Serbia’s Forgotten Children

MENTAL DISABILITY RIGHTS INITIATIVE OF SERBIA

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Disability Rights International (DRI) is a human rights organization dedicated to the protection and full inclusion in society of children and adults with disabilities. DRI documents abuses and promotes international awareness of the concerns of people with disabilities. DRI trains and supports disability rights and human rights activists and supports the empowerment of people with disabilities to control their own lives. DRI also promotes improved government programs and donor policies worldwide to ensure full community inclusion of people with disabilities. Through cutting-edge human rights litigation and legal advocacy, DRI protects disability rights and is dedicated to promoting the right of all children to live and grow up in a family.

DRI is based in Washington, DC with regional offices in London, Serbia, and Mexico. Over 25 years, DRI has investigated human right conditions and collaborated with activists in more than three dozen countries in Africa, the Americas, Asia, Europe, and the Middle East. DRI is run by people with disabilities and their families.

Mental Disability Rights Initiative of Serbia

www.mdri-s.org

Mental Disability Rights Initiative of Serbia (MDRI-S) is a human rights organization dedicated to the protection and full inclusion in society of children and adults with disabilities. MDRI-S was founded in 2008 with the support of Disability Rights International to advance the rights of children and adults with disabilities in Serbia.

MDRI-S conducts continuous monitoring of social care institutions in Serbia and raises concerns about the rights of children and adults that live in them. MDRI-S initiates changes in laws, policies and practice to ensure full community inclusion of people with disabilities. MDRI-S trains persons with disabilities, family members, human rights activists, lawyers, judges, social workers and other stakeholders, and supports the empowerment of people with disabilities to control their own lives.

MDRI-S is based in Belgrade, Serbia. MDRI-S has published over 30 publications and reports and has established over two dozen partnerships at the national, regional and international level. MDRI-S is run by people with disabilities and their families.
Acknowledgements

DRI and MDRI-S express our gratitude to all the people who contributed to the preparation of this report. We are grateful to the many people working in Serbia who met with us and welcomed us into their programs, offices, and homes. They generously gave of their time. This included people with disabilities and their families – some who spent years in institutions and some who still reside there, advocates from non-governmental organizations (NGOs), institutional staff and government officials. We particularly appreciate the children and young people, as well as family members, who told us about their lives and their struggles. We met many professionals, staff, and direct care workers who were concerned about the welfare of the children they are serving and brought our attention to serious human rights concerns.

It is not the authors’ intention to blame any group as a whole or to disparage the efforts of the many dedicated staff who work to help children under very difficult circumstances. The report does not use names to protect sources and allow them to speak freely. Locations of specific institutions are not mentioned in the public version of this report to protect the identity of sources or children residing in these facilities. The numbers throughout the report refer to specific institutions. The list of visited facilities is known to the Ministry of Labor, Employment, Veteran and Social Affairs to which we owe thanks for ensuring an access to the institutions, as well as the management and staff of social welfare institutions who warmly welcomed the team members and with whom they candidly shared their everyday work experiences.

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CONCLUSIONS AND RECOMMENDATIONS 50
Executive summary

In 2007, Disability Rights International published *Torment not Treatment*, a report documenting findings of “a broad array of human rights violations against people with disabilities, segregated from society and forced to live out their lives in institutions.” Within those facilities, DRI found “filthy conditions, contagious diseases, lack of medical care and rehabilitation, and a failure to provide oversight” rendering placement in institutions life-threatening.\(^1\)

Following DRI’s report in 2007, Serbia acknowledged the difficult situation of children and adults with intellectual disabilities, and a range of measures were put into action. Recognizing that the effects of long-term stay in institutions were the most harmful for children, the focus of reforms were institutions for children, including children with disabilities.

In 2009, Serbia adopted a law guaranteeing inclusive education for all children without discrimination.\(^2\) In 2011, Serbia adopted the Law on Social Protection\(^3\) which introduced a range of community-based services, limited the number of residents in institutions, and prohibited the placement of children under the age of three (albeit allowing for some exceptions). Unfortunately, the Comprehensive Plan for the Transformation of Residential Social Welfare Institutions for Children (2009-2013) was based on the assumption that non-institutional forms of protection (services) will not be able to respond to the needs of children with multiple or severe disabilities and that these children will certainly have to stay in residential institutions or need residential accommodation.\(^4\) As a result, hundreds of children with disabilities were left out of reform efforts, and children with disabilities now constitute the majority of children in residential institutions.

This report, *Forgotten Children of Serbia*, is based on findings of investigations conducted from 2019 to the present by DRI and the Mental Disability Rights Initiative of Serbia (MDRI-S) and, focusing especially on children, shows that these human rights concerns have been permitted to continue. The Serbian government has been put on notice about the atrocious conditions, abuse, and torture taking place in its facilities through years of advocacy by DRI, MDRI-S, and other allies and has failed to take action or hold abusers accountable. At institution 6, for example, *the stench of urine, body odor, feces, and filthy bedding was overpowering.*

_The place is a hellhole._ – DRI investigator

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\(^3\) Law of Social Protection (Official Gazette of Republic of Serbia, No.24/2011)

Continued segregation of children with disabilities

Serbia has made notable progress in lowering the overall institutional population of children without disabilities. According to the Serbian government, the number of children living in institutions – including large facilities, group homes, shelters, residential schools, and children mixed into adult facilities – has decreased by almost 50% in the last 10 years. But Serbia has failed children with disabilities – some whom are now adults – who have been left behind by reforms. Today, children with disabilities make up 80% of all children living in institutional settings, where they are often mixed in with adults and face a lifetime of segregation. Infants and children under the age of 3 years old continue to be admitted and left in institutions – a practice that will subject them to developmental delays and psychological damage (such as attachment disorder) that may last a lifetime.5

79% of children and adults in institutions have been there for more than 10 years. The predominant reason for leaving an institution is death.

Serbia has neglected to address the egregious human rights violations and abuses perpetrated against those forced to live in sub-human conditions – many of which rise to the level of torture. In all the institutions we visited, regardless of their size, DRI found severe neglect and lack of medical care that put the health and lives of children with disabilities at risk.

In 2009, the government of Serbia ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) – an international human rights convention ratified by 182 countries which protects the basic human rights of children and adults with disabilities. By ratifying the CRPD, Serbia committed itself to bringing about full community inclusion of children and adults with disabilities:

Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement. – CRPD, Article 19

For children, the right to community integration entails a right to live and grow up in a family – not a smaller residential facility or a group home:

For children, the core of the right to live independently and be included in the community entails a right to grow up in a family. Large or small group homes are especially dangerous for children, for whom there is no substitute for the need to grow up with a family.

5 Attachment disorders occur when young children fail to form a normal bond or do not feel attachment to their parents or guardians. In attachment disorders, the child's primary feeling is abandonment. It most commonly occurs in children under the age of three who are institutionalized, abused (physically, emotionally, or sexually), or neglected. As a result, these children fail to establish a deeper connection with the people who care for them or with other people in their environment.
“Family-like” institutions are still institutions and are no substitute for care by a family.”
– CRPD Committee, General Comment No. 5

Forgotten Children of Serbia finds that Serbia has not created the community-based services or support to families necessary to ensure that children with disabilities can remain in families. Serbia deserves credit for moving children out of the abusive Kulina facility, but children were moved from this large, abusive facility to smaller group homes. This report finds that these group homes are essentially functioning as smaller institutions. And DRI has observed dangerous and life-threatening conditions for some of the children in the country’s group homes.

Denial of medical care and life-threatening neglect

In institution 1, DRI found approximately 100 children, most with cerebral palsy, lying in metal cribs with high railings, all day long – effectively functioning as cages for immobile children. Rarely taken out of their cribs except for minimal care, many children appeared much younger than their actual age and many had muscle atrophy due to lack of activity and immobility. Long-term physical inactivity and lack of love and touch can literally kill children – also known as failure to thrive.

One can take a perfectly healthy human being, tie them into a wheelchair or crib, and they will die if you leave them immobile for long periods of time. All body systems are dependent on movement. – Karen Green McGowan, expert on children with disabilities

Also in this institution, DRI found children with severely contracted and very thin limbs lying on hard surfaces. Such a condition was the result of lack of movement and neglect.

These children are too fragile to move due to the risk of fractures. – Staff, institution 1

The director of the facility reported to DRI that over 50 children were fed with naso-gastric tubes – a tube that carries food from the nose into the stomach. The permanent use of naso-gastric tubes on children puts their lives at risk. Dangers associated with this practice include tubes becoming blocked, torn or dislodged, which can lead to ulcers and infections, aspiration, intestinal perforation that causes internal bleeding, pneumonia, and death.

The high number of children with NG feeding tubes in this institution indicates a lack of adequate assessment as to alternatives for safe feeding practices OR that such feeding practice is taking place for the convenience of the staff. – DRI expert M. Reeves Miller

At institution 2, staff reported to DRI that denial of medical care for children with disabilities included refusal by hospitals to accept acutely sick children.

Why did you bring him here – let him die. – Hospital staff
The staff in Institution 2 emphasized that ‘palliative care’ is not properly regulated by law and is often used as an excuse by hospitals and health care professionals to deny treatment to institutionalized children with disabilities. In this institution, DRI found several children with hydrocephalus, a build-up of fluid in the brain. The most common treatment for hydrocephalus is the insertion of shunt to allow fluid to drain properly. Without treatment, children are in constant pain, are unable to move, and will eventually die. If lifesaving treatment is made readily available, children can live long, healthy lives.

Staff at institution 2 reported to DRI that the ‘council of doctors’ decides whether a child will receive a treatment (which may include surgical intervention). In many cases, children were deemed “too risky” for surgery – yet without it they will die. As the result of the council’s decision to withhold treatment, the only option for these children is to receive palliative care at the institution – consisting of over-the-counter pain relief medication – and await death. Since all human beings have the fundamental right to life, including access to essential medical care, the denial of such treatment effectively constitutes the intentional killing of children with disabilities.

*Pain and discomfort comprises a significant part of these children’s lives.* – Dr. Lawrence Kaplan, pediatrician, DRI expert

By international standards, denial of pain medication constitutes inhumane and degrading treatment and can amount to nothing less than torture. *Children left to die of hydrocephalus, and denied appropriate pain medication that is readily available, are subject to severe pain amounting to torture.*

**Sexual abuse and forced contraceptive use**

DRI observed practices that left a large percentage of women and girls at risk of sexual abuse at Institution 6. At this facility, staff referred to ‘love relationships’ taking place in the facility, as if they were consensual. In the context of total control in the institution – with women unable to come and go or make basic decisions about their lives – meaningful consent to such relationships is effectively impossible. According to the director at the institution, 40 women in the facility were given intra-uterine devices (IUDs), out of a total population of 83 women. Staff report that women with disabilities are administered contraceptives without their consent and possibly without their knowledge. Rather than making efforts to inform women of their rights or support them in making essential decisions about their reproductive health, staff intentionally undermine the choices of women. This practice effectively provides a cover-up for rape and widespread sexual abuse. Staff also reported that forced abortions are the norm.

**Adults and children living together: exposure to further abuse**

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6 The council is an expert body in the hospital, which consists of a team of doctors of various specialties who make decisions about how to treat the patient

7 Institutions belong to primary health care and do not have the necessary equipment to treat complex conditions.
One of the greatest dangers DRI observed in institutions was the practice of mixing children and adults and sleeping in the same rooms together. The violence suffered by children in institutions is exacerbated when they are housed with adults or older children. This practice puts smaller children at risk of bullying, violence, and sexual abuse. In two large institutions (5 and 6) – and in two group homes on the grounds of institutions 3 and 4 – children were housed with adults with disabilities.

Minors share rooms with adults. – Staff, institution 5

The impact of placement with adults goes beyond the immediate exposure of children to violence: long-term effects can include severe developmental delays, disability, irreversible psychological damage, and increased rates of suicide and criminal activity.8

Denial of the right to family

Children moved out of Kulina were placed in five group homes situated in emptied institutions for children without parental care. Investment in residential care in Serbia, while on a small scale at present, can be considered regression of human rights – moving away from ending abuses rather than resolving them. In adopting General Comment No. 5, the UN Committee on the Rights of Persons with Disabilities made clear that there is no substitute for the right of children to live with a family. Extensive scientific evidence shows that children raised in congregate settings by professional staff who work in shifts will not be able to form the emotional attachments necessary for healthy emotional development.

DRI’s findings reinforce the findings of scientific research, showing the dangers that can occur in group homes where children are raised without the love and protection of a family. The case of Zoran (a pseudonym) demonstrates these dangers. Several years ago, 14 year old Zoran was sent to live in a group home after his mother became ill. Although she sought support to keep him home with her, the Center for Social Work declined her request. Instead, the response from the government agency was to send him to an institution. According to the staff, his mother is very attached to him and visits him often. Zoran has severely deteriorated since he was separated from his family. He spends most of his time lying in the fetal position in a metal crib. He has lost most of his hair. He has lost so much weight his bones are palpable through his clothes.

Every day Zoran continues to spend time in an institution, away from his home, family and community, he will continue to worsen. – DRI children’s expert

Children in Serbia are in institutions due to poverty and the lack of support for families and children with disabilities. They rarely end up in foster care, because the system is not equipped to respond to the needs

8 UNVAC World Report on Violence Against Children 2006 (p.171-220)
of children with disabilities. Once in the institutional system, children will never get out. Even infants with disabilities continue to be admitted to institutions. Placement in these facilities is likely to last a lifetime.

_We are trying to send three children back to their families, but the families are not ready, they do not have adequate support. The parents have aged._ – Staff, institution 5

No matter what kind of facility children grow up in, they will invariably end up institutionalized as adults. Unless Serbia takes immediate action to invest in community-based care and family supports, as required by the UN Convention on the rights of persons with disabilities, children with disabilities will continue to live and die in institutions.
I. Introduction

For children, the core of the right to be included in the community entails a right to grow up in a family... Large or small group homes are especially dangerous for children, for whom there is no substitute for the need to grow up with a family. ‘Family-like’ institutions are still institutions and are no substitute for care by a family. – UN Committee on the Rights of Persons with Disabilities, General Comment No. 5.9

Serbia has made significant progress in reducing the number of children in institutions over the last ten years. Overall numbers have been reduced by nearly 50%, though progress has greatly slowed in recent years. While the country deserves credit for its success in helping children without disabilities, it has entirely failed to include children with disabilities who have been left behind in institutions.

As children without disabilities are reintegrated into families, the percentage of children with disabilities in Serbia’s institutions is rising. Today, children with disabilities make up 80% of all children in institutional settings.10 As children reach the age of 18, many of them stay in the same facilities for life. The mix of young and older children, as well as adults, exposes them to a wide range of abuses, including physical and sexual violence.

Without services or support to help children return to family or community, they face the prospect of a lifetime of segregation. Seventy nine percent of children and adults in Serbia’s institutions have been there for more than ten years. The predominant reason for leaving these institutions is death. In 2018, five out of eight children with disabilities who were identified by a Serbian government report as having left institutions had actually died.11

The small number of children with disabilities removed from the most abusive institutions have been simply moved to smaller facilities where they continue to languish without the love or care of families. In 2007, for example, DRI documented atrocious conditions at the Kulina facility for children. Following the release of DRI’s report, most children with disabilities were taken out of the facility. But instead of being reunited with their families, they were moved to five ‘small group homes’ (SGH) – institutions of smaller capacity that house 12 children each. DRI and MDRI-S visited these group homes as part of the investigation for this report and found that they are no different from larger institutions. Some of the houses are nicely painted and decorated. But they are staffed by shift workers, a situation that does not allow children to form consistent emotional bonds with committed caregivers – as they could only find in a family.

9 U.N. Secretary-General, General Comment No. 5 (2017) on living independently and being included in the community, U.N. Doc. CRPD/C/GC/5 (Oct. 27, 2017), para. 37. [hereinafter General Comment No. 5]
DRI/MDRI-S also find that Serbia has failed to address severe human rights violations and abuses that constitute inhumane and degrading treatment — and in some cases amount to torture. Over and over again in the last decade, local and international human rights organizations, including DRI and MDRI-S, have warned about abuses taking place in these institutions. This report finds that Serbia has done almost nothing to stop such abusive practices.

While there are some differences between institutions, there are problems that are universal and inevitable in a closed system characterized by unlawful segregation and isolation including: depersonalization, lack of privacy, rigid routines, and inadequate protection against neglect and abuse. The lack of understanding of the needs of children is also a fundamental feature, as well as the unequal treatment of children in relation to the degree and nature of their disability. DRI investigators observed a pervasive lack of rehabilitation, denial of medical treatment by the health system, and severe cases of neglect.

Segregation of children with disabilities from society continues beyond the walls of institutions. Children placed with families or foster families are often isolated in their own homes because services available to all other children are not made accessible to children with disabilities. Serbia’s law guarantees a right to inclusive education, but children are placed in segregated schools (known as “special schools”) where they lack access to the benefits of mainstream education.

Many children do not go to school at all and are instead placed in day care centers where they face further segregation from other children. There are no efforts to plan their transition to adulthood or support of employment or independent living.

There are some impressive, privately operated initiatives for youth engagement and employment that demonstrate how inclusive programs could be implemented in Serbia. These programs, unfortunately, have not been funded or replicated by government authorities. Instead, public resources are directed almost exclusively to the existing, segregated social service system.

Progress could be made by reallocating existing resources to support family inclusion. Increased support is needed to ensure that biological families can keep their children. For children without families, supported foster care programs must be established to allow for full inclusion of children with disabilities. The current misallocation of resources to institutions and segregated programs in the community perpetuates the isolation and abuse of children with disabilities documented in this report.

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12 The State’s decision to segregate and isolate people with mental disabilities through placement in closed institutions represents a fundamental form of discrimination and is violating the right to life in the community, prescribed by international standards. Discrimination against people with disabilities and their subsequent isolation based on mental disability is prohibited by both domestic and international law. Segregation and isolation alone deepen the stigma that surrounds people with mental disabilities.

13 See also “Hidden and Forgotten: Segregation and Neglect of Children and Adults With Disabilities in Serbia”, MDRI-S 2012.
Goals and Methods

This report is the product of a collaboration between Disability Rights International (DRI) and the Mental Disability Rights Initiative of Serbia (MDRI-S). MDRI-S is an independent affiliate of DRI based in Serbia. The DRI/MDRI-S investigative team included human rights lawyers, a psychiatrist, a special education expert, and an expert certified to conduct court-ordered monitoring for US courts in federal litigation. The team included people with disabilities and parents of persons with disabilities from the United States and Serbia.

This report assesses the situation of children with disabilities in Serbian institutions – places where children are not able to grow up with the love and care of a family. This includes large and small facilities considered orphanages, residential care homes, group homes, family-like homes, or residential schools. The report examines the enforcement of international human rights conventions ratified by Serbia, including the European Convention on Human Rights (ECHR), the UN Convention on the Rights of the Child (CRC), and the UN Convention on the Rights of Persons with Disabilities (CRPD).

The report is based on monitoring visits to eight government-run institutions for children without parental care and children with disabilities and one private social care institution, conducted in October and November 2019. In addition, DRI investigators visited community services and conducted interviews with children, families, and government authorities in April, October and November 2019. DRI and MDRI-Serbia gained access to social care homes as a result of an agreement signed with the Ministry of Labor, Employment Veteran and Social Affairs.

The report also draws from the observations and experiences of the MDRI-Serbia team, based in Serbia, through ongoing monitoring of the rights of persons with disabilities living in institutions and in the community.

Among the eight government facilities visited by DRI and MDRI-S were:14

- three institutions only for children/youth with disabilities;
- five institutions for children with and without disabilities.

At some of these facilities, children and adults were mixed together. Of the total of 782 people at the facilities we visited, 536 were children and 246 were adults.

The facilities DRI visited were large and small, including three designated as ‘small group homes.’ Since group homes are considered institutions under the CRPD, this report will refer to large and small facilities collectively as institutions. Three of these institutions also house units that operate as shelters for urgent temporary placement of children, which are under the jurisdiction of local authorities.

14 The list of facilities is known to the Serbian authorities. However, DRI and MDRI-s have been forbidden to disclose this information to the public.
In April 2019, DRI visited one private social care institution operated by SOS Children’s Villages housing 77 children in 14 ‘family-like units.

In addition to institutions, DRI visited three day care centers for children and youth with disabilities (each with respite care capacities), one mainstream elementary school, and five special schools, including one school for blind children. The special school for blind children also has a boarding unit providing accommodation for 42 children; however, during our visit only a few children were found accommodated in the boarding unit.

In addition to interviewing staff and residents of institutions, day care centers and schools, DRI interviewed parents of children with disabilities, representatives from two centers for adoption and family placement, officials from the City of Belgrade’s Secretariat for Social Protection, and representatives of the Ministry of Education, Science and Technological Development, the Republic Institute for Social Protection, and UNICEF Serbia. DRI also organized one workshop for members of the Ombudsman office and representatives of the Ministry of Labor, Employment, Veteran and Social Affairs.

II. Observations: Dangerous practices and mistreatment

In all institutions visited, regardless of their size, investigators observed neglect and lack of medical care that put the health and life of children with disabilities at risk. In institution 1, for example, DRI found approximately 100 children, mostly with cerebral palsy, lined up in metal beds with high railings in rooms housing approximately 12-15 children. These metal beds functioned as cages for immobile children. Children at this facility live in total isolation and cannot move beyond the bars of the bed.

Staff at institution 2 reported to DRI that the ‘council of doctors’ decides whether a child will receive a treatment (which may include surgical intervention). In many cases, children were deemed “too risky” for surgery – yet without it they will die. As the result of the council’s decision to withhold treatment, the only option for these children is to receive palliative care at the institution – consisting of over-the-counter pain relief medication – and await death. Since all human beings have the fundamental right to life, including access to essential medical care, the denial of such treatment effectively constitutes the **intentional killing of children with disabilities**.

a. Denial of medical treatment

*Why did you bring him here? Let him die.* – Hospital staff who refused care to a child with disabilities

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15 The council is an expert body in the hospital, which consists of a team of doctors of various specialties who make decisions about how to treat a patient
According to institution staff, children with disabilities are often denied access to any medical care at general hospitals. At institution 2, staff provided an example of a child that had to be resuscitated at the institution because staff at the general hospital refused to accept him, stating: “why did you bring him here, let him die.”

According to the law, the purpose of ‘palliative care’ in Serbia is to reduce pain or suffering for people with terminal conditions whose life cannot be saved. The staff at institution 2 observed that palliative care is not properly regulated, so it is often used as an excuse by hospitals and the health care system to deny treatment for institutionalized children with disabilities. So-called palliative care is also misused by hospitals to treat children with disabilities for the shortest period of time possible before returning them to the institution, even if they still need intensive medical care to stay alive.

At institution 2, the investigators observed a child with hydrocephalus who had been denied access to a shunt – a surgical procedure that would relieve pressure and pain caused by the swelling associated with hydrocephalus. Staff reported that the council of doctors did not give approval for the child to get a shunt – arguing that the procedure would be “too risky” for him to survive, even though he would certainly die without treatment. This small child was therefore placed in palliative care to await death despite the fact that the institution was not equipped to provide such care. The institution’s ‘palliative care’ consisted of giving him minimal pain medications. It should be further investigated as to why a necessary surgical procedure was not performed at birth (or when the hydrocephalus was evident). It is inhumane to allow a child to suffer undue pain and await death without adequate treatment. Medical experts have found that the experience of death by hydrocephalus can be extremely painful. By international standards, the denial of appropriate pain treatment constitutes nothing less than torture.

This was not the first case of extreme neglect documented by DRI. In 2012 MDRI-S found a similar case at the same facility – a boy with hydrocephalus, lying on his side, facing the wall and weeping, obviously suffering from pain, while the nurse tried to calm him by cuddling him. In his case, it was the Ethics Committee that had decided not to operate on him “because of the great risk factor and to perform only palliative care.” When MDRI-S encountered the boy in 2012, two years had passed since the ethical committee’s decision – his conditions had deteriorated, but he was still alive, and in great pain. During DRI/MDRI-S’s visit in 2019, investigators were told by the institution’s doctor that

17 Babies born with hydrocephalus, and children and adults who develop hydrocephalus, need urgent surgery to reduce the pressure on the brain. If hydrocephalus is not treated, this pressure will cause brain damage. During the procedure, a thin tube (so-called shunt) is installed, which drains the cerebrospinal fluid from the brain to another part of the body, most often to the abdomen.
18 According to MDRI-S expert, Institutions belong to primary health care and do not have the necessary equipment to treat complex conditions
19 Interview with staff members, Institution 2, October 29, 2019.
20 The Ethics Committee is an expert body of a health institution consisting of permanent members who give an opinion on the application of the principles of professional ethics in the prevention, diagnosis and treatment of patients.
the boy died soon after our previous visit, and that the commission had acknowledged that they had made the wrong decision. By the time the review occurred, staff report that it was too late to save the child’s life.\textsuperscript{22} No one was held responsible for this, which is a common case for institutionalized children. Serbia must establish procedures for compulsory investigations into deaths of children, without presumptions linked to their disability.

At a group home within institution 3, DRI found Darko,\textsuperscript{23} a 23-year-old young man who arrived at the group home in 2012, when he was 16. He was sent from Kulina, an abusive institution in Serbia described as “inhumane” by staff from the MLEVSA. DRI investigators found Darko sitting in a stroller that had a padded bar wrapped in tape holding him in place. He was leaning forward and appeared to be chewing on the padded bar. Staff said he has done that since he arrived from Kulina. A DRI expert tried to engage with him and when she did, “he would stop ‘mouthing’ the bar and look up at me but go back to ‘mouthing’ the bar.”\textsuperscript{24}

Darko was reported to be 23 years old at the time of our visit. The facility had a picture of him from the time he was transferred to the group home seven years earlier. To our surprise, he looked in much better condition when he arrived from Kulina. Since then, he has lost “body mass, his arms and legs have lost all muscle mass, he has sunken facial features, and what seemed to be kyphosis (outward curvature of the spine).”\textsuperscript{25} He spends his days now completely bent over, with his opened mouth stuck to the padded railing of a stroller, which is too big for his emaciated-looking body.

When Darko arrived from Kulina, staff said that he was “crying and screaming 24/7 but we did not know the reason behind it.”\textsuperscript{26} Staff eventually found out that he was in constant pain due to severe tooth decay and a gum infection which was ignored by the staff in Kulina. Instead of providing him with essential dental care, the doctor’s response was to get all his teeth removed. No further action was taken by the authorities to remedy the consequences of this procedure. According to staff, he needs medical care to continue treating his gum problem, but they have not been able to get him the treatment and surgery he needs.

Staff reported to DRI that discrimination by health care providers who refuse to treat Darko was the reason behind the lack of treatment. According to staff, doctors often refuse to treat children with disabilities. Even if he could get access to treatment, a DRI specialist found that the “status he is in right now could never be reversed, but he could be provided treatment, love, and engagement that would greatly improve a quality of life.”\textsuperscript{27}

Denial of such treatment amounts to torture. In a similar case, V.D. v. Romania, 2010, §§ 94-100 the European Court for Human Rights dealt with the complaint of a prisoner with serious dental problems (he had virtually no teeth), who was unable to obtain a dental prosthesis as he did not have the means

\textsuperscript{22} Interview with the doctor, institution 2, October 29, 2019
\textsuperscript{23} The name was changed to protect the privacy of the individual.
\textsuperscript{24} Post visit interview with DRI’s disability expert
\textsuperscript{25} On-site assessment conducted by DRI’s disability expert Melanie Reeves Miller
\textsuperscript{26} Interview with staff, institution 3, November 1, 2019
\textsuperscript{27} Interview with disability expert Melanie Reeves Miller upon on-site assessment
to pay for it. The Court held that there had been a violation of Article 3 (prohibition of torture) under the European Convention on Human Rights. 28

b. Severe neglect and threats to life

A large number of children and adults in the institutions DRI/MDRI-S visited were not provided meaningful care. These institutions focus exclusively on the basic care of children without providing any rehabilitation and stimulation; this leads to the worsening of the children’s condition and has adverse consequences on their health and life.

During visits to institutions DRI came across a large number of children and adults who could not move and who were effectively restrained because they were left to lie in cots or beds with iron bars, from which they could not leave without assistance.

Long-term physical inactivity and recumbence is dangerous for the physical and mental health of every child and adult. 29 Due to long-term recumbence, the head becomes flat, and the bones do not develop properly. 30 Many children who grow up in beds experience limited growth. Many teenagers that DRI encountered looked like they were three to five years old, not because of some “inborn” condition, but because of long-term recumbence and the withholding of necessary treatment. 31

“One can take a perfectly healthy human being, tie them to a wheelchair, and they will die if you leave them immobile for long periods of time. Everything shuts down. All body systems are dependent on movement.” – Karen Green McGowan, expert on practical work with children with developmental disabilities

Many children in institution 1 suffer from cerebral palsy which, without proper treatment, can cause dislocation of limbs. 32 A person who is unable to move because of the state of their limbs and joints is at great risk of scoliosis or spinal bending. Stretching and correct positioning are crucial for the prevention of deformities.

In institution 1, the investigators found children with severely contracted and very thin limbs lying flat on hard mattresses. Their physical condition was the result of neglect and lack of physical therapy and movement. 33 According to staff, “these children were too fragile to move due to the risk of fractures.” However, DRI’s disability expert was confident these children could be treated if the staff received training in safe positioning and transfer techniques. Without appropriate training there is a serious

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28 “No one shall be subjected to torture or to inhumane or degrading treatment or punishment.”
29 Carter, 2005; Mulheir and Browne, 2007; Smyke et al., 2007
31 Charles H. Zeanah et al., 2010.
risk of harming a child. A DRI expert observed that there were no “positioning systems including cushions, foam covered brackets or other forms of contouring for use with, or without, a specialized mattress to maintain the body in an appropriate position during sleep and rest.” These children were at risk of pressure ulcers (bed sores) from staying in one position for too long without opportunities for frequent repositioning by caregivers. Lack of appropriate alternate positioning with aids (e.g., wedges, cushions, rolls, etc.) or frequent repositioning increases their risk of further contraction, deterioration of their muscles, and increased pain. A lack of adequate head support observed at the institution also left the children at risk of choking because swallowing was impeded.

In the same institution, we observed some children who were too large for the cribs lying on mattresses on the floor, rocking, lying under benches, and crawling. The use of adaptive equipment for appropriate, supported ambulation, like walkers or custom wheelchairs, was absent, leaving these children completely dependent on staff to move around their environments and seek alternate positioning.

In institution 3 the investigators found a case of extreme neglect. Zoran is a 16-year-old teenager who spends most of his day curled up in a metal bed functioning as a cage. According to staff, he has a spine injury. Zoran’s body is contorted into a fetal position with his legs crossed; his muscles look severely contracted. He was curled tightly in his position, and even though a DRI specialist tried to engage him and hold his hand, he did not respond. Staff at the group home said, "we do not move him." Instead, they have been advised to let him ‘reposition’ himself when ‘he feels he needs to.’ However, DRI spent over an hour at the group home and Zoran remained in the same position the whole time – which in itself would be very painful.

The Center for Social Work sent Zoran to the group home in 2019 after his mother fell ill. She took care of him for 14 years, but could no longer do it without support. The response from the government agency was to send him to an institution. According to staff, his mother is clearly still attached to him and visits him often. She would have continued to care for him if the system provided her with adequate support in the community.

Zoran has severely deteriorated since he came to the institution, as seen from a picture that was taken the day he arrived at the institution. In the picture from when he arrived, he was sitting up straight in a supported wheelchair, smiling. It is hard to recognize him now. He spends most of his time contorted in a fetal position in a metal crib. Without movement or physical therapy, his muscles have been allowed to become so tight that regardless of gentle stroking and talking with him, he could not relax enough for the DRI consultant to open his hands from a fist or place her hands between his knees. He has lost most of his hair – which was thick and black in the picture from the day he arrived in the institution – and has visibly lost weight; his bones are palpable through his clothes (all signs of ‘failure to thrive’). Every day Zoran spends in an institution away from his home, family and community, he will continue to deteriorate further.

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34 On-site assessment conducted by DRI’s disability expert Melanie Reeves Miller
35 The name was changed to protect identity
36 Interview with staff, institution 3, November 1, 2019
In institution 1, the director told DRI that approximately 50 children (almost 1/3 of the children at the facility) have a naso-gastric (NG) tube which was approximately 5 inches long hanging from their noses and taped to their cheeks. A nasogastric tube is a special tube that carries food and medicine to the stomach through the nose. According to a DRI expert, the NG tube is a temporary solution and should later be removed or replaced by a more permanent apparatus for long-term and safer feeding.37

The permanent use of NG tubes in children puts their health and life at risk. Risks associated with NG tubes include “becoming blocked, torn, or dislodged, and using an NG tube for too long can also cause ulcers or infections to develop on the tissue of the sinuses, throat, esophagus, or stomach.”38 Other major complications of NG tubes – especially if managed improperly, include aspiration, intestinal perforation that causes internal bleeding, peritonitis, site infections, bloodstream infection, gastrointestinal bleeding, pneumonia and death.39

The high number of children with NG feeding tubes in institution 1 indicate there is a lack of adequate assessment as to alternatives for safe eating practices, or that such feeding practice is taking place for the convenience of the staff. Such a conclusion is supported by the fact that in institution 2, which also has children with complex support needs, there was a significantly lower number of children using NG feeding tubes (18 compared to 50 in institution 1) – demonstrating that the use of this invasive feeding practice can be replaced with less invasive options.

In one room in institution 1, DRI expert found two girls observed to be having “difficulty breathing, hot skin to touch, perspiration, and rattling sounds from the lungs and mouth, most likely due to pneumonia from aspirating pharyngeal secretions and gastric contents into the airways.”40 These risks were very likely created by the use of feeding tubes in the first place. According to DRI’s expert, these two girls were at risk of dying within the next year due to the risk of aspiration, or even sooner if not immediately treated.

Infections and contagious diseases are also common in the institutions visited. According to the local school in Subotica, children from Kolevka frequently miss school due to reported respiratory infections.41 According to school staff, children in Kolevka live in ‘group arrangements’, so if one child gets sick, all of them get sick. Often, “several children in the same ‘group’ will all come sick to the school and spread it to the other children.”42

37 The use of a nasogastric tube is suitable for enteral feeding for up to six weeks. For long-term enteral feeding, the use of percutaneous endoscopic gastrostomy (PEG) is associated with improved survival, better tolerance by the patient and lower incidence of aspiration.
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4069302/
38 Ibid.
40 On-site assessment by disability expert Melanie Reeves Miller
41 Interview with representatives of special school 2, October 28, 2019
42 Ibid.
c. Abuse of medication and violation of sexual and reproductive rights

At institution 6, staff referred to ‘love relationships’ taking place at the institution. Such terminology can be used to normalize or legitimate sexual abuse in a context in which one partner may not have the support or freedom to consent or refuse such relationships. This concern is heightened by the staff’s report that they impose contraceptive practices on women with disabilities without their informed consent.\(^{43}\) Such practices not only interfere with a woman’s reproductive choices but they can be used to cover for sexual abuse taking place in the institution.

According to the director at institution 6, all women of reproductive age in the institution are given intra-uterine devices (IUDs). Currently, there are 40 women with IUDs in institution 6, almost half of all women at this facility (83). An additional four women in the institution are given oral contraceptives against their will. Most of the women told us they were given the IUD without their informed consent. Most women are not aware of the purpose of IUDs or oral contraceptives. Such practices are in violation of the CRPD and may amount to torture.

Persons with full legal capacity are required to sign consent forms before placement of an IUD. However, for persons under guardianship, only the signature of the guardian is required and there is no requirement for consent of the person who will be undergoing the procedure. In the past year, a 24-year-old woman became pregnant in institution 6. According to staff, they pressured the woman to get an abortion, but she decided to have the baby and was sanctioned by her return from “sheltered living”. With support from her social worker, extended family, and staff at the institution, she was able to move to a foster family, where she lives with her baby. The father of the child, a 26-year-old who lives at the institution, is in contact with mother and baby. However, this case is an exception, and many women would face forced abortion, a practice that may amount to torture.

At institution 5, only two of the 42 residents were not taking psychotropic medication; everyone else was given psychotropic medication in addition to medications for their medical conditions (usually epilepsy). These were mostly sedatives used for behavior control.\(^{44}\) This practice is less present in institutions for children in institutions 1 and 2.

In institution 2, according to medical records checked by a neuro-psychiatrist on DRI’s team, none of the children received psychotropic medication. When DRI visited the same institution in 2012, 30% of the children were given psychotropic medication,\(^{45}\) so this represents an important positive development in this institution.

\(^{43}\) More information on violence against women with disabilities in institutions can be found at: http://www.mdri-s.org/wp-content/uploads/2018/02/Publikacija-engleski.pdf

\(^{44}\) Any medication capable of affecting the mind, emotions, and behavior.

\(^{45}\) See “Hidden and Forgotten: Segregation and Neglect of Children and Adults With Disabilities in Serbia”, MDRI-S 2012
d. Lack of protective mechanisms

According to staff from the MLEVSA, a child detained in an institution may report instances of abuse to the social worker or case manager from the Center for Social Work who has been assigned to their case. The social worker or case manager is only required to meet with the child twice a year. These ‘meetings’ with the child often take place with staff at the institution, and in some cases, the child may not be present at all. Thus, a child may never get to see their case manager alone during the time they are at the institution. In fact, a child may not see their manager at all. DRI was told by a Center for Social Work staff member that they cannot visit all their clients once a year, let alone twice a year - with their daily workload, they are unable to also travel around the country visiting children and adults in institutions.

When DRI asked representatives from the MLEVSA what could be done if a child needed to meet urgently with a person from the Center for Social Work to report instances of grave abuse, rather than waiting until the case manager visited them at the institution, the representatives’ reply was “we do not have an answer.” According to their testimony, institutions may assign ‘key staff’ to each child that would be in charge of immediately reporting abuse to the Ministry - an action mandated by law. This system relies on children being able to verbally communicate the specifics of the abuse to adults at the institution in order to seek recourse, but does not account for possible barriers to such communication. Furthermore, if the staff is complicit in the abuse, the child is left completely unprotected.

The State, through the Center for Social Work, exercises guardianship of one third of children in institutions whose parents have transferred their guardianship to the State. In practice, however, the director of the institution often acts as the guardian of the children under their care. Being under the guardianship of the State and under the de facto guardianship of the institution’s director further hinders the ability of a child to report abuse and access judicial remedies.

According to staff from the Ombudsman office, “incidents of abuse in institutions are not reported.” Staff told DRI that they have never encountered a case of a child directly reporting abuse. They have only received complaints from third parties like persons who visited the institution and witnessed the abuse - often family members or civil society organizations. However, parents rarely decide to take such a step for fear of retaliation against their child. If the abuse happened when people from outside the institution were not present or if they decided not to file a complaint, “it is never investigated.”

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46 Ministry’s representative at DRI workshop, October 31, 2019
47 Interview with staff and Ministry representatives in institution 3, November 1, 2019.
48 Participants at DRI workshop in Belgrade, October 31, 2019
49 Director, institution 1, October 28, 2019
50 According to staff from special school 2, the staff at institution 1 “acts as the children’s guardian”, October 28, 2019
51 Case of a mother known to MDRI-S
52 Participants at DRI workshop in Belgrade, October 31, 2019
III. Segregation and neglect

According to the latest official data from 2019, there were 647 children in Serbian institutions.\(^5\) This number does not include children placed in shelters within homes for children without parental care and children with disabilities, and dozens of children in residential schools that effectively operate as institutions – for whom exact numbers are not publicly available. This number also doesn’t include 77 children\(^4\) in the private institution run by SOS Children’s Villages. Therefore, the actual number of institutionalized children in Serbia is much higher than stated in its official reports. The proportion of children with disabilities among institutionalized children is increasing since these children may remain in institutions for life. Children with disabilities constitute 80% of the total number of institutionalized children.\(^5\)

In 2019, a total of 5,997 children were reported to have been separated from their families. Of these, 89.2% were placed in foster families and 10.8% in institutions. The number of children in residential care has decreased by 6.5% compared to 2018, and by 48.9% over the last ten years. At the end of 2018, there were 22 children aged 0-3 in institutions for children without parental care.\(^6\)

The Center for Social Work is the authority in charge of deciding whether a child in need of care will be sent to an institution or to foster care. The Center for Social Work also decides whether or when the child will be returned to the family or transferred into another form of care. Despite the ban on new admissions for children aged 0-3 introduced by the Law on Social Protection,\(^7\) exceptions are possible in situations when family placement is not available, and infants continue to be admitted to institutions with permission from the Ministry of Labor, Employment and Veteran Affairs. These exceptions mostly affect children with disabilities and are therefore discriminatory.

The main reason for placement of children in homes for children without parental care (45%) is inappropriate care, neglect and abuse while for placement in homes for children and youth with disabilities the main reason is “inability of parents to meet medical needs of a child” (70%).\(^8\) The “inability” is a result of a lack of support services in the community rather than the lack of parental competencies and therefore represents a failure of Serbia to meet the requirements of Article 19 of CRPD.

The majority of children with disabilities separated from their families continue to be relegated to large facilities. These are facilities specifically designated for children and youth with disabilities. These

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\(^5\) This includes users in 11 homes for children without parental care and children with disabilities, 6 homes for children and youth with disabilities and 3 institutions for re-education of children and youth (children in conflict with the law). This number includes children and young people in 5 “small group homes” since they are situated in the homes for children without parental care.

\(^4\) https://sos-decijasela.rs/nasi-programi/sos-decije-selo-kraljevo/

\(^5\) https://www.unicef.org/serbia/polozaj-dece-sa-smetnjama-u-razvoju-pregled-nalaza


children may also be placed with adults – creating additional dangers for children. Placement in these facilities is likely to last a lifetime as residents rarely ever leave. As of DRI/MDRI-S’ investigation in 2019, the total number of people detained in these facilities (including both children and adults) is reported to be 1,990.59

In 2012, the Serbian government created five ‘group homes’ for 60 children with disabilities. These children had been previously detained in Kulina - one of the country’s most abusive institutions investigated by DRI in 2007 (see report).60 These group homes, which accommodate up to 12 children each, continue to operate today.

According to a person from the Ministry of Labor and Social Welfare, Kulina was an “inhumane institution” and group homes were the “humane response” at the time.61 The UN Committee on the Rights of Persons with Disabilities (CRPD Committee) is clear that group homes of any size are another form of institution. Article 19 of the CRPD guarantees the right to community living for all people with disabilities and, “[f]or children, the core of the right to live independently and be included in the community entails a right to grow up in a family.” The CRPD Committee added that:

Large or small group homes are especially dangerous for children, for whom there is no substitute for the need to grow up with a family. ‘Family-like’ institutions are still institutions and are no substitute for care by a family.

The problem of group home placement in Serbia is made worse because these facilities are isolated and placed on the grounds of larger institutions. In addition, children (with and without identified disabilities) in larger institutions are placed in what are called “home-like” units.62 Despite this designation as a ‘home,’ these are effectively institutional placements. In one such institution, DRI investigators observed four separate ‘home’ units which were placed on two different floors of a large building.

Although such practices illustrate well-meaning efforts by caregivers, the findings of extensive scientific research show that any form of congregate care is inherently dangerous for children, regardless of the size or quality of care at the facility.63 The new research shows that forming a healthy attachment to an adult family member is truly essential for all children and cannot be replaced by any form of congregate care, no matter how clean, well-funded, or professionally staffed.64

60 “Torment not Treatment: “DRI Serbia report
61 Inspector, Ministry for Labor and Social Welfare, November 1.
62 However, both children in group homes and other institutions are included in the official statistics as children in residential care unlike in other countries which created an illusion by renaming group homes by ‘family-type care’.
DRI/MDRI-S visited three small group homes for children with disabilities and found that each of them reflected the same negative characteristics of larger institutions: restrictive and regimented environment; lack of privacy and personal possessions; separation from the community; lack of adequate care and rehabilitation; emotional and physical neglect; lack of interaction and engagement from staff; and lack of adequate staff. Most importantly, children placed in these facilities are left to grow up without a family and do not have an opportunity to form stable emotional attachments to adult caregivers needed for their healthy emotional development.

According to staff at the institutions DRI/MDRI-S visited, small and large, most children have families and about half of them are still in some contact with their family members. Fewer than a third of children have regular contacts with family members. When placed in facilities of this kind, limited contact with family dissipates over time and children often face a lifetime of institutionalization and segregation from society.

Children and adults with disabilities in Serbian institutions remain in these facilities indefinitely because of a lack of services and alternatives in the community and lack of support for them to remain with their families. Many family members expressed to DRI that they would have kept their children if they had the support to do so. Instead of investing money to prevent the separation of children from their families and avoid institutional placement, Serbia continues to invest limited resources into institutions.

a. Institutionalization of children based on their disability

DRI/MDRI-S found that children in institutions are mostly sent there because of their disability. The CRPD Committee has found that detaining children or adults in institutions on the basis of their disability is contrary to the CRPD, constitutes arbitrary detention, and violates their right to community living (Article 19) and to a family life (Article 23).

Institutions DRI/MDRI-S visited argue that children with disabilities are sent there not because of their disability, but because they have ‘medical needs’ that cannot be cared for in the community. According to the director of institution 1, in the past year, five or six children were admitted and “more children are coming.”65 The director expressed his intention to increase the number of children in the facility and stated that the institution expected to receive 5 million Euros from the government to refurbish the existing building and build additional facilities on the grounds of the institution. This clearly goes against the official government policy aiming to end institutionalization of children. The director also stated that the children “need to stay here for medical reasons.” Children as young as 5 are being sent to this institution by hospitals or by families ‘unable to care for them.’

The director at institution 1 maintained that most of the children at the institution had “complex medical needs” and for “children with these types of disability, institutions are necessary.” However,

65 Director, institution 1, October 28, 2019.
DRI visited each ward and found that, except for nine children in a so-called ‘intensive-care unit’, the complex support needs of other children with disabilities didn’t require isolation in institutions away from their families.

Some of the children had become self-abusive, caused by the neglect of institutionalization. The developmental outcome for children who experience institutionalization depends on the length of stay, where longer periods of institutionalization are connected to atypical limbic development and difficulties in controlling emotions, including anxiety. Apart from increased emotional sensitivity, studies show a wide range of effects that institutionalization leaves on a child’s physical development and motor skills.66 These effects include self-harm behaviors, such as rocking back and forth and self-injury. Hearing and sight may also be impaired due to inadequate diet or lack of stimulation.

According to a DRI expert, “there is nothing therapeutic or clinical taking place at the institution.”67 It is clear that the children detained in this facility are there because of their disability and not because of ‘medical needs.’

Another reason often cited for the institutionalization of children is the use of feeding tubes. According to the director of institution 1, most of the children with disabilities at the institution could not be in their own families or in foster care families because they use feeding tubes.68 There are around 50 children in institution 1 that have feeding tubes and, “if the children have feeding tubes and they need medical supervision, they cannot be in families.”

Similarly to institution 1, the manager of institution 2 told DRI that the children with disabilities detained in the institution are sent there because they have ‘medical conditions’ and need “a high level of support.”69 Like in institution 1, these ‘needs’ refer mostly to the use of feeding tubes. The manager at this institution admitted, however, that parents and caregivers in the community could be trained to manage the feeding tubes at home, so it did not need to be an impediment for them to be integrated into the community.

“If our carers could be trained to do it so could parents” – director of institution 2

b. Lack of privacy and dehumanizing conditions

One of the great dangers we observed in institutions was the practice of mixing children and adults. In two large institutions, 5 and 6, as well as in two group homes within institutions 3 and 4, children were housed together with adults with disabilities.70 In institution 5, the investigators were told that minors share rooms with adults.

66 Browne, Kevin: The Risk of Harm to Young Children in Institutional Care, Save the Children (2009), p.10
67 Statement of disability expert Melanie Reeves Miller
68 Director, institution 1, October 28, 2019
69 Manager, institution 2, October 29.
70 In institution 6 68 children were housed with 210 adults; in institution 5, 5 children were placed with 37 adults.
The violence suffered by children in institutions can be exacerbated when they are housed with adults or older children; this may lead to physical and sexual victimization by older children and adults. The impact of placement with adults goes beyond the immediate exposure of children to violence: long-term effects can include severe developmental delays, disability, irreversible psychological damage, and increased rates of suicide and criminal activity.71

In all the large institutions the investigators visited, as well as many of the smaller facilities, we found that children with disabilities had no privacy. Beds are stacked next to each other and children have little or no space to put their personal belongings (if they even have any).

In institution 5, the walls were bare, and the rooms only had beds and thin blankets and no space for personal belongings. In this institution every room had cameras, violating the most basic privacy of the residents. According to the director, they are constantly monitored for ‘security reasons’: “Patients may become aggressive with other patients and, if we keep them monitored, we can react.”72

At institution 6, a large institution with 300 residents, the children’s ward is under reconstruction because before, “it was in very bad condition.”73 There are 68 residents (of whom 39 are minors) at this ward who have been moved to a ‘workshop room’ where they have been for 4 months and will remain for another 4 months – at least, while their ward is reconstructed. In this workshop area children are crowded in a large space, there is no privacy, and the hygienic conditions are poor. This workshop room had to be renovated with actual toilets; prior to the children being moved here, the toilet was simply a hole in the floor. It is of great concern that new resources are being invested in a large congregate care facility for children and adults where these dangers will be reproduced.

In the adult ward of the same institution, the stench of urine, body odor, feces, and unclean bedding and furnishings in the men’s pavilion was overpowering. The place was described as a “hellhole” by one of DRI’s investigators. In the adult ward, people were lying in bed and appeared to not have showered for days.

At institution 1, the premises of the facility were clean but sterile and impersonal. In the rooms for children with medical needs there was nothing but cribs – no decorations, no toys, and no personal possessions.

The group home within institution 7, though clean, has locked doors and bare walls, and the residents lack privacy. At the group home within institution 4, the door remains locked, residents are not allowed to come and go, and there is a daily schedule that the users must follow.

Unlike other institutions DRI/MDRI-S visited, at institution 2 investigators observed a genuine attempt to create support services that would allow children to maintain their family ties. Both management and staff expressed that they would rather support all these children in their families than in an

71 UNVAC World Report on Violence Against Children 2006 (p.171-220)
72 Interview with staff, institution 5, November 4, 2019.
73 Interview with staff, institution 6, November 4, 2019
in institutional setting, recognizing that it would never be possible to provide the emotional bonds, loving relationships, and individualized care that a child can only get living in a family. Nevertheless, government policy and streams of funding undermine these efforts. The lack of funds makes it impossible to get these children out of the facility, reintegrate with their families, and prevent new placements.

While funding for community and family support is lacking, institution 2 apparently did receive the resources to decorate its interior. The institution is painted in cheerful colors. Despite a clear effort to create a pleasant atmosphere within the institution, staff expressed frustration with the situation. Even with the best possible decoration, staff understand that this is still an institution and that children should be with families. Given the lack of support for families in the community, the best they can do is to make the facility less like what they describe as a "warehouse."

c. Pervasive inactivity, social isolation and lack of habilitation

In all the institutions DRI/MDRI-S visited, we documented a lack of staff. The lack of staff results in the neglect of children and adults with disabilities. According to a DRI expert, “institutions did not have enough staff to provide individualized attention for children and sufficient human contact and stimulation.”74 None of the institutions was able to provide adequate habilitation75 and rehabilitation76 to children and adults with disabilities.

The situation in institutions has been further exacerbated by regulations which ban all new employment in the public sector, including health care and social care services - sectors which were already struggling to provide quality care. Service providers have not been able to fill vacancies when staff leave or retire. At the same time, the expectations and responsibilities of those working in these services have increased, bringing the social care system to the breaking point. This has had grave consequences for those who rely on the social system for care and support, including neglect and lack of oversight, as employees were forced to resort to the use of chemical restraints and seclusion to be able to provide bare minimum of care.

In institution 6, the investigators witnessed several older children and adults ‘in charge’ of smaller children. One of them was an older woman dragging around a 10-year-old girl. The older woman kept jerking the girl’s arm and making her cry; the staff and institution authorities that witnessed this did not intervene.

In institution 5, the manager wanted us to go straight to the common areas because the users were engaged in activities and after that they were going to go to their rooms for their compulsory afternoon nap.”77 When we walked in, we saw 10 adults in a common room sitting down, some of

74 On-site assessment by DRI’s disability expert
75 Habilitation refers to a process aimed at helping people with disabilities attain, keep or improve skills and functioning for daily living.
76 Rehabilitation refers to regaining skills, abilities, or knowledge that may have been lost or compromised as a result of acquiring a disability or due to a change in one’s disability or circumstances.
77 Interview with staff, Institution 5, November 4, 2019
them watching TV, 14 were in another room coloring and 4 others started jumping hoops when we entered a ‘rehabilitation room.’ None of these activities were meaningful nor had a clear rehabilitation objective.

According to a DRI expert, “there was a generalized lack of functional skill training to support the children to grow and develop skills for daily living and greater independence; lack of socialization and opportunities to develop relationships with others in the community.”78 This lack of active treatment is “characteristic for residential care and is not directed toward helping children to develop a feeling of self-determination and the skills needed for achieving their independence.”79

In institution 1, we found only one or two staff in rooms for 10-12 children. In one room, there were two children exhibiting self-abusive behavior, hitting themselves and crying. The only staff person available was trying to calm them down while also supervising the other 10 children. Clearly overwhelmed and unable to adequately care for all the children on her own, the staff person gave up and left the children to continue with the self-abusive behavior and crying.

The general impression of this institution is that it functions like a hospital, children are deprived of any activity, interaction, touch, hugs, games, toys, and they are only provided with the bare minimum for their survival. – MDRI-S team member

In institution 1, DRI’s disability expert observed: “rows and rows of cribs filled with children described as being immobile. They were rarely taken out of the crib except for minimal personal care. Some children appeared much younger than their actual age and many had muscle atrophy due to inactivity and immobility.”80

During DRI’s visit, we observed some of the children trying to stand up on their own by holding on to the bedrail, but none of the staff paid attention to them. This left the children at risk of being injured. Investigators also observed children with their limbs crossed through the bars on the bedrail, with one boy crossing both legs over the bedrail. The bedrail bars were wide apart and the children could put a limb and even their head through the bars, leaving them at risk of fractures or suffocation.

In institution 1, no interaction was seen between children, or between children and staff - who watch over the children rather mechanically. When describing their activities, staff primarily talked about bathing, feeding, and changing the children’s clothes. No adjustment aids were observed in these rooms, such as beds that could be adjusted so that the child could occasionally be sited and change position. We observed one girl in a bed with an adjustment aid to change the position of her mattress - when the investigators inquired why there was only one such bed, it was explained that it had been purchased by her parents.

In some rooms of this institution, we saw wheelchairs, but there were hardly any children sitting in them. The wheelchairs that were in use were not fitted for the children, or appropriate for each child’s

78 Post visit interview with DRI’s disability expert
79 Ibid.
80 On-site assessment by DRI’s disability expert
specific needs. Because of all this, it seems that although the facility has yards, most children ever, or very rarely, go outside. When asked explicitly, one of the employees claimed that when the weather was nice, they took the children out to the courtyard in the cribs that have wheels. During DRI/MDRI-S’s visit, not a single child was seen outside.

As in all other congregate care settings we observed, institution 1 had a very tight daily schedule, requiring the children to wake up between 5:30 and 6:00 every morning. When we asked why the children get up so early, investigators were told that it has to do with the way the staff shifts are organized - the morning bathroom routine is done by the night shift that ends at 7, so that the children are clean and bathed by the time the morning shift starts. This example shows how in institutions, even the daily routine is scheduled around staff and their shifts instead of the needs of the children and adults they are supposed to serve.

Most of the children at the institutions we visited were in diapers because they had never been trained to use the toilet - partly due to lack of upfront investment of time to teach children to use the toilet, but also because using diapers requires less individual attention and hands-on intervention from staff day to day. In other words, it’s easier for staff to change diapers at periodic intervals throughout the day than spend time engaging with and teaching each individual child. The fact that we visited one institution (2) where we could see clear efforts to train children to use the toilet indicates that it is possible if staff in institutions were willing to make the effort.

In institution 4 (small group home), investigator’s first impression on arrival was that the facility was actually a hospital. All employees wear white and green scrubs. At the time of our visit there was an afternoon break, so children and young people were in their rooms sleeping. The doors to the rooms was almost closed; however, it could be seen that many of them were just lying covered with blankets, not sleeping. This would not be a problem if the “nap” was not mandatory and if children have had the choice to spend their free time in another way. Mandatory “nap” gives staff the opportunity to complete administrative work or rest, instead of caring for children.

During our visit to the group home within institution 3, we found teenagers in one room with a TV, chairs, and mats on the floor. Most of them were in wheelchairs lined up against the wall, just sitting and staring into space. They immediately cheered up when they saw us and tried to attract our attention and touch us.

In institution 2, staff had made significant efforts to provide better care for children. The staff have sought resources to learn about providing care to children with disabilities, and have attempted to make the facility more appropriate for children. For example, there were small, child-sized tables and chairs that allowed for children to participate in activities together, like eating meals and participating in educational programs. Children were dressed in clothing that fit and appeared clean and in good condition. Many appeared to have wheelchairs that fitted their bodies and were positioned more appropriately.

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81 Followed by bathing, changing, breakfast and various activities. Lunch is at noon; a snack is served at 3.30 pm children are bathed again at 5 pm bathing, followed by dinner and bedtime.
During lunch at the facility, the team observed that children were supported to eat independently, and feeding tubes appeared to be less utilized at this institution. Children using wheelchairs were actively supported to be included in education and recreation activities. While the institution was sending children to outside schools, there were some children that attended in-house school activities, run by visiting teachers from schools in which children were enrolled. DRI investigators were able to observe one such group and identified age-appropriate education materials for children who, at that moment, couldn’t attend the school due to their medical condition -- the DRI team observed children with books, math pages, letter pages, etc.

However, the employees of this institution themselves stated that, despite all efforts, this environment is not good for children because it cannot provide them with love and individualized attention that they can receive only when they live in a family.

d. Prejudices and low expectations

For many decades the outdated medical model of disability has defined children with disabilities based on their diagnosis. The medical model pervaded all but one of the institutions that DRI visited. ‘Medical needs’ of a child with a disability are often used as an excuse to justify their institutionalization. This goes against the international commitments that Serbia has subscribed to. Serbia has ratified the Convention on the Rights of Persons with Disabilities (CRPD) which calls for the deinstitutionalization and reintegration of children with disabilities to families.

In institution 5, staff referred to the residents primarily by their diagnoses and without recognizing their individual preferences and needs.

“Everyone is like children,” the social worker said.

This kind of infantilization of adults is humiliating and harmful because it maintains prejudices about people with disabilities, both those living in institutions and those in the community.

In Institution 1, the director and other staff claimed there are children who cannot be provided adequate support in the community, and that there is no way for parents, guardians, or foster parents to be trained to provide them the care or medical assistance they need, nor to support those families so that they can keep their children at home. This is not in line with the existing practices in other countries, and even cases in Serbia, where children with very complex difficulties live with their families with adequate support.

A representative of the Vojvodina provincial secretariat who accompanied DRI/MDRI-S on our visit to institution 1 told us that deinstitutionalization of children is not possible without a system of supported foster care. In the whole of the province there are only 49 such families, able to accommodate 40 children up to the age of 18. A Family Accommodation and Adoption Center has been set up in Subotica which may help create and train more supported foster care families in the future.
These supported foster families have received additional training about the needs of children with disabilities - and in fact receive more financial support and training than biological families of children with disabilities. However, the support they receive isn’t enough to provide appropriate care for children with complex disabilities. This is the primary reason why children with disabilities are over-represented in residential care and why foster families are hesitant to care for a child with complex support needs.

Staff in institution 1 claimed that children with health problems cannot receive adequate medical care outside this or similar institutions. According to staff, feeding on a tube is a sufficient reason for the child to be separated from the family and placed in an institution:

Staff emphasized on several occasions that some children in institution 1 had cardiac problems which meant they could not be supported to live at home with their families. It turned out that the children they were referring to had Down syndrome, which can be associated with heart disease. Children with Down syndrome who live in families can receive an early age cardiac intervention to address heart problems, or prevent further development of heart disease, which is rarely the case with children living in this or any other institution.

It was very characteristic that nurses in institution 1 knew very little about the children they cared for – when asked, they could not identify children by name without referring to a list, and they knew very little about any of the children’s family situations or if they had contact with family.

In contrast to the harmful stereotypes described above, we encountered good management in institution 2 that demonstrated how harmful beliefs can be changed, resulting in significantly better attitudes toward children with disabilities. In this institution, the staff and management knew all children by name and the children had positive reactions with staff rather than crying and self-stimulating.

During our visit, members of the staff had organized children to greet and speak with the DRI/MDRI-S team. The investigators noted that carers were using basic gestures to communicate with children as appropriate. DRI was shown individualized plans for the children, demonstrating that the staff had implemented a person-centered planning process to identify each child’s preferences, likes, and dislikes. These plans were displayed throughout the rooms, and photos of the children seemed to be current. While these practices are positive and will likely lead to better outcomes for the children at this facility, they do not balance out the damage done by the very nature of living in congregate care, and are no replacement for the love and individualized care of a family.

The difference in practices we observed in the course of our investigations confirmed what we already knew - that the lack of progress in deinstitutionalization is mainly due to prejudice and lack of will to implement changes rather than the specific needs of children with disabilities. If more effort is put into supporting families, the need for institutional placement would decrease and eventually disappear. This has been proven by the prevention program led by institution 2. Despite their success, supported by written testimonies of families who benefited from their program presented to DRI, they
have been struggling to find funds to continue this program, while funding for residential care still remains a priority for the government.

e. Facing a lifetime of detention

The investigators found that children with disabilities in institutions, small and large, remain there, institutionalized and segregated, after they turn 18. Due to lack of community-based supports for independent living, they can’t leave and will spend their entire lives in the institution.

Of all institutions DRI/MDRI-S visited, only institution 6 is allegedly no longer accepting children with disabilities, although children are still detained there. These children will remain in the institution as adults, and the institution will eventually become adult-only. During 2019, 6 adults left the institution, two of those to foster care homes, but no children.

According to the director of institution 1, “not one child has been reintegrated this past year.”82 The director assured DRI that all children have “individualized reintegration plans.”83 Despite these plans, children were not being reintegrated to their families and communities. In fact, staff told investigators that they attempted to transfer children to another institution as soon as they turned 18 to free up space in the institution to accept younger children.

According to an official who accompanied the investigators, there are three to five new admissions to institution 1 per year. Children come to the institution from all over Serbia, which makes it difficult to maintain family relations (some families would have to travel hundreds of miles to see their child). Recently, most of the children admitted have been under the age of five.

During the visit to institution 2, the investigators were told by the staff that “children with disabilities stay here for years.”84 According to the manager, once these children turn 18, they will be sent to adult institutions: “twelve children turned 18 this year; they have multiple disabilities and no family contact, so most of them will have to go to an adult institution like Veternik, Kulina or Sremcica.”85 Institution 2 has accepted children from adult institutions, including Kulina.86 The manager lamented the fact that the children from Kulina were at risk of being sent back there or to other adult institutions: “the children are attached to this institution and here they receive good care. Sending them to adult institutions is not a good option for them, but there is a demand for places for children with disabilities at this institution and we have to make space for new children.”87 The manager recognized that for any child, being sent to an adult institution after they turn 18 is very traumatic, so “for children who are very sensitive, we do not rush with the transfer.”88 However, in the end, they

82 Director, institution 1, October 28, 2019
83 Ibid.
84 Interview with staff, institution 2, October 29, 2019.
85 Ibid.
86 Manager, institution 2, October 29, 2019
87 Ibid.
88 Ibid.
are ultimately transferred. During DRI/MDRI-S’s visit to institution 6, investigators met a young adult who had been transferred from institution 2. He was transferred from institution 2 “because he got too old.”

The manager at institution 5 said that since the institution was established in 2014, no one has been reintegrated to the community. The manager assured the investigators that “once a year we make individual plans for the children and adults with disabilities, so that they can leave the institution.” However, since 2014 only three people have had individual plans created, and none of them have yet been implemented. According to staff, “we are trying to send three children back to their families, but the families are not ready, they do not have adequate support; the parents have aged.”

During a workshop organized by DRI, a person from the MLEVSA stated that “it is unlikely that children in institutions will go back to their families, they can go to small group homes instead; foster care would be better than group homes, but it is not widely available for children with disabilities.”

"The question is what is more humane in this period until a systemic solution is found. Whether to stay here or to be returned to the institution from which they came, or something similar. The children in the small group home are no longer children, they are adults who should be empowered to live in the community. The local authorities are not seeking solutions so that the residents can continue living in the community, because that is the point of transforming institutions." – representative from the Ministry of Labor, Employment, Veterans, and Social Protection

In 2012, the government created five group homes for children with disabilities from Kulina, one of the most abusive institutions investigated by DRI for its 2007 report. Children detained at this institution until 2012 were mostly sent to other institutions and group homes, while a few were placed in foster families. DRI/MDRI-S found some of these children in the group homes and institutions we visited, but most of them were no longer children. In the group homes, these young adults have been allowed to stay until they are 26. However, when they turn 26, they might be sent back to a large adult institution. Several children from Kulina that were sent to children’s institutions in 2007 have since turned 18 and have returned to adult institutions, including Veternik, Sremcica, and even Kulina - from which they had been “rescued”.

Group home within institution 7 housed 12 children with disabilities when we visited in 2019. Most of the children there had been transferred from institution 2 to make space for children with complex medical needs who were transferred out of Kulina in 2012. These children with disabilities had been in the group home for seven years at the time of our visit, and are likely to stay on after they turn 18.

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89 Interview with staff, institution 6, November 4, 2019
90 Manager, institution 5, November 4, 2019
91 Ibid.
92 Statement by the representative of the Ministry during DRI visit to group home within institution 4, November 1, 2019
93 “Torment not Treatment: Serbia’s Segregation and Abuse of Children and Adults with Disabilities” (Mental Disability Rights International, 2007)
Staff told DRI: “We currently do not have any plans for them to leave because they can stay here until they are 26.” Once they turn 26, staff believe that at least a third of them have “nowhere else to go,” so they are likely to be transferred to adult institutions. Staff believe that children at this group home “are able to adapt and live in a family, if given the chance.”

At the time of DRI’s visit, the group home within institution 4 housed 15 children and young adults aged 6 to 25. All of the children who had been transferred from Kulina, except for three, are still at this group home. Those three were sent to foster care families; staff did not know where the rest will go when they turn 26.

The group home within institution 3 housed 12 children and adults with disabilities. All of them were transferred from Kulina in 2012, except for three children who had been sent by the Center for Social Work because their families were unable to care for them. This group home is one of the few that accepts what they call “immobile” children because the facility has elevators, whereas other group homes do not.

Institution 3 has a group home for children with disabilities and a group home for children without disabilities – these units were simply renamed because the number of children in the institution decreased below 12, meeting the requirement of a ‘small group home.’ However, there is no official legal distinction between ‘small group homes’ and institutions. While they may be smaller in population, small group homes still share many characteristics of large institutions.

In this group home, we had a rare chance to compare the length of stay of children with and without disabilities. The staff in institution 3 told investigators that the longest a child without a disability had lived in the group home was four years. That young woman finished high school and is now attending university – the reason she stayed for so long was to “allow her to continue with her studies.” In contrast, most children with disabilities at the group home have been there for 9 years, since 2012, and staff believes that they’ll stay on until they are 26 years old, or as long as they are allowed to.

In this same group home, the investigators found four young adults who had been transferred from Kulina who had little or no support needs. In theory, one of them should no longer be at the group home because he is more than 26 years old, but staff have allowed him to stay because his only “other option is going back to the institution.” The investigators spoke with these young people, all of whom were very independent. All of them were attending or had completed secondary school, and they all expressed a strong desire to leave the group home and live independently in the community. Unfortunately, due to the lack of employment opportunities and the lack of a housing solution, they were sentenced to life in an institution. A DRI investigator described this as “warehousing” of these four individuals, which is nothing short of neglect.

94 Interview with staff, group home within institution 3, November 1, 2019
95 Interview with staff, group home within institution 3, November 1, 2019
96 Ibid.
97 Interview with staff, group home within institution 3, November 1, 2019
Bojan’s story: a case study

Bojan98 is a young adult who just turned 18 and has been institutionalized since he was two years old. He uses a wheelchair and, aside from this physical disability, there are no other apparent disabilities. He attends a special school and, according to his teachers, he is very sociable and does well in school.99 His teachers expect Bojan to graduate high school next year. The director at institution 1 said that, even though this is an institution for children, children who turn 18 can remain until the age of 26.100 So, once Bojan graduates high school, he will leave school but not the institution. Once he leaves school, he is likely to spend most of his day at the institution and be unable to maintain the relationships he has formed at school.

The director of institution 1 said that the institution had never looked for foster family options for Bojan because “it would be traumatic to place him in a family and then be separated from them” – there was no explanation given as to why he was not placed in a foster family when he arrived at the institution at two years old. According to the director, it may be possible for Bojan to live in a ‘sheltered living’ arrangement – a type of shared supported living arrangement for three to five people with disabilities in the community. However, there is a risk that Bojan will remain segregated in the grounds of the institution. The institution just received 5 million Euros in government funding to improve infrastructure and possibly build ‘housing’ on the grounds of the institution. According to the director, Bojan could move into one of these when they are ready, thus remaining segregated at the institution.

According to the director, Bojan wants to be a receptionist at the institution. The director also stated that institution 1 might decide to turn into an adult facility, allowing Bojan to stay even if the housing at the institution does not become available. According to the director, and as it became very clear, “the plan is to allow him to remain at the institution.” It is important to emphasize that any living arrangement on the grounds of an institution cannot ever be considered independent living, and that such re-naming based on the number of residents per individual living unit is only contributing to the confusion and misrepresentation of the reform process in Serbia.101

IV. Other types of institutions

a. Shelters for babies and children

Serbia’s law on social protection defines shelters as short-term accommodation which ensure safety, find sustainable solutions for crisis situations, meet the basic needs of the user, and provide access to other services.102 Shelters are usually situated in existing institutions for children without parental...

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98 Name changed to protect his identity
99 Interview with staff, special school 2, October 28, 2019
100 Director, institution 1, October 28, 2019
101 Independent living arrangements refer to “life settings outside residential institutions of all kinds” and require access to appropriate and sufficient support services in the community, including support with making decisions, where needed.
102 Article 55, The Law on social protection (Official Gazette RS 24/2011)
care and children and young people with disabilities. Based on official statistics, it is not clear whether children placed in shelters are included in the total number of children and institutions.

According to the law on social welfare, children can stay in shelters for a maximum of six months. Within that timeframe, the child’s family situation is evaluated, and the Center for Social Work decides whether to send children back to their families, to foster care families, or to institutions. In practice, children in shelters stay much longer than the six month maximum, especially children with disabilities.

DRI and MDRI-S are particularly concerned about infants being placed in residential care. In institution 2 there is a shelter for children that are 0-3 years old. In theory, they stay for a maximum of 6 months, but staff conceded that they “might stay longer if their situation is not resolved.” Even short periods of time in residential care can have adverse effects on the development of infants, and the negative effects of institutionalization may be compounded for children who have been removed from their families due to abuse or neglect. When investigators visited the shelter at institution 2, we found one caregiver in a room with nine babies. She was clearly overwhelmed and was not able to provide individual care for all the babies. During our visit, she was lifting the infants by one arm and moving them across the room, which can cause injury to the babies’ elbows.

DRI visited a shelter for child victims of violence at the group home within institution 8, which is one of the units under the jurisdiction of the City of Belgrade. The shelter has the capacity to house 20 children and teenagers aged 7 to 18. When DRI visited the shelter, there were 17 children. According to staff from the shelter, they do receive children with disabilities, and currently had a few who were taking psychiatric medications. The investigators were told that there is another shelter in Belgrade where more children take psychiatric medications. According to staff, this is because the children that are sent there come from more ‘challenging circumstances,’ including children who have been homeless.

The management told investigators that all employees received a variety of trainings on how to support children who have survived trauma. Employees also have supervisory support to better understand the concept of trauma. Staff told us they recognize the importance of psychological support to children, and a psychologist on staff at the shelter provides therapy for the children. However, the staff is aware that this is only the beginning of therapeutic work with children – they provide support in the first days after a traumatic experience and after separation from the family, but more in-depth, personal support must begin when the child is in a safe, stable environment. Therefore, it is very important that the child “leaves the shelter as soon as possible and is integrated into some kind of more permanent accommodation, whether a family or institution.”

According to policies set by the Center for Social Work, a child can be sent to a shelter following an urgent situation where they are a victim of abuse.103 However, at the shelter within institution 3, the investigators found three teenage girls described by staff as “gypsies,” who were sent there because

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103 Interview with staff, shelter within institution 2, October 29, 2019
they were living with their boyfriends and their parents disapproved. One teenage girl was sent there because she married her boyfriend without her parents’ consent. She wants to go home, and her mother also wants her to return, but they are waiting for the Center for Social Work to approve her release. Due to slow administrative procedures, many children stay in residential care in shelters longer than necessary.

DRI was told by a manager from institution 2 that placing a child in a shelter is “very simple” because of the urgent nature of situations of violence and abuse. The standards and paperwork involved are lower than to place a child in an institution – where alternatives in the community and with a family must have been, in theory, explored. The same manager told investigators that they have documented attempts to place children in a shelter as a “shortcut” to institutionalization, and that they are taking precautions to prevent this from happening.

According to staff from the shelter at institution 2, one third of the children who pass through the shelter return to their biological families, one third are placed in foster families, and the remaining third are sent to an institution. Some of the children placed in foster care will eventually end up in institutions because the foster care family was not suitable, so the number ending up in institutions may be higher than reported. All of the children at the shelter have families and have contact with non-abusive parents.

According to institution 2’s annual report for 2020, a large number of children remained in shelters longer than legally mandated – in 2020 43% (50 children) stayed longer than 6 months, an increase from 37% in 2019. The fact that almost half of children remain in shelters for longer than 6 months challenges the purpose of the shelter as “a service for temporary and short-term care for children with the aim to prevent further institutionalization and finding a less restrictive setting that is family based.”

b. Residential schools for children with disabilities

MDRI-S has heard many individual accounts about residential schools across Serbia, but there is no official, centralized registry tracking the number of children in these kinds of facilities. These schools are mostly vocational, secondary schools with residential facilities, allowing teenagers from other towns to attend school on a regular basis. However, there are some schools with residential capacity which allow placement of younger children of school age (6 years and older). While there are not many young children in such facilities, it is important to establish closer monitoring of schools with residential facilities as they are nothing short of institutional placement and must be treated as

104 Interview with staff, group home within institution 3, November 1, 2019
105 Ibid.
106 Manager, institution 2, October 29, 2019
107 Interview with staff, institution 2, October 29, 2019
such. Early separation of children from their parents can be extremely traumatic for children and have unforeseeable consequences for their emotional development.

Separation of children with disabilities from their families for educational purposes can’t be justified by the lack of equipment or trained staff in local schools, and represents discrimination and the failure of local authorities to make education available to children with disabilities in their community on an equal basis with others.

The placement of a child in a special school must be approved by the Inter-Sectorial Commission, which issues an opinion upon the parents’ request. This Commission is composed of a psychologist, a social worker, a pediatrician, and a disability specialist. A parent may ask the Commission to send their child to a special school. If there are no special schools available where the family lives, the child may be sent to a residential school, such as the one visited by DRI/MDRI-S.

During our investigation, the team visited one school for the blind, a mixed day school and residential school. At this school, the investigators found that two children between the ages of 5 and 6 lived at the school. Their families lived outside of Belgrade, so these children had no choice but to live in the residential part of the school to have access to education. At the institution they are “all alone without their parents.”

During our visit to this school, there were 42 students using residential services, out of a total of 180 that attend the school. Most of the children go home to their families during the weekend, but may stay at school if their parents “are busy.” The residential part of the school has a capacity for 115 students. However, according to the deputy director, disability benefits no longer cover accommodation so now the children who are living there receive funding for education and accommodation that has to be approved by the Center for Social Work.

The deputy director of the school for the blind told investigators that even if there is a special school in the area where the family lives, they might be sent to this school because it has a lot of ‘technology’ available for the children. The team observed that the school did have a lot of specialized equipment and rooms, but only one therapy room was being used during our visit. The school had two therapy rooms, one auditory and one sensory room, and a room with an interactive floor and wall, among others, none of which were in use during our visit. Sending a child with a disability to this residential schooling facility can’t be justified by the mere presence of specialized technology and represents the violation of a child’s right to family life and to education on an equal basis with other children. Therefore, this practice constitutes discrimination on the basis of disability, and violates the child’s right to family life (Articles 19 and 23 of the CRPD) and the right to education on equal basis with others (Article 24 of the CRPD), as well as the Law on the Fundamentals of the Education and Upbringing.

109 Interview with Deputy Director, special school for the blind, October 30, 2019
110 Ibid.
c. SOS Children’s Village

SOS Children’s Village is the only privately-run institution in Serbia and among the largest with 77 children living in 15 houses. So-called ‘mother carers’ are registered as foster parents by the Center for Social Work, and these family units are treated as foster care units.

It is unclear if the children living in this village are officially accounted for among children in foster care or children in residential care. At the nearby center for adoption and family placement we were told that they have a good relationship with the village; the village is especially welcoming to large groups of siblings, which can be difficult to place in foster families. However, a case worker from the center recognized that life in the village does not resemble life in a normal family: “it is an institution,” a representative from this center said.

DRI recognizes that significant international resources are used to ensure that conditions in these facilities are much better than in other residential institutions in Serbia. The ratio of carers to children is much higher than in other institutions, and ‘SOS mothers’ and ‘SOS aunts’ take care of a smaller number of children than is typical in other residential institutions. While these efforts are intended to create a ‘family-like’ environment, the CRPD Committee has made clear in General Comment No. 5 that “[f]amily-like institutions are still institutions and there is no substitute for care by a family.”

Life in the village is strictly regulated, unlike the informal environment of the family. Regardless of the additional resources, these children are still segregated, in a visibly isolated environment, and are therefore exposed to stigmatization in relation to their “typical” peers.

During DRI’s visit, investigators were told about new programs that SOS Children’s Villages is piloting to introduce two-caregiver units into their existing villages, and to move one of the existing single-carer units into the community. SOS Children’s Villages also runs an independent program for adolescents in Serbia, where they live in apartment buildings in the community with their carers, intended to simulate community living and develop independence for adolescents who age out of the alternative care system.

V. Structure of services – lifetime of discrimination ahead

Children and adults with disabilities in institutions in Serbia remain in these facilities indefinitely because of a lack of services and alternatives in the community.

The Ministry of Labor, Employment, Veterans and Social Protection (MLEVSA) has declared their intention to enhance the process of deinstitutionalization through the promotion of supported foster care. However, the recently adopted Strategy for Improving the Situation of Persons with Disabilities in Republic of Serbia for 2020-2024 acknowledges that in spite of progress made in the
process of deinstitutionalization, children with disabilities make up more than 70 percent of the population in children’s institutions.\(^{111}\)

According to Ministry representatives, there are around 5,000 foster care families in Serbia, but most of them are for children without disabilities: “foster care for children with disabilities is not developed enough.”\(^{112}\) There are not enough supported foster care families for children with disabilities without parental care due to a “lack of resources.”\(^{113}\) The manager of institution 2 agreed that “more children with disabilities could benefit from foster care if it were available.”\(^{114}\) Staff at institution 3 similarly told investigators that “there are not enough foster care families for children with disabilities.”\(^{115}\) Investing in support for foster families to care for children with disabilities, as well as strengthening support for their biological families, is in line with Serbia’s obligations under international law and the CRPD.

DRI and MDRI-S are particularly concerned about the continued investment in institutions in Serbia, including from international and regional donors like the European Union.

The director at institution 1 told DRI that he received government approval to spend 5 million Euros to expand the institution to include, among other things, ‘supported housing’ apartments and group homes on the grounds of the institution for children and adults with disabilities who, according to the director, need to transition to the community.\(^{116}\) These kinds of arrangements on the grounds of institutions cannot be classified as independent living – independent living arrangements refer to “life settings outside residential institutions of all kinds” and require access to appropriate and sufficient support services in the community, including support with making decisions, where needed.\(^{117}\) DRI is concerned that money is being spent on continued segregation of children with disabilities as they become adults by building ‘supported housing’ on the grounds of institutions. The funding for this project was approved by the Serbian government’s office of public investment, but, according to the director, some of the funding might be coming from the European Union. The EU officials DRI and MDRI-S spoke with were not aware of such plans.

In 2018, the Ministry for Social Affairs invested approximately 3.5 million Euros to improve conditions in residential institutions.\(^{118}\) During the same year, the Ministry allocated approximately 5.9 million Euros for the development and provision of community-based services in 110 local municipalities that are less developed than the Republic’s average.\(^{119}\) Unfortunately, the Ministry’s own data show that most of the municipalities use this money for segregated services such as day care.

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\(^{111}\) This number amounts to 80% according to UNICEF [https://www.unicef.org/serbia/polozaj-dece-smetnjama-u-razvoju-pregled-nalaza](https://www.unicef.org/serbia/polozaj-dece-smetnjama-u-razvoju-pregled-nalaza)

\(^{112}\) Interview with director, institution 2, October 29, 2019

\(^{113}\) Ibid.

\(^{114}\) Interview with unit coordinator, institution 2, October 29, 2019

\(^{115}\) Interview with staff, group home within institution 3, November 1, 2019

\(^{116}\) Interview with director, institution 1, October 28, 2019

\(^{117}\) CRPD, General Comment 5, para 16c


\(^{119}\) Ibid. p. 50.
care centers, with only 30 municipalities providing support for assistants for children with disabilities attending mainstream or special schools. While it may appear that the government of Serbia provided more money to community-based services than to residential institutions in 2018, a closer look into the financing mechanisms of these services reveals a grim reality. The funding for residential care is constant and centrally coordinated, but the funding for community-based services, coordinated by local authorities, is time-limited and often project-based, leaving children with disabilities and their families with constant uncertainty. This system of funding also contributes to uneven distribution of services throughout the country. The resulting patchwork of services and funding can make it impossible for families of children with disabilities to access the services they need to keep their children at home, in violation of the right to life in the community (Article 19 of CRPD) and the right to family life (Article 23 of CRPD).

a. Failure to support biological families – new admissions, no gatekeeping

Children in Serbia are in institutions because of factors related to poverty and lack of support services for families. According to the manager of one of the group homes on the grounds of institution 8, “poverty is always an underlying factor in the institutionalization of children.” The manager of institution 2 agreed that the majority of the children in his facility are there because their families “are too poor to care for them and do not have access to resources or support services; families of children with disabilities do not have support in the community.”

According to Save the Children, up to 95% of children in institutions worldwide have families. At all of the institutions DRI visited, staff told us that most children have families, and many are still in contact with their family members. At institution 1, for instance, approximately 30-40% children were reported to have families who visited them. In institution 2, 50 out of 130 children have regular contact with their families: “some visit daily, others for the weekend.” Twenty of the 42 children and adults at institution 5 have families, and 15 of them see their families regularly when they come to visit. At institution 6, staff told DRI that a third of the children have contact with their families. This number decreases in proportion to the length of stay of the child in the institution, as well as the distance of the institution from their family’s place of residence. A large number of children are in institutions located far from their families, and families sometimes have to travel hundreds of kilometers to visit them, which requires significant financial resources (only about a quarter of children come from the region where the institution is located). Visits are further made difficult because many institutions are geographically isolated, requiring a full day of travel for families from other regions.

Staff from institution 5, told DRI that the main reason for the institutionalization of children and adults in this facility was lack of support: “most residents have families who cannot provide care and support

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120 Interview with unit coordinator, institution 2, October 29, 2019
121 Interview with director, institution 1, October 28, 2019
122 Interview with unit coordinator, institution 2, October 29, 2019
so they are sent here.” 124 Another main reason for institutionalization is the age of the parents: “their parents have aged and cannot take care of their family members anymore.” 125 The manager recognized that “the best for them is to be in families.” 126

In institution 5, according to staff estimates, three users who are relatively independent and require ‘3rd level support’ 127 could leave the facility and live with support in an open environment: “There is an ongoing appeal for these three beneficiaries, but the families were not yet ready [to bring them home],” said the social worker. “Now their parents are old and have medical conditions, so they can no longer care for them.”

At the group home for children with disabilities within institution 3, investigators were told that five children have families in the region but they “cannot take care of them” 128 because they have health problems or are “too old.” 129 Staff from this institution told the team that when families feel they can no longer care for their children with disabilities, they turn to the Center for Social Work, and the Center then refers them to this or another institution. 130 According to staff at institution 3, they receive 10 to 15 new admission requests annually. Staff noted that the pressure on this and similar institutions could be reduced “if more services exist locally - by opening day care centers as well as developing a supported living service.”

Misallocation of resources is one of the underlying causes of lack of services and supports for families, particularly families of children with disabilities. The cost of accommodating a child or adult in an institution is around 460 euros at institution 5. Average monthly expenditures per user can vary greatly from institution to institution, from approximately 320 to 520 euros (or 37,539 RSD to 60,799 RSD). 131 On the other hand, the compensation to each foster family for the first child amounts to 16,000 dinars (135 euros) and increases by 10,000 dinars with each new child. In addition, foster parents receive refunds for the cost of food, shoes and clothes, textbooks, and other costs related to the care of their foster child, which together, with their compensation, amounts to approximately 400 euros per month. While this exceeds the support received by biological families, it is still less than the cost of accommodation in the institution. Serbia must ensure that supports to biological families, particularly of children with disabilities, are prioritized and that they receive as much support as foster care families and, particularly, as institutions. Otherwise, institutionalization and family separation will continue to be encouraged.

b. Insufficient capacity of foster care to support children with disabilities

124 Interview with staff, institution 5, November 4, 2019
125 Ibid.
126 Ibid.
127 The regulations recognize 4 levels of needs for support, the first level indicates the highest need for support while the fourth indicates minimum level of support
128 Interview with staff, group home within institution 3, November 1, 2019.
129 Ibid.
130 Interview with staff, institution 5, November 4, 2019
131 Ex ante analysis for the Strategy for Deinstitutionalization
Serbia has a long tradition of foster care, with its first foster care ‘colony’ founded in 1931. Following the crises of the 1990’s, Serbia reached the lowest number of foster families in 2003, when 1,795 children were placed in foster families. After 2003, reform of the child protection system was initiated, and in 2008 Serbia adopted the Regulation on Foster Care, which established new standards for foster care. By 2012, foster care capacity expanded to provide care for 6,000 children. The number of children in institutions has also decreased significantly, by nearly 50% over the last 10 years. Despite these improvements, the reform of the child protection system has left behind children with disabilities. The main obstacle to their inclusion in the community remains the lack of services in the community to support both biological and foster families of children with disabilities.

The Regulation on Foster Care envisioned the opening of eight centers for adoption and family placement, but at the time of our investigation, only six had been established. The investigative team visited and interviewed employees in two of these centers. The role of these centers is to promote foster care and to recruit, train, monitor, and provide support to foster families. Staff at the centers told DRI that, due to insufficient resources, they provide support to only 45.5% of foster families in Serbia, meaning that more than half of foster families are left without proper support and oversight. The remaining foster families are supervised by the Centers for Social Work, which are already stretched thin with the multitude of responsibilities they are assigned. The ban on new employment in the social care sector has contributed to widespread understaffing, leaving many children and families without proper care and support. This is also one of the main reasons why children with disabilities don’t benefit from foster care as much as they could.

“Same as biological families, foster families also need support to be able to care for children with disabilities. If there are no services in the community, they won’t be able to provide proper care for the child.” – Interview with a social worker at the center for adoption and family placement in Kraljevo

The share of children and youth with developmental disabilities and health problems in foster care has been continuously declining over the last years. In 2014, children with disabilities represented 34.18% of the total number of children in foster or kinship care in the social care system. By 2018, that share had shrunk to 26.48% – a decrease of nearly 10%.

At the same time, the length of stay for children in foster or kinship care has been continuously increasing. The number of children staying in foster or kinship care for more than 10 years has almost doubled in the past five years, while the percentage of stays shorter than a year has declined. The length of stay of children and young people in foster and kinship care is influenced by the fact that the legal processes for family protection are still very slow. The limited amount of support services for biological families, as well as the general lack of community services, means that ‘temporary’ placement in foster or kinship care can become permanent. The data indicate that when foster or kinship care is interrupted, it is likely due to a positive outcome, such as family reunification or

132 “Official Gazette of RS”, no. 36/2008
133 Interview with representatives of the Republic Institute for Social Protection, April 9, 2019
134 Interview with social worker at the center for adoption and family placement in Kraljevo
independence; however, for institutionalized children with disabilities, the predominant outcome is a transfer to an adult facility or death.\textsuperscript{135}

c. Segregated community based services - challenges of day care centers and respite care

Day centers and respite care are community-based services whose purpose is to support families and prevent institutionalization of children and adults with disabilities. All families wishing to make use of respite or day care centers must go through the Center for Social Work. To apply for these services, the families must live within the jurisdiction of the local authority providing the service. Additionally, service providers may have additional criteria for admission. In one day care center, the investigators were told that the respite and day care centers do not accept children who use feeding tubes or “children at risk of harming themselves or others.”

Children attending school can use day care services before or after classes, which is a significant support for working parents. In addition, the special schools we visited also offer ‘extended stays’ for students. It is important to note that day care service cannot be considered a substitute for education, although it may have an important supplementary service for students.

Respite care service is intended to prevent institutionalization by providing primary caregivers of children with developmental disabilities short-term relief. Children and young adults with disabilities, aged 5 to 26, can be placed in respite care for 20 days at a time and for a total of 45 days per year, at the discretion of their parents or caregivers - there is no requirement for consent of the person who will be placed in care.\textsuperscript{136} Respite care is a legitimate and important service that helps parents of children and adults with disabilities keep their children at home. However, respite care that occurs in congregate settings does not apply a human rights-based approach to disability, or respect the principles of social inclusion enshrined in the CRPD. Children and young people who live in the community but are institutionalized in respite care, however briefly, are segregated from the local community.

In 2019, the requirements and standards for provision of social care services were amended to increase the number of respite care users per building from 10 to a maximum of 50.\textsuperscript{137} This new provision raises questions about the quality of service in respite care centers, as well as concerns about protection of the right to family.

DRI visited three daycare centers, each with respite care capacities. The day care center in Belgrade can be used by children and adults with disabilities aged 11 to 56. The service is available from 6 am to 6 pm Monday through Friday. The day care has a maximum capacity of 100 children and adults per

\textsuperscript{136} Ibid. Rulebook, Article 27.
\textsuperscript{137} Article 63, Rulebook on requirements and standards for provision of social care services (Pravilnik o bližim uslovima i standardima za pružanje usluga socijane zaštite), Official Gazette RS, nr. 42/2013, 89/2018 i 73/2019.
day; at the time of our visit, 140 children and adults were enrolled and eligible to use the program. This day care center also provides respite care service. The respite care facility has a 50 person capacity, the maximum allowed under regulations. When it opened in May 2019, staff told us that they hosted an average of four people per day; at the time of our visit, that number had risen to 20 individuals, with an average stay of one week. Most of the individuals in respite care at this facility are people with autism or sensory disorders. During our visit, staff told DRI that they provide training for independent living, but we did not observe any such training taking place. The sleeping rooms for children and adults were under video surveillance, violating basic privacy. This is the only respite care facility in Belgrade that accepts both children and adults with disabilities.

The day care center in Leskovac had a significantly smaller number of users. Due to its size, the facility in Belgrade resembles an institution, while the day care in Leskovac is integrated into the community and its surroundings. Accommodation capacities of the respite services at this facility are significantly smaller, with a maximum of eight. Employees told us that they have not yet licensed their respite services “due to very problematic standards that are very similar to those for institutions.” While respite services are a significant support for families who do not have any other type of support, its primary role is to look after users and cannot contribute to their inclusion in the community, regardless of the engagement of staff.

DRI/MDRI-S also visited a day care center within institution 4. The employees here told us that until recently, they also provided respite services, but had to suspend the program due to lack of funds.

These day care and respite centers provide important support to families of children and adults with disabilities. However, responsibility for creating these services lies with local governments, who must create plans and then submit them to the federal government to secure funding. If local governments do not request funding for community services, it is not assigned to them. The intermittent funding of these programs deprives families of consistency and prevents them from relying on this type of support to plan for the care of their family members with disabilities. This constant uncertainty contributes to stress, for both family and employees, and inevitably has negative consequences for the quality of care for users of these services.

d. Segregation in education

In 2009, inclusive education as a guaranteed right was introduced in Serbia. According to staff at a school for children with disabilities, prior to 2009, children with ‘mild and moderate’ disabilities attended ‘special’ schools, while children with ‘profound’ disabilities were labeled ‘uneducable’ and remained at home. In theory, the categorization of children with disabilities as ‘mild, moderate and profound’ does not exist in Serbia any more. However, we were repeatedly told that children in special schools had ‘profound disabilities.’ The investigators visited five special schools, as well as one mainstream elementary school that includes children with disabilities which can be considered a model for other schools.

138 Interview with staff, special school 2, October 28, 2019
In practice, children with physical disabilities and sensory disabilities fall within the categories of ‘mild’ and ‘moderate’ and have been integrated in mainstream schools. Children with intellectual disabilities fall under the ‘profound’ category and are being segregated in special schools. Staff at the special school 2 told DRI that they “mostly have children with mental and intellectual disabilities,” including children with autism.

Investigators observed that the children in special schools who, in theory, have ‘profound’ disabilities, often needed support to communicate or exhibited self-soothing or ‘stimming’ behavior that could easily be accommodated in a mainstream school. However, according to staff from special school 5: “regular schools often transfer children with communications problems to our special schools because they don’t want to put up with the child anymore.” The placement of children with any type of disability in special schools is a form of discrimination under the CRPD.

An Inter-Sectorial Commission made up of a pediatrician, a psychologist, a social worker and a disability specialist makes recommendations on school placement for children with disabilities. In theory, “parents make the final decision on whether to send the child to a mainstream or special school.” In practice, lack of supports at regular schools often leave parents no choice other than sending their children to special schools.

Investigators were repeatedly told that mainstream schools did not have the equipment or support that special schools had, so children with disabilities were “better placed” in special schools. At special school 5, the team observed a child who had dyslexia and received speech therapy at the special school, although he attended a mainstream school. According to the speech therapist, the child’s mother was considering moving him to the special school because he was not receiving the support he needed at the mainstream school.

Parents of children with disabilities may also be forced to travel long distances in order to access the supports at special schools. At the school for blind, investigators were told that one father drives his son two hours each way to school every day. This child could stay in the residential part of the school, but his father wants his son to remain at home. This personal sacrifice typifies the impossible choices that many parents are faced with in order to access the services their children need. Eventually, the 4-hour daily drive may no longer be feasible for this family, and the father will be forced to choose between ending his son’s education or institutionalization.

139 Ibid.
140 Ibid.
141 Observation from the visit to special school 1, April 9, 2019
142 “Reasonable accommodation” means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms, Article 2, CRPD
143 Interview with staff, Special School 5, November 4, 2019
144 CRPD, Article 24
145 Interview with staff, special school 2, October 28, 2019
146 Deputy Director, special school 3, October 30, 2019
In 2018 and 2019, new regulations were adopted to regulate in more detail the right to an individual education plan and additional supports available to children with disabilities.\textsuperscript{147} Despite these new regulations, support services are not implemented in the most optimal way. In a 2019 report, the Ombudsman found that: “additional support services in education are not established to the necessary extent because they depend on the economic strength of the local self-government unit, while at the national level, the provision of additional support in education is influenced by economic policies and measures.”\textsuperscript{148}

i. Children with disabilities in institutions are not able to access education

According to research findings from 2016,\textsuperscript{149} only 44% of children with disabilities of primary school age in residential institutions were included in the education system. However, analysis of the number of children included in the educational system in individual institutions show significant differences between institutions. One institution which has over 80% of children of primary school age enrolled in some form of education is an outlier in this research, leading to a serious distortion of the overall picture. If we exclude this institution from the quantitative data on education of children in residential institutions, we come to the devastating fact that only 18% of primary school age children with disabilities in the remaining three institutions attend primary school – only 29 out of a total of 159 children.

The data from the 2016 study show that all of the children in institutions who attended primary school were enrolled in special schools, while one institution organized home schooling in partnership with a special school. In most of the institutions visited for this report, it was apparent that staff considered access to education exclusively for children with ‘minor’ disabilities, and then only in special schools. When school administrations are accommodating of children with disabilities, they are enrolled, but if the administration is uncooperative, very little effort is put into overcoming these obstacles. It must be said, however, that inability to realize the resident children’s right to education is not only the responsibility of the institutions themselves, but is also the result of a large number of barriers existing in other institutions and systems responsible for education.

At special school 2, investigators found 22 children from institution 1 enrolled. Seventeen of these children are in elementary school and five are in high school – one of whom will graduate next year. According to the staff from the school, “none of them will continue their education; instead, they will remain at the institution.” According to the school staff, only children with ‘mild’ disabilities from

\textsuperscript{147} Rulebook on additional educational, health and social support for children, students and adults, Rulebook on detailed instructions for determining the right to an individual educational plan, its application and evaluation, Rulebook on criteria and standards for providing additional support in education of children, students and adults with disabilities. development and disability in the educational group, ie other school and family, Rulebook on pedagogical assistant and andragogical assistant, available at \url{http://www.mpn.gov.rs/dokumenta-i-propisi/zakonski-okvir/}.

\textsuperscript{148} Annual reports of the Protector of Citizens are available at \url{https://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji}.

institution 1 attend the special school. The children “who are not mobile do not leave the institution.” There are a total of 162 children in institution 1, and only 22 of them attend the special school. For the other 140 children at the institution, there are no schooling options. The director told DRI and MDRI-S that they are exploring the possibility of teachers coming to the institution to teach these children, but there are no plans to attempt to educate these children in the community.

Staff at special schools 2 and 5 told investigators that staff at institutions did not have individualized information on the children who are being sent to school, and without that information, the school could not adequately develop an individualized education plan for each child. According to staff at special school 2, the main reason for the lack of information is understaffing at institutions. At institution 1, there is only one staff person per 22 children, and staff told us that the information they have on each child is very limited: “staff cannot get to know the child as well as the parent – only a parent who knows their child can have the individualized information necessary for us to work adequately with them.”

Unlike at other institutions, most children from institution 2 attend school, and those with complex medical needs receive an education at the institution. For those educated in the institution, classes take place in an adapted classroom and are taught by a visiting teacher. Unfortunately, attending school outside the institution does not guarantee that children with disabilities are provided an education on an equal basis with others. At special school 1, DRI and MDRI-S found two classrooms with children from institution 2 segregated from the rest of the students. In one classroom children were not involved in any kind of educational activity and were only supervised by the staff as they played independently. This constitutes discrimination and segregation in an already segregated environment, and has not been addressed despite the recommendations given by the CRPD committee.

ii. ‘Special schools’ are not leading to inclusion of children with disabilities to society

After they graduate from special schools, children with disabilities will return to segregation at home or in institutions. There is “no further education, university or employment opportunities for them.” This is because special schools do not prepare children with disabilities for work and a life in the community.

At special school 5, staff told investigators that “none of the children with disabilities that attend this school will have access to jobs.” The staff explained that “the State does not have a plan for what happens after children with disabilities are done with special school” and that “kids who are not verbal do not go to high school.” Parents often ask the school to allow their children to “re-do

150 Interview with staff at special school 2, October 28, 2019
151 Ibid.
152 Concluding observations on the initial report of Serbia, CRPD/C/SRB/CO/1, para 47-48
153 Ibid.
154 Interview with staff, Special School 5, November 4, 2019
155 Ibid.
156 Ibid.
primary school so that they can stay in school and in society,” instead of being segregated at home.\textsuperscript{157} Children usually graduate from elementary school at age 15, but children with disabilities can remain enrolled until they turn 17. There are “no other services or supports available for these children and their families.”\textsuperscript{158}

Serbia’s Law on the Fundamentals of Education and Upbringing, adopted in 2009, is supposed to ensure the right to education for all children without discrimination in the mainstream school closest to where the child lives – yet the system of special schools continues to exist. The 48 schools in the special school system are unevenly distributed across Serbia, meaning that many families who seek to enroll their children in special schools must send their children to residential schools. Additionally, the special school system was originally designed with a narrow focus on children with developmental disabilities. The 2009 law intended to transform the special school system by requiring all schools in the system to accept children regardless of the nature of their disability, but this practice has not yet been fully implemented across the system, leaving some children entirely without access to education. This is contrary to international standards stated in the General Comment No. 4 of the CRPD Committee on the right to inclusive education.\textsuperscript{159}

VI. Legislation and public policy overview

The overall development of legislation and policies concerning children with disabilities in Serbia has been unpredictable, both in procedure and in content. Some policies were developed without participation of civil society and persons with disabilities. NGOs in Serbia have frequently protested that they are not included in the policy-making process, or that their inclusion is tokenistic, not substantive.\textsuperscript{160} Furthermore, some recent policy initiatives are not in line with UN human rights bodies’ recommendations to Serbia or regional and international human rights standards.

Some laws and policies directly contradict each other, particularly those related to measures to promote deinstitutionalization. This may be a consequence of the lack of strategic documents related to children and adults with disabilities between 2015 and 2020. However, even when a strategic document is enacted, its implementation may be dissatisfactory. The 2007-2015 ‘Strategy for

\begin{footnotesize}
\begin{enumerate}
\item Ibid.
\item Ibid.
\item CRPD/C/GC/4
\item https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhbK7yhsnbHatvuFkZ%2bt93Y3D%2fbaa2r7WihwAXZ%2fG9E0uH5DxBGZc%2fFYqjnvj7FqntqhiHjL6HK2ahbb93gALzYRp%2fNPbB4kYh9Rq015jiXwSYDQWO
\end{enumerate}
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improving the situation of persons with disabilities’ was not accompanied by an action plan for implementation until the last two years of its mandate, which prevented its adequate application. The reform of the social protection system and the transition from institutional to community-based and family-based care for children with disabilities has been rather slow as the cultural context has not progressed beyond the medical model of disability.

The umbrella law on social protection¹⁶¹ hasn’t changed its adoption in 2011, despite many initiatives to amend it. In 2018, a new process of amending the social protection law began and was not concluded until 2021. The law contains controversial amendments concerning children in institutional care proposed by the Ministry for Social Affairs.¹⁶² One of these establishes that the number of children in institutions shall be limited to 25 per building, a decrease from the current standard of 50 children per institution. MDRI-S believes that this standard will serve as legal grounds to develop new smaller institutions under the auspices of existing ones, either by constructing new buildings or by rearranging the existing ones.¹⁶³ Moreover, the existing institutions for children with disabilities are sometimes composed of more than one building with multiple wards, meaning that one institution could legally contain even more than 50 children according to the proposed law.

The ‘Strategy for improving the situation of persons with disabilities’ for 2020-2024 was adopted in March 2020.¹⁶⁴ The strategy prescribes that children with developmental disabilities shall be supported by the social welfare, education and health systems through inclusive education (measure 3.3.1). This measure aims at increasing the number of students with disabilities in the mainstream education system rather than in special education.¹⁶⁵ This measure and one other dealing with reform of mental health care are only the measures that explicitly mention children. The strategy, however, prescribes other measures that are general in scope and concern children as well.

The action plan for the implementation of the 2020-2024 strategy was adopted in April 2021.¹⁶⁶ One of the measures in the action plan explicitly calls for the adoption of a program for deinstitutionalization.¹⁶⁷ While this measure includes development of services to support life in the community and “encourages deinstitutionalization and transformation of institutions,” it does not

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¹⁶⁴ Strategy for improvement of the situation of persons with disabilities 2020 - 2024 (Strategija unapređenja položaja osoba sa invaliditetom za period od 2020 do 2024. godine)
¹⁶⁵ Ibid. p. 76.
¹⁶⁶ Action plan for the implementation of Strategy for improvement of the situation of persons with disabilities between 2020-2024, for period 2021-2022. (Official Gazette RS, 30/18)
¹⁶⁷ Measure 1.1.3: Improving the quality of life of persons with disabilities and adopting deinstitutionalization programs, while providing adequate support for community and family life, including the development of support services for independent living in the community
specifically call for a decrease in the number of institutionalized persons with disabilities, or refer to the specific situation of children with disabilities. The action plan also doesn’t call for a moratorium on new placements in institutions, which was a component of the 2011 law on social protection.

In addition to the strategy for improving the situation of persons with disabilities, Serbia has also adopted a ‘Strategy for the prevention and protection of child from violence’ for 2020-2023.168 This strategic document, accompanied by an action plan, acknowledges in its introduction that there are many problems with the system of institutionalization and recognizes deinstitutionalization as the only effective means to prevent violence and abuse. However, neither the action plan nor the strategy itself include specific measures or activities related to deinstitutionalization. In fact, the strategy includes a guideline to change the Law on Social Protection in order to enable the development of small group homes for children (measure 3.1.2).169 Given the detrimental impact that institutionalization, even in small institutions, can have on children, such a measure is deeply concerning and contrary to the stated aim of the Serbian government to deinstitutionalize children.

As part of pre-accession negotiations with the EU, Serbia adopted the Action Plan for Chapter 23 - Judiciary and Fundamental Rights (AP23) in 2016. AP23 addresses children with developmental difficulties and disabilities, among other topics, and promotes family-based alternative care for children rather than institutional care, as well as the development of community-based services and support to prevent their institutionalization.170 In its 2020 report on Serbia’s accession, the European Commission noted that “ensuring sustainable funding for preventative family support services...[must] remain the priority.”171 Nevertheless, the state continues to make further investments in strengthening the capacity of residential institutions, including their renovation and expansion.

a. International obligations

Serbia is a state party to eight of the nine core international human rights instruments, as well as to the European Convention on Human Rights (ECHR). According to the Serbian Constitution: “the generally accepted rules of international law and ratified international agreements will be an integral part of the legal system in the Republic of Serbia and will be directly implemented. Ratified international agreements must be in line with the Constitution.”172

The CRPD and the Convention on the Rights of the Child (CRC) are the most relevant sources of international law concerning children living in institutions. The International Covenant of Economic, Social and Cultural Rights (ICESCR) also sets out standards regarding the right of the child to live in their family. The Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or

168 (“Official Gazette of RS”, No. 30/18), Strategy for prevention and protection of children from violence 2020 – 2023
169 Make changes and amendments to the Law on Social Protection, which will: (1) Improve the provisions on the transformation of residential institutions for children; (2) Prescribe the basis for the establishment of centers for families and children which would enable establishment of “small group homes”.
Punishment (CAT) is another human rights instrument significant for the protection of children in all circumstances and especially important in the context of institutional care. The Optional Protocol to the CAT establishes standards for National Mechanisms for Prevention of Torture (NMPT), the national bodies that conduct regular visits to all places of deprivation of liberty, such as social care homes where children with disabilities reside, in order to prevent torture and other cruel, inhumane or degrading treatment or punishment. All of the above-mentioned legally-binding instruments have been ratified by Serbia and therefore should be applied to children with developmental disabilities in institutional and alternative care, in accordance with the Constitution of the Republic of Serbia.

When the CRPD entered into force, it was widely hailed as a “paradigm shift” for international disability rights law. Article 19 of the CRPD, on the right to living independently and being included in the community, and its accompanying General Comment No. 5, stipulates that all children and adults with disabilities are entitled to these rights without exception. This concrete application of the principle of universality of human rights was necessary as a response to widespread discrimination against people with disabilities considered ‘more severe.’ In many instances, states that conduct deinstitutionalization of social care systems tend to provide non-institutional care for children and adults with mild disabilities in the first place, while persons requiring more complex supports are last in line to be deinstitutionalized, if at all. General Comment No. 5 specifically states that this reasoning is “contrary to Article 19.”

Article 23 of the CRPD, on respect for home and the family, stipulates that when a child cannot stay in their immediate family, alternative care shall be provided in the extended family (kinship care) and if this is not possible, in a family setting within the community (e.g. foster care). Therefore, only alternative care that is provided in a family setting is a legal form of alternative care according to CRPD Committee.

The CRPD and the General Comment No. 5 explicitly prohibit institutionalization of children with disabilities, stating that “large or small group homes are especially dangerous for children, for whom there is no substitute for the need to grow up with a family.” The Committee goes on to reject “family-like institutions” as an alternative to life in family, in response to an emerging trend of children with disabilities being placed in small group homes. The Committee also uses more progressive terminology than the CRC and UN Guidelines on Alternative Care, by explicitly calling any group placement, large or small, an institution, while the CRC Committee distinguishes institutional from residential care. The Special Rapporteur for the rights of persons with disabilities has reaffirmed the CRPD Committee’s stance and expanded it by labeling any residential setting outside of a family an institutional setting. Therefore, under the CRPD group homes, large or small, regardless of quality of care, and any other residential care “are legally considered a form of institutional care.”

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173 Committee on the Rights of Persons with Disabilities, General Comment No. 5 on living independently and being included in the community, para. 21.
174 Ibid, par. 16(c).
175 Ibid, par. 16(c).
The Committee on the Rights of the Child (CRC Committee) has acknowledged that the best environment for development and care for children with disabilities, like all other children, is within their own families. The leading principle of the CRC concerning children with disabilities is the “enjoyment of a full and decent life in conditions that ensure dignity, promote self-reliance and facilitate active participation in the community,” according to the CRC Committee. All the rights and principles of the CRC should be applied to children with disabilities without discrimination. The CRC Committee has affirmed that extended family care is “one of the best alternatives (and) should be strengthened and empowered;” however, the CRC allows for placement of children in institutional care when this is “in their best interest.” This is an outdated provision given that, according to the CRPD Committee, it is never in the best interest of the child to be placed in an institution.

The UN Guidelines on Alternative Care provide an interpretation of CRC and the conditions under which a child can be placed in an institution. The Guidelines state that children under 3 years old should not be placed in institutional settings; instead, community-based care should be provided. For older children, the institutional placement “should be limited to cases where such a setting is specifically appropriate, necessary, and constructive for the individual child concerned and in their best interest.” Still, the Guidelines require that states need to adopt policies to support families to meet the needs of their child and promote the right of the child to maintain relationships with both parents.

The recent UN General Assembly Resolution on the Rights of the Child calls for the end of institutional care for children, which is a result of developments in standards regarding the right of the child to family life. The Resolution recognizes the susceptibility of children in institutional care to human rights violations and the harmful effect institutional care can have on a child’s growth and development. Furthermore, the Resolution calls for the progressive replacement of institutional care with alternative, family, and community-based care.

b. Failures to implement international obligations

Serbia has failed to meet the above-mentioned human rights standards because it has not fulfilled its obligation to comprehensively support children with disabilities and their families. The government has not established adequate measures to support community integration of these children, meaning that the care and education of children with disabilities is up to their parents, who are often on the edge of poverty due to the lack of support. Institutionalization of children under the age of 3 is still common, in spite of a prohibition stipulated in the Social Protection Law. The fact that children with

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177 Committee on the Rights of the Child, General Comment nr. 9: The rights of children with disabilities, UN Doc. CRC/C/GC/9 (200), par. 41.
178 Article 23.1, UN Convention on the Rights of Child
179 UN Guidelines on alternative care, par. 21.
180 Ibid, par. 32.
181 United Nations General Assembly, Rights of the Child Resolution, UN DOC A/74/395, par. 26
182 Ibid. par. 35(g).
183 Article 52(2), Social protection Law.
disabilities make up to 80% of all children institutionalized in Serbia is proof of a disability-based discrimination; in other words, these children are placed in residential care solely because of their disabilities. Lack of community-based care that allows for maximum possible social integration amounts to violation of UN Guidelines on Alternative Care. If these community-based services were established and developed, children with disabilities currently institutionalized would be able to live and grow up in families.

It is important to stress that small group homes are not a viable option for alternative care because they do not provide opportunities for meaningful social inclusion and, as observed, these homes replicate institutional ways of living. Therefore, the State should not promote further development of small group homes. The state should rather respect the standards of the CRPD and support further development of family-based care.

Serbia is a state party to the ECHR, the regional human rights instrument. The European Court of Human Rights in Strasbourg (ECtHR) has been set up to enforce the ECHR in state parties. The ECHR, among other human rights treaties, protects the right to be free from torture, inhumane, or degrading treatment to which people living in institutions, both children and adults, are sometimes exposed to. Practices such as physical restraints, lack of medical care (e.g. lack of dentures or lack of surgical treatment for hydrocephalus), and prolonged immobility amount to inhumane and degrading treatment. Some of the practices observed by our team and exposed in this report amount to violation of the Article 3 ECHR.

c. International recommendations

Over the last five years, several international human rights bodies, including UN Committees and the European Commission, have issued recommendations to Serbia related to the rights of children with disabilities. Unfortunately, Serbia has largely failed to implement these recommendations. Even though some reforms were initiated in response to these recommendations, they have not yet been realized or were not in line with the human rights standards.

In 2016, the CRPD Committee expressed deep concern about the number of children living in institutions in Serbia, “especially those with intellectual disabilities.” In its Concluding Observation from 2016, the CRPD Committee recommended Serbia’s authorities adopt a deinstitutionalization strategy and stop investing in new institutions, prevent institutionalization of children under 3 years of age, and work harder to deinstitutionalize children with intellectual and psychosocial disabilities. Furthermore, Serbia was urged to protect children and adults with disabilities from violence and abuse in institutional settings by prohibiting all forms of coercive treatment, physical and chemical restraints, overreliance on antipsychotic medication, and isolation of children and adults with disabilities.

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184 Article 3 European Convention on Human Rights
185 Financial Assistance for Families with Children Law, Official Gazette RS, nr. 113/2017 i 50/2018
186 UN CRPD Committee Concluding Observations to Serbia, 2016
187 Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of Serbia, CRPD/C/SRB/CO/1, 2016, par. 14, 40.
188 Ibid, par. 28, 31.
In 2017, the CRC Committee recommended that the Government of Serbia establish a confidential and appropriate complaint mechanism for children in alternative care concerning their deprivation of liberty, as well as establish a mechanism under NMPT to more effectively prevent torture, inhumane, and degrading treatment of children in institutions, and protect children with intellectual and psychosocial disabilities from physical and sexual violence. The CRC Committee called on the state to adhere to the UN Guidelines on Alternative Care by: reducing institutionalization of children under 3 years of age, including children with disabilities; promoting family-based placement; reducing the number of children in institutions; and using institutionalization as a measure of last resort. Further, the CRC Committee requested the adoption of a comprehensive strategy aimed at social inclusion of children with disabilities, improved data collection on children with disabilities, reform of the social protection system, and establishment of legal and other measures to ensure that children with disabilities in need of continuous care stay with their biological families.

In 2020, the United Nations Global Study on Children Deprived of Liberty referred to MDRI-S findings that more than three quarters of children living in state institutions in Serbia are children with disabilities. According to UNICEF, 80% of children in institutions have developmental disabilities. Segregating a child in an institution on the basis of his/her disability is contrary to the CRPD, constitutes arbitrary detention, and violates their right to community living and to a family.

In 2019 the government of New Zealand recommended the government of Serbia to invest in the deinstitutionalization of children with disabilities. Similarly, the UN Special Rapporteur for Torture (SR) recommended improvement of community-based services to facilitate deinstitutionalization. The SR was particularly concerned with the lack of human contact for babies and children with disabilities who spent all the time lying in cribs or metal beds. The SR went on to assert that institutionalization of children with disabilities in visited institutions was a consequence of the lack of community-based services.

The European Commission (EC) has recommended the Government of Serbia to adopt and enforce a deinstitutionalization strategy with regard to adults and children with disabilities multiple times in the past, in its Annual reports. The EC has also expressed concerns over the violations of the rights of children with disabilities in institutions and called for strengthening of family support to prevent institutionalization.

189 Committee on the Rights of the Child, Concluding observations on the combined second and third periodic reports of Serbia, CRC/C/SRB/CO/2-3, 2017, par. 33(b), 33(c).
190 Ibid, par. 40(a), 40(c).
191 Ibid, par. 44(a), 44(b), 44(c).
194 Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment. Visit to Serbia and Kosovo, A/HRC/40/59/Add.1, 2019, par. 41, 45, 107(b), 107(f).
Serbia’s authorities have recently taken some steps in line with these recommendations by adopting two new strategies and respective action plans. The Ministry for social affairs has led a drafting process for the ‘Strategy for prevention and protection of children from violence 2020-2023’ and an accompanying Action Plan. The Strategy recognizes that deinstitutionalization is the only adequate way to prevent violence against children with disabilities in institutions and requires better monitoring of these institutions. The ‘Strategy for improvement of the situation of people with disabilities 2020-2024’ was adopted in March 2020 with an Action Plan 2021-22 adopted in April 2021. This strategy prioritizes deinstitutionalization and development of services for independent living but doesn’t recognize the right to family life for children. With a history of good strategies and little changes it remains to be seen how Serbia will address its new strategic goals and whether their implementation would contribute to the improvement of the situation of children with disabilities, in line with its international obligations.

VII. Covid-19 in Serbia

When the state of emergency was imposed in Serbia as a response to the COVID-19 pandemic, persons with disabilities encountered considerable barriers to living their everyday lives, with some of their basic rights and freedom restricted more broadly than in the rest of the population. The difficulties that people with intellectual and psychosocial disabilities already faced in Serbia were compounded during the pandemic. People with disabilities and their representative organizations were not included in working groups convened to plan measures to combat the pandemic at the national and local levels, or in planning for the lifting of restrictions. The exclusion of people with disabilities from these processes resulted in the imposition of measures that did not take the needs of persons with disabilities into account and were in some cases actively discriminatory. In response, many advocacy organizations and organizations of persons with disabilities pushed for changes to pandemic measures to avoid harmful and potentially fatal consequences. Some of these changes were eventually implemented, such as removal of restrictions on the movement of children and adults with intellectual disabilities and autism during curfews.

a. Impact on people in institutions

Persons with disabilities living in social care institutions were at the highest risk of contracting the COVID-19 virus during the pandemic. Conditions in residential institutions that house hundreds of people with disabilities make it difficult or impossible to maintain physical distance and adhere to other measures prescribed to protect against the virus COVID-19.

In a joint statement with the UN Secretary-General’s Special Envoy on Disability and Accessibility, the UN Committee on the Rights of Persons with Disabilities recommended that states “accelerate measures of deinstitutionalization of persons with disabilities from all types of institutions,” where there are heightened risks of contracting COVID-19. The international organizations for the rights of persons with disabilities called for the deinstitutionalization of persons with disabilities in institutions where there is a risk of contracting COVID-19. This recommendation was made to ensure the protection of persons with disabilities living in institutions and to prevent the spread of the virus among those at highest risk.

of persons with disabilities have called on states to take measures for the urgent deinstitutionalization of persons with disabilities in order to reduce the risk posed by the pandemic, while Serbian organizations advocating for human rights of persons with disabilities have requested the Ministry of Labor, Employment, Veterans and Social Affairs urgently relocate residents of institutions to their families, relatives, or other non-collective accommodation wherever possible.

Unfortunately, the Government of Serbia did not take any steps towards urgent deinstitutionalization during the pandemic. In fact, it actively endangered the lives of persons in institutions by adopting a series of measures that put residents of institutions in an even more unfavorable situation. In March 2020, the Ministry issued a ban on all visitors to residents in social care homes and forbade residents to leave the grounds of their institutions. These restrictions were in place for over three months. In June 2020, these measures were mitigated to allow 15 minute visits by doctors and other medical staff, educators, and non-medical staff from within the institution, but were banned again by the end of the month. New restrictions in the summer of 2020 also required a mandatory 14-day isolation period for all staff who came into contact with residents, forcing staff to live full-time in institutions. Additional measures restricted movement within institutions, including access to outdoor areas, and curtailed independent oversight of institutions.

Most alarmingly, according to information obtained by MDRI-S, residents who contracted COVID were not provided with treatment except in the institution, and in some cases infected residents were not isolated from others. When residents needed to leave the institution for medical reasons, they had to isolate themselves for two weeks upon each return. Some residents were not provided with access to health services outside the institution at all.

In addition, instead of taking steps towards urgent deinstitutionalization, in many cases residents in supported living in the community were returned to institutions during the crisis, exposing them to additional risk. MDRI-S appealed to the Ministry on the basis that such action was contrary to the counter-epidemic measures prescribed by the WHO, and the international and regional human rights bodies.

For children in institutions, the pandemic endangered their access to education. After the declaration of the state of emergency, classes in all schools were interrupted. Distance learning programs were implemented, via television and the internet, but this method of learning has brought with it challenges in adapting distance teaching to students with disabilities. Organizations of persons with disabilities reported that educational programs and online content were not adapted to students with

and the Special Envoy of the United Nations Secretary-General on Disability and Accessibility


196 See more at https://www.mdri-s.org/saopstenja/apel-ministarstvu-za-rad-zaposljavanje-boracka-i-socijalna-pitanja/

disabilities, especially students with intellectual disabilities, and that tasks and materials were not sufficiently adapted in accordance with individual educational plans (IEPs). It should be emphasized that a major challenge was the lack of technical conditions in terms of access to the internet and computers, given that families of children with disabilities are significantly more affected by poverty than the general population.

According to information obtained by MDRI-S, children with disabilities living in social care institutions did not have organized online classes, nor did they attend school even when the state of emergency was lifted, while children without disabilities did. In addition, special schools did not organize classes for children with disabilities, even in the period when classes in regular schools were organized, and after the intervention of parents’ associations, they functioned only as day care centers, without providing educational programs.

**b. Failure of monitoring mechanisms**

Independent monitoring mechanisms in Serbia were completely abandoned during the pandemic. The National Mechanism for Prevention of Torture did not enforce its mandate to visit places where people are deprived of their liberty. This meant that people in institutions were completely unable to access independent monitoring mechanisms for protection of their rights during a period when their basic rights were restricted more than ever before, and when risk for abuse, neglect, and violence was heightened due to understaffing and an overall atmosphere of stress and fear. The Council of Europe and the United Nations recommendations established an increased need for independent monitoring with an aim to prevent and uncover torture, inhumane and degrading treatment and other form of ill-treatment.

In spite of recommendations from international and regional human rights bodies and the WHO, alternative channels of communication with relatives and friends, such as video calls, were not established, meaning that many residents were unable to communicate with their loved ones. Maintaining safe social contact during isolation is crucial to alleviate emotional issues that are a product of uncertainty and stress most people experience in such times. Apart from psychosocial support, people residing in institutions must have contact with people outside the institution in order to potentially report abuse and neglect.

**c. Lack of data**

During the state of emergency, official data released by the government was inconsistent and not properly disaggregated, calling its accuracy into question. Reputable investigative media outlets claimed that the government published incorrect data, suggesting that the number of infections and

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199 ‘Consequences of Covid-19 on the Position of Vulnerable Groups and Groups under risk’ (n 9). str.56
200 See more at: https://rs.n1info.com/vesti/a678872-deca-sa-autizmom-skole-u-doba-pandemije-problemi/
the death toll were several times higher than the official numbers.\(^{202}\) The Government has presented no statistics on the number of deaths in social care homes; when MDRI-S requested this information, the MLEVSA responded that it has no such data. Private nursing homes suffered from a lack of staff during the state of emergency, and the media reported on cases where one or two staff cared for dozens of patients. These circumstances could easily lead to inhumane treatment and degrading conditions, but the lack of government oversight and data makes further investigation difficult.

According to the data provided by MLEVSA, there were 1,219 cases of COVID among persons with disabilities in social care homes from the beginning of pandemic until February 2021,\(^{203}\) what amounts to almost 30% of the total number of persons with disabilities in institutions. Furthermore, the Ministry claims that it does not have data on deaths of people in institutions from COVID, even though the Ministry is responsible for protecting the residents in social care homes. The data on the overall number of recovered residents and employees of social care homes is made available online, but does not include the number of deaths.\(^{204}\)

The recent data showed that since the start of the pandemic there was a decrease in the number of children going into residential care, but the period of children’s stay in shelters increased, often surpassing the six months limit.\(^{205}\)

d. Impact of the pandemic on other social protection services

Difficulties in accessing services such as personal assistance, home help, and personal companions for children were most pronounced at the very beginning of the pandemic following the imposition of the state of emergency. These services are of immeasurable importance for the daily independent life of persons with disabilities, but at the beginning of the pandemic, movement permits were not provided to the providers of these services, which left persons with disabilities deprived of these services for some time. After the intervention of organizations of persons with disabilities, movement permits for these service providers were issued, but persons providing informal support to persons with disabilities continued to have difficulty receiving permits. People with disabilities were also unable to access movement permits to allow them to leave their homes for exercise or to maintain their mental health during isolation. In these cases, too, the reaction of the government came only after the intervention of organizations of persons with disabilities.\(^{206}\)

\(^{202}\) https://javno.rs/analiza/korona-broj-umrlih-i-zarazenih-visestruko-veci-od-zvanicno-saopstenog

\(^{203}\) The data were not made public but were obtained on the basis of a request for information of public interest sent to the Ministry by MDRI-S.


\(^{206}\) Damjan Tatić, ‘Ka inkluzivnom odgovoru na pandemiju: Uticaj pandemije COVID-19 na položaj osoba sa Invaliditetom u Srbiji i preporuke za ostvarivanje i zaštitu prava ovih osoba u situacijama epidemiološkog rizika’ (Nacionalna organizacija osoba sa invaliditetom Srbije 2021);
The use of day care centers for children, youth and adults with disabilities was also interrupted during the state of emergency. Even though day care centers represent segregation of people with disabilities and an environment that does not contribute to choice and control over their own lives, this service, in the absence of other personalized and flexible support services for children and adults with intellectual disabilities such as personal assistance,\(^{207}\) provides significant support to families. Day care centers were allowed to reopen in phases beginning in August 2020, but until then, families of children and adults with intellectual disabilities had almost no form of support.

Finally, it should be emphasized that in many local self-government units, instead of providing continuous and even intensified work and functioning of social protection services in the community, there has been a reduction in the scope of these services and that users have even been encouraged by local governments to quit using social protection services, in order to reduce their capacity.\(^{208}\)

**Conclusions and Recommendations**

After initial improvement in deinstitutionalization of children following DRI’s 2007 report, the last decade has seen no significant improvements in protection of institutionalized children with disabilities from neglect and abuse.\(^{209}\) Documented improvements are mostly the result of enthusiasm and initiatives taken by individuals running these institutions rather than the result of systemic efforts of the authorities. In fact, recent government measures that were intended to speed up the deinstitutionalization process and improve the situation of persons with disabilities\(^{210}\) have taken Serbia further away from meeting its human rights obligations to protect the rights of children and adults with disabilities.

Based on observations in Serbian institutions (both large institutions and small group homes) DRI finds that placement in Serbia’s residential facilities is emotionally and physically dangerous for children and is likely to result in increased disability. Placement in residential care is dehumanizing, socially isolating, and does not contribute to habilitation or the development of skills that contribute to further inclusion in society. Treatment – or the lack thereof – results in increased disability, endangers children’s health, and can be life threatening.

Children in residential institutions face neglect and denial of medical care that constitutes inhumane and degrading treatment in violation of international human rights law. In some circumstances, such as exposure to sexual abuse and the denial of essential medical care and pain medications, this treatment amounts to torture. Impunity for such abuse cannot be tolerated, and Serbia must take

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\(^{207}\) Personal assistance in Serbia is not provided for people with intellectual disabilities, which represents discrimination.

\(^{208}\) Tatic (n 9).

\(^{209}\) Compared to the findings of the report by DRI’S affiliate organization MDRI-S: “Hidden and forgotten: Segregation and abuse of children and adults with disabilities in Serbian institutions (MDRI-S, 2012)

\(^{210}\) Such as the proposed Strategy for Deinstitutionalization and Development of Community Social Care Services for 2021-2026 and the Draft Law on the Protection of the Rights of Users of Temporary Accommodation Services in Social Protection
urgent action to protect children and prosecute abusers. This situation can only be resolved by stopping any further institutionalization. Prevention programs and supports for families must be improved to achieve full social integration of children in society and to put an end to new placement of children.

Serbia has adopted two new strategies and respective action plans, which both recognize the importance of deinstitutionalization.\textsuperscript{211} With a history of good strategies never implemented in practice, it remains to be seen whether Serbia can fulfill the obligations of its own action plans. The establishment of a new Ministry for Family Care and Demography (MFCD) may be a positive development. The new Ministry has expressed commitment to support families of vulnerable children by signing a Cooperation Program with UNICEF in April 2021.\textsuperscript{212} Together with the Ministry of Human and Minority Rights and Social Dialogue, MFCD may play a pivotal role in promoting, protecting and enforcing the rights of children with disabilities and their families.

DRI and MDRI-S address the following recommendations to the Government of Serbia:

1. **Guarantee and enforce the right to family life for all children** consistent with the requirements of the CRPD, as interpreted by General Comment No. 5. Serbian law should guarantee the right of all children to live and grow up with a family, and services and support should be provided to families to ensure that no family is ever forced to give up a child due to poverty or disability. There should be no exceptions to the right to grow up in a family for any child, and the need for care, support services, or treatment should never be used to justify breaking ties with family. Denial of the right to family – and providing services in the segregated environment of the institution – constitutes discrimination under international law. The Law on Social Protection must be amended to end placement of children with disabilities in institutions.

2. **Provide adequate support for families to prevent family separation and institutionalization** and protect the right of parents with disabilities to keep their children. Programs should be specifically targeted to help those families most at risk – including families of children with disabilities, single mothers, and children living in poverty. Special outreach efforts should be made to ensure that Roma and other ethnic minorities receive the services and support they need to avoid unnecessary family break-up.

3. **Ensure equal access to supported family, kinship, and foster care for all children.** Foster care programs must be made fully accessible and appropriate for children with complex support needs. For children with psychosocial challenges, models of therapeutic foster care have proven effective. It is not acceptable for authorities to

\textsuperscript{211} ‘Strategy for prevention and protection of children from violence 2020-2023’ and ‘Strategy for improvement of the situation of people with disabilities 2020-2024’

\textsuperscript{212} \url{http://minbpd.gov.rs/potpisan-program-saradnje-sa-kancelarijom-unicef-a-u-srbiji/}
accept that families are “unavailable” or “unwilling” to take children with disabilities, and a full range of supportive and therapeutic services must be made available to help families and prospective foster parents.

4. Provide training for policymakers, judges, and service providers on the rights and potential for family inclusion of all children with disabilities. Dangerous stereotypes of children with disabilities (including children with so-called ‘severe disabilities’ or ‘behavior problems’) as unable to live in families must be addressed through education and training – and as a matter of enforceable law and policy.

5. New investments should protect families and provide support to stop placement – not support institutions. DRI and MDRI-S recommend against using new resources to improve staffing or care within institutions (including group homes), except to protect against immediate, life-threatening conditions. This is consistent with the requirements of the CRPD, as interpreted by the UN’s Committee on the Rights of Persons with Disabilities, which has stated that: No new institutions may be built by States parties, nor may old institutions be renovated beyond the most urgent measures necessary to safeguard residents’ physical safety.213

Serbia must not simply rename institutions to create the illusion of meeting deinstitutionalization goals. Plans for the establishment of new ‘small group homes’214 must be cancelled as they undermine further enforcement of children’s rights.

6. Ensure that all children receive all essential medical care and pain medication. Immediately evaluate medical needs of all children in intensive care units to ensure they receive essential care and end discriminatory denial of care for children with disabilities by medical professionals in line with the requirements of Article 25(e) of CRPD on the right to health.

7. All residential care, including group homes, as well as community programs and foster care, must be independently monitored. Oversight and enforcement mechanisms should be age and gender appropriate and must include participation of people with disabilities. Rights protection and monitoring programs will be more effective if they rely on forms of peer support by formerly institutionalized children, including children with disabilities. Independent advocacy groups should be given access to visit all institutions and residential programs.

8. Stop torture and abuse in residential care and community programs. No effort to stop torture or abuse should be used to justify maintaining segregation of children with disabilities. As required by CRPD Article 16, all programs for people with

213 General Comment No. 5 to CRPD, para 49
214 Measure 3.1.2 of the Strategy for protection of children from violence 2020-2023, ("Official Gazette of RS", No. 30/18)
disabilities must be regularly monitored to prevent violence, exploitation, and abuse.

9. **Protect women and girls with disabilities from sexual abuse and denial of reproductive rights and criminalize forced abortion and forced sterilization of women in residential institutions.** Forced sterilization is cruel, inhumane, and degrading treatment that can amount to torture.215 Women with disabilities – regardless of their support needs – should not be denied the right to informed consent to medical treatments related to their sexual and reproductive rights. Article 25(d) of CRPD “requires health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent.”

10. **Guarantee access to inclusive education for all children with disabilities.** School programs must also be adapted to be appropriate for children of all abilities. Failure to provide education to a child in the environment in which they live cannot be an acceptable excuse for placing children in boarding schools or other types of residential institutions. No child should have to give up their family to receive services or support. Education must be fully accessible throughout the country.

11. **Protect children from institutional placement as they become adults and provide support for independent living.** Ensure full inclusion of children and adults with disabilities throughout the life-cycle. Policies focusing on children must be closely aligned with educational and vocational programs for independent living to ensure full inclusion of people with disabilities throughout the life-cycle. The best family supports for children will be undermined if adults face re-institutionalization or pervasive discrimination in society later in life. For this reason, support for advocacy and full consultation with disability rights groups is essential for any effective child protection and reform program.

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215 As recognized by the UN Special Rapporteur on violence against women, UN Special Rapporteur on Torture, Committee against Torture, Committee on the rights of Persons with Disabilities, Committee on the Elimination of all forms of Discrimination against Women, Committee on the Rights of the Child. Also, Istanbul Convention asks from party-states to criminalize and prohibit forced sterilization.