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Children's Rights

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Children with Disabilities in Serbian institutions

Hundreds of Serbian children with disabilities face neglect and isolation in institutions that may lead to stunted intellectual, emotional, and physical development. The Serbian government has made some progress in protecting the rights of children with disabilities, but more should be done to end the routine placement of children in state institutions, and to provide support so that children with disabilities can live with their families or in other family-like settings.

A room in the ward for the most severely disabled in Veternik home for children and adults with disabilities. Children are placed in the same rooms as adults and up to eight people live in one room. 2015 Emina Erimovi for Human Rights Watch

Hundreds of Serbian children with disabilities face neglect and isolation in institutions that may lead to stunted intellectual, emotional, and physical development. The Serbian government has made some progress in protecting the rights of children with disabilities, but more should be done to end the routine placement of children in state institutions, and to provide support so that children with disabilities can live with their families or in other family-like settings.

If I would touch her little hands or feet, she retracted, like a turtle inside of her shell. For about two or three months we struggled to establish some sort of physical contact. The first time she rested her head on my shoulder was three months after coming to our home. It was the most beautiful thing that happened.

Suzana, foster parent of Marina, a 4-year-old girl with developmental disabilities, who was 10-months-old when she left an institution to live with her foster family

Julija, a 4-year-old girl with a disability, was born in Belgrade, Serbia's capital, in 2012, to proud parents Ivica and Jasmina. However, after the birth, Julija was not brought in to her mother as other children were. Instead, as Julija's mother Jasmina explained, The nurses started consoling me by saying: You will have another child. You will have another child, don't cry. Julija was written off immediately.

For the first couple of days, despite repeated inquiries, Jasmina and Ivica were not given any information about their daughter's health and well-being. Then a doctor told them Julija has a rare genetic condition called Apert Syndrome which results in vision and hearing loss, difficulty breathing and eating, cognitive delays, and webbed fingers and toes. The doctor and nurses told them that it would be best to leave Julija there in the maternity ward and for her to be placed in an institution for children with disabilities. They did not want to do that.

Instead Ivica and Jasmina travelled across Serbia for specialist appointments and surgeries to get Julija the very best treatment possible. However, they were continuously advised by health care professionals that it was best for their daughter to live in an institution:

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With no community support and services available, especially after a critical head surgery, they made the difficult decision to place their three-month-old baby girl in an institution for children with disabilities in Belgrade, believing they were doing what was best for their child. However, after Julija was placed in the institution, her parents

began noticing the deterioration of her well-being and development:

Julija spent 10 months in the institution between May 2012 and March 2013 with visits home depending on her health condition:

We wanted her to be home as much as possible, but sometimes that was just not possible because of her health condition. Doctors and staff at the institution supported us in these efforts because they could see that Julija felt better and so did we.

Jasmina and Ivica explained how doctors and social workers from the institution were the only point of reference during this difficult period and it was the only place they could turn to for help and support.

Jasmina and Ivica then decided to bring Julija back home for good. Ivica described the experience: When Julija is at home with us, she is one child, and when she is in an institution, she is a different child. She has made much more progress (at home), in terms of her weight and everything else. Her intellectual development, too. Julijas parents now know that many people with Apert Syndrome can lead a life like others, including going to school and getting a job.

However, the battle is only beginning: Julija needs continuous health care for her breathing, vision, ability to speak, all of which is lacking in Serbia.

Across Serbia, children with disabilities live away from their families in large residential institutions for children with disabilities with little to no personal attention, in most cases leading to childrens stunted physical, emotional, and intellectual development. The system currently favors institutionalization rather than support for families.

This report, based on 118 in-depth interviews with children with disabilities and their families, disability advocates, staff of institutions, and government officials, documents a range of issues that children with disabilities experience in institutions in Serbia (an aspiring member of the European Union), which leads to multiple violations of their rights. These issues include segregation, neglect, including a failure of guardians to play a meaningful role in the childrens lives, lack of privacy, use of potentially inappropriate medical treatment and failure to provide information about or seek consent for treatment, lack of access to education, limited freedom of movement, denial of legal capacity upon reaching adulthood, among others.

This report also highlights some promising practices for services and supports within Serbia, which should be scaled up to ensure that children are able to live and thrive in their communities.

Over the past several years, the Serbian government has introduced strong legal and policy measures to safeguard every child's right to live in the community and right to family life. For example, the Ministry of Labour, Employment, Veteran and Social Policy has developed and strengthened alternative care arrangements in the community for children separated from their families, such as foster care. In 2011, the government adopted a prohibition on placing children under the age of three in institutions without justified reasons, and even then, generally for no longer than two months. In 2013, UNICEF developed family outreach services in the cooperation with the Ministry of Labour, Employment, Veteran and Social Policy to support families, including families of children with disabilities, where there is a risk of separation of children.

Despite this progress, lack of health care and support services in the community, poverty, stigma, discrimination, and social exclusion means that children with disabilities continue to be placed in institutions, even though many have a living parent. Medical staff, including doctors, also often advise parents to institutionalize their child with a disability.

Serbia continues to invest in construction and renovation of institutions. In March 2014, the government opened a newly built institution for children and young people with disabilities in abac, a city in western Serbia. At the same time, there are almost no community-based support and services for children and their families. Where services do exist, they are limited in scope, outreach, and continuity.

Children with disabilities in particular have been overlooked in national efforts to address the separation of children from their families; and children with disabilities continue to be significantly over-represented in residential care. Human Rights Watch found that the government continues to place even babies with disabilities in institutions, despite the 2011 prohibition.

In its 2012 state report to the United Nations Committee on the Rights of Persons with Disabilities, the government asserts a slight decline in the number of children with disabilities in institutions. However, this reports documents that the governments reported decrease in the number of children in institutions was because some children have simply reached the age of adulthood and are not counted as children anymore. After turning 18 years old, some children either continue to live within the same institution or are transferred to institutions for adults.

While the aim of placing children with disabilities in institutions is to protect them and provide them with specialized care, the reality is that children are placed in centralized residential homes with limited staff and personal contact, often far from their families and communities. This results in the arbitrary separation of children from their families and isolation from society. Most children with disabilities in Serbia who are placed in institutions as children, will continue to live in institutions for their whole lives. Existing research demonstrates that institutionalizing children harms their health, development, and reduces future life chances.

In fact, institutions in Serbia struggle to provide the individual attention and care that children with disabilities need, and are instead places where children with disabilities experience neglect, abuse, overmedication, isolation, and are excluded from education, play, and their communities.

In three of the five institutions visited by Human Rights Watch, children with disabilities lived in the same room and wards as adults. Placement of children with unrelated adults is not only a violation of international standards, it places children with disabilities at a higher risk of violence and abuse.

Human Rights Watch also found that medication, including psychotropic medications, which is used on children with disabilities in institutions often as a means of dealing with behavioral issues, is dispensed with minimal oversight or review, without explanation of the purpose of the medication to the children, and with a lack of clarity as to whose consent is required for the administration of medications. Human Rights Watch has serious concerns about the appropriateness of some of the medications and how they are dispensed.

Children with certain disabilities, typically those who cannot walk and talk, are segregated in special wards within institutions, where they spend the majority of their days lying down with minimal interaction with others persons. The practice of keeping children with certain disabilities in such conditions is discriminatory, inhumane, and degrading.

Lack of sufficient personnel for the large number of children and adults, in particular those with higher support needs, means that individualized attention and care from caregivers inside institutions is a significant problem documented in all large institutions Human Rights Watch visited.

Legal guardians, appointed by the state to care for the child and ensure the child's best interests are respected in all instances, in most cases do not visit or interact with children who live in institutions. Limited or no contact with their legal guardians jeopardizes the child's right to be protected from abuse and neglect and the right to education and family life.

Most adults (including young people between the age of 18 and 26) with disabilities living in Serbian institutions are also deprived of legal capacity, or the right to make decisions about basic rights, and placed under guardianship. The guardian often nominated by the state makes all decisions for them. For example, Human Rights Watch documented cases in which young women with disabilities deprived of legal capacity were subjected to invasive medical interventions, including termination of pregnancy, with the consent of the guardian, but without their own free and informed consent.

Children and young people with disabilities living in Serbian institutions have limited access to education and the vast majority of them are not enrolled in schools. Children who do receive education attend specialized schools exclusively for children with disabilities. In some cases teachers visit institutions to teach children in groups for a few hours a day. Day care centers, the most common community-based service provided for children and adults with disabilities in Serbia, have become a substitute for schools for children and young people with disabilities who live in the community.

Serbia is party to a number of human rights treaties, including the Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Rights of the

Child (CRC), the Convention Against All Forms of Torture and the European Convention on Human Rights (ECHR), and as such is obligated to protect the rights of children with disabilities and ensure their full participation in society. This includes ensuring no child is separated from his or her family on the basis of their disability. As a party to the Convention on the Rights of Persons with Disabilities the Serbian government is obligated to guarantee full inclusion of children and young persons with disabilities into society, including by making progress on deinstitutionalization and improved support for children with disabilities living in the community. Serbia is further obliged to ensure that persons with disabilities enjoy the right to legal capacity on an equal basis as others and the right to receive the support they need to make their own choices and to direct their own lives, whether in relation to medical treatment, family, parenthood and relationships, or living arrangements. As a party to the Convention on the Elimination of All Forms of Discrimination against Women, Serbia must not discriminate on the basis of gender, including with regards to access to health care and family planning.

In April 2016, the UN Committee on the Rights of Persons with Disabilities expressed serious concerns about the number of children with disabilities living in institutions and about the very poor living conditions in institutions in Serbia. The Committee urged Serbia to deinstitutionalise children and prevent any new institutionalisation of infants under the age of three, and to take immediate steps to ensure that all persons with disabilities have access to inclusive and quality education. The Committee also called on Serbia to protect persons with disabilities in all institutional settings from violence, abuse, and ill-treatment of any kind. It further urged Serbia to prohibit all forms of coercive treatments against adults and children with disabilities and to replace its guardianship system for adults with supported decision-making regimes.

Serbia is a candidate for European Union (EU) membership. Under the Stabilization and Association Agreement, a key step toward EU accession, Serbia is expected to gradually bring its laws into conformity with those of the EU, including with respect to the treatment of persons with disabilities under chapter 24 of the EU Acquis. The Acquis is the body of common rights and obligations that is binding on all the EU member states.

The EU has taken a strong stance on Serbias problematic treatment of children with disabilities in institutions. Its 2015 progress report on Serbia urged authorities to prevent placement in institutional care by prioritizing family and parenting support services, expanding community-based services, and by ensuring more integrated service delivery.

Serbia is also obligated to protect children with disabilities from all forms of violence and from torture or inhuman or degrading treatment. Serbian national law prohibits inhuman and degrading treatment and guarantees all citizens in state care the right to humane treatment.

Human Rights Watch calls on the Serbian government to take concrete steps to ensure that every child's right to live with their family or family-like environments is respected and implemented. The report calls on the government to develop a plan for the deinstitutionalization of children and the necessary services and support mechanisms in communities, focusing on the inclusion of children in all aspects of society.

Serbia should immediately take steps to end neglect of children living in institutions and hold those responsible for treatment of children to account. Isolation, neglect, inappropriate psychiatric treatments (including the inappropriate use of psychotropic medications as a means of dealing with behavioral issues), and discrimination of children with disabilities in institutions should end. Serbia should take all effective and appropriate measures, including through ensuring effective oversight and review of the use of medications on children, and to abolish any treatment that is inconsistent with the right to health of children.

The Serbian government should develop services in the community to prevent family separation. Services should include healthcare, inclusive and quality schools,

financial assistance to families of children with disabilities, and parenting counseling, among others. Funding community care and support for children with disabilities in other countries has been shown to be more cost-effective in the long term than funding large-scale institutions.

The majority of children with disabilities in Serbian institutions have at least one living parent and reasons for separation include poverty, lack of access to health care, access to education, and undue pressure on parents by healthcare professionals to place their child with a disability in an institution. Many children can return to live with their birth families when the right community-based services have been put in place.

Where it is not possible to return to their birth families, including cases of abuse and neglect, children should be provided with an opportunity to live in family-like environment care with relatives, foster families or adoptive parents. These potential caregivers should be carefully screened, trained and monitored to ensure the placements is protective and in the best interest of the child. Agencies responsible for foster care should work on strengthening the birth families so they can meet their child's needs and be reunited.

Serbia has adopted strong legal and policy measures on inclusive education and should take immediate steps to implement them in practice to ensure children with disabilities have an equal opportunity and option to go to mainstream schools that are accessible, free of violence, and receive a quality education that addresses and accommodates their needs.

Serbia should replace its guardianship regime for adults with a system of assistance and support in decision-making that respects the autonomy, will, and preferences of the person with disability.

The government should implement the recommendations of the UN Committee on the Rights of Persons with Disabilities from April 2016.

The European Commission, as part of monitoring compliance with the EU accession requirements, should hold Serbia to its obligations to respect the human rights of persons with disabilities as a precondition for EU membership. In dialogues with Serbian authorities, EU representatives should stress the importance of respect for the absolute prohibition of neglect and discrimination against children with disabilities in Serbian institutions, and should continue to call on the Serbian government to deinstitutionalize children with disabilities.

This report is based on field research carried out in Serbia for four weeks between October and December 2015. Additional interviews were conducted over the phone from January to March 2016.

Human Rights Watch researchers interviewed 48 children and young people with disabilities and their families. Out of this number, 11 were children under the age of 18, 30 were young people between 18 and 30 years old, 4 were birth parents, and 3 were foster parents of children with disabilities. 42 of the interviews were conducted individually; 6 individuals were interviewed in the presence of immediate family members or staff of institutions.

Human Rights Watch took great care to interview people in a manner that respected their rights and dignity, and ensured that the interviews took place in a location where the interviewees privacy was protected.

In all cases, Human Rights Watch told interviewees they would receive no personal service or benefit and that the interviews were completely voluntary and confidential. Participants were informed that they could discontinue the interview at any time or decline to answer any specific questions without consequences. All interviews were conducted in Serbian or English, or were translated into English by an interpreter.

Unless otherwise noted, we have used pseudonyms for all children, young people, and their families in order to protect their privacy. In some cases we have concealed other details, such as the name of the institution where they live or the date of the interview. We have also withheld names and other details from some institution staff for their protection from possible reprisals. All interviews are on file with Human Rights Watch.

Human Rights Watch also interviewed officials at United Nations Children's Emergency Fund (UNICEF), the Delegation of the European Union, the Protector of Citizens (the Serbian Ombudsperson), the Commissioner for Equality, and staff members of various nongovernmental organizations (NGOs) and disabled peoples organizations (DPOs) in Serbia, including Mental Disability Rights International, the Centre for the Rights of the Child, the National Mental Health Organization (MNRO), Veliki Mali, the Network of Children in Serbia, Ideas Centre for Social Research, and the Grig Centre for Social Preventive Activities. Interviews were held with senior government officials in the Ministry of Labour, Employment, Veteran and Social Policy, the Ministry of Health, and the Ministry of Education. Human Rights Watch also interviewed directors of two Centers for Family Placement and Adoption in Belgrade and Ni, and met with the representatives of the Republic Institute for Social Protection.

Human Rights Watch visited five large social welfare homes^[1] in Belgrade, in Sremica, Veternik, Subotica, and Stannica, and three small group homes for children and young people with disabilities in Belgrade, Ni, and Aleksinac. During our visits, we interviewed 42 current staff members (directors, social workers, medical and other staff). The Ministry of Labour, Employment, Veteran and Social Policy refused permission for Human Rights Watch to visit the institutions independently, and a representative from the ministry, was present during Human Rights Watch's visits to all institutions and small group homes as well as during interviews with directors of

the institutions.

The representative from The Ministry of Labour, Employment, Veteran and Social Policy denied Human Rights Watch the opportunity speak privately to children, insisting that a child's guardian must be present. In such instances, Human Rights Watch agreed to have a guardian at the interview. However, the representative and institution staff stated that guardians often live far away from the institution and that it is difficult to secure their presence or their verbal permission. As a result, Human Rights Watch could not interview children in some of the institutions.

Human Rights Watch also spoke with 11 activists from local childrens and disability rights NGOs in Serbia, one family outreach service coordinator and three family outreach workers. Human Rights Watch researchers also consulted international disability rights experts at various stages of the research, including during the initial review of Serbia by the United Nations Committee on the Rights of Persons with Disabilities in April 2016 in Geneva, Switzerland.

As part of this research, we also reviewed a number of Serbian government policies and laws and relevant reports from United Nations agencies, the European Union and NGOs.

On April 19, 2016, Human Rights Watch sent letters to the Ministry of Labour, Employment, Veteran and Social Policy, the Ministry of Health, and the Ministry of Education, setting out concerns about the abuses against children and young people with disabilities in Serbia. The Ministry of Education formally responded on April 28 and on May 19, 2016 and the Ministry of Social Policy on May 9, 2016. Their response is reflected in this report. The English version of the letters are attached as an appendix to the report.

In line with international instruments, the term child as used in this report refers to a person under the age of 18; young people refers to persons between the age of 18 and 30 years old.

The first information we received was that she has no chance for a long life and intellectual development and that it is best for us to leave her in the maternity ward and have her placed in an institution.

Jasmina ukovi, mother of Julija, a 4-year-old girl with developmental disabilities[2]

I've been here since I was little.

A 20-year-old young man with physical and intellectual disabilities living in Stannica Home for Children and Adults with Disabilities[3]

The Serbian government has taken some positive steps toward preventing the institutionalization of children. For example, the Ministry of Labour, Employment, Veteran and Social Policy has developed and strengthened alternative care arrangements in the community for children separated from their families, such as foster care. The United Nations Childrens Emergency Fund (UNICEF), supported primarily by the European Union and additionally by the Novak Djokovic Foundation,[4] has developed family outreach services to support families where there is a risk of separation of children.

Despite this progress, Human Rights Watch research found that children with disabilities continue to be placed in institutions and the process of moving children out of institutions to community-based care has been limited and slow. There continues to be a lack of community support and services for children and their birth families to prevent unnecessary family separations.[5] According to the national Network of Organizations for Children in Serbia, a network of 75 civil society organizations for children, the number of children placed in formal care in Serbia is growing.[6]

Children with disabilities continue to be overrepresented in institutional settings. As many as 79.9 percent of children in institutions in 2014 in Serbia were children with disabilities, up from 62.5 percent from 2012.[7] Most of these children have at least one living parent. In 2011, the government amended the Law on Social Protection to include a prohibition on placement in institutions for children under the age of three unless there are justified reasons and no longer than two months, except where the ministry responsible for social protection gives its consent.[8] This law, however, does not explain what justified reasons are for which a child under the age of three can be placed in an institution.[9] There are also no guidelines on the application of this provision. The 2006 Regulations on Removal of Irregularities in Placing Children and Youth in Institutions of Social Welfare[10] only oblige the Centre for Social Work to consider the applicability of support services to birth families and the child, and provide the possibility of placing a child in foster care as an alternative form of protection, before deciding on placing a child in an institution.[11]

While the amendments in Law on Social Protection have led to a decrease in the placement of babies in institutions, Human Rights Watch found that babies with disabilities under the age of three are still being placed in institutions. The Republic Institute for Social Protection points out that 48 children with disabilities under the age of three lived in orphanages in 2014.[12] According to the staff of Zveanska Center for Protection of Infants, Children and Youth, Belgrade, as many as nine children, including five babies with disabilities, were placed in the institution in 2015.[13] According to local experts and UNICEF, babies continue to be placed in institutions directly from maternity wards.[14]

Research has shown that institutionalization of babies harm their early brain development, can result in developmental delay and permanent disability, and may have long-lasting effects on their social and emotional behavior.[15] Other studies showed that children who were moved from an institution into family-based environment demonstrated signs of improvement in their intellectual functioning, attachment patterns, reduced signs of emotional withdrawal, and reduced prevalence of mental health conditions.[16]

At time of writing, Serbia did not have a comprehensive plan on the deinstitutionalization of children and adults with disabilities. In 2014, the Protector of Citizens the Ombudsman of the Republic of Serbia produced a Roadmap to Deinstitutionalization in Serbia,[17] which was presented to the National Assembly. However, according to the Ombudsman, the government has refused to adopt this document with no clear justification.[18]

In 2008, the Serbian government in partnership with UNICEF implemented an EU funded Comprehensive Plan for Transformation of Residential Social Care Institutions for Children with the aim of moving children from institutions into the community. However, this plan, which expired in 2013, did not target primarily children with disabilities, but rather children without disabilities or parental care. Some children with disabilities were moved out of only one institution the Kulina Institution for Persons with Disabilities in Aleksinac, in the south of Serbia yet even in this case, the majority of children were not moved into family households but rather to another institution or to a small group home (with up to 12 children with disabilities).[19]

These five small group homes, established in 2008 where up to 60 children from Kulina have been transferred, were intended to provide family-like environments and temporary accommodation for children with disabilities.[20] The Centers for Social Work, the state agencies responsible for social protection, including for protection of children in state custody, were supposed to gradually move the children from the small group homes to live with biological families or in foster care. Currently, the majority of children that had moved to small group homes since 2008 continue to live there.[21] For example, a caregiver in the small group home in Ni told Human Rights Watch, Children have been here for four years now. Soon, they will be adults.[22]

Human Rights Watch visited three small group homes in Belgrade, Aleksinac and Ni where 36 children and young people with disabilities live. All three small group homes are located in town centers in buildings where children without parental care lived prior to the 2008 Transformation Plan.

In both Aleksinac and Belgrade small group homes there were up to 12 staff members for up to 12 children and the children living there appeared to have more privacy and freedom and to receive individualized attention and support.

For children and young people living in the small group home in Ni, where all children and young people wear diapers except for one 17-year-old, the staff reported that they have only one caregiver and one educator responsible for 11 children and young people with disabilities per shift, making it difficult for staff to provide individualized attention to all children. They didnt do it properly. They moved children here, but did not provide enough personnel, a caregiver explained.[23] The same caregiver told Human Rights Watch that children and young people, all with physical disabilities, live on the upper level of the building and are not able to access elevators on the weekends, leaving the children confined to the building during those days.

Some children and young people who live in the small group homes visited by Human Rights Watch expressed a desire to live with families or in the community on their own. For example, Mihajlo, a 17-year-old boy who uses wheelchair and lives in a small group home in Ni, told Human Rights Watch: I consider children who live here to be my family, but I would rather live with my dad and my brother [in Belgrade], or in a foster family.[24]

Natalia, a 15-year-old girl who lives in the Aleksinac small group home, told Human Rights Watch how she enjoys going to school and playing with other kids from the small group home, but that she would rather live with her family. She also explained that her family, who lives in Novi Sad, 300 kilometers away, is unable to visit her because of the distance and because they do not have the financial resources for travel costs. Let me tell you something. I want to get away from here. When I am 18, I am going to leave this place and live in an apartment, Natalia said.[\[25\]](#)

Under the transformation plan, children were placed in small group homes according to their type of disability. For example, all children and young people who live in the Aleksinac small group home have intellectual disabilities, while children who live in the small group home in Ni had development or intellectual disabilities but also used wheelchairs or could not walk. A representative from the government explained that creating homogenous groups among children was part of the process of moving children from Kulina Institution to small group homes. They developed childrens functional plans and according to these plans they were moved to one of five small group homes or to Zveanska Center for Protection of Infants, Children, and Youth in Belgrade. The representative from the Ministry who was present during Human Rights Watchs visits to institutions and small group homes explained how some 50 children with moderate forms of disability, most of whom have parents in rural areas, were moved first: Children with better potential ended up in small group homes and children with extreme, severe conditions were moved to Zveanska [institution in Belgrade where 150 children with disabilities currently live].[\[26\]](#)

Grouping children according to their disability in small group homes that are supposed to be designed to respond to their particular disabilities is not only a form of segregation of children on the basis of disability but may lead to severe developmental consequences for a child's sense of socialization. For example, Mihajlo told Human Rights Watch how he misses talking with friends because the majority of children in his small group home cannot speak: There are only three of us who can talk.[\[27\]](#)

The practice of moving children with high support needs to Zveanska Center for Protection of Infants, Children, and Youth instead of to a family-based environment is discriminatory against children with multiple disabilities. This practice could also lead to significant numbers of children with high support needs spending the rest of their lives in institutions. As of December 2015, there was still one child with a disability and 85 young people with disabilities between 18 and 26 years old living in Kulina Institution.[\[28\]](#)

Bojana [family outreach worker] means a lot to me. I was all burned out before she came. I considered sending Mateo [12-year-old son with psychosocial disability] to an institution. Then, we got Bojana to help us. She is simply there to direct me, to help me look beyond, to provide me with information, to advise me on what to do.

-Jovana, a single mother of a 12-year-old boy with psychosocial disability[\[29\]](#)

The Family Outreach Service, developed by UNICEF in cooperation with the Ministry of Employment, Labour, Veteran and Social Policy and financed by the Novak Djokovic Foundation, provides support to families where there is a risk of separation of children from their families, including families for children with disabilities. There are eight full-time and eight part-time family outreach workers, supported by expert teams working in institutions, some of whom work with children with disabilities and their families.

Family outreach workers visit families in their community and, depending on the needs of the child and the family, provide relevant practical support and assistance. This can include counseling, advocating for the rights of the child and the family with different agencies, assisting with administrative documentation necessary for families to receive financial support, obtaining health care, and enrolling children in kindergartens, day care centers, and schools.

This initiative is being implemented in four childrens homes that are developing community based services: in the Zveanska Center for Protection of Infants, Children, and Youth in Belgrade, Duko Radovi home in Ni, Knežinja Ljubica Developmental Centre in Kragujevac and in SOS Childrens Village in Novi Sad.

Families are referred to the service by local Centers for Social Work, the state agency for social welfare, who ensure that the service is available to those who need it most. As of January 2016, 464 families and 1,160 children used this service, of which 79 were families with children with disabilities.[\[30\]](#)

Selma atovi, a family outreach worker, explained the main principle of the service: Our mission is to work with the family, not for them, to empower them, not take care of them.[\[31\]](#) Lidija Bukvi, a family outreach worker providing support to children with disabilities and their families told Human Rights Watch that community-based counseling services are much needed: I spend a lot of time working with families to accept their child's disability. To look beyond the diagnosis. To see the child in all of her characteristics.[\[32\]](#)

Bojana Brki, another outreach worker, told Human Rights Watch that children with disabilities and their families face particular difficulties in accessing health care and enrolling in mainstream schools in their communities: We put a lot of effort and time on working with schools to include children with disabilities in the education system.[\[33\]](#)

A family outreach worker, November 2015

According to the Republic Institute for Social Protection, a state agency mandated to conduct research on the social welfare system in Serbia, as of December 2014, 10,896 people with disabilities lived in institutions[\[34\]](#) most of them having entered the institution as children.[\[35\]](#) Of this total, 657 were children and 623 young people with disabilities.[\[36\]](#)

In its 2012 submission to the UN Committee on the Rights of Persons with Disabilities, the Serbian government asserts a slight decline in the number of children with disabilities in institutions.[\[37\]](#)

Based on interviews with local activists and directors of three institutions, however, Human Rights Watch learned that the decrease in the number of children in institutions is at least in part a result of children reaching adulthood and therefore no longer being counted as children, not only as a result of them leaving the institution.[\[39\]](#)

Human Rights Watch found that when children with disabilities turn 18 years old, they are either placed under extended parental rights[\[40\]](#) and continue to live in orphanages, or are placed in state institutions for adults. As a result, many children remain in institutional care for the rest of their lives.

For example, in Veternik Institution for children and adults with disabilities, at the time of Human Rights Watchs October 2015 visit, the director reported 59 children living there. The director then explained that by the end of 2015, there would be 50 children in the institution because 9 of them would have turned 18.[\[41\]](#) However, these 9 individuals will continue to live within the same institution as adults.

The director of the Kolveka Home for children with disabilities, explained: When they turn 18, they go to Veternik, Stamnica, or some other institution for adults.[\[42\]](#)

The director of the Stamnica Home for children and adults with disabilities told Human Rights Watch, We have 22 children as of today. Two girls will turn 18 by the end of the year.[\[43\]](#) They will continue to live within the same institution, but be counted as adults.

The Serbian government has been slow to transition children and adults with disabilities out of institutions and into the community. The Serbian Republic Institute for Social Protection indicates in its 2014 report that only 68 children with disabilities left orphanages that year, of whom 8 children (aged 6 to 17) were placed in another institution.[\[44\]](#) It is not clear how many children were transferred to institutions for adults after they reach adulthood. In 2014, 147 children with disabilities were admitted to institutions.[\[45\]](#) According to local activists and directors of 2 institutions, all institutions in the country have a waiting list.[\[46\]](#)

Instead of transitioning persons with disabilities out of institutions and into the community, Human Rights Watch documented an increase in admissions in the last two years in three out of five institutions visited.

For example, in 2014, two adults left the Stamnica Home for Children and Adults with Disabilities, and six persons were admitted, including one child.[\[47\]](#) As of October 2015, no one had left this institution during the year, while one person was admitted.

In 2015, four children with disabilities were moved from the Sremica Home for children and adults with disabilities and placed in foster care.[\[48\]](#) During the same year, four other children were admitted to Sremica.

In Zveanska, five children and young persons left the institution in 2015. Out of five, three persons were moved to another institution, including the Kulina Institution for

Adults with Disabilities, the only institution from which some children were moved out on the basis of the 2008 Transformation Plan.^[49] At the same time, nine children were admitted to Zveanska, including five babies in 2015.

The government was in the process of refurbishing three out of five large residential institutions^[50] where children with disabilities live and that were visited by Human Rights Watch in October and November 2015.^[51] Some of the renovations were undertaken to improve the living conditions for children and adults living there, for example by building an elevator in the Kolevka Home for children with disabilities in Subotica to facilitate movement within the institution and to the outside.

However, Human Rights Watch found that two isolation rooms were being refurbished in Veternik Institution for children and adults with disabilities, which, according to the director of the institution, are used to separate children and adults from other residents in cases of contagious diseases or until they adapt to the institution.^[52] In March 2014, the Serbian government also opened a newly built institution for children and young people with disabilities in abac, contradicting its previously expressed commitment to community-based living and appropriate support services for all children in the 2008 Plan on Transformation of Residential Social Protection Institutions for Children.^[53] According to Serbias response to the List of Issues for its initial report to the Committee on the Rights of Persons with Disabilities, 55 million Serbian dinars (approximately US\$505,000) were allocated from the national budget to social welfare institutions for accommodation of children.^[54] On April 19, 2016, Human Rights Watch sent a letter to the Ministry of Labour, Employment, Veteran and Social Policy requesting information on the purpose for which the 55 million dinars was allocated and information on how much the Serbian government allocated from the national budget to develop community services and support for children with disabilities and their families. At time of writing, Human Rights Watch had not received a response.

On April 4, 2016, the Ministry of Labour, Employment, Veteran and Social Policy opened a new building inside of the Stamnica Home for children and adults with disabilities, with the capacity of 112 people.^[55] According to the press statement, 66 million Serbian dinars (approximately US\$606,000) were allocated from the national budget for the building of this new complex.^[56]

The Convention on the Rights of the Child (CRC)^[57] and the Convention on the Rights of Persons with Disabilities (CRPD)^[58] oblige Serbia to ensure that children with disabilities are protected and enjoy their rights without discrimination. The treaties require Serbia to consider children with disabilities as members of society with rights on an equal basis as others and to remove barriers that prevent children from full inclusion in society. The Serbian Constitution also protects the right of children to be cared for and raised by their parents.^[59]

Serbia is also a member of the Council of Europe (CoE), and the Councils Committee of Ministers has issued recommendations to states on actions that need to be taken to ensure full inclusion of children and young persons with disabilities into society^[60] and on deinstitutionalization and community living of children with disabilities^[61]

Under the CRC, a child should not be separated from his or her parents against their will, except when such separation is necessary in the best interests of the child.^[62] The Committee on the Rights of the Child, the UN expert body which monitors implementation of the treaty, reinforced this notion, articulating that children with disabilities are best cared for and nurtured within their own family environment.^[63] The Committee has called on States parties to establish programs to deinstitutionalize children with disabilities, returning them to their biological or extended families or placing them in foster care, and providing childrens families with systematic support to include children in their homes.^[64] Parents and other extended family members should be provided with the necessary and systematic support and training for including their child back into their home environment.^[65]

Similarly, under article 23 of the CRPD, children are not to be separated from their families unless it is believed that doing so is in the best interests of the child. Furthermore, the CRPD states: In no case shall a child be separated from parents on the basis of a disability of either the child or both of the parents, and requires States parties, in case the immediate family is unable to care for a child with disabilities, to undertake every effort to provide alternative care with the wider family, and failing that, within the community in a family setting.^[66]

Article 19 of the CRPD further emphasizes the equal right of all persons with disabilities to live in the community, with choices equal to others, and requires States parties to take effective and appropriate measures to facilitate the full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community.^[67]

The UN Guidelines for the Alternative Care of Children state that in order to meet the emotional, social, and other needs of each child living without parental care, states should take all necessary legislative, policy, and financial measures to provide for adequate alternative care options that grant priority to family and community based solutions.^[68]

Young children, especially those under three years of age, should receive care in family-based settings, except in emergency cases or to prevent the separation of siblings, when residential care should be for a limited duration and with planned family reintegration or other appropriate long-term care solution as its outcome.^[69]

The UN Committee on the Rights of Persons with Disabilities in its concluding observations from April 21, 2016, called on Serbia to strengthen its efforts to deinstitutionalize children, [] to prevent any new institutionalization of infant under the age of 3, and to ensure a more efficient transition of boys and girls from institutions into families.^[70]

The Committee also asked Serbia to adopt a comprehensive plan on deinstitutionalization, to stop investing in new institutions, and to allocate resources to enable persons with disabilities to live in the community.^[71]

According to local child and disability experts and institution staff, the majority of Serbian children with disabilities living in institutions have at least one living parent.^[72] Human Rights Watch documented that there are various reasons why children enter institutions and other forms of state care, such as foster care, instead of living with their families and communities.

A key reason for institutionalization is that parents face pressure from medical personnel to place their children with developmental or intellectual disabilities in institutions. Doctors and nurses in Serbia often fail to provide parents with information about their childs health and about access to appropriate services and support groups, instead encouraging parents to place their child with disability in an institution. Lack of health care and support services, poverty, stigma, discrimination, social exclusion and even neglect are other factors why parents may opt to place children with disabilities in institutions in Serbia.

Brankica Jankovi, Serbian Commissioner for Equality, told Human Rights Watch that medical staff, including doctors, often advise parents to place their child with a disability in institutions.^[73] Jasmina ukovi, mother of Julija, a 3-year-old girl born with Apert syndrome, a rare genetic condition characterized by premature fusion of certain skull bones and webbing of the hands and feet, told Human Rights Watch how healthcare workers in a state hospital where she gave birth to her child did not provide her with any information about her childs health. She told Human Rights Watch:

No one came to check on me or talk to me. No one said a word about my child. There I was in the same room with other happy mothers. Pediatricians spoke with them and their children were brought into the room to be breastfed, but it was as if I or my child did not even exist. Some medical nurses would try to comfort me by saying: You will give birth to another child. Dont cry. I dont know why they thought I would find comfort in those words? It is like they immediately wrote my child off.^[74]

Jasmina explained that medical doctors and nurses tried to convince her and her husband to leave Julija in the maternity ward and to have her placed in an institution:

According to Ivana Cerovi, a social worker who works in the Zveanska Center for Protection of Infants, Children, and Youth, children born with serious health problems or disabilities in Serbia are often denied the opportunity to bond with their parents upon birth: In the maternity wards, the practice is that parents do not make physical contact with infants [with disabilities].^[76] Cerovi explained that such practice significantly hinders the establishment of an emotional connection and affectionate relationship between parents and an infant with disabilities. The social worker also confirmed that professional staff in some hospitals instead may be quick to encourage parents to give up on their child with disability:

In 2008, the Ministry of Health, in cooperation with the Ministry of Labor, Employment, Veteran and Social Policy and UNICEF, implemented a project entitled A Childs Place is within the Family. One of the goals of the project was to ensure health care professionals do not advise parents to place their child with a disability in an institution, and instead provide them with information they need on how to care for the child at home.^[78] However, results of a focus group study conducted in 2015 and supported by the EU, UNICEF, and the Ministry of Labor, Employment, Veteran and Social Policy, showed that parents of children with disabilities continue to be traumatized by the way health-care professionals communicate with them, including in informing them that their child has a disability.^[79]

Human Rights Watch also documented that the government often does not provide sufficient information to parents and their children about their rights and the services,

support, and rehabilitation options available to them, or advice on how to meet the needs of their child with a disability. As Ana, a single mother of a 12-year-old girl with physical and intellectual disabilities told Human Rights Watch, As a parent you don't know what you are entitled to, no one informs you about your rights, benefits, support. If you find out something, it is by pure accident. [\[80\]](#)

Ljubia Jovanovi, a family outreach service coordinator, confirmed the lack of information on available options in Serbia:

The attitudes of relatives and their support (or lack of) also play an important role in parents' decision to keep a child with a disability. From our experiences in working with parents of children with disabilities, often the decision on placement of a child in an institution is linked to feelings of shame and stigma. Ivana Cerovi, a social worker at Zveanska Center for Protection of Infants, Children, and Youth explained further. [\[82\]](#)

According to one study in the United States for which parents of children with disabilities were surveyed, the quality of the first information parents receive upon the birth of a child with a disability and the attitude of healthcare workers are key factors that impact the hope parents have for the future of their baby. [\[83\]](#) In the absence of such support, the study found, parents often distance themselves from a child with a disability, and they remain convinced that it is best for the child in an institution not to bond. Parents believe that the child will receive adequate health monitoring and "expert" support in an institution that they cannot provide at home. The study also found parents often mistakenly believe that taking care of a child with disabilities might impair the development of other children in the family. [\[84\]](#)

Human Rights Watch found that families which had children with disabilities did not have access to adequate community services and support, such as health care, psychosocial support, and financial assistance to support children with disabilities and their biological families across Serbia. [\[85\]](#) In fact, according to directors of three Serbian institutions where children with disabilities live, poverty and lack of government-supported services for children with disabilities and their families are key reasons for the placement of children in institutions. [\[86\]](#)

One of the key reasons for placement of children with developmental disabilities in institutions is the lack of community-based health care. According to the information presented by the Serbian government during the review of Serbia by the UN Committee on the Rights of Persons with Disabilities in Geneva, on April 6, 2016, the prevalent reason for placement of children in institutions is the inability of parents to meet the health needs of the child in the community where they live. [\[87\]](#) The government said that 70.5 percent of children placed in institutions are placed because of this reason.

Jasmina and Ivica ukovi, parents of Julija, the 3-year-old girl with Apert syndrome, told Human Rights Watch that the inability to access the necessary and timely health services in their home town, Kragujevac, played an important role in their decision to place their daughter in an institution:

The only two children's hospitals that could provide her with adequate health care are based in Belgrade, which is 120 kilometers away from where we live. So, we thought the best solution was to have her stay in Belgrade where she can easily access adequate health care whenever she needed it.

They added: Julija's teeth are growing very slowly and difficultly and we are wondering what we can do about it. But when we go to a regular dentist, he knows nothing about it. [\[88\]](#)

The Serbian government finances foster care and institutions for children and adults from the national budget, while municipalities have the responsibility to develop and finance community-based support services for families. [\[89\]](#) This results in a large number of children who live in poorer municipalities, or municipalities which have not committed to developing these services, without access to any services. [\[90\]](#) According to local experts and UNICEF, most municipalities lack sufficient funds or commitment to establish quality community services and strengthen existing ones. [\[91\]](#)

For example in 2014, using EU IPA funds (Instrument for Pre-Accession funds), the small group home in Aleksinac had set up a respite service that would give families time off from their caregiver responsibilities and allow their children to socialize with others outside the family unit. [\[92\]](#) However, as IPA funds are limited and the local community decided not to fund it, the respite service is currently not provided. [\[93\]](#)

Ana, a single mother of a 12-year-old girl with physical and intellectual disabilities who currently lives five days a week in an institution and spends weekends at home, said that the existence of community-based respite services where her daughter could spend some of her time would allow her as a single and full-time employed mother to raise her daughter at home. According to a representative from the Ministry of Labour, Employment and Social Policy, the Serbian government is committed to develop respite services for children with disabilities and their families. [\[94\]](#) However, local municipalities have the responsibility to develop and fund these services.

The absence of day care facilities and inclusive schools also contribute to parents feeling they have no choice but to send their child to an institution. Ana also told Human Rights Watch about her struggle to find a day care center where her daughter could spend time while she works:

Ana told Human Rights Watch that she has to cover the cost of her daughters accommodations, amounting to 39,000 dinars per month (approximately US\$356). Under the Law on Social Welfare, in order for the state to cover these expenses, Ana explained she would have to give up her parental rights. I could go and ask to be deprived of parental rights in which case the State would relieve me of all obligations and the State would pay for her accommodations. As long as I keep my parental rights, I must pay for her accommodations. [\[96\]](#)

Human Rights Watch research found that where community services do exist, they are limited in scope. For example, the family outreach service, developed by UNICEF in 2013, which provides support to families where there is a risk of the separation of children from their families, is being implemented in only four major cities in Serbia, with limited financial resources and no long-term sustainability. [\[97\]](#) The family outreach service is currently financed by a private foundation, not by the Serbian government.

Human Rights Watch found that continuity of services is also a real problem. Some good services existed for some time and then ended, a family outreach worker explained. [\[98\]](#) For example, Maja, mother of a six-year-old with cerebral palsy, told Human Rights Watch how the therapeutic sessions offered at the Day Center in Aleksinac that her daughter benefitted from were canceled for a few months in 2015 due to the lack of funding. [\[99\]](#)

Brankica Jankovi, the Commissioner for Equality, and Ljubia Jovanovi, coordinator of the family outreach service at Zveanska Center for Protection of Infants, Children, and Youth told Human Rights Watch that the system of early and continuous support for children and their families is underdeveloped in the country. [\[100\]](#) The importance of early and continuous support for children is not recognized. Early support would significantly reduce the need for support in the future. [\[101\]](#) the Commissioner explained.

Jasmina ukovi, Julija's mother, said:

According to an analysis by the Network of Organizations for Children of Serbia in 2013, family support prior to separating a child from its family was provided in only 15 percent of the cases. [\[102\]](#)

Some parents of children with disabilities as well as foster carers also told Human Rights Watch that they need counseling. [\[103\]](#) A family outreach worker confirmed how the majority of families she supports need psychological support. [\[104\]](#)

Under the Convention on the Rights of Persons with Disabilities, Serbia is obliged to ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, States parties should provide early and comprehensive information, services and support to children with disabilities and their families. [\[105\]](#)

National law protects the right to free and compulsory primary education for all children and the right to free secondary education for all persons. [\[106\]](#) The law guarantees the right to support and an individualized approach if needed. A number of Serbian laws explicitly prohibit discrimination on the basis of disability including the law on education. [\[107\]](#)

However, Human Rights Watch research found that the majority of children and young people with disabilities in Serbia are either segregated in separate schools for children with disabilities or are not given opportunities for education at all. According to the Ministry of Education it is estimated that approximately up to 50 percent of children with disabilities in Serbia are not enrolled in schools. [\[108\]](#) In the 2015/2016 school year, 6,217 children were enrolled in special schools, according to the Ministry of Education. [\[109\]](#) In addition, there were 250 special classrooms within mainstream schools for 1,474 children with disabilities. [\[110\]](#)

The right to live in the community for children with disabilities, as guaranteed by the Convention on the Rights of Persons with Disabilities, also involves being able to attend school, access healthcare in the community, and enjoy play and leisure activities on an equal basis with other children.^[111]

Inclusive education focuses on ensuring the whole school environment is designed to foster inclusion, not segregation.^[112] This includes the right to access quality learning, which focuses and builds children's abilities, and for children to be provided with the level of support and effective individualized measures required to facilitate their effective education.^[113]

In Serbia, most mainstream kindergartens and schools continue to be inaccessible for children with disabilities, particularly children with developmental or intellectual disabilities. Many schools also refuse to admit children with disabilities on the basis that they do not have the resources or skills to educate them.^[114]

Lidija Bukvi, a family outreach worker, told Human Rights Watch that in her experience, local primary schools often refuse to enroll children with disabilities despite being legally obliged to do. She said, I worked for a month on enrolling a child in her local school. When the school finally enrolled the child, it was a struggle to keep her in school. The teacher would continuously complain to me saying, I don't know how to deal with her.^[115]

In an April 28, 2015 letter to Human Rights Watch, the Ministry of Education acknowledged the uneven quality of support provided to children with disabilities in mainstream schools, but rejected reports that children with disabilities are denied enrollment: the Ministry does not have information about whether any school has refused to enroll a child with developmental disorders or disabilities, or any other child from vulnerable groups.^[116] The Ministry said that there have been rare instances where there was resistance to enrollment, but that there are mechanisms in place on how to address such situations.^[117]

Human Rights Watch found that children with disabilities who live in the community spend the majority of their time in day care centers (so-called living rooms) or at home. In principle, the development of day care centers is a positive step in providing support and accommodation during the working hours of parents, and as a support service to schools. For example, Zveanska Center for Protection of Infants, Children, and Youth established such a day care center with the primary purpose of facilitating the inclusion of children with disabilities who already live with their families in kindergartens or schools and to facilitate family reunification for children who live in the institution. For example, according to Ivana Cerovi, the social worker at Zveanska Center for Protection of Infants, Children, and Youth, when they started the day care center in 2014 the majority of children who came to the center were not enrolled in schools.^[118] The program was able to help 60 percent of them enroll in kindergartens or schools.^[119] Day care centers prepare an individual plan for each child, working with the child, the family, and the wider community (kindergartens or schools) on inclusion in the society and enrollment in special and mainstream schools.

Day care centers, however, should not become a substitute for enrollment in school.^[120] According to local experts and UNICEF, most day care centers in Serbia are places where children and adults with disabilities who do not go to school or hold a job spend their time.^[121] These centers are only for children and adults with disabilities, further segregating and isolating them.

Children who live in small group homes in Belgrade and Aleksinac are included in the education system. However, even in this case, all children go to special schools exclusively for children with disabilities rather than in mainstream schools for all children. Of the children and young people who live in the small group home in Ni, four children go to special schools and seven children receive education inside the home.^[122]

Of the 48 children and families interviewed for this report, Human Rights Watch met only two children, a 12-year-old girl with an intellectual disability and a 12-year-old boy with psychosocial disabilities, who live with their birth and foster families and attend mainstream schools.

According to Serbian law, parents or legal guardians of children with disabilities make the decision on whether a child will attend mainstream or special school.^[123]

Four birth and foster parents told Human Rights Watch they decided to enroll their child with a disability in a special school out of fear that the child will be neglected and will not receive quality education in a mainstream school. One of such parents is Maja, a mother of a six-year-old child with cerebral palsy who is also a teacher in a mainstream school, who told Human Rights Watch: There are 30 children in my classroom. It is literally impossible to have an individual approach with every child. I would rather have my daughter get the attention and support she needs to thrive in special school than to languish in a general school.^[124]

Nevena, foster parent of Milo, who is deaf, told Human Rights Watch how Milo also attends a special school for children with hearing difficulties. She believes it is her only choice, saying, Inclusive schools exist only on paper in Serbia.^[125]

In the letter to Human Rights Watch, the Ministry of Education said it does not have information on the number of children with disabilities who are enrolled in schools in their communities. The ministry recognized the need to improve data collection, and provided information on concrete steps taken to improve data collection on children with disabilities and their right to access education.^[126]

As a positive step, the Serbian government has developed a service of personal escorts for children with disabilities who assist the children with transportation between school and home, and provide assistance in their daily activities at school. The Ministry of Education told Human Rights Watch that according to its data 709 children with disabilities in Serbia use this service^[127] but also recognized the need to scale it up: On an almost daily basis, parents approach the competent authorities with requests for this type of support which some local self-administration units unfortunately still cannot fund to a sufficient extent.^[128]

The Ministry of Education in cooperation with UNICEF has also developed a hotline service for parents of children with disabilities.^[129] The hotline service is implemented by the nongovernmental organization VelikiMali and provides parents with an opportunity to access information on services available for children with disabilities. According to the Ministry of Education, parents usually have questions on how to access personal escorts and access to education such as the process of enrollment in mainstream and special schools and how to move children from special to mainstream schools.^[130]

She has made our family complete.

-Suzana, a foster parent of Marina, a four-year-old girl with developmental disabilities^[131]

Serbia is developing and promoting foster care through Centers for Family Placement as an alternative to institutionalization. As of November 2015, 808 children with disabilities lived in foster care. Ongoing work includes broadening foster care services for children with disabilities across Serbia. Each foster family is supported by a foster family associate, who is responsible for supporting and counseling the families as well as supervising foster parents.

Human Rights Watch visited and interviewed three foster families in Belgrade and Nis, each of whom is fostering one child with a disability. Two of the children previously lived in institutions and one child had lived with her birth family. Human Rights Watch also interviewed one of the children currently placed in foster care and one foster family associate.

Nevena, Milo's foster parent told Human Rights Watch how she decided to become a foster parent after volunteering in an institution. Children who live in institutions don't have anyone but their caregivers who are responsible for a large number of children. I wanted to give one child more stability, more love, a family, Nevena said.^[132] Nevena said she met Milo in the institution where she volunteered when he was just 18-months-old. She told Human Rights Watch, He was diagnosed with autism, no one knew what to do with him. It took me eight months to get him to smile. It was only when he was two that it turned out Milo is not autistic, but deaf.^[133]

Suzana, a foster parent to Marina, a four-year-old girl with developmental disabilities, told Human Rights Watch how it was impossible to touch the girl when she first came to their home from an institution three years earlier:

Spomenka Savi, a foster family adviser, who worked previously for 20 years in an institution, said the care and love children receive in foster care is incomparable: In institutions, it was group work. We couldn't develop love like these parents do, she said.^[135]

However, according to local experts, children with disabilities are more likely to be put in alternative care arrangements than receive support in their birth families.^[136] For example, Selma Atovi, a family outreach worker, told Human Rights Watch:

According to family outreach workers and institution staff, a significant proportion of children in Serbian institutions are there because their families are poor and do not have the resources to meet their child's basic needs.^[138] Parents should never feel that they have no choice but to place their children in care because of poverty. Instead the state should provide parents access to social and economic support in order to safeguard and protect their family and the rights of the child.

According to the Rulebook on Foster Placement, a child who is separated from her or his family will be placed in foster care following the assessment of the suitability of the child for foster care.^[139] The assessment includes the circumstances in which a child lives and the individual characteristics and needs of a child.^[140] According to a family outreach worker, a child with a disability will often be declared unsuitable for foster care due to the disability.^[141] Historically there has been insufficient oversight and monitoring to ensure adequate protection of children living in foster families. Human Rights Watch interviewed five young people with disabilities placed in foster care five to six years prior to the Human Rights Watch visits, who reported experiencing physical abuse, including one case of sexual abuse, while in foster care.

Dobrila Gruji, director of the Center for Foster Placement in Belgrade told Human Rights Watch that a foster family adviser is obliged to visit a child in foster care once per month and is obliged to report on the well-being of the child.^[142]

Concerning the supervision of foster families, Nevena herself currently a foster parent, said:

Foster care in Serbia is also currently provided as the main option for relocating children out of institutions. There is insufficient effort to reunite children with disabilities with their birth families and support birth families in raising children with disabilities.^[144] For example, Ivica ukovi, Julijas father, explained:

In addition, the Rulebook on Foster Placement obliges the centers for social work to support birth families with the aim of rehabilitating and supporting parents so they can care for their child.^[146] However, according to local experts, there is a lack of efforts towards supporting birth families so they can meet their childrens needs and be reunited.^[147]

Human Rights Watch research found that a parent of a child with high support needs who lives in the community often stays at home to care for the child, forfeiting paid employment and placing financial strain on the family. At the same time, a parent in Serbia cannot be recognized as the caregiver of their child with disabilities in the same way as a foster parent, meaning that a parent cannot be compensated for taking care of a child with disability. This also often means that the family has difficulty paying for the necessary therapeutic services, medication, or transport to appointments. The lack of these services and supports can compel some parents to reluctantly place their child in an institution.

Based on interviews with children and young people with disabilities, institution staff, and activists, as well as visits to five institutions, Human Rights Watch found that children and young persons with disabilities experience a range of situations in Serbian institutions in which their human rights are violated.

These include segregation and seclusion, neglect, lack of privacy, insufficient safeguards, involuntary and potentially inappropriate medical treatment, lack of education and play, denial of legal capacity upon reaching adulthood, and limited freedom of movement.

Many children and young people with disabilities in institutions are confined to cribs or beds all day, seven days a week, in so-called wards for the most severely disabled, a term used by institution staff. In both the Stannica Home for Children and Adults with Disabilities and the Veternik Institution for children and adults with disabilities, children were confined to cribs in the same room and wards as adults. In Stannica, where 7 children and 57 adults with disabilities live in the ward for the most severely disabled, up to 17 people lived together in one room.

In the Kolveka Home for children with disabilities, up to 30 children with developmental and intellectual disabilities, including newborn babies, were confined to cribs in rooms without natural light or fresh air. There were no windows in the rooms, no space for children to play, and apart from the cribs there was no other furniture in the room. Up to 11 children lived together in one room, with one caregiver responsible for all of them. None of these children attends school.

In the same ward, but in a separate room, Human Rights Watch met a seven-year-old Roma boy with intellectual and physical disabilities, who is also HIV positive. Institution staff explained that he does not go to school and is not allowed to eat or play with other children because of the fear that he could infect other children: We had a girl with him for a while, but then we took her out because we were worried about her safety. We worried they could scratch each other.^[148] He has been living in this institution since he was one year old.

According to the staff, children and young people who live in the wards for the most severely disabled in Kolveka and Stannica institutions have little to no movement within the institution, time outside, or interaction with the community. A psychologist in Kolveka explained: These children never go outside because we are on the second floor and they cannot walk.^[149] Institution staff in Stannica explained that it is difficult for people from the ward for the most severely disabled to go outside because only four caregivers are responsible for 64 people who all need assistance with movement.^[150]

According to the nations Ombudsperson, the situation was the same for children and adults who live in the ward for the severely disabled in Veternik Institution for children and adults with disabilities in 2014.^[151] During Human Rights Watchs visit to the Veternik institution in October 2015, the staff explained that, following recommendations issued by the Ombudsperson,^[152] children and young people who lived in the ward for the severely disabled were moved from the upper floor to the ground floor in July 2015 to make it easier for caregivers to take them outside.^[153] Human Rights Watch could not verify whether this resulted in children with high support needs indeed spending time outside.

In two institutions visited, Human Rights Watch found that staff put children in isolation rooms. The staff explained that the purpose of isolation is to ensure that children do not carry contagious illnesses into the institution or to help them adapt to the institution.^[154] For example, a Human Rights Watch researcher found one child confined to an isolation room in Veternik where, according to the staff, he sleeps, eats, and uses the toilet. The isolation room had a small twin size bed with white sheets, there were no personal belongings, toys, or any other furniture, and the boy was dressed in a white hospital gown. The toilet inside of the room was separated from the sleeping area. There was no space for the boy to play or run around. According to the director of the institution, a medical nurse is present in the room with the child and a child usually stays in an isolation room up to five days.^[155]

The 2006 UN World Report on Violence Against Children identifies nonphysical forms of violence typically inflicted on children that can be detrimental to a childs psychological development and well-being to include persistent threats, insults, name-calling, ignoring, isolation, rejection, threats, emotional indifference, and belittlement.^[156]

The biggest problem is lack of staff. We have 4 special education therapists, 10 rehabilitation therapists, and 4 work instructors for 300 plus people. One caregiver is responsible for 20 people.

Specialized educator, Stannica Home for Children and Adults with Disabilities, October 21, 2015

Lack of individualized attention from caregivers is a significant problem documented in all large institutions Human Rights Watch visited, in many cases leading to neglect. Research has shown that the absence of a one-to-one relationship with a primary caregiver is a major cause of harm to a childs development and attachment disorders.^[157]

The lack of individualized attention is likely due in part to the lack of personnel to care for large numbers of children and adults with disabilities. A significant factor contributing to such a low number of staff in Serbian institutions is due to the governments decision to freeze recruitment in the public sector as of December 2013.

For example, in Stannica Home for children and adults with disabilities, in the ward for the most severely disabled, there were four caregivers and one nurse for 64 children and adults with disabilities. Other than taking care of basic needs such as bathing, diaper changes and feeding, there is little time for individual care or interaction with the children. For example, staff in Kolveka Home for children with disabilities explained that the primary role of the scarce caregivers in the institution is to provide nursing and physical care.^[158] The vast majority of children living in this ward are not toilet trained and could not eat by themselves and were instead fed by nasogastric tubes.^[159]

Human Rights Watch found most babies and children living in Kolveka Homes ward for the most severely disabled lying down on their back, staring at the ceiling or wall, with no stimulation or interaction. In one of the rooms, Human Rights Watch found a 15-year-old boy with untreated hydrocephalus, lying motionless on a bed on his back.

Institution staff recognized the lack of individual time they can provide to children with disabilities. For example, Ana Tomaevi, director of Stannica, told Human Rights Watch, All of them need affection and attention but they cannot receive it here.^[160] A social worker in Veternik Institution for children and adults with disabilities explained, We are only two compared to 540 residents. In what way can we devote individualized work?^[161]

In addition to overall low numbers of staff, in all institutions visited the staff complained about the lack of qualified personnel for much-needed services including, variously, child psychiatrists, psychologists, speech therapists, and physical therapists.

Human Rights Watch found that many children and young people with disabilities in Veternik, Stamnica, and Kolevka institutions wear diapers and are not toilet trained. This is particularly the case with children and adults in the wards for the most severely disabled, but Human Rights Watch observed children in other wards wearing diapers as well. Diapers are in short supply with only two diapers per person/child per day in all institutions visited.

Toilet training any child requires patience and individualized support and can be a challenging and time consuming task for overwhelmed caregivers in Serbian institutions. However, just as with learning to feed and dress oneself, becoming toilet trained is an important step in personal independence for children.

Human Rights Watch research revealed that in the complex of the Stamnica institution where children and young people with disabilities live there were no doors or means of privacy separating the toilets in the bathroom. There were also no showers and the institution staff and the children told Human Rights Watch that they use water hoses to bath the children. Two institution staff explained that the reason why there are no showers is because residents broke them.[\[162\]](#)

In two other large institutions visited, there were no doors or curtains separating the showers in the bathing facility.

In the Veternik Institution for children and adults with disabilities, a Human Rights Watch researcher observed that in addition to no separation in the bathing and toilet facility, there were no doors on several rooms where children with disabilities live, giving residents very limited privacy. Two brothers in their early twenties who have lived in Veternik since they were children told Human Rights Watch that the doors were taken down a long time ago, We would love to have doors to our room.[\[163\]](#)

In Stamnica, several bedssometimes up to threewere pushed together, and some beds had thin mattresses even though residents who lived in this ward could not walk and spent the majority of their days lying down. Institution staff stated that they would push three beds together, so that the person in the middle does not fall down out of the bed.[\[164\]](#) This arrangement grants the person in the middle no privacy or personal space.

Human Rights Watch did not document any evidence of regular or widespread physical or psychological violence by staff against children with disabilities in institutions, nor evidence of the resorting to abusive use of physical restraints on children. However, interviewees did report incidents of such abuses that had taken place a number of years before Human Rights Watch's visit. Human Rights Watch notes that in 2012, the Serbian government adopted the Rulebook on Prohibited Practices of the Employees in Social Protection,[\[165\]](#) which specifically prohibits all forms of violence by employees in social welfare homes against residents, including physical, sexual, and emotional abuse. The rules further prohibit exploitation of residents, abuse of trust or power that institution staff enjoy in relation to residents, and any other practices that distort the health, dignity, and development of residents. This document stresses the need for the protection of children.

Declining number of incidents may be as a result of the enforcement of the rulebook.

However Human Rights Watch is concerned that given the conditions observed in several institutions and the absence of effective safeguards including no confidential complaint mechanism for people with disabilities in institutions, and a lack of independent and periodic monitoring of institutions - creates a risk that such abuses could still occur with impunity despite the rulebook.

Interviewees told Human Rights Watch about seven instances of various forms of psychological or physical violence by staff that are alleged to have occurred between three and five years prior to the visit of Human Rights Watch, as well as two recent alleged cases. Likewise, children and young people with disabilities also described the use of physical restraints by institution staff, which could often be for a whole day, that mainly took place a year or more prior to Human Rights Watch's visits to the institutions. For example, Nenad, a 20-year-old man in Veternik institution, reported being restrained on different occasions three or four years prior to Human Rights Watch's visit: They tied my feet and hands to a bed. It was awful. Made me extremely sad. I was tied like that for an entire day.[\[166\]](#)

Two women told Human Rights Watch they witnessed staff using physical restraints on other residents. There was this one resident Zlatko who would often be forced on to the bed and then they would tie him. He would stay like that for two or three hours, one of the two women told Human Rights Watch.[\[167\]](#)

One medical doctor in Stamnica institution told Human Rights Watch that the policy in that institution is that physical restraints can't be used for longer than two hours at a time.[\[168\]](#) Serbian law neither regulates nor prohibits the use of physical restraints in social welfare homes and according to a representative from the Ministry of Labour, Employment, Veteran and Social Policy and institution staff, every institution has its own rulebook on the use of physical and chemical restraints. Human Rights Watch requested to see the relevant rulebooks during each visit to the various institutions, but was never shown any.

Human Rights Watch also observed that some institution staff used derogatory language when speaking to children and young people with disabilities. For example, some staff who spoke to Human Rights Watch stated that the children have no potential to learn or go to school. Three staff remarked that no one wants them in the presence of the children.

As a party to the Convention against Torture, the CRC, CRPD, and the European Convention on Human Rights (ECHR), Serbia is obligated to protect children with disabilities from all forms of violence and from torture or inhuman or degrading treatment.[\[169\]](#) Serbian national law prohibits inhuman and degrading treatment and guarantees all citizens in state care the right to humane treatment.

The CRC states that children should be protected from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, [and] maltreatment or exploitation.[\[170\]](#) The European Court of Human Rights has repeatedly held governments responsible for failure to protect children from violence and neglect, whether in a domestic situation or in state care.[\[171\]](#)

As part of its efforts to protect persons with disabilities from all forms of violence, as stipulated in the CRPD, States parties should provide persons with disabilities and their families and caregivers with information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. Protection services should be age, gender, and disability sensitive.[\[172\]](#)

The UN special rapporteur on torture has held that both seclusion and restraint can amount to torture or cruel, inhuman, or degrading treatment when used against people with disabilities in certain circumstances.[\[173\]](#)

Under the CRC and the CRPD, Serbia should also ensure effective monitoring and mechanisms for reporting abuse. Under the CRC, States parties should ensure that children enjoy safe and effective means of reporting maltreatment. The CRC also guarantees children the opportunity to be heard in any judicial and administrative proceedings that affect him or her, either directly or through a representative or other appropriate body. States parties to the Convention on the Rights of Persons with Disabilities are obligated to monitor the conventions implementation, including in all institutions and programs serving children with disabilities.

In its concluding observations from April 21, 2016, The UN Committee on the Rights of Persons with Disabilities called on the Serbian government to protect persons with disabilities in all institutional settings from violence, abuse, and ill-treatment of any kind.[\[174\]](#)

They force me to take pills every day, during breakfast, lunch, and for dinner. In case I resist, they open my mouth with their hands and put in pills. Some of them are orange; others are white. I don't know what they are for. They never said what they are for. Maybe they are for insanity. When I lived in another institution I didn't have to take pills. Why do I have to take these now? My head hurts from these pills.

-Nenad, a 20-year old man with intellectual disability, October 2015

In all of the institutions visited, Human Rights Watch documented numerous cases of potentially inappropriate or forced medical treatment and intervention given to children and adults with disabilities.

Human Rights Watch documented that several medications, including psychotropic medications, are used on children with disabilities in Serbian institutions and small group homes, apparently as a means of dealing with behavioral issues, without the oversight or review to ensure the treatment is necessary and administered in line with the rights of children with disabilities to the highest attainable standards of health.

Staff at all five institutions visited told Human Rights Watch that the majority of children and young people with disabilities in their institutions are prescribed

psychotropic medications.^[175] Mihajlo, a 17-year-old boy who lives in a small group home with thirteen other children and adults told Human Rights Watch: Everyone who lives here except for me and another girl are on medications for their nerves.^[176]

In three institutions, Human Rights Watch documented that many children were given combinations of the following medications: Largactil (an antipsychotic), Rivotril (a benzodiazepine), Mendilex (an anti-cholinergic), Rissar (atypical antipsychotic), Lorazepam (a benzodiazepine), Diazepam (sedative), and Amitriptyline (antidepressant).^[177]

According to Serbian website lekovi.org, which provides a list of approved medications in Serbia, Mendilex is not recommended for the use in children, Lorazepam is not recommended for children under the age of 12, and Amitriptyline is not recommended for children under the age of 16.^[178] According to the Medicines and Medical Devices Agency of Serbia, the safety and effectiveness of Mendilex in children have not yet been tested.^[179]

According to the American Academy of Child and Adolescent Psychiatry, the use of psychotropic medications in children and adolescents may lead to adverse effects on neurological development, personality and character, including weight gain or movement disorder.^[180] Alternative interventions to medications are especially important when there are serious side effects that occur.

Staff in institutions, including medical staff, stated that psychiatric drugs are in many cases prescribed to prevent children from harming themselves or from being aggressive to others, and also to control the behavior of children. The Ministry of Health told Human Rights Watch, in response to its concerns about the overreliance on the use of psychotropic medication to control the behavior of children, that:

Ivana Cerovi, a social worker at Zveanska Center for Protection of Infants, Children, and Youth explained how members of staff are supposed to respond to children in case of self-harm or aggressive behavior, and when a decision to issue medication may be taken:

Our research, however, suggests that quick resort to medication to control behavior may be more common in the institutions we visited.

For example, a 19-year-old woman with psychosocial disability told Human Rights Watch that she had observed that staff were quick to use medication to address aggressive behavior in the institution where she lives:

A medical doctor in Sremica Home for children and adults with disabilities explained that, according to institutional policy, physical restraints are not allowed in the institution in the case of behavior considered to be harmful or aggressive: We use drugs in case of self-harm. We regulate this [self-harm or aggressive behavior] by medication, not restraints.^[184]

A physician in one institution explained, Most of them are prescribed psychiatric drugs because of behavioral outbursts.^[185] Staff member in another institution said, Children are being prescribed medicines to stabilize them in a neurological way.^[186]

Staff in institutions can administer medication at their own discretion, due to standing prescriptions from psychiatrists allowing the administration of the medications as needed.^[187]

Staff in institutions also recognized the lack of knowledge on alternatives to support children or adults who may be exhibiting self-harming or otherwise undesirable behavior as perceived by staff. For example, an educator in a small group home, told Human Rights Watch, We need more information and feedback on what to do in cases of aggression and attacks. We do have those challenges.^[188] A staff member in Zvecanska Institution acknowledged that, Usually aggression is a sign that the child is craving something. That we need to pay more attention to the child.^[189]

Staff in two institutions visited stated that the lack of staff contributed to overreliance on high dosages of psychotropic medication for children, as a means for small numbers of staff to manage a large number of children and adults. A psychologist from Kolvevka Home for children with disabilities told Human Rights Watch, Maybe medications would be reduced if we had more special education therapists (or experts trained in how best to support children with disabilities).^[190] The doctor from the institution in Sremica had a similar view: There is one special education therapist per 25 residents. It is impossible to devote [time to each child]. An individual approach is simply not possible. The need for psychotropic drugs would be significantly reduced if we only had more people on staff.^[191]

All five institutions visited by Human Rights Watch had a physician and medical nurses on staff. Veternik Institution for children and adults with disabilities had a psychiatrist and a dentist as well. Other institutions do not have a psychiatrist on staff. Medical personnel and caregivers in these institutions and small group homes are allowed to administer sedatives and other psychiatric medications as prescribed by a psychiatrist.^[192] According to the institution staff, psychiatrists visit the institutions every second week or once per month to examine the children and make adjustments to their medications.

According to the Ministry of Health, there is no independent and periodic monitoring of medical treatment, including prescriptions, for children and young people in institutions.^[193]

The UN Committee on the Rights of Persons with Disabilities called on Serbia to prohibit all forms of coercive treatments against adults and children with disabilities, including physical and chemical restraints as well as excessive antipsychotic therapy and isolation.^[194]

Eight children and young people told Human Rights Watch about being either forced to take medication or feeling they have no other option but to take medication given to them by their caregivers.

Six children and young people interviewed complained about headaches or stomach pain due to the medication they take: I must take drugs for sleep and my nerves. Every single day. I always feel awful afterward.^[195] One 20-year-old woman with intellectual disabilities told Human Rights Watch about being forced to take medication against her will: I must take sleeping pills to help me with my nerves and pills for epilepsy. First they ask me to take pills and if I refuse, they will force me by holding me down to swallow them.^[196]

Human Rights Watch sought clarity from authorities with respect to who according to Serbian law should give consent for medical treatment of children with disabilities in institutions, but did not receive any relevant information. Human Rights Watch is concerned at this apparent lack of clarity, and, from what it observed, a failure to provide children with adequate information about the medication or the opportunity to participate in decisions about what medication they should take. At a minimum, steps should be taken to explain to the child what the medication is, why it is necessary and appropriate, and the potential side effects.

While international law recognizes that children can be given treatment on the consent of a parent or a guardian, article 12 of the Convention on the Rights of the Child also highlights the importance of children's participation, providing for children to express their views and to have such views seriously taken into account, according to age and maturity.^[197] The Committee on the Rights of the Child, in its General comment on the right of the child to the enjoyment of the highest attainable standard of health, explained that article 12 includes views of children on all aspects of their health, including, for example, what services are needed, how and where they are best provided [].^[198]

The Committee further noted that children who are particularly vulnerable to discrimination are also often less able to exercise their autonomy to decision-making on their health issues.^[199] The Committee recommended development and implementation of supportive policies so that children, parents and health workers have adequate rights-based guidance on consent, assent and confidentiality.^[200]

Finally, the Committee warned against over-medicalization and institutionalization of children with psychosocial disabilities, and urged governments to undertake an approach based on public health and psychosocial support to address mental ill-health among children and adolescents and to invest in primary care approaches that facilitate the early detection and treatment of children's psychosocial, emotional and mental problems.^[201]

Medical staff at three institutions told Human Rights Watch about invasive medical interventions conducted on young women with disabilities to prevent or terminate pregnancy and for cancer screening. They acknowledged carrying out these procedures without the free and informed consent of these women but said their guardians had given consent. Under Serbian law, healthcare providers do not need to obtain consent of a person who is stripped of legal capacity and placed under guardianship.^[202] The interventions included the insertion of intrauterine devices (for birth control), administration of pap smear tests (Papanicolaou test, a screening procedure for cervical cancer), and termination of pregnancy. According to the staff, some women were put under general anesthesia for some of the procedures to ensure they would not resist.^[203] --the use of general anesthesia for these medical procedures is unusual and unnecessary. It is unclear whether any efforts were made to engage the women in

discussions about these medical interventions.

For example, when Human Rights Watch researchers asked the doctor in Sremica Home for children and adults with disabilities if there were any efforts to engage and get the informed consent of the woman whose pregnancy was terminated in 2014, the doctor said, Her consent was not required, just the consent of the guardian. Her sister is her guardian and she gave the consent.^[204] The same doctor told Human Rights Watch that 20 young women living in Sremica Home for children and adults with disabilities have intrauterine devices for birth control, with the guardians consent: Currently, two other women are in the process of getting intrauterine devices.^[205]

Doctors in three institutions explained that they put the women under general anesthesia if they do not consent to a medical intervention: When female residents dont cooperate, for example, during a sonogram or the administration of a Pap smear test, you have to put them under anesthesia to conduct the intervention.^[206] Another medical doctor told Human Rights Watch that sexual relationships are not prohibited but that the reproduction is controlled, The last time we had someone pregnant was in 1997.^[207]

In an April 2016 meeting with the Ministry of Health of the Republic of Serbia in Geneva, Switzerland, Human Rights Watch raised concerns about involuntary interventions against women with disabilities who live in institutions. Vladimir Cakarevic, from the Ministry of Health, told Human Rights Watch, According to Serbian law, we only need the consent of the guardian to perform any medical interventions for people stripped of legal capacity.^[208]

The UN Committee on the Rights of Persons with Disabilities recommended that Serbia should investigate and prohibit all medical interventions without the prior consent of persons with disabilities and to provide sufficient remedies and compensation to those subjected to such procedures.^[209] The Committee further urged Serbia to take all necessary measures to ensure their right to free, prior and informed consent for any kind of treatment that may affect a person with a disability, regardless of her/his legal capacity.^[210] Support for decision-making regimes for persons with disabilities should be provided when necessary.^[211]

As a sign of the seriousness with which the Committee approaches this issue, it required Serbia to report back by April 2017 on the steps taken to fulfill these specific recommendations.^[212]

I used to go to school, but since I arrived here seven or eight years ago, I stopped.

Miroslav, 17-year-old boy with physical and intellectual disabilities, Stamnica Home for Children and Adults with Disabilities October 2015.

Children and young people with disabilities living in institutions in Serbia have little or no access to education. Children who do receive education attend specialized schools or classrooms only for children with disabilities. Some children receive education within the institution. The majority of children in the wards for the most severely disabled do not receive any education.

For example, none of the 22 children and 69 young people with disabilities in the Stamnica Home for Children and Adults with Disabilities attend school. We put the television on or they spend their time in the workshop [drawing or learning life skills], a caregiver working in the institution explained when describing how children spend their days.^[213]

Human Rights Watch researchers visited all institutions during school hours and found a large number of primary and secondary school age children in the institution, rather than at school. In most cases, institution staff claimed that the childrens health was too fragile for them to be in school. However, some institution staff recognized the problematic exclusion of children with disabilities from education: Not all children go to school every day. For example, there is this one boy who goes only once per week. It doesnt make any sense to me, but thats what the school decided, she explained.^[214]

In four of the institutions visited, Human Rights Watch found that many children are excluded from school because they did not start early enough, according to the staff. Staff at Kolveka Home for children with disabilities explained that many children between the ages of 13 and 15 do not go to school because they are now beyond the age to enter school.^[215] Human Rights Watch, for example, met Ivana, a 14-year-old girl with autism, in Kolveka Home for children with disabilities. The caregiver explained, She doesnt go to a school at all because they didnt send her when she was younger and now it is too late. There are a lot of children like that. Out of 167 children who live in Kolveka, only 23 go to school.^[216]

Under the Law on the Fundamentals of the Education System, every child from the age of 6 years and six months to 7 years and six months must be enrolled in school. A child older than 7 years and six months can be enrolled in first or another relevant grade following a knowledge test. ^[217] According to the Ministry of Education, every child can and must be enrolled in school, regardless of whether the child started on time.^[218]

According to disability experts in Serbia the more severe the disability the lower the likelihood a child who lives in an institution would be included in the education system. Staff in institutions often told Human Rights Watch that only children with better prospects will be included in schools and preschools: For those deemed to be able to go to school, they are in school. First, we included the best children. We cant include them all.^[219]

Human Rights Watch did meet some institution staff that seemed to put a great effort to include children with disabilities in schools, in the face of resistance from school personnel. For example, a psychologist from Kolveka told Human Rights Watch, When we first were trying to enroll children in schools, the teacher from the special school said, Well just come to the institution and teach the children. We said no, they should go to school itself.^[220]

The Serbian delegation to the UN Committee on the Rights of Persons with Disabilities reported that only 40 percent of all children with disabilities living in Serbian institutions are included in the education system.^[221] Children with disabilities who are enrolled in schools are enrolled in segregated settings and go to special schools for children with disabilities. For example, out of 49 children with developmental and intellectual disabilities who live in Sremica Home for children and adults with disabilities, 32 are included in special schools some 10-20 kilometers away from the institution. This is despite the fact that there is a mainstream school located just across the street from the institutions building. According to the director of the institution, the reason why children dont go to the mainstream school in their community is due to the lack of capacity within the school: Teachers are not trained to work with children who have intellectual or psychosocial disabilities.^[222]

In a letter to Human Rights Watch dated May 19, 2016, the Ministry of Education recognized the need to include children who live in institutions in the education system and explained that this is envisaged in the 2016 work plan of the Ministries Group for Social Inclusion.^[223] The Ministry explained that the first step was to collect accurate data on children who are excluded from the education system.

In response to Human Rights Watchs concerns about accountability for guaranteeing all children with disabilities, including those living in state institutions, access to inclusive education, the Ministry of Education wrote to Human Rights Watch:

Human Rights Watch documented that the majority of children who are enrolled in school do not spend more than two to three hours per day in school or attend school only a few times per week. For young people with disabilities, secondary education is not widely available and, where it is available, it is limited to vocational training. For example, in Kolveka Home for children with disabilities the oldest child to be enrolled in the education system is a 12-year-old. We hope in the future some of the children will be able to go to secondary school. There is basic vocational training in some places, to learn to be a florist and things like that.^[225]

According to the director of the small group home in Aleksinac, there is no secondary education available for children who live in the small group home. ^[226]

International human rights law makes clear that all children have a right to free, compulsory primary education, free from discrimination.^[227] The CRC guarantees the right of the child to education, progressively and on the basis of equal opportunity.^[228] The CRPD guarantees persons with disabilities access to inclusive primary and secondary education in the communities where they live. Reasonable accommodation of individuals educational requirements should be provided.

The Office of the High Commissioner for Human Rights, the United Nations human rights agency, states that:

Serbia has adopted laws committing to respect and fulfill international and regional obligations to provide free, compulsory primary education available to all children on an equal basis. The Serbian Law on the Fundamentals of the Education System prohibits discrimination against persons with disabilities in access to education. One of the laws key principles is to ensure opportunities for children, students, and adults with disabilities, regardless of their financial status, to gain access to all levels of education in institutions, and for persons living in social welfare institutions, sick children and students, to exercise their right to education while in an institution, hospital or receiving treatment at home.^[230] The 2015 amendments to the law further introduced an obligation to reduce drop-outs from schools, especially for persons with disabilities in accordance with the principles of inclusive education.^[231] The law further sets minimum inclusive education standards, such as specialized teacher

education,^[232] reasonable accommodation,^[233] and other curricular changes^[234] to ensure that children with disabilities are included in schools.

The law recognizes the right of children with disabilities to inclusive education within the regular system with individual or group additional assistance or in special preschool group or school.^[235]

The Strategy of the Education System 2020, adopted in 2012, reiterates the right to inclusive education, equal opportunities for all children, non-discrimination, inclusion, enrollment of all children, the best interest of the child, individual educational plans, expert teams for inclusive education and support teams for children, inclusion of parents in the planning, realization and evaluation of individual plan of support and cooperation with local community.^[236]

The Action Plan for Inclusive Education for the period 2016 - 2020, which includes transformation of special schools for children with disabilities and special classes in mainstream schools, is yet to be adopted by the government.^[237]

In April 2016, the Committee on the Rights of Persons with Disabilities urged Serbia to give special attention to children with multiple disabilities and children with disabilities who live in institutions in the Action Plan.^[238] Specifically, the Committee asked Serbia to take immediate steps to ensure that all persons with disabilities have access to inclusive and quality primary, secondary and tertiary education and that reasonable accommodation, in accordance with established individual education plans, is provided in mainstream education.^[239] It further recommended training on inclusive education for teachers and other education professionals and urged Serbia to make all secondary and tertiary education facilities accessible: The Committee stressed that denial of reasonable accommodation constitutes discrimination.^[240]

Under Serbian law, a legal guardian is responsible for protecting and caring for the child, including taking care of a child's upbringing and education.^[241] The guardian is also required to keep in mind the child's best interests and must visit the child and directly report about conditions in which a child lives to the Center for Social Work.^[242] Guardians can be family members, friends, or directors of institutions and staff at the Centers for Social Work. The latter option a staff member of the Centers for Social Work acted as guardians for the majority of children and young people with disabilities in institutions Human Rights Watch visited.

According to local activists, institution staff, and children and young people with disabilities interviewed by Human Rights Watch, guardians almost never visit or interact with children who live in institutions, particularly when the guardian is a staff member at a Center for Social Work.^[243] For example, a caregiver from Sremica Home for children and adults with disabilities told Human Rights Watch how the legal guardian of a young man with intellectual and developmental disabilities who has lived in the institution since he was a baby had visited him only once in the 17 years that he has lived in that institution.^[244] A social worker in the same institution confirmed the lack of contact between guardians and children. Some guardians visit children yearly, some never.^[245]

Such limited contact is problematic for two reasons. Firstly, there is no effective monitoring to ensure the child is protected against abuse and neglect, as required by the law. Secondly, limited or no contact at all compromises the ability of a child to receive education or to leave an institution. For example, a social worker in Sremica Home for children and adults with disabilities complained about the lack of engagement from legal guardians and the impact it has on returning children to their families:

A study from March 2016 linked low enrollment of children with disabilities who live in institutions in the education system to the lack of engagement of guardians in the lives of children.^[247] According to the Serbian law, it is the primary obligation of parents and legal guardians to enroll children with disabilities in schools.

One reason for this lack of guardian-child interaction is the fact that legal guardians in Serbia are assigned to children according to a child's home residence, not according to the place of the institution where a child lives. Sometimes this means that a legal guardian is someone who lives more than 350 kilometers away from the child. For example, in Kolveka Home for children with disabilities, legal guardians of two twin toddlers are based even outside of Serbia, in Bosnia and Herzegovina. According to institution staff, their guardian has never visited these two boys.^[248]

Seven young people with disabilities living in institutions interviewed by Human Rights Watch complained about the lack of freedom of movement. For example, two sisters diagnosed with intellectual disabilities told Human Rights Watch they are allowed to leave the institution only on the weekends:

A 19-year-old woman with psychosocial disability who lives in another institution complained about the lack of freedom of movement. It is prohibited to go to the city. They told me I need a paper from the Center to go into the city.^[250] She also told Human Rights Watch that family members can visit only until four or five in the afternoon: Once my sister came to see me a bit later, around 6 p.m. and they did not allow her to visit me.^[251]

Marko, a 30-year-old young man who has lived in institutions since he was a child, explained: It depends on how much they allow us. For example, they tell us we can leave the institution but that we have to be back by 5 or 6 p.m. In case you are late, you are grounded and can't leave for two months.^[252] Slobodan, 18, said, I can't go to a market. When I lived with a foster family I was allowed to, but here I am not.^[253] Mile, a 20-year-old man explained that he can leave the complex of the institution only if accompanied by educators, otherwise I can't leave at all.

Let me tell you something. I want to get away from here. When I am 18, I am going to leave this place and live in an apartment.

Natalia, 15-year-old with intellectual disability in small group home^[254]

Under Serbian law, children lack legal capacity. In exceptional cases, a court can recognize full legal capacity of children between 16 and 18 years of age^[255] Every person when turning 18 has the right to full legal capacity.^[256]

For persons with disabilities who live in institutions in Serbia, this right is often denied upon reaching adulthood (age 18). Human Rights Watch research revealed that persons with disabilities in Serbia are often stripped of their right to legal capacity and the right to make decisions on medical treatment or the decision to leave an institution under two existing procedures: (1) guardianship and (2) so called extended parental rights. In both cases, the person is deprived of the right to make decisions about his or her basic rights and instead the persons parents or legal guardians make all decisions for the person, including where and with whom to live. As of December 2014, more than 19,000 people with disabilities in Serbia who are deprived of legal capacity have been placed under guardianship or subjected to extended parental rights. Only 5.7 percent or 608 adults are only partially deprived of legal capacity meaning that they can make some choices by themselves.^[257]

According to Serbia's Family Law, an adult person who is, as a result of illness or mental and physical disability, incapable of normal reasoning and therefore unable to care independently for his or her own rights and interests can be fully deprived of his or her legal capacity and placed under guardianship.^[258] In this case, the person is considered to have the rights of a child below the age of 14 and is placed under full guardianship; legal guardians make all decisions for them.^[259]

Furthermore, if a person directly threatens his or her own rights and interests or the rights and interests of other persons, he or she can be partially deprived of legal capacity and placed under partial guardianship.^[260] In this case, the person is considered to have the rights of an older child (from age 14 until 18),^[261] and the Court specifies the activities that a person partially deprived of legal capacity is deemed capable of independently undertaking, as well as the activities for which a guardian should instead make decisions.^[262]

In addition to guardianship, according to the Family Law, parental rights can be extended for a person after turning 18 until the age of 26 in case the person is deemed by a court to be incapable of taking care of and protecting his or her rights, or if he/she threatens his or her rights and interests with his or her actions, as a result of illness or mental and physical disabilities.^[263] In this case, a court also makes a decision on full or partial legal capacity restrictions and extending the rights of parents to make decisions instead of the person concerned.^[264]

Young adults with psychosocial or intellectual disabilities in Serbia told Human Rights Watch that they want to live with their families or in the community, but that they have no choice in deciding where to live or when to leave an institution. For example, a 20-year-old young man who has lived in an institution since he was 10 years old told Human Rights Watch, I would love to see my parents every day, to wake up in the morning and see them, to have coffee with them. But the Center [for Social Work] does not allow it. We cannot do anything without the Centers permission.^[265]

Dina, a 20-year-old young woman who has lived in Stannica Home for children and adults with disabilities for two years, told Human Rights Watch, It is my dream to leave this place. The sooner, the better. The Center knows that. But they tell me, You should stay here. I would just love to be somewhere where there are more people I can talk with.^[266]

The right to live in the community for persons with disabilities is intricately linked to the right to exercise legal capacity guaranteed by article 12 of the CRPD. Individuals with disabilities are particularly vulnerable to placement in institutions because they are often deprived of their ability to make important life decisions. For the same reason, often they are denied the choice to leave institutions. Therefore, to ensure the right of children and young people to live in the community, states should also respect the right to the full exercise of legal capacity upon reaching adulthood.

Under international human rights law, every person has the right to recognition as a person under the law.^[267] This recognition as a person comes with the presumption that a person can make life decisions on his or her own behalf. Accordingly, article 12 of the CRPD provides that States parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life and shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.^[268]

The UN General Assembly in 1971 and 1991 took for granted that individuals with certain degrees of intellectual or mental disability would not be capable of exercising some rights on their own and needed to be protected. Courts could thus deprive individuals of the capacity to make important decisions and exercise rights on their own behalves.^[269]

The CRPD fundamentally shifts the discourse on legal capacity by removing deprivation and protection from its provisions. The text of article 12 instead creates the assumption that persons with disabilities can act in their own best interests and that, when needed, they should be given support to do so.

This assisted-decision making system should be a regime of support for the individuals exercise of rights, a process by which the will and the preferences of the person are fully respected. Within this support system, a state should ensure safeguards to prevent abuse. These safeguards should ensure that the support provided is proportionate to the persons circumstances, limited in duration, free from conflicts of interest, and subject to regular, impartial review by a judicial body.^[270]

In its April 2016 review, the UN Committee on the Rights of Persons with Disabilities urged Serbia to replace its guardianship system with supported decision-making regimes which respect the persons autonomy, will and preferences, and establish transparent safeguards.

As the state supports the right of children with disabilities to live in the community, it should also review its own procedures for placement of adults into institutions, which may amount to a deprivation of liberty, and require adequate safeguards to protect against arbitrary deprivation.^[271] The guarantees of liberty and security of the person, and the right to challenge any deprivations of those liberties, is set out in article 5 of the ECHR and article 9 of the ICCPR which states, No one shall be subjected to arbitrary arrest or detention and no one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.^[272]

Article 14 of the CPRD provides additional protection against deprivation of liberty for persons with disabilities: the right not to be detained on the basis of the existence of a disability. There should therefore be some basis, one that does not discriminate based on disability, underlying any deprivation of liberty.

This report was researched and written by Emina erimovi, researcher in the Disability Rights Division of Human Rights Watch. Jane Buchanan, associate Europe and Central Asia director, participated in the field research.

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[1] Zveanska Center for Protection of Infants, Children, and Youth, Stamnica Home for children and adults with disabilities, Veternik Institution for children and adults with disabilities, Kolevka Home for children with disabilities and Sremica Home for children and adults with disabilities. According to the institutions staff, as of October 2015, up to 540 people lived in Veternik Institution for children and adults with disabilities, including 59 children; 345 in Stamnica Home for children and adults with disabilities, including 22 children; 292 in Sremica Home for children and adults with disabilities, including 49 children; 120 children with disabilities in Zveanska Center for Protection of Infants, Children, and Youth; and 167 children with disabilities in Kolevka Home for children with disabilities. Up to 13 children and young people lived in small group homes.

[2] Human Rights Watch interview with Jasmina and Ivica ukovi, Serbia, December 1, 2015.

[3] Human Rights Watch interview with a 20-year-old man [name withheld], Serbia, October 21, 2015.

[4] Novak Djokovic Foundation invests in early childhood education and support programs in Serbia. See more at: <https://novakdjokovicfoundation.org> (accessed May 17, 2016).

[5] Under the Convention on the Rights of the Child, Serbia is obliged to ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence. See: Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A., Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 9.

[6] Network of Organizations for Children in Serbia, Press release, All children in Serbia are equal, but some are more equal than the others, November 19, 2015, <http://zadecu.org/en/press-releases.php> (accessed April 15, 2016).

[7] Republic Institute for Social Protection, Children in Social Welfare 2014 [In Serbian: Deca u sistemu socijalne zatite], Belgrade, July 2015. p.39. (Available in Serbian at): <http://www.zavodsz.gov.rs/PDF/izvestaj2015/DECA%20U%20SISTEMU%20SOCIJALNE%20ZASTITE.pdf> (accessed May 1, 2016).

[8] Law on Social Protection, Official Gazette of the Republic of Serbia, No. 42/2011, art. 52, (Available in Serbian at): http://www.paragraf.rs/propisi/zakon_o_socijalnoj_zastiti.html (accessed January 13, 2016).

[9] A Human Rights Watch researcher was allowed to see a decision issued by the Ministry of Labour, Employment, Veteran and Social Affairs, giving the consent on the placement of a child. The decision explains how the Centre for Social Work had exhausted all other possibilities to provide a child with accommodation in less restrictive manner and should therefore be placed in an institution.

[10] Ministry of Labour, Employment and Social Affairs, Regulations on Removal of Irregularities in Placing Children and Youth in Institutions of Social Welfare [In Serbian: Mere za otklanjanje nepravilnosti u vrenju poslova smetaja dece i omladine u ustanove socijalne zatite], No. 560-03-619/2006-14. November 3, 2006.

[11] Ibid. Section III, Para. 3.

- [12] Republic Institute for Social Protection, Children in Social Welfare for 2014 [In Serbian: Deca u sistemu socijalne zaštite 2014.] Belgrade, July 2015. p.39
- [13] Human Rights Watch interview with Ivana Cerovi, social worker, Zveanska Center for Protection of Infants, Children, and Youth, Serbia, November 17, 2015.
- [14] Human Rights Watch interview with UNICEF representative to Serbia, Serbia, October 15, 2015; Human Rights Watch interview with Valentina Zavii, director, VelikiMali, phone interview, October 23, 2015.
- [15] Mulheir Georgette, Deinstitutionalisation: a human rights priority for children with disabilities, September 2012, http://www.equalrightstrust.org/ertdocumentbank/err9_mulheir.pdf (accessed April 30, 2016); Browne Kevin, The risk of harm to young children in institutional care, 2009, www.crin.org/en/docs/The_Risk_of_Harm.pdf (accessed April 30, 2016).
- [16] Johnson R, Browne K, Hamilton-Giachritsis C., Young children in institutional care at risk of harm, https://www.crin.org/en/docs/The_Risk_of_Harm.pdf; Nelson C, et al., Cognitive recovery in socially deprived young children: the Bucharest early intervention project. http://www.bucharestearlyinterventionproject.org/Nelson_et_al_combined_2007.pdf (accessed May 17, 2016); Bos, K. et al., Psychiatric outcomes in young children with a history of institutionalization, 2011, http://www.bucharestearlyinterventionproject.org/Bos_et_al_2010.pdf (accessed May 17, 2016).
- [17] The Protector of Citizens, Roadmap to Deinstitutionalization in the Republic of Serbia [In Serbian: Mapa puta deinistucionalizaciji u Republici Srbiji] (Available in Serbian at): <http://www.ombudsman.osobesainvaliditetom.rs/attachments/Mapa%20puta.pdf> (accessed May 9, 2016).
- [18] Human Rights Watch interview with Gordana Stevanovi, Deputy Ombudsperson for the rights of children; Vladana Jovi, Deputy Ombudsperson for the rights of persons with disabilities; and Milo Jankovi, Deputy Ombudsperson/National Mechanism for the Prevention of Torture, Serbia, October 16, 2015.
- [19] Human Rights Watch interview with UNICEF representative to Serbia, Serbia, October 15, 2015; Human Rights Watch interview with Dragana iri, director, Mental Disability Rights International, Serbia, October 14, 2015.
- [20] Human Rights Watch interview with UNICEF representative to Serbia, Serbia, October 15, 2015.
- [21] Human Rights Watch interview with UNICEF representative to Serbia, Serbia, October 15, 2015. Human Rights Watch interview with Gordana alija, director of the small group home Yusa in Belgrade, Serbia, October 16, 2015. Human Rights Watch interview with Jasna Nikoli, director of the small group home in Aleksinac, Serbia, November 19, 2015.
- [22] Human Rights Watch interview with a caregiver in the small group home in Ni, Serbia, November 19, 2015.
- [23] Human Rights Watch interview with a caregiver (name withheld), small group home in Ni, Serbia, November 19, 2015.
- [24] Human Rights Watch interview with Mihajlo (pseudonym), small group home [date and name of the small group home withheld].
- [25] Human Rights Watch interview with Natalia (pseudonym), Serbia, November 19, 2015.
- [26] Human Rights Watch interview with a representative from the Ministry of Social Policy [name withheld at the request], Serbia, November 19, 2015.
- [27] Human Rights Watch interview with Mihajlo (pseudonym), small group home [date and name of the small group home withheld].
- [28] Human Rights Watch interview with Mirjana Ognjanovi, Republic Institute for Social Protection, Serbia, November 20, 2015.
- [29] Human Rights Watch interview with Jovana [pseudonym], Serbia, November 17, 2015.
- [30] Human Rights Watch e-mail communication with UNICEF representative to Serbia, March 9, 2016.
- [31] Human Rights Watch interview with Ljubia Jovanovi, coordinator of the family outreach service, Selma atovi, family outreach worker, Lidija Bukvi, family outreach worker, Ivana Cerovi, social worker, Zveanska Center for Protection of Infants, Children, and Youth, Serbia, October 16, 2015.
- [32] Ibid.
- [33] Human Rights Watch interview with Bojana Brki, family outreach worker, Serbia, November 17, 2015.
- [34] Republic Institute for Social Protection, Adults in the system of social protection [In Serbian: Odrasli u sistemu socijalne zaštite], July 2015, p.37, (Available in Serbian at): <http://www.zavodsz.gov.rs/PDF/izvestaj2015/PUNOLETNI%20KORISNICI%20U%20SISTEMU%20SOCIJALNE%20ZASTITE.pdf> (accessed January 13, 2016).
- [35] Zoran Arbutin, director of Veternik Institution for children and adults with disabilities, October 20, 2015.
- [36] Republic Institute for Social Protection, Adults in the system of social protection [In Serbian: Odrasli u sistemu socijalne zaštite], July 2015, p.37.
- [37] Committee on the Rights of Persons with Disabilities, Consideration of reports submitted by States parties under art. 35 of the Convention. Initial reports of States parties due in 2011. Serbia. CRPD/C/SRB/1, September 29, 2014, p.59, para.363.
- [38] Ibid.
- [39] Human Rights Watch interview with Dragana iri, director, Mental Disability Rights International, Serbia, October 14, 2015; Human Rights Watch interview with Zoran Arbutin, director, Veternik Institution for children and adults with disabilities, Serbia, October 20, 2015; Human Rights Watch interview with Ana Tomaevi, director, Stannica Home for children and adults with disabilities, Serbia, October 21, 2015.
- [40] According to the Serbian Family Law, parental rights can be extended after a person with disabilities reaches the age of 18 in which case the person that has been put under extended parental rights is legally considered a child. See: Family Law, Official Gazette of the Republic of Serbia, No. 18/2005, 72/2011, 6/2015, art. 85, (Available in Serbian at): http://www.paragraf.rs/propisi/porodnici_zakon.html. (accessed January 13, 2015).
- [41] Human Rights Watch interview with Zoran Arbutin, director, Veternik Institution for children and adults with disabilities, Serbia, October 20, 2015.
- [42] Human Rights Watch interview with Nenad Kozomora, director, Kolevka Home for children with disabilities, Serbia, November 18, 2015.
- [43] Human Rights Watch interview with Ana Tomaevi, director, Stannica Home for children and adults with disabilities, Serbia, October 21, 2015.
- [44] According to the same report, 24 children have been returned to birth families, 4 children were adopted, and 13 children were placed in foster care. The report further indicates that 3 children left institutions due to becoming independent, 4 children left the orphanage on their own, and 3 children died. Republic Institute for Social Welfare, Report on the work of institutions for children and youth for 2014 [In Serbian: Izvetaj o radu ustanova za smestaj dece i mlade za 2014.] Belgrade, July 2015, (Available in Serbian at): <http://www.zavodsz.gov.rs/PDF/izvestaj2015/USTANOVE%20ZA%20SMESTAJ%20DECE%20I%20MLADIH.pdf> (accessed May 1, 2016).
- [45] Republic Institute for Social Welfare, Children in the social protection system 2014 [In Serbian: Deca u sistemu socijalne zaštite 2014], Belgrade, July 2015, p.13.
- [46] Human Rights Watch interview with Dragana iri, director, Mental Disability Rights International, Serbia, October 14, 2015; Human Rights Watch interview with Zoran Arbutin, director, Veternik Institution for children and adults with disabilities, Serbia, October 20, 2015.

- [47] Human Rights Watch interview with social worker, [name withheld] Stannica Home for children and adults with disabilities, Serbia, October 21, 2015.
- [48] Human Rights Watch interview with social worker [name withheld], Sremica Home for children and adults with disabilities, Serbia, November 16, 2015.
- [49] Ivana Cerovi, social worker, Zveanska Center for Protection of Infants, Children, and Youth, Serbia, October 16, 2015
- [50] According to the institutions staff, as of October 2015, up to 540 people lived in the Veternik Institution for children and adults with disabilities, including 59 children; 345 in the Stannica Home for children and adults with disabilities, including 22 children; 292 in the Sremica Home for children and adults with disabilities, including 49 children; 150 children with disabilities in the Zveanska Center for Protection of Infants, Children, and Youth; and 167 children with disabilities in Kolevka Home for children with disabilities. Human Rights Watch documented that there was a lot of variation in terms of what the staff in institutions visited said about the numbers of children living there.
- [51] These are: Institution for children and adults with disabilities in Veternik, Stannica Home for children and adults with disabilities, Kolevka Home for children with disabilities.
- [52] Human Rights Watch interview with Zoran Arbutin, director, Institution for children and adults with disabilities in Veternik, Serbia, October 20, 2015.
- [53] Comprehensive Plan for Transformation of Residential Social Care Institutions for Children 2009 2013, Ministry of Labour, Employment, Veteran and Social Policy, Belgrade, September 2009.
- [54] Committee on the Rights of Persons with Disabilities, *Replies of Serbia to the list of issues*, date received: February 5, 2016, p.7, para.29. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/026/89/PDF/G1602689.pdf?OpenElement> (accessed March 15, 2016).
- [55] Radio Television of Serbia (RTS), Vulin otvorio novoizgradjeni objekat za ometene u razvoju [Vulin opened a newly built building for persons with disabilities], April 4, 2016. (Available in Serbian at): <http://www.rts.rs/page/stories/sr/story/125/Dru%C5%A1tvo/2268858/Vulin+otvorio+novoizgradnja%C4%91leni+objekat+za+ometene+u+razvoju.html> (accessed May 1, 2016).
- [56] Ibid.
- [57] Convention on the Rights of the Child (CRC). New York (NY): United Nations General Assembly; 1989.
- [58] Convention on the Rights of Persons with Disabilities (CRPD), adopted December 13, 2006, G.A. Res. 61/106, Annex I, U.N. GAOR, 61st Sess., Supp. (No. 49) at 65, U.N. Doc. A/61/49 (2006).
- [59] The Constitution of Republic of Serbia, art. 29, <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN019071.pdf> (accessed May 1, 2016).
- [60] Recommendation CM/Rec (2010)2 of the Committee of Ministers to member states on deinstitutionalisation and community living of children with disabilities, (Adopted by the Committee of Ministers on February 3, 2010 at the 1076th meeting of the Ministers Deputies) [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec\(2010\)2&Language=lanEnglish&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2010)2&Language=lanEnglish&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383) (accessed April 18, 2016).
- [61] Recommendation CM/Rec(2013)2 of the Committee of Ministers to member States on ensuring full inclusion of children and young persons with disabilities into society (Adopted by the Committee of Ministers on October 16, 2013 at the 1181st meeting of the Ministers Deputies) [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec\(2013\)2&Language=lanEnglish&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2013)2&Language=lanEnglish&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383) (accessed April 18, 2016).
- [62] CRC, art. 9.
- [63] CRC, General Comment No. 9: The rights of children with disabilities. Geneva: United Nations Committee on the Rights of the Child; 2006; General Comment No. 7: Implementing child rights in early childhood. Geneva: United Nations Committee on the Rights of the Child; 2006.
- [64] CRC, General Comment No. 9: The rights of children with disabilities. Geneva: United Nations Committee on the Rights of the Child; 2006; para.49.
- [65] Ibid.
- [66] CRPD, art. 23, para. 5.
- [67] CRPD, art. 19.
- [68] UNICEF, Guidelines for the Alternative Care of Children, undated, para. 53, http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf (accessed February 29, 2016).
- [69] Ibid. para.22.
- [70] Committee on the Rights of Persons with Disabilities, Concluding observation on the initial report of Serbia, CRPD/C/SRB/CO/1, April 21, 2016, para.14.
- [71] Committee on the Rights of Persons with Disabilities, Concluding observation on the initial report of Serbia, CRPD/C/SRB/CO/1, April 21, 2016, para.41.
- [72] Human Rights Watch interview with Dragana iri, director, Mental Disability Rights International, Serbia, October 14, 2015; Human Rights Watch interview with Zoran Arbutin, director, Institution for children and adults with disabilities in Veternik, Serbia, October 20, 2015. Human Rights Watch interview with social worker, [name withheld] Stannica Home for children and adults with disabilities, Serbia, October 21, 2015; Human Rights Watch interview with Dobrila Gruji, director of the Center for Family Placement and Adoption in Belgrade, Serbia, October 14, 2015.
- [73] Human Rights Watch Interview with Brankica Jankovi, Commissioner for Equality of the Republic of Serbia, Serbia, December 2, 2015.
- [74] Human Rights Watch interview with Jasmina and Ivica ukovi, Serbia, December 1, 2015.
- [75] Ibid.
- [76] Human Rights Watch e-mail communication with Ivana Cerovi, social worker, Zveanska Center for Protection of Infants, Children, and Youth, Serbia, February 17, 2016.
- [77] Ibid.
- [78] Ministry of Health of Republic of Serbia, Letter from May 9, 2016. Appendix 3
- [79] Human Rights Watch e-mail communication with UNICEF representative to Serbia, April 21, 2016.
- [80] Human Rights Watch interview with Ana [pseudonym], Serbia, November 28, 2016.
- [81] Human Rights Watch interview with Ljubia Jovanovi, coordinator of the family outreach service, Selma atovi, family outreach worker, Lidija Bukvi, family outreach

worker, Ivana Cerovi, social worker, Zveanska Center for Protection of Infants, Children, and Youth, Serbia, October 16, 2015.

[82] Human Rights Watch e-mail communication with Ivana Cerovi, social worker, Zveanska Center for Protection of Infants, Children, and Youth, Serbia, February 17, 2016.

[83] Lemecks et al, *Insights from Parents About Caring for a Child with Birth Defects*, International Journal Environ Res Public Health, August 2013, 10 (8), pp. 3465-3482.

[84] Ibid.

[85] Human Rights Watch interview with Dragana iri, director, Mental Disability Rights International, Serbia, October 14, 2015

[86] Human Rights Watch interview with Gordana Stevanovi, Deputy Ombudsperson for the rights of children; Vladana Jovi, Deputy Ombudsperson for the rights of persons with disabilities; and Milo Jankovi, Deputy Ombudsperson/National Mechanism for the Prevention of Torture, Serbia, October 16, 2015.

[87] Human Rights Watch meeting with the Serbian delegation to the UN Committee on the Rights of Persons with Disabilities, Geneva, Switzerland, April 6, 2016.

[88] Human Rights Watch interview with Jasmina and Ivica ukovi, Serbia, December 1, 2015.

[89] The Government is composed of the prime minister and cabinet ministers. The Government is responsible for proposing legislation and a budget, executing the laws, and guiding the foreign and internal policies. Local governments in Serbia - municipalities, serve as basic units for services and tax collection.

[90] Human Rights Watch interview with UNICEF representative to Serbia, Serbia, October 15, 2015; Human Rights Watch interview with Saa Stefanovi, director, Network of Organizations for Children in Serbia, phone interview, October 19, 2015.

[91] Human Rights Watch interview with Saa Stefanovi, director, Network of Organizations for Children in Serbia, phone interview, October 19, 2015; Human Rights Watch interview with Valentina Zavii, director, VelikiMali, phone interview, October 23, 2015.

[92] Human Rights Watch interview with Jasna Nikoli, director of the small group home in Aleksinac, Serbia, November 19, 2015.

[93] Ibid.

[94] Human Rights Watch interview with a representative from the Ministry of Social Policy [name withheld at the request], Serbia, November 19, 2015.

[95] Human Rights Watch Interview with Ana (pseudonym), Serbia, November 28, 2015.

[96] Ibid.

[97] Human Rights Watch interview with Ljubia Jovanovi, coordinator of the family outreach service, Selma atovi, family outreach worker, Lidija Bukvi, family outreach worker, Ivana Cerovi, social worker, Zveanska Center for Protection of Infants, Children, and Youth, Serbia, October 16, 2015.

[98] Human Rights Watch interview with Bojana Brki, family outreach worker, Serbia, November 17, 2015.

[99] Human Rights Watch interview with Maja (last name withheld), Serbia, November 19, 2015.

[100] Human Rights Watch interview with Ljubia Jovanovi, coordinator of the family outreach service, Selma atovi, family outreach worker, Lidija Bukvi, family outreach worker, Ivana Cerovi, social worker, Zveanska Center for Protection of Infants, Children, and Youth, Serbia, October 16, 2015.

[101] Human Rights Watch interview with Brankica Jankovi, Commissioner for Equality of Republic of Serbia, Serbia, December 2, 2015.

[102] Human Rights Watch interview with Saa Stefanovi, director, Network of Organizations for Children in Serbia, phone interview, October 19, 2015.

[103] Human Rights Watch interview with Jasmina and Ivica ukovi, Serbia, December 1, 2015. Human Rights Watch interview with Neboja and Suzana Terzi, Serbia, November 19, 2015. Human Rights Watch interview with Nevena (pseudonym), foster parent, Serbia, November 30, 2015.

[104] Human Rights Watch interview with Ljubia Jovanovi, coordinator of the family outreach service, Selma atovi, family outreach worker, Lidija Bukvi, family outreach worker, Ivana Cerovi, social worker, Zveanska Center for Protection of Infants, Children, and Youth, Serbia, October 16, 2015.

[105] CRPD, art. 23, para. 5.

[106] Law on Fundamentals of the Education System, Official Gazette of the Republic of Serbia, No. 72/2009, 52/2011, 55/2013, 35/2015, and 68/2015, available at (In Serbian): http://www.paragraf.rs/propisi/zakon_o_osnovama_sistema_obrazovanja_i_vaspitanja.html (accessed February 3, 2016).

[107] Constitution of the Republic of Serbia, art. 21; The Law on Prevention of Discrimination against Persons with Disabilities (2006), art. 3; Law on Amendments to the Law on Prohibition of Discrimination, art. 26; Law on Fundamentals of the Education System, art. 44.

[109] Ministry of Education of Republic of Serbia, Letter from April 28, 2016. Appendix 1.

[110] Ministry of Education of Republic of Serbia, Letter from April 28, 2016. Appendix 1

[111] See Camilla Parker and Luke Clements, *The European Union Structural Funds and the Right to Community Living*, http://www.equalrightstrust.org/ertdocumentbank/err9_parker_clements.pdf (accessed July 10, 2014).

[112] CRPD, General Comment No. 2 (2014), art. 9: Accessibility, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/033/13/PDF/G1403313.pdf?OpenElement> (accessed May 19, 2016), para. 39;

[113] CRPD 24 (2) (d), (e).

[114] Human Rights Watch interview with Ljubia Jovanovi, coordinator of the family outreach service, Selma atovi, family outreach worker, Lidija Bukvi, family outreach worker, Ivana Cerovi, social worker, Zveanska Center for Protection of Infants, Children, and Youth, Serbia, October 16, 2015.

[115] Ibid.

[116] Ministry of Education of Republic of Serbia, Letter from April 28, 2016. Appendix 1.

[117] Ibid.

[118] Human Rights Watch e-mail communication with Ivana Cerovi, social worker in Zveanska Center for Protection of Infants, Children, and Youth, February 17, 2016.

[119] Ibid.

[120] Human Rights Watch interview with UNICEF representative to Serbia, Serbia, October 15, 2015; Human Rights Watch interview with Saa Stefanovi, director, Network of Organizations for Children in Serbia, phone interview, October 19, 2015; Human Rights Watch interview with Valentina Zavii, director, VelikiMali, phone interview, October 23, 2015.

[121] Human Rights Watch interview with UNICEF representative to Serbia, Serbia, October 15, 2015; Human Rights Watch interview with Dragana iri, director, Mental Disability Rights International, Serbia, October 14, 2015.

[122] Human Rights Watch interview with a caregiver in the small group home in Ni, Serbia, November 19, 2015.

[123] Law on Primary Education, Official Gazette of the Republic of Serbia, No. 55/2013, art. 8. (Available at in Serbian): http://www.paragraf.rs/propisi/zakon_o_osnovnom_obrazovanju_i_vaspitanju.html [accessed April 20, 2016].

[124] Human Rights Watch interview with Maja (last name withheld), Serbia, November 19, 2015.

[125] Human Rights Watch interview with Nevena (pseudonym), foster parent, Serbia, November 30, 2015.

[126] According to the letter, the steps include: 1. Amendments to the Law on Fundamentals of Education, which would introduce the system of unified education number for every child. The unified education number would enable a more efficient data collection and evaluation of children in need of support in education; 2. The Ministry of Education is involved in the working group established by the Ministry of Health which working group is responsible to establish a registry for children with disabilities; 3. The Ministry of Education has initiated development of a database software for education. Ministry of Education of Republic of Serbia, Letter from April 28, 2016. Appendix 1.

[127] Human Rights Watch e-mail communication with the Ministry of Education of Republic of Serbia, May 19, 2016.

[128] Ministry of Education of Republic of Serbia, Letter to Human Rights Watch, April 28, 2016.

[129] Ibid.

[130] Ibid.

[131] Human Rights Watch interview with Neboja and Suzana Terzi, Serbia, November 19, 2015. Marina is not identified by her real name to protect her privacy.

[132] Human Rights Watch interview with Nevena (pseudonym), foster parent, Serbia, November 30, 2015.

[133] Ibid.

[134] Human Rights Watch interview with Neboja and Suzana Terzi, Serbia, November 19, 2015. Marina is not identified by her real name to protect her privacy.

[135] Human Rights Watch interview with Spomenka Savi, foster family associate, Serbia, November 19, 2015.

[136] Human Rights Watch interview with Saa Stefanovi, director, Network of Organizations for Children in Serbia, phone interview, October 19, 2015; Human Rights Watch interview with Valentina Zavii, director, VelikiMali, phone interview, October 23, 2015.

[137] Human Rights Watch interview with Ljubia Jovanovi, coordinator of the family outreach service, Selma atovi, family outreach worker, Lidija Bukvi, family outreach worker, Ivana Cerovi, social worker, Zveanska Center for Protection of Infants, Children, and Youth, Serbia, October 16, 2015.

[138] Ibid.

[139] Rulebook on Foster Placement, Official Gazette of the Republic of Serbia, No. 36/2008, art. 14. http://www.paragraf.rs/propisi/pravilnik_o_hraniteljstvu.html (accessed May 5, 2016).

[140] Ibid. art. 16.

[141] Human Rights Watch interview with Ljubia Jovanovi, coordinator of the family outreach service, Selma atovi, family outreach worker, Lidija Bukvi, family outreach worker, Ivana Cerovi, social worker, Zveanska Center for Protection of Infants, Children, and Youth, Serbia, October 16, 2015.

[142] Human Rights Watch interview with Dobrila Gruji, director of the Center for Foster Care in Belgrade, Serbia, October 14, 2015.

[143] Human Rights Watch interview with Nevena (pseudonym), foster parent, Serbia, November 31, 2015.

[144] Human Rights Watch interview with UNICEF representative to Serbia, Serbia, October 15, 2015; Human Rights Watch interview with Dragana iri, director, Mental Disability Rights International, Serbia, October 14, 2015. Human Rights Watch interview with Valentina Zavii, director, VelikiMali, phone interview, October 23, 2015.

[145] Human Rights Watch interview with Jasmina and Ivica ukovi, Serbia, December 1, 2015.

[146] Rulebook on Foster Placement, art. 19.

[147] Human Rights Watch interview with UNICEF representative to Serbia, Serbia, October 15, 2015; Human Rights Watch interview with Dragana iri, director, Mental Disability Rights International, Serbia, October 14, 2015. Human Rights Watch interview with Valentina Zavii, director, VelikiMali, phone interview, October 23, 2015.

[148] Human Rights Watch interview with psychologist, Kolevka Home for children with disabilities, Serbia, November 18, 2015.

[149] Ibid.

[150] Human Rights Watch interview with institution staff, Stannica Home for children and adults with disabilities, Serbia, October 21, 2015.

[151] Human Rights Watch interview with Gordana Stevanovi, Deputy Ombudsperson for the rights of children; Vladana Jovi, Deputy Ombudsperson for the rights of persons with disabilities; and Milo Jankovi, Deputy Ombudsperson/National Mechanism for the Prevention of Torture, Serbia, October 16, 2015.

[152] Protector of Citizens of the Republic of Serbia National Preventive Mechanism, *Report of Visit to Veternik Residential Centre*, March 12, 2014. (Available in Serbian at): http://www.ombudsman.rs/index.php/lang-sr_YU/izvestaji/posebnii-izvestaji/4368-2015-10-14-09-13-19 (accessed January 20, 2016).

[153] Human Rights Watch interview with a medical nurse, Institution for children and adults with disabilities in Veternik, October 20, 2015.

[154] Human Rights Watch interview with institution staff, Veternik Institution for children and adults with disabilities, October 20, 2015.

[155] Ibid.

[156] Paulo Sergio Pinheiro, World Report on Violence Against Children, UN, 2006, [http://www.unicef.org/lac/full_text\(3\).pdf](http://www.unicef.org/lac/full_text(3).pdf).

[157] Inge Bretherton, The Origins of Attachment Theory: John Bowlby and Mary Ainsworth, 1992, http://www.psychology.sunysb.edu/attachment/online/inge_origins.pdf (accessed May 4, 2016).

[158] Human Rights Watch interview with institution staff [name withheld], Kolevka Home for children with disabilities, Serbia, November 18, 2015.

[159] Institution staff explained that tubes are used because of swallowing difficulties. Human Rights Watch interview with institution staff [name withheld], Kolevka Home for children with disabilities, Serbia, November 18, 2015.

- [160] Human Rights Watch interview with Ana Tomaevi, director, Stannica Home for children and adults with disabilities, Serbia, October 21, 2015.
- [161] Human Rights Watch interview with social workers, Veternik Institution for children and adults with disabilities, Serbia, October 20, 2016.
- [162] Human Rights Watch interview with specialized educator and specialized pedagogist, Sremica Home for children and adults with disabilities, Serbia, October 21, 2015.
- [163] Human Rights Watch interview with two brothers in their early twenties, (names and other details withheld).
- [164] Human Rights Watch interview with institution staff, Stannica Home for children and adults with disabilities, Serbia, October 21, 2015.
- [165] Rulebook on Prohibited Practices of the Employees in Social Protection, Official Gazette NO. 8/2012, <http://pzs.gov.rs/multimedia/dodaci/pravilnik%20o%20zabranjenim%20postupanjima.pdf> (accessed May 4, 2016).
- [166] Human Rights Watch interview with Nenad (pseudonym). Nenad was interviewed in the presence of his brother, (date and other details withheld).
- [167] Human Rights Watch interview with two sisters in their early twenties, (names and other details withheld).
- [168] Human Rights Watch interview with a medical doctor, Stannica Home for children and adults with disabilities, October 21, 2015.
- [169] Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, entered into force September 2, 1990, Serbia succeeded on March 12, 2001. Convention on the Rights of Persons with Disabilities (CRPD), adopted December 13, 2006, G.A. Res. 61/106, entered into force May 3, 2008, ratified by Serbia on July 31, 2009, art. 15 and art. 16, para 1. UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, U.N. Doc A/RES/49/36(1984), entered into force June 26, 1987, ratified by Serbia on March 12, 2001. European Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 222, entered into force September 3, 1953. Serbia became a party on March 3, 2004. See art. 3.
- [170] CRC, art. 19, para.1.
- [171] See *Tyrer v. The United Kingdom*, Application no. 5856/72, Judgment April 25, 1978, *Others v. United Kingdom*, Application no. 29392/95, Grand Chamber judgment May 10, 2001, and *Nencheva and Others v. Bulgaria*, Application no. 48609/06, Judgment June 18, 2013.
- [172] CRPD, art. 16, para.2
- [173] UN Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, 1 February 2013, A/HRC/22/53, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf (accessed May 16, 2016)
- [174] CRPD, Concluding observation on the initial report of Serbia, CRPD/C/SRB/CO/1, April 21, 2016, para.33.
- [175] According to the Serbian Ombudsman, the designated National Mechanism for the Prevention of Torture, about 80 percent of children and adults living in Veternik Institution for children and adults with disabilities receive psychiatric drugs. According to the doctor on staff, out of 127 children with disabilities in the Kolevka Home for children with disabilities Institution, 48 children are prescribed psychotropic drugs. Human Rights Watch Interview with doctor, Kolevka Home for children with disabilities, Serbia, November 18, 2015.
- [176] Human Rights Watch interview with Mihajlo (pseudonym), small group home [date and name of the small group home withheld].
- [177] Human Rights Watch was allowed to inspect medical files in one of the institutions visited and to see a list of psychotropic drugs prescribed to children who lived there. Staff member in two other institutions told Human Rights Watch about the most commonly medicines prescribed to children with disabilities. [Date and other details withheld].
- [178] Mendilex, Uputstvo za lek [Prescription Information], (Available in Serbian at: <http://lekovi.org/d5c05ed0/lek/mendilex.htm> (accessed April 25, 2016); Lorazepam, Uputstvo za lek [Prescription Information], (Available in Serbian at: <http://www.simptomi.rs/index.php/lekovi/4121-lorazepam-anksiolitik-benzodiazepin> (accessed April 25, 2016); Amitriptyline, Uputstvo za lek [Prescription Information], (Available in Serbian at: <http://lekoviza.com/amitriptyline-za-lecenje-depresije/> (accessed April 25, 2016).
- [179] Mendilex, Saetak karakteristika leka [Summary of the characteristics of the medicine], (Available in Serbian at: <http://www.alims.gov.rs/ciril/files/lekovi/smpe/515-01-6756-12-001.pdf> (accessed May 18, 2016).
- [180] American Academy of Child and Adolescent Psychiatry, Guide for Community Child Serving Agencies on psychotropic medications for children and adolescents, February 2012, http://www.aacap.org/app_themes/aacap/docs/press/guide_for_community_child_serving_agencies_on_psychotropic_medications_for_children_and_adolescents_2012.pdf (accessed May 16, 2016).
- [181] Ministry of Health of Republic of Serbia, Letter to Human Rights Watch, May 9, 2016. Appendix 2.
- [182] Human Rights Watch e-mail communication with Ivana Cerovi, Zveanska Center for Protection of Infants, Children, and Youth, February 17, 2016.
- [183] Human Rights Watch interview with a 19-year-old woman with psychosocial disabilities living in a Serbian institution [date and other details withheld], Serbia.
- [184] Human Rights Watch interview with medical doctor [name and other details withheld], Serbia.
- [185] Human Rights Watch interview with medical doctor [name and other details withheld], Serbia.
- [186] Human Rights Watch interview with institution staff, Zveanska Center for Protection of Infants, Children, and Youth, November 17, 2015.
- [187] Human Rights Watch reviewed medical files in one institution visited and noted that psychiatrists sometimes prescribed the use of sedatives as needed, leaving it to the discretion of the institution staff. Staff in two other institutions confirmed to Human Rights Watch the practice of the psychiatrists prescribing the use of psychotropic drugs as needed.
- [188] Human Rights Watch interview with educator, small group home in Aleksinac Serbia, November 19, 2015.
- [189] Human Rights Watch interview with institution staff, Zveanska Center for Protection of Infants, Children, and Youth, Serbia, November 17, 2015.
- [190] Human Rights Watch interview with psychologist, Kolevka Home for children with disabilities, Serbia, November 18, 2015.
- [191] Human Rights Watch interview with medical doctor, Sremica Home for children and adults with disabilities, November 16, 2015.
- [192] Human Rights Watch interview with medical doctor, Institution for children and adults with disabilities in Veternik, Serbia, October 20, 2015; Human Rights Watch interview with medical doctor, Stannica Home for children and adults with disabilities, Serbia, October 21, 2015.
- [193] Human Rights Watch interview with Slaana uki, Ministry of Health of Republic of Serbia, November 30, 2015.
- [194] Committee on the Rights of Persons with Disabilities, Concluding observation on the initial report of Serbia, CRPD/C/SRB/CO/1, April 21, 2016, para.29.

- [195] Human Rights Watch interview with a 20-year-old woman with intellectual disability, Serbia, October 21, 2015.
- [196] Human Rights Watch interview with Dina (pseudonym), Stannica Home for children and adults with disabilities, Serbia, October 21, 2015.
- [197] See general comment No. 12 (2009) on the right of the child to be heard, *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 41* (A/65/41),
- [198] See general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), para.19.
- [199] Ibid., para.21.
- [200] Ibid.
- [201] Ibid., para.38
- [202] Human Rights Watch interview with medical doctor in Stannica Home for children and adults with disabilities, October 21, 2015; Human Rights Watch interview with medical doctor in the Institution for children and adults with disabilities in Veternik, October 20, 2015, Human Rights Watch interview with a medical doctor, Sremica Home for children and adults with disabilities, November 16, 2015. The staff in all three institutions did not provide Human Rights Watch with the exact number of young women who were subjected to these treatments.
- [203] Ibid.
- [204] Human Rights watch with a medical doctor, Sremica Home for children and adults with disabilities, November 16, 2015.
- [205] Ibid.
- [206] Ibid.
- [207] Human Rights Watch interview with a medical doctor, Veternik Institution for children and adults with disabilities, October 20, 2015.
- [208] Human Rights Watch interview with Serbian delegation to the UN Committee on the Rights of Persons with Disabilities, Geneva, Switzerland, April 5, 2016.
- [209] Committee on the Rights of Persons with Disabilities, Concluding observation on the initial report of Serbia, CRPD/C/SRB/CO/1, April 21, 2016, para.35.
- [210] Ibid., para. 39.
- [211] Ibid.
- [212] Ibid., para.71.
- [213] Human Rights Watch interview with staff in the Stannica Home for children and adults with disabilities, Serbia, October 21, 2015.
- [214] Human Rights Watch interview with a caregiver in Sremica Home for children and adults with disabilities, November 16, 2015.
- [215] Human Rights Watch interview with staff in Kolevka Home for children with disabilities, November 18, 2015.
- [216] Ibid.
- [217] If a child older than seven and a half years of age has not been enrolled in the first grade due to illness or for other reasons, this child may be enrolled in the first or a relevant grade following the test in previously acquired knowledge. Law on Fundamentals of the Education System, art. 98.
- [218] Ministry of Education of Republic of Serbia, Letter from April 28, 2016. Appendix 1.
- [219] Human Rights Watch interview with staff in Kolevka Home for children with disabilities, Serbia, November 18, 2015.
- [220] Human Rights Watch interview with psychologist in Kolevka Home for children with disabilities, Serbia, November 18, 2015.
- [221] Human Rights Watch interview with Serbian delegation to the UN Committee on the Rights of Persons with Disabilities, Geneva, Switzerland, April 5, 2016.
- [222] Human Rights Watch with the director of the Sremica Home for children and adults with disabilities, November 16, 2015.
- [223] Ministry of Education of Republic of Serbia, Letter to Human Rights Watch, May 19, 2016. Appendix 2.
- [224] Ibid.
- [225] Human Rights Watch interview with staff in the Kolevka Home for children with disabilities, Serbia, November 18, 2015.
- [226] Human Rights Watch interview with Jasna Nikoli, director of the small group home in Aleksinac, Serbia, November 19, 2015.
- [227] United Nations Economic and Social Council, Preliminary report of the Special Rapporteur on the right to education, Ms. Katarina Tomasevski, submitted in accordance with Commission on Human Rights resolution 1998/33, E/CN.4/1999/49, 13 January 1999, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G99/101/34/PDF/G9910134.pdf?OpenElement> (accessed August 5, 2015).
- [228] CRC, arts. 28(1), 29(1).
- [229] United Nations Human Rights Council, Thematic Study on the right of persons with disabilities to education, Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/25/29, December 18, 2013. Report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/25/29) paras.26-27.
- [230] Law on Fundamentals of the Education System, Official Gazette of the Republic of Serbia, No. 72/2009, 52/2011, 55/2013, 35/2015, and 68/2015, art. 3, para.3(4)
- [231] Ibid., art. 3, para.3(5)
- [232] Ibid., art. 116.
- [233] See for example Law on Fundamentals of the Education System, art. 102 on accessible books.
- [234] See for example Law on Fundamentals of the Education System, art. 77 on individual education plans.
- [235] Law on Fundamentals of the Education System, art. 3; Article 10 of the Law on Primary education guarantees a child with disability the right to education in mainstream school together with other children, unless it is in the child's best interest to be educated in a school for children with disabilities. See: Law on Primary Education, Official Gazette of the Republic of Serbia, No. 55/2013, art. 10, (Available in Serbian at: http://www.paragraf.rs/propisi/zakon_o_osnovnom_obrazovanju_i_vaspitanju.html) [accessed: April 18, 2016].

- [236] The Strategy of the Education System 2020 (Available in Serbian at): <http://www.vtsnis.edu.rs/StrategijaObrazovanja.pdf> (accessed May 10, 2016)
- [237] Ministry of Education of Republic of Serbia, Letter from April 28, 2016. Appendix 1.
- [238] Committee on the Rights of Persons with Disabilities, Concluding observation on the initial report of Serbia, CRPD/C/SRB/CO/1, April 21, 2016, para.49.
- [239] Ibid., para.51.
- [240] Ibid., para.51.
- [241] Family Law, art. 136, para. 1.
- [242] Ibid., art. 136, para.3.
- [243] Human Rights Watch interview with Nevena (pseudonym), a former volunteer in one of the five institutions Human Rights Watch visited, Serbia, November 30, 2015; Human Rights Watch interview with social worker, Stamnica Home for children and adults with disabilities, October 21, 2015. Human Rights Watch interview with a medical nurse (name and other details withheld), Veternik Institution for children and adults with disabilities, October 20, 2015. Human Rights Watch interview with institution staff in the Kolevka Home for children with disabilities, Serbia, November 18, 2015.
- [244] Human Rights Watch interview with institution staff, Sremica Home for children and adults with disabilities, November 16, 2015.
- [245] Ibid.
- [246] Ibid.
- [247] Biljana Janji, Kosana Beker, Exclusion and segregations of children with disabilities living in institutions from the education system [In Serbian: Iskljuivanje i segregacija dece sa smetnjama u razvoju na rezidencijalnom smetaju iz obrazovnog Sistema] March 2016, pp.40-41.
- [248] Human Rights Watch interview with institution staff, Kolevka Home for children with disabilities, Serbia, November 18, 2015.
- [249] Human Rights Watch interview with two young women (names and other details withheld), Serbia.
- [250] Human Rights Watch interview with a 19-year-old woman with psychosocial disabilities living in a Serbian institution (name and other details withheld), Serbia.
- [251] Ibid.
- [252] Human Rights Watch interview with Marko, Serbia, November 16, 2015.
- [253] Human Rights Watch interview with Slobodan (pseudonym), Serbia, November 16, 2016.
- [254] Human Rights Watch interview with Natalia (pseudonym), Aleksinac, Serbia, November 19, 2015.
- [255] Family Law, art. 11, para. 3.
- [256] Ibid., art. 11, para. 1.
- [257] Committee on the Rights of Persons with Disabilities, Replies of Serbia to the list of issues, February 5, 2016, para.57.
- [258] Family Law, art. 146.
- [259] Ibid.
- [260] Ibid., art. 147.
- [261] Ibid., art. 147, para.2.
- [262] Ibid., art. 147, para.3.
- [263] Ibid., art. 85.
- [264] Law on Non-Contested Procedure, Official Gazette of the Republic of Serbia, No. 46/95, 18/2005, 85/2012, 45/2013, 55/2014, 6/2015, and 106/2015, art. 73. (Available in Serbian at): http://www.paragraf.rs/propisi/zakon_o_vanparnicnom_postupku.html (accessed February 3, 2016).
- [265] Human Rights Watch interview with Bojan (pseudonym), Sremica Home for children and adults with disabilities, Serbia, November 17, 2015.
- [266] Human Rights Watch interview with Dina (pseudonym), Stamnica Home for children and adults with disabilities, Serbia, October 21, 2015.
- [267] International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 16; Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217 A(III), U.N. Doc. A/810 at 71 (1948), art. 6.
- [268] CRPD, art. 12(2); CRPD, art. 12(3).
- [269] UN General Assembly, The Protection of persons with mental illness and the improvement of mental health care, A/RES/46/119, adopted at the 75th plenary meeting, December 17, 1991, paras. 6,7.
- [270] CRPD, art. 12(4).
- [271] The European Court of Human Rights recognizes people who have been placed in institutions without their consent, if the staff at the institution exercises complete and effective control over [their] care and movements have been deprived of their liberty within the meaning of Art. 5 of the European Convention on Human Rights (See: European Court of Human Rights, H.L. v. United Kingdom (no. 45508/99) Judgment of October 5, 2004, para.91. See also European Court of Human Rights, Storck v. Germany, (no. 61603/00) Judgment of July 16, 2005, for state responsibility for those deprived of their liberty in private institutions paras. 74, 89.) Additionally, a person is deprived of liberty when placed in an institution against his or her will even if that person is not actively resisting institutionalization, the facility is not locked or lockable, or the person has been permitted to frequently leave the facility unsupervised. Thus, under the European Convention on Human Rights, the prohibition on arbitrary detention applies even to those facilities that claim they are not detaining individuals, as long as those housed within them are not free to leave.
- [272] ICCPR, art. 9(1).
- [273] Unofficial translation for Human Rights Watch.
- [274] Unofficial translation for Human Rights Watch.

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