The data showed a strong correlation between deep poverty, severe deprivation, and the entry of children into the care system. Even though, in line with the basic principles of Hungary's Child Protection Act, children cannot be removed from their family solely for material reasons, the poverty of the affected families was clearly a significant reason for most removals. In many cases, removal could be prevented by providing comprehensive support and appropriate services to impoverished families.

The main justifications given for removing Romani children from their families were neglect, endangerment, and "parental unsuitability". The physical and mental state of the parents, addiction, deviant behaviour from the children, social and housing conditions, and physical abuse were also mentioned. The vast majority of children in State care—most of whom maintain strong contact with their parents—never return home. Thus the main issue is not bad relationships between parents and children, but rather environmental circumstances (insufficient income, lack of employment, unsuitable housing conditions, and lack of services) that cannot be mitigated by the families' efforts alone.

According to the datasheets, the situation of the affected families and the occurrence of various problems are nearly identical for Roma and non-Roma families whose children are in the care system. The interview stage revealed a further element: even though almost all of the interviewees stress that in a well-functioning system, fewer children would be taken into professional child protection, most of the respondents ultimately attribute removal to the "Roma nature" of the Romani families.

The study reveals various contradictions embedded in perceptions of the professional child protection system and its relationship with ethnic origin. Child protection professionals initially expressed deep reservations about answering questions concerning ethnicity; however, they ultimately answered these questions openly. This inconsistency suggests that while ethnicity plays a substantial role in the child protection system, official discussion and recognition of this role is stigmatised and rare.

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Although professionals often attribute the removal of children to reasons they see as connected with the children's "Roma origin", such as lack of understanding, distrust, non-co-operative behaviour of parents, they do not believe that it is important to recognise the children's ethnic identity in some official way as part of the process. The system is officially colour blind, yet ethnicity obviously plays a massive role, with significant consequences for many of the county's Romani families.

Dorđe Jovanović  
President

## Essential Context

### Previous Studies

Two studies<sup>3</sup> conducted by the ERRC preceded this research. The main findings of the reports suggested that the family situations that led to Romani children being taken into State care are rarely resolved, and so the children are rarely returned to their families. The children's support networks typically shrink and, upon reaching adulthood, they leave the system and receive little ongoing support. The ERRC's studies also pointed out that Romani children are overrepresented in the Hungarian professional child protection system, taking into account their proportion within the total population. Furthermore, these studies suggested that the number of children removed from their families is higher in disadvantaged regions. In spite of the fact that Hungary's Child Protection Act bans taking children into care exclusively based on financial grounds (i.e. poverty and low or non-existent income), the ERRC found that the majority of Romani children were removed from their families on this basis. In terms of preventative systems in place, the study results revealed that there were insufficient numbers of preventative programmes and skilled social workers, particularly in the rural and poorer urban areas where Roma tend to live. The cumulative effects of poverty and marginalisation and the absence of active support networks are often insurmountable barriers to the return of Romani children to their families after they enter State care.

### Nógrád County



<sup>3</sup> The first study (2007) can be found here: <http://www.errc.org/cikk.php?cikk=2960>. For the second study (2011), see above, note 1.

Nógrád County is one of the most disadvantaged counties in the country. Throughout Hungary, the economic crisis starting in 2008 and the failure of social policy to mitigate its impact have fuelled wealth disparities. Inequality and the percentage of children growing up in poverty have increased and families in the worst situations are now even more marginalised. Disadvantaged regions and towns are characterised by a lack of effective and high quality social services. Nógrád County is in one of the areas of Hungary that are suffering the most.

Nógrád County ranks poorly when it comes to families' material conditions and circumstances; people there are particularly likely to live in poor home environments, with low levels of employment and education. The employment level in Nógrád County is lower than the national average and is particularly low for Roma. It has been reported that the employment rate of Romani women in the county is as low as 10%. Data on education rates are equally concerning for county residents; the percentage of people with low levels of education is higher than the respective regional and national levels.

Eligibility for regular child protection benefits is exceptionally high in Nógrád County, pointing to the severity of these problems in the area.

The county is about average when it comes to the frequency of interventions by the child care system to support families and/or take children into care.

Almost 20% of the county's population is of Romani origin, although this figure varies depending on the source. In some towns and villages within the county, the proportion of Roma residents is almost 100% while in other areas, the number is close to zero. There are nearly 27,000 children and young adults aged 0-24 in the county. About 300 children and young adults (up to 24 years-old) are in State care, and this number has remained relatively constant for years.

## Hungary's Child Protection Framework

Family support and child welfare services have been operating within one single institution, the Family and Child Welfare Service (“the FCWS”), since 1 January 2016. This institution performs certain tasks specified in legislation,<sup>4</sup> including providing an advisory service on lifestyle and mental health, as well as community development programmes and social support work. Furthermore, the FCWS provides advisory services to job-seekers, persons living with disabilities, psychiatric patients, drug addicts, and socially deprived county residents. In addition to this family support, the FCWS also provides child welfare services. In this capacity, it offers consultation services and works to enable families to raise their own children. In addition, the FCWS operates an endangerment indication system aiming to eliminate and prevent child endangerment.

The FCWS, which is run by local municipalities, must operate in every town and village regardless of the number of residents. Each district must operate a Child Welfare Centre (“CWC”) that provides special services including social work in hospitals and in housing estates, psychological counselling, family therapy, and family consultation. The CWCs can initiate the placement of a child under protection or into State care if necessary. In order to facilitate the return of children to their families, CWCs help parents maintain contact with their children and work together with children’s homes and foster parents.

### Endangerment Indication System

The FCWS operates an endangerment indication system that aims to prevent and eliminate child endangerment in Nógrád County. People working in child protection are obligated to report endangerment, neglect, or abuse to the authorities. As outlined in Act XXXI of 1997, these people include children’s rights representatives, correctional institutions, the employment authority, associations, foundations, churches, legal experts, and public education institutions. The FCWS receives these reports and provides information to the people who are in a position to report endangerment. Upon receiving a report, the FCWS must notify the relevant CWC, contact the affected family, and provide information concerning the services they can receive.

### Disadvantaged and Multiply-Disadvantaged Situations

The Child Protection Act distinguishes between children of differing needs by creating two special categories: “disadvantaged” and “multiply-disadvantaged” situations. A child is in a disadvantaged situation if, in addition to being eligible for regular child protection benefits, (s)he also meets one of the following three criteria: low level of education of the parents; low level of employment of the parents; or an insufficient home environment. A child is in a multiply-disadvantaged situation

<sup>4</sup> Act no.III of 1993.

if, in addition to being eligible for regular child protection benefits, (s)he meets at least two of these three criteria, or if (s)he was taken into professional child protection or after-care.

### **Temporary Care of Children and Professional Child Protection Provision**

Local municipalities, regardless of their population numbers, are obligated to operate temporary care institutions for children. In towns exceeding 20,000 permanent residents, the municipality must operate a temporary home for children. If a town exceeds 30,000 permanent residents, it must additionally operate a temporary home for families. Since 1 January 2013, the State has taken over the maintenance of these institutions and the supervision of their tasks. The State appoints a Social and Child Protection Directorate to provide permanent care services, referred to as “professional child protection”. Children in temporary care and in professional child protection are monitored by guardians who are appointed by a public guardianship office in the region. These guardians keep track of the children’s wellbeing as well as the situation in the homes from which they were removed.

### **Deinstitutionalisation of Child Protection**

Since the implementation of the Child Protection Act in 1997, the State has continually pushed for the deinstitutionalisation of child protection. An amendment to the law introduced in 2013 requires that children under the age of 12 taken into temporary care or professional child protection be placed with foster parents. In the case of temporary care, the aim is to replace children’s temporary homes with “substitute parent” care, whereas in the case of professional child protection provision, the aim is to replace children’s homes with foster parents. The principle of prioritising the placement of children with foster parents can only be overruled by motives such as keeping siblings together, long-term illness of the child, severe disability of the child, or logistical reasons such as lack of space.

# The Study

## Purpose and Design

The aim of the study was to gather information on the local operation of the Hungarian child protection system within a disadvantaged county. The research was designed to address the following hypotheses formulated based on previous studies:

1. A disproportionate number of Romani children are taken into professional child protection.
2. Material conditions are a main reason mentioned in the justification of the removal of Romani children from their families.
3. Romani children and their families are subject to negative discrimination by the system due to their ethnic origin and/or their social situation.

In addition to examining the above hypotheses, the study aimed to:

- Map the operation of the child protection system in Nógrád County.
- Assess the percentage of Romani children removed from their families compared to the total number of children removed in the county.
- Explore the major justifications for the removal of Romani children from their family, in particular, the “financial endangerment” that is often indicated as an underlying reason.
- Compare these reasons to those given for removing non-Roma children.
- Understand the main factors influencing the number of children in the care system and the reasons for the relatively stable number of children removed from their families.
- Examine whether there is any ethnic discrimination in the process of placing a child in a family or institutional environment.

The study, which was conducted between September 2015 and January 2016, used both numerical methodologies and holistic interviews to research the state of the child welfare and primary and secondary child protection systems. Special attention was paid to the circumstances of and reasons for the removal of children from their families as well as the process of placing children in State care in Nógrád County.

In preparing the study, the researchers found that participating professionals were resistant to acknowledge or discuss the overrepresentation of Romani children in State care. Since the study involves asking child protection workers about the ethnicity of the children, the operators of the relevant child protection institutions initially refused to approve the research project. The State secretariat responsible for child protection within the Ministry for Human Resources supported the research group in obtaining the research permit in spite of the fact that it took issue with the questions asked. Thanks to the secretariat’s support, the county’s child protection professionals were ultimately allowed to be interviewed; however, the Social

and Child Protection Directorate drew attention to the fact that they were not obligated to answer questions concerning the ethnic origin of the children.

## **Datasheet Analysis**

The quantitative component of the study mapped national and county level primary and secondary child protection services through analysis of institutional data. Information on the main attributes of the primary and secondary child protection systems was drawn from electronic databases (primarily the Regional Development and Spatial Planning Information System, the Hungarian Central Statistical Office, the National Office for Rehabilitation and Social Affairs, and the Social and Child Protection Directorate databases), as well as from local data collection. Through analysis of the institutional data, national trends could be identified, the county level service system could be mapped, and the availability of and access to services could be recorded. In addition, this information allowed the researchers to observe the extent to which the available child protection services were in line with the needs of the children removed from their families.

Data on the basic characteristics of children in State care was drawn from datasheets filled out for each child in the care of the professional child protection system (i.e. children taken from their families into State care). These datasheets were filled out and compiled by the children's guardians and Department of Child Protection Services (TEGYESZ) administrative workers handling the registration system. The datasheets were anonymised, using a system of number codes, to ensure that no personal data was processed. Each datasheet revealed the age of the child at the time (s)he was taken into care, the reason, where (s)he was placed within the system, the basic socio-demographic characteristics of her/his family, and the family's housing situation and location. Furthermore, the records indicated the extent to which the parents remained in contact with their children and their main ways of doing so. In order to analyse the ethnic origin and the social situation of the children, TEGYESZ workers and the guardians were additionally asked to group the children into the following categories: *Roma* or *non-Roma* and *living in deep poverty* or *not living in deep poverty*.

In the datasheet survey, guardians were asked to name the reasons for the removal of the children based on 47 options. The detailed responses were then divided up into the following seven groups:

- (1) *Parental-family problems, neglect*: parents (or grandparents) do not look after the children properly; they neglect, abuse, or endanger the children; dysfunctional family; the development of the child—for various reasons—is not guaranteed. Typical responses of guardians who listed this reason included “parent hindering the development of the child”, “the parent does not want to and is unable to take care of the child”, and “the parent neglected the child”.
- (2) *The parents' income and social situation, housing conditions*: the parents' place of residence is not secure; they are frequently homeless; they have no income; financial resources are missing. Typical responses of guardians who listed this reason include “the parent is homeless”, “the parents' housing problems” and “social problems.”

- (3) *The parents' physical and psychological state*: typically as a result of alcoholism, addictions, smaller disabilities or illnesses, the parents are unable to perform their responsibilities related to child rearing. Typical responses of guardians who listed this reason include “parents are alcoholics”, “the mother is moderately intellectually disabled”, “parents’ endangering conduct due to intellectual disability”, “the mother is legally insane”, “has been placed under guardianship”, and “the parent is drinking heavily”.
- (4) *The parent committed a crime and is imprisoned.*
- (5) *The parent abused the child by beating or sexually abusing her/ him.*
- (6) *There are no parents*: the parent abandoned the child. Typical responses of guardians who listed this reason include “parent’s location is unknown” and “the parent is deceased”.
- (7) *The child’s problems*: the child’s behaviour is inappropriate, deviant, aggressive, or truant, or the child has some kind of permanent psychological or physical illness.

Using these seven categories, researchers could gather information not only on which problems guardians perceive to be the most prevalent but also on which issues they understand to be irreparable in the children’s home environments.

## **Datasheet Results**

Based on the information contained in the datasheets, the researchers drew the following conclusions about different aspects of the county’s professional child protection system:

- Nearly 80% of children taken into State care in the county are Romani (or “half-Romani”). This compares with a Romani population of under 20% in the county. This overrepresentation cannot be solely attributed to either the county’s high Romani population or to the extremely impoverished conditions in which most Roma live. The data show that the situation of the affected families and the existence of various problems are nearly identical for Romani and non-Romani families. At the same time, parental neglect (“parental-family problems”) is named as a justification for removal somewhat more frequently among Romani families than among non-Romani families.
- On the one hand, the removal of children from their families is a relatively widespread problem in Nógrád County; it is not just a few towns and villages that are concerned, but nearly half the towns and village in the county have families whose children have been taken into care. On the other hand, it is also apparent that children in State care are most likely to come from the most marginalised and excluded towns and villages of the county. Two-thirds of the children in State care used to live in a village with a population of less than two thousand residents. The rate at which children are taken from homes in relatively privileged towns is considerably lower. This trend is probably related to the social and economic status of these villages and the quality and capacity of the preventive services.
- The characteristics of the affected families, in terms of ethnic origin and number of children, also indicate that deep poverty and severe material deprivation strongly correlate with the placement of children in State care. The children of Romani families are at an extremely high risk of poverty and are strongly overrepresented within the county’s

professional child protection service. Two thirds of the families have at least one of the examined “social problems” and one fifth of the families are “severely deprived”.

- The average age at which children are removed from their families is six and a half years old. Yet that statistic is only part of the story: half of the minors in the county’s professional child protection system entered the system as young children (under five years-old), and the majority of these children were taken into State care before the age of two. There is a high probability that children in care will never return home and the likelihood that they do so decreases with time.
- According to the guardians, the most common justification for admitting children into the professional child protection system is the neglect and endangerment of children, described as “parental-family problems”. Less frequently mentioned justifications include the physical or psychological condition of the parents, severe addiction, deviant behaviour of the children, social and housing conditions, and physical or sexual abuse.
- Before 2014, the majority of children in State care in the county lived in institutions. Since the start of 2014—in accordance with current policy directives—nearly half of the children are being raised by foster parents, in children’s homes, or in family-type children’s homes. In February 2016, nearly 160 minors were placed with foster parents. At this capacity, the county’s network of foster parents operates at a 90% utilisation rate.
- More than two-thirds of children maintain regular contact with their parents or primary relatives. Maintaining regular contact is a precondition but certainly not a guarantee for children’s eventual return to their families. The return of a child also requires the improvement of the home situation indicated as the reason for removal. According to the information provided by guardians, very few families are deemed to have sufficiently improved such that the children can return home; the guardians indicated that only in 10% of cases was the process of terminating State care initiated, and the number was the same for Roma and non-Roma.
- Romani children were taken into State care on average two years younger (at the age of six) than their non-Roma counterparts. In the county’s professional child protection system, the percentage of Romani children living with foster parents is higher and the ratio of children living in institutions is nearly the same as that of non-Roma children. One fifth of Roma, and a much smaller fraction of non-Roma, do not attend any educational institutions. This may be correlated to the fact that, on average, Romani children are taken into care at a younger age than non-Romani children.

The information from the datasheets demonstrated a gross overrepresentation of Romani children in the county’s care system. It did not, however, indicate any significant differences between the Romani and non-Roma children within the care system with respect to their placement or their chances of returning to their families.

## Interview Analysis

The qualitative component of the study consisted of interviews conducted after the datasheets were processed. The interviewees included members of the endangerment indication system,

child protection services, the district guardianship offices and branches of the professional child protection provision. Furthermore, the former and present managers of the county-level TEGYESZ (Department of Child Protection Services), the head of the foster parent network, and the mayor of a small town with a high Romani population were all interviewed.

The aim of the semi-structured interviews was to reveal what kind of impression professionals have of the children and young adults under child protection. A primary goal of the interviews was to gauge why children are removed from their families. To this end, interviewers were asked to choose among the seven groups of reasons for removal from the datasheet survey. The researchers additionally intended to gather information on the children's families, the state of the pre- and post-removal home environment, and the opportunities available to the children and young adults. Interviewees were also asked to give their opinion on the preventative measures in place, the operation of the endangerment indication system, the typical methods of taking a child into professional child protection, the main reasons for and methods of placing children within the institutional system, and the opportunities for reintegrating children into their families. Certain questions additionally targeted the interviewees' perceptions of the Roma population. The interviews were voice-recorded, summarised in writing, and then analysed for integration into this report.

While the interviewees' responses vary, almost everyone confirmed that the professional child protection system suffers from dysfunction. Several professionals admit that in a well-functioning system, fewer children would enter State care. Among other issues, interviewees emphasised the subjectivity of the child protection workers, stating that whether or not a child is removed and the justification given for that removal are within the workers' discretion. Despite the frequency with which interviewees acknowledged these issues, the majority of them ultimately blamed the ethnicity and culture of Romani families for the removal of their children. In this and other ways, the interviews revealed anti-Roma attitudes that were not detectable in the datasheet component of the study.

The questions focusing on the Roma population provided the opportunity to further explore prejudice amongst the interviewees. Although the majority of professionals attribute the removal of children to reasons perceived as typical of Roma (i.e. their home conditions, parenting methods, etc.), they do not recommend adjusting the system accordingly. In other words, the professionals do not recognise a need to rework the system so that it does not target Romani families.

A primary conclusion drawn from the interviews is that, across the board, deep poverty and deprivation are always a driving reason to remove a child from her/his family. Furthermore, the interviews reveal that, almost without exception, children do not return to their families even when parents put in great effort to maintain contact. The interviewees' comments suggest that the low rate of return may be connected to dysfunctions in the system that impede support for the affected families. Similar dysfunctions in support and preventative services are responsible for children entering the system in the first place. Another related and frequently mentioned problem was the underfinancing of the system. The lack of funds leads to children's placement in environments that are only slightly better than their original homes

and far away from appropriate institutions and services that could aid their transition. In spite of these criticisms, none of the professionals concluded that the system should adjust to the needs of the families. On the contrary, they resoundingly argued that families should adapt to and make do with the current system.

The child protection workers harbour anti-Roma attitudes similar to those of the majority of society. The interviewees' comments suggest that these attitudes play a highly influential role in the removal of Romani children. Most of the interviewees have a sense of superiority and perceive their own conventional values as superior to the values of Roma. This leads to a lack of mutual understanding and trust—two sentiments of vital importance in the cases at hand.

Some interviewees estimated that the percentage of Romani or “half-Romani” children in the care system was 90-95%, as opposed to the 80% figure that emerged from the datasheet analysis.

## What We Are Doing Next

Hungarian law and European Union law make it unlawful to discriminate based on race or ethnicity when it comes to social protection. Discrimination in the system for taking children into care is also a breach of a number of international treaties, including the European Convention on Human Rights.

### **The ERRC uses litigation to challenge States that discriminate against Roma**

Under Hungary's anti-discrimination law, it is possible for an NGO such as the ERRC to take litigation in its own name to challenge discrimination. We think this is the best approach to deal with the discrimination this study documents in Nógrád County. In order for us to secure a remedy that will end this practice, we need a case that will identify and expose the structural nature of the discrimination; cases on behalf of individual families will focus on the facts of those cases and risk allowing the defendants to draw the courts' attention away from the underlying fact of discrimination. However, if we succeed in establishing that there is discrimination, families in Nógrád County will be able to pursue individual cases, to make sure their children are returned to them and/or to get compensation.

Discrimination can be "direct" or "indirect". When it's "direct", it means that there is less favourable treatment on grounds of race. This happens, for example, when a Romani child is taken into care because the person making the decision is basing it on stereotypes about Roma. Indirect discrimination means that there is an apparently neutral practice or provision that results in less favourable treatment for a minority group such as Roma, and the practice or provision cannot be justified. For example, an apparently neutral system for taking children into State care may have a disproportionate effect on Roma, and might not be justified, if, for example, the basis of taking the children into care is that they are poor.<sup>5</sup>

The system clearly results in less favourable treatment of Romani families, whose children are more frequently taken away from them and placed in care. This is clear evidence of indirect discrimination. It also does not seem that this less favourable treatment can be justified: poverty (which disproportionately affects Roma, in Hungary and everywhere else in Europe) clearly plays a fundamental role in a large number of decisions, and the authorities in Nógrád County are not taking significant steps to provide support to families to stay together.

<sup>5</sup> In human rights law, as in Hungarian law, a child can never be taken into State care simply because that child's family is poor. There must be other reasons for such a significant interference with the right to respect for family life.