

# WRITTEN SUBMISSION

BY THE EUROPEAN ROMA RIGHTS CENTRE CONCERNING ALBANIA

For Consideration by the Committee on the Rights of the Child at the pre-sessional Working Group of the 89th session (07 June - 11 June 2021)

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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## INTRODUCTION

1. The European Roma Rights Centre (hereinafter also referred to as the “ERRC”) hereby submits this list of issues concerning Albania to the United Nations Committee on the Rights of the Child (hereinafter also referred to as “Committee”) for the consideration of the Committee on Consideration by the Committee on the Rights of the Child Pre-Sessional Working Group 89 (07 June – 11 June 2021). The submission focuses on the situation of Romani children in Albania, in particular on their overrepresentation in state care; segregation in education, access to public services including health and housing.<sup>1</sup>

## GENERAL MEASURES OF IMPLEMENTATION (ARTS. 4, 42 AND 44 (6) OF THE CONVENTION)

2. According to the Open Society Foundation in Albania Roma Population and Housing Census, 18,276 Roma were living in Albania, including 6,779 children below the age of 17; concentrated mainly in homogenous settlements across 12 regions of Albania and 61 new municipalities. Roma inhabit urban areas at a higher rate (68%) compared to the general population (53.5%) and are mostly concentrated in or around Tirana and Korca.
3. According to the data, at least 69% of Roma families live on the equivalent of \$4.5 a day, while 23% of them live on as little as \$1.5 USD a day. The unemployment rate among Roma is 74% compared to the national rate of 15%. The Roma Census 2014 also found that 80% of Roma families don’t have access to warm water, while 16% of them do not have access to water at all; and 11% don’t have access to electricity.<sup>2</sup>
4. Despite inclusion strategies, according to the UNDP Roma Survey, the situation of marginalized Roma in Albania actually worsened between 2011 and 2017, with Roma facing “limited access to opportunities in virtually every aspect of human development, such as basic rights, health, education, housing, employment and standard of living”<sup>3</sup> The NEET rate among marginalized Roma aged 18-24 increased from 69% in 2011 to 78% in 2017. The NEET rate among Roma females hit 90% which is especially alarming in terms of future opportunities, and access to the labour market. Some 93% of marginalized Roma continue to face high levels of severe material deprivation. The incidence of early marriage remains the highest in the Western Balkans with an estimated 50% of marginalized Roma women aged 20-49 years in Albania married before they were 18 years old.
5. *Education:* Pre-primary school enrolment rates of marginalized Roma remain the highest in the Western Balkans at 35% in 2017. The gap between Roma and non-Roma in compulsory education decreased from 42 percentage points in 2011 to 30 percentage points in 2017; compulsory education completion rates doubled, but still most Roma aged 18-21 have still not completed a basic level of education.
6. *Employment:* In 2017, employment rates further declined for both males and females. Albania was the only economy in the Western Balkans with rising unemployment and exhibited the highest unemployment rates in the region.
7. *Health:* Less than one-third of marginalized Roma had access to health insurance in 2017, the lowest health insurance coverage in the Western Balkans, apart from Kosovo. Self-reported unmet need for medical care among marginalized Roma decreased in the period from 2011 to 2017 from just over one-half to one-third. Despite this decrease, Albania has the highest rate in the Western Balkans of marginalized Roma who could not see a doctor when needed.
8. *Housing:* Marginalized Roma continue to live in more overcrowded households. Access to electricity actually decreased between 2011 and 2017; and while an increase in access to piped water was registered since 2011, on both counts, coverage for Roma is the lowest in the region. Access among the marginalized Roma

<sup>1</sup> The ERRC is a Roma-led international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma through strategic litigation, research and policy development, advocacy and human rights education. Since its establishment in 1996, the ERRC has endeavored to provide Roma with the tools necessary to combat discrimination and achieve equal access to justice, education, housing, health care and public services. The ERRC has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations. More information is available at: [www.errc.org](http://www.errc.org).

<sup>2</sup> *Roma Census 2014, Study of Albanian Communities*, Open Society Foundation in Albania (Soros), Tirana 2014.

<sup>3</sup> UNDP *Roma at a Glance Factsheet on Albania*. April 2018. Available at: <https://bit.ly/2ycrYAq>.

population in Albania to the public sewerage system deteriorated between 2011 and 2017, and the gap vis-à-vis non-Roma living in the vicinity increased.<sup>4</sup>

9. In terms of progress, the Albanian Parliament officially recognized Roma as a national minority in 2017, and reported that its 2017 Action Plan reflected a “scaling up of measures already being implemented and also initiates new activities for promoting the integration of Roma and Egyptians, with committed funding from the central budget and as well as funding from donors.”<sup>5</sup> The government reported that in 2017, 13,683 Roma and Egyptian children were enrolled and attended pre-school and compulsory education, up from 4,437 which marked a three-fold increase over two years.
10. As regards health, the government provided details of increased services, outreach and the work of mobile medical work teams including screening and awareness campaigns targeting women in urban and rural areas. There was a reported increase in Roma and Egyptians included in housing programs, with additional technical assistance to municipalities, and support provided to some 200 Roma and Egyptian families in 2017. In addition, the central authorities completed the mapping of Roma settlements, together with the assessment of costs involved in urbanization and prioritizing investments into Roma housing and settlements.<sup>6</sup>
11. In its most recent report CERD recommended that the State party strengthen the implementation of the National Action Plan for the Integration of Roma and Egyptians 2016–2020 and other special measures to combat racism and racial discrimination against Roma and Egyptians in access to employment, education, health, housing and services. It also recommends that the State party reinforce the collection of relevant data and prepare a policy evaluation strategy in order to evaluate the effectiveness of those measures. The Committee was also concerned about the absence of information from the government on the situation of minority women and the multiple intersecting forms of discrimination they may face.<sup>7</sup>

## GENERAL PRINCIPLES (ARTS 2,3, 6 AND 12 OF THE CONVENTION)

### DISCRIMINATION AGAINST ROMANI CHILDREN

12. In its Concluding observations the combined second to fourth periodic reports of Albania (2012), the Committee expressed concern that Romani children and others continue to be the victims of serious discrimination in their access to education, social protection, health and adequate housing; and urged the State party “to ensure that its programmes address as a matter of priority the situation of discrimination against girls, children belonging to minority groups, children living in rural areas and children with disabilities.”<sup>8</sup>
13. The ECRI 2019 report on Albania expressed concerns at the continuing use of hate speech against Roma and LGBTI communities and the lack of public condemnation and counter speech from high-ranking political or other public figures in response. ECRI noted that de facto structural segregation of Roma and Egyptian pupils in schools still occurs in some locations; and that many young Roma and Egyptians remain outside of the reach of vocational training and active employment programmes. Discrimination in housing persists and ECRI noted that many Roma and Egyptians also suffer from living in inadequate housing conditions and from evictions carried out without the necessary safeguards.<sup>9</sup> In its 2020 report, CERD noted the enhanced measures with regards to birth registration of Romani and Egyptian children, but “remains concerned at the lack of an overall strategy to deal with this persisting challenge.”<sup>10</sup>

4 Bernard Rorke, Roma Integration 2020. Regional Cooperation Council. Belgrade, 2019. Available at: [www.rcc.int](http://www.rcc.int) > download > docs > monograph.pdf.

5 Roma Integration 2020, Regional Cooperation Council, Policy Brief From The Second National Platform on Roma Integration in Albania, 15 Jun 2018. Available at: <https://bit.ly/2uCP6Wt>.

6 *Ibid.*

7 UN Committee on the Elimination of Racial Discrimination, Concluding observations on the combined ninth to twelfth periodic reports of Albania, 2 January 2019. Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fALB%2fCO%2f9-12&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fALB%2fCO%2f9-12&Lang=en).

8 Committee on the Rights of the Child: Concluding observations the combined 2nd to 4th periodic reports of Albania, adopted by the Committee at its 61st session (17 September–5 October 2012). Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/ALB/CO/2-4&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/ALB/CO/2-4&Lang=En).

9 ECRI 2020 Report on Albania (sixth monitoring cycle). Adopted 7 April 2020. Available at: <https://rm.coe.int/report-on-albania-6th-monitoring-cycle-/16809e8241>.

10 UNCERD, Concluding Observations 2019.

## **FAMILY ENVIRONMENT AND ALTERNATIVE CARE (ARTS. 5, 9–11, 18 (1 AND 2), 20, 21, 25 AND 27 (4) OF THE CONVENTION)**

14. Disproportionate numbers of Romani and Egyptian children end up in state care institutions. In 2016, the ERRC, along with the Centre for Legal Civic Initiatives, the Children’s Human Rights Centre of Albania, and Tirana Legal Aid Society, submitted a complaint to the Commissioner for Protection from Discrimination, detailing how the overrepresentation of these children constituted indirect discrimination against them. Official data shows over representation in the institution of Roma and Egyptians at 58.8%. Yet these groups make up officially less than 1% of Albania’s overall population.<sup>11</sup>
15. The complaint included concerns about the failure to return children to their families, and the lack of focus, guidance or procedures to facilitate returns or to assist children and parents maintain to their relationships. Many families have to travel considerable distances to visit their children who have been removed. These families are extremely impoverished, with other children to care for, the combination of logistics and travel expenses make it extremely difficult to maintain relationships with children who have been placed in institutions.
16. When children go into care, the institution is required to draft a plan for their future, including the prospect of returning to their family. But when the ERRC asked management at the School Children Home of Shkodra about the how long children stayed in the institution, the response was from age 6 to age 18, which suggested that returning children to their biological families is not seen as a priority.
17. The social and economic assessments of families required to assess the prospects of returns had not been carried out for the Romani and Egyptian children in the School Children’s Home on a regular basis; and without such assessments, courts will not transfer custody from the institution to the biological parents or relatives. Such assessments are required even for temporary visits. When it comes to court, Romani and Egyptian families may find it hard to get the information they need and can’t access free legal aid. This is another barrier to the right to respect for family life, and it is incompatible with human rights law.
18. In 2016 the Albanian Ombudsman published a special report “on the situation of respect for the rights of children living in residential institutions, and children and baby homes”, following an inspection by the Ombudsman’s office of nine institutions for residential and daily care of children in Tirana, Durres, Vlora, Shkodra and Korça. The Ombudsman expressed a number of concerns with regard to the living conditions and treatment of children in those institutions, the most worrying of which were related to serious allegations of physical and psychological violence against children.<sup>12</sup>
19. On 30 December 2016, in response to the case made by the ERRC and others, the Commissioner for Protection from Discrimination in Albania, recommended to the authorities that they undertake better monitoring, and that they intervene immediately to ensure respect for the family life of the children in the institution, including providing support for the families and ensuring that the children can see their families more often. The Commissioner also recommended that the authorities take steps to ensure that children are returned to their families.<sup>13</sup>
20. Dunja Mijatović Commissioner for Human Rights of the Council Of Europe, expressed similar concerns that many children resided in state care institutions without any prospects for leaving the institution before they become adults. The Commissioner visited the residential care institution “Shtëpia e Fëmijës” in Shkodra, which which, which was the subject of the ERRC complaint, and found that 70% of the children were Roma.
21. One of the major reasons for continued institutionalisation, identified by many interlocutors, is the lack of adequate support provided to poor families with children, in particular Roma, which contributes to the abandonment of children by their parents.
22. In line with ERRC recommendations, the Commissioner called on the authorities to invest in and step up the deinstitutionalisation process, and devise strategies to prevent the placement of children in state care, by providing more support to families raising children and developing an effective system of family-type services.

11 ERRC, *Families Divided: Romani and Egyptian Children in Albanian Institutions*. Cause of Action Series, November 2017. Available at: [http://www.errc.org/uploads/upload\\_en/file/families-divided-romani-and-egyptian-children-in-albanian-institutions.pdf](http://www.errc.org/uploads/upload_en/file/families-divided-romani-and-egyptian-children-in-albanian-institutions.pdf).

12 Report by Dunja Mijatović Commissioner for Human Rights of the Council Of Europe following her visit to Albania from 21 to 25 May 2018. Available at: [https://www.ecoi.net/en/file/local/1443524/1226\\_1537256604\\_commdh-2018-15-report-on-albania-en-pdf.pdf](https://www.ecoi.net/en/file/local/1443524/1226_1537256604_commdh-2018-15-report-on-albania-en-pdf.pdf).

13 ECRI 2020 Report on Albania (sixth monitoring cycle). Adopted 7 April 2020. Available at: <https://rm.coe.int/report-on-albania-6th-monitoring-cycle-/16809e8241>.

23. Commissioner Mijatović also stressed that the authorities need to provide adequate support to biological families who are willing to take care of their children; and improve the economic aid scheme to target poor families and children in need, through better social assessment of the living conditions of families.<sup>14</sup>

## CIVIL RIGHTS AND FREEDOMS (ARTS. 7, 8, 13–17, 19 AND 37 (A) OF THE CONVENTION)

### BIRTH REGISTRATION AND THE RISK OF STATELESSNESS

24. According to Albanian citizenship law, the acquisition of Albanian nationality should be automatic. However, in practice, according to the law “*On Civil Status*” birth registration is required to be carried out as a necessary precondition for the acquisition of Albanian nationality. This is a requirement that many Roma are unable to fulfil, exposing them to (the risk of) statelessness. Indeed, as evident from the majority of interviews conducted with Roma and other stakeholders (by the co-submitters under the Roma Belong project), the main cause of (risk of) statelessness of Roma relates to the challenges they face accessing civil registration in general, and birth registration in particular. Children who have a clear right to Albanian nationality are denied this because their births cannot be registered.<sup>15</sup>
25. The birth registration process in Albania can be complex and difficult to access. Those who are most likely to be unable to access documentation and registration are the children of parents who already lack the documentation needed to fulfill the legal requirements for civil registration in general, including registration of births, deaths, marriages, legal residency transfers, divorces, and child custody.
26. While the challenges identified above are not exclusive to Roma, they disproportionately affect Roma. Lack of resources, economic migration, life in informal housing, and marginalisation more generally, are all factors impacting significantly on their ability to register the births of their children. This problem is further exacerbated by the law and policy framework, which makes it extremely difficult for undocumented parents with no permanent residence to acquire nationality for their children. Hence, there is an intergenerational aspect to the risk of statelessness.
27. Without birth registration, Roma face barriers in obtaining other documents from the civil registry office and identity documents when they become adults. Furthermore, as Roma are less likely to have property ownership records or housing lease agreements, they face many barriers at the civil registry office when changing or registering their residence.
28. Other barriers to birth registration that were identified include: Communities living in rural areas far from health care centres leading to women giving birth at home; Lack of information or awareness about the registration process among Roma; and prejudicial attitudes among officials and other stakeholders resulting in a lack of action to identify Roma who are unregistered and at risk of being stateless.<sup>16</sup>
29. UNCERD noted the enhanced measures taken by the authorities, including initiatives implemented in cooperation with civil society, to identify Roma and Egyptian children who have not been registered at birth and to provide them with the necessary personal documents. However, the Committee remained concerned at the lack of an overall strategy to deal with this persisting challenge, particularly in the light of families returning from an irregular stay abroad and the increasing number of persons who seek international protection in the State party (art. 5).<sup>17</sup>

<sup>14</sup> *Ibid.*

<sup>15</sup> Joint Submission to the Human Rights Council at the 33rd Session of the Universal Periodic Review (Third Cycle, April - May 2019) Albania 4 October 2018. Available at: [http://www.errc.org/uploads/upload\\_en/file/5050\\_file1\\_joint-submission-to-un-hrc-on-albania-october-2018.pdf](http://www.errc.org/uploads/upload_en/file/5050_file1_joint-submission-to-un-hrc-on-albania-october-2018.pdf).

<sup>16</sup> ERRC, Institute on Statelessness and Inclusion (ISI), European Network on Statelessness (ENS) and Tirana Legal Aid Society, *Roma Belong: Statelessness, Discrimination and Marginalisation of Roma in Albania* February 2018. Available at: [http://www.errc.org/uploads/upload\\_en/file/4993\\_file3\\_roma-belong-albania-english-language.pdf](http://www.errc.org/uploads/upload_en/file/4993_file3_roma-belong-albania-english-language.pdf).

<sup>17</sup> UNCERD, Concluding Observations 2019.

## EDUCATION, LEISURE AND CULTURAL ACTIVITIES (ARTS. 28 AND 29 OF THE CONVENTION)

### ACCESS TO EDUCATION AND SCHOOL SEGREGATION OF ROMANI PUPILS

30. The comprehensive measures introduced by the authorities, including increased enrolment in pre-school and compulsory education have been welcomed by international bodies. While in 2011, only 48% of Roma and Egyptian children were enrolled in compulsory education (lasting from 7 to 15 years of age) – as compared to 91% among the overall population, this increased to 66% in 2018. However, this gap remains unacceptably wide, and most Roma aged 18-21 have still not completed a basic level of education. As ECRI reminded the authorities in its 2020 report, “closing, and not just narrowing, the enrolment gap between children of Roma and Egyptian origin and other children should be the overall aim in order to ensure access to education on an equal footing.”<sup>18</sup>
31. Beyond enrolment, attention is needed on improving attendance and completion rates; discriminatory practices and bullying within schools; and recommended measures to address the problems of non-inclusive school environment including teacher-training on the management of multicultural classes and cooperation with parents. No progress was reported concerning the review of curricula and textbooks in order to reflect tolerance and intercultural attitudes and to add material on Roma and Egyptian identities.
32. The official position of the government is that “Roma and Egyptians have full access and inclusion in qualitative education without being subject to discrimination and segregation.”<sup>19</sup> As the latest Global Education Monitoring Report suggests, the reality is otherwise. According to the indicator which measures the extent to which social diversity at the school and country levels mirror each other, the countries with the lowest degree of social diversity within schools – in other words, displaying the highest levels of social segregation – were Albania and Slovakia.<sup>20</sup>
33. On the issue of school segregation in Albania, the ERRC has two cases pending before the European Court of Human Rights: *X and Y vs Albania*,<sup>21</sup> and *X and others vs Albania*.<sup>22</sup>
34. **X and others vs Albania – facts of the case:** The applicants are Romani families living in Korça. Their children attend Naim Frasheri School, which used to be a racially integrated school, with ethnic Albanian, Romani, and Egyptian pupils. That started to change in 2012, after a programme was put in place to encourage attendance by Romani and Egyptian pupils, which in turn provoked “white flight” as more Romani and Egyptian children started to attend, and now Roma and Egyptians make up 99% of the school’s student population.
35. The ERRC met with community members, and submitted a complaint to Albania’s Equality Commissioner, who agreed that this racial segregation was unlawful. On 14 April 2017, the Ministry of Education wrote a letter setting out the steps that they would take to desegregate the local schools. But they did not take those steps.
36. The applicants met with ERRC in late 2017, after another school year began in the segregated school. They were unhappy that the authorities had not done what they said they would do to desegregate the school. The applicants requested ERRC go straight to the European Court. The complaint maintained that this school segregation was discrimination contrary to Protocol no.12 to the European Convention on Human Rights. On 3 April 2019, the European Court decided to communicate the case to the Albanian Government. ERRC will represent the applicants in those exchanges. A judgment is anticipated by mid-2021.
37. **X and Y vs Albania – facts of the case:** The facts of this case are identical to those in *X and Others v Albania*. This complaint is being considered separately because it was made later than the complaint in *X and Others*. ERRC is representing a grandmother who is acting for her grandchildren. The applicants allege that the segregation of the school persists and that the quality of teaching is poor.

<sup>18</sup> ECRI, 2020 Report on Albania.

<sup>19</sup> *Report on the Implementation of Roma Integration Public Policy in Albania*: Ministry of Health and Social Protection in Albania, 2019.

<sup>20</sup> *Inclusion and Education: All means All*, Global Education Monitoring Report 2021 Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000375490>.

<sup>21</sup> *X and Y vs Albania*: [https://hudoc.echr.coe.int/eng#{"itemid":\["001-200390"\]}](https://hudoc.echr.coe.int/eng#{).

<sup>22</sup> *X and others vs Albania*: [https://hudoc.echr.coe.int/eng#{"itemid":\["001-200390"\]}](https://hudoc.echr.coe.int/eng#{).

## REMOTE LEARNING AND ROMANI CHILDREN DURING COVID-19 LOCKDOWN

38. As in most countries, school closures and the move to online schooling gravely disadvantaged Romani students who lacked the minimum requirements for such learning. While the Local Education Office in Elbasan reported to the Ministry of Education 86.8% of Roma students and 92% of Egyptian students were enrolled in school, and regularly attending online classes using a variety of virtual platforms, local representative of the Roma community in Elbasan cast doubt on these unlikely claims: “I am very informed about my area and I can assure that more than 70% of the families do not even have simple phones at home. Most of the Roma children are pupils attending primary schools. There is a percentage who do not even have electricity and most of them have not attended online education.”<sup>23</sup>
39. According to a survey carried out by the Roma & Egyptian Youth Movement on access to online learning during the pandemic period, out of 1,184 Roma and Egyptian families interviewed, which had 2,177 school-age children, 1,320 of them did not have internet access. From this data collected from several cities, 69.25% of the children surveyed did not participate in online learning and were totally disconnected from their schools for the duration of the shutdown.<sup>24</sup> creating a total disconnection with the school. The data were collected in several cities in Albania and reflect part of the reality and the problem, while the numbers may be higher.

23 Source: <https://faktoje.al/mesimi-online-gjate-pandemise-ne-elbasan-vetem-3-nxenes-rome-moren-smartphone/>.

24 Euronews Albania, *Mësimi online/ Ndërhyrjet që i propozohen qeverisë që fëmijët romë të marrin edukimin si bashkëmoshatarët e tyre*, 24 December 2020. Available at: <https://euronews.al/al/sociale/2020/12/24/mesimi-online-nderhyrjet-qe-i-propozohen-qeverise-qe-femijet-rome-te-marrin-edukimin-si-bashkemoshataret-e-tyre>.