

**Press Conference of the European Roma Rights Centre; Centre for Legal Civic Initiatives (CLCI); the Children's Human Rights Centre of Albania (CRCA); Tirana Legal Aid Society (TLAS).**

**DISCRIMINATION AGAINST ROMANI AND EGYPTIAN CHILDREN IN THE SCHOOL CHILDREN'S HOME, SHKODRA**

**Complaint To The Commissioner For Protection From Discrimination**

Fact Sheet

The European Roma Rights Centre (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.

Center for Legal Civic Initiatives (CLCI)'s mission is to support, aid and provide legal education to the citizens, giving priority to women and girls, so as to increase their access to public institutions, and in particular in the justice system

Tirana Legal Aid Society (TLAS) is an independent non-profit organization in the form of a Centre. TLAS's mission is the fulfillment of legal and social needs of people in need, education and raising awareness of the Albanian society for rule of law and human rights; initiatives to improve the legal system, community development and strengthening of democracy in Albania.

The Children's Human Rights Centre of Albania – CRCA works to promote the respect of children and youth rights, to protect them from violence, abuse and exploitation, to develop children and youth rights in Albania and to increase child and youth participation at national and local level, through lobby and advocacy, policy and legislation improvement; capacity building, information and research, and establishment of good models of services of child care and protection. CRCA promotes the implementation of the UN Convention on the Rights of the Child and all other national and international human rights standards.



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## I. BASIC FACTS OF THE COMPLAINT–

### 1) **Romani and Egyptian children are overrepresented in the School Children’s Home of Shkodra.**

The system has failed to stop institutionalisation and one of the consequences of this continuing practice is that **Romani and Egyptian children are now overrepresented in this institution**. There are more than one and a half times as many Romani and Egyptian children in this institution than there should be, based on the total population of Roma and Egyptians in Shkodra, and in the other regions where children in this institution come from. Official data shows over representation in the institution of Roma and Egyptians at 58.8%. The Romani population of Albania stands at 0.3% and the Egyptian population at 0.12%. These figures show a clear overrepresentation in the care institution of Romani and Egyptian children. Although in some cases it was the children’s families themselves who asked the institution to admit their children because of their problems with providing them with material wellbeing, the only appropriate response in those circumstance is to support those families to keep their children. Instead, the authorities make the exclusion of Roma and Egyptians worse by taking their children into care. This amounts to **indirect discrimination**: what looks like a neutral practice is having a disproportionate impact on Roma and Egyptians; because that practice is unjustifiable, it is race discrimination.

### 2) **This complaint also focuses on the absence of cases where Romani and Egyptian children were returned to their biological families.**

We are informed that in Shkodra 5 non-Romani and non-Egyptian children were returned to their biological families in 2015.

No Romani or Egyptian children have been returned to their biological families in the years 2014<sup>1</sup> and 2015<sup>2</sup>.

There are no cases of Romani or Egyptian children being offered alternative care via a custodian family in 2013, 2014, or 2015.

This constitutes indirect discrimination against Romani and Egyptian children in relation to their right to respect for private and family life.

## II. LEGISLATION ON WHICH THIS COMPLAINT IS BASED –

<b>Legal Basis</b>	<ul style="list-style-type: none"><li>• Constitution of the Republic of Albania</li></ul>
<b>International Acts</b>	<ul style="list-style-type: none"><li>• European Convention on Fundamental Human Rights and Freedoms, ratified by Law no.8137, dated 31.7.1996.</li><li>• Convention on Child’s Rights, ratified on 27 February 1992.</li><li>• Convention on Relations with Children</li></ul>
<b>Legislation</b>	<ul style="list-style-type: none"><li>• Law no.10221, dated 4.2.2010, „On protection from discrimination”, NENI 1, 3,32.</li><li>• Law no.10347, dated 4.11.2010, “On protection of child’s rights”</li><li>• Law 9355, dated 10.03.2005, “On social aid and services”, as amended.</li><li>• Law no.139/2015, „On local government”, Article 10, 14, 24.</li><li>• Decision of Council of Ministers no.839, dated 3.12.2014, „On amendments to Decision of Council of Ministers no.425, dated 27.6.2012 „On the criteria and documentation needed for admission of persons in residential, public and non-public, social care institutions”.</li><li>• Decision no. 89, dated 26.1.2012 “On the criteria, documentation, and procedures of custodian services”.</li><li>• The decision of the Council of Ministers no.659, dated 17.10.2005, “On Standards of care social services for children in residential institutions”.</li><li>• The decision of the Council of Ministers no.658, dated 17.10.2005, “On standards of Social services”</li></ul>

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<sup>1</sup> Referring to the reply of the School Children’s Home of Shkodra, no.132/1.Prot, dated 23.3.2016.

<sup>2</sup> Official letter no.95, dated 11.05.2016 (Reply).

### III. SOCIAL EXCLUSION LEADING TO OVERREPRESENTATION –

- **The State's failure to prevent the institutionalisation of Roma and Egyptian children** is a failure to address acute social and economic problems Roma and Egyptians experience because of discrimination, problems which lead to an overrepresentation of Roma and Egyptian children in this institution.
- **The amount of economic aid that families benefit from is insufficient for them to ensure their children's wellbeing.** "While the coverage of extreme poor people has improved, the level of help remains low, and only 2,000 Roma and Egyptian families are included in the scheme of economic aid from a total of 80,000 families..."<sup>3</sup>.
- **In housing, the state has failed with providing suitable housing for the Romani and Egyptian communities.** According to an OSFA study, 67% of Romani families live in one-storey private houses, 5% in adopted former warehouses, dormitories, 15% in barracks, and only 13% in apartment blocks. In 38% of the cases, all members of the family live in one room. The UNDP study found that most Romani people live in damaged buildings (38.4%) or in barracks (20.8%), compared with 45.8% and 10.9% of Egyptians<sup>4</sup>.

### IV. THE PROBLEM IS NO MERE QUESTION OF POVERTY –

**No effective measures have been taken to prevent such a high percentage of Roma children from being accommodated in social care institutions. The overrepresentation of Roma and Egyptian children in the institutions of social care is a human rights violation and one of the most acute symptoms of the discrimination Roma and Egyptians face.**

This complaint follows the draft report from the Ombudsman on 30<sup>th</sup> June which found that staff in the state care institution in Shkodra exhibit discriminatory behaviour towards Romani & Egyptian children.

Poverty on its own can never be the reason children are taken into care. When Roma and Egyptians are disproportionately affected, taking poor children into care amounts to indirect discrimination, and demonstrates the failure of the state to provide the necessary support to families for raising and educating their children<sup>5</sup>.

The European Court of Human Rights in numerous cases has said: **A family cannot be put at risk because their children live in poverty.** Therefore, the State must play the main role in helping and supporting them in material and other economic forms, considering the family a priority. If the State does not, Albania is exposing itself to being condemned by the European Court next. This process for supporting families in difficult was not respected by the local government and social services before placing the children in the institution of the School Children's Home in Shkodra<sup>6</sup>.

The local authorities have not fulfilled their obligations in providing social services to the community<sup>7</sup>. The lack of social services in the respective municipalities or administrative units has also led to negative effects on families, making them travel frequently to see their children, far from where they live.

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<sup>3</sup> MSWY, National Action Plan for the Integration of Roma and Egyptians in the Republic of Albania, 2016-2020, fq.39. Based on MSWY data for the first half of 2014.

<sup>4</sup> Referring to the MWSY, the National Action Plan for the Integration of Roma and Egyptians in the Republic of Albania, 2016-2020, fq.39. Based on the MSWY data for the first half of 2014, data from the socio-economic study of the UNDP/WB/CE2011.

<sup>5</sup> See Decision of the High Court no.00-2012-2472, dated 22.05.2012.

<sup>6</sup> Law on protection of children's rights, Article 29.

<sup>7</sup> Law no.44/2016, "On amendments to Law no.9355, dated 10.03.2005, "On social aid and social services", Article 4, point 6; Decision of the Council of Ministers no.659, dated 17.10.2005, „On standards of social care services for children in residential institutions". Article 42/1 of Law no. 9355, dated 10.03.2005, "On social aid and services"

## V. RESPONSIBLE PARTIES

- We have found the municipalities from which children originate to be responsible for the indirect discrimination they are subject to (Tirana, Mallakastër, administrative unit of Ballsh, Kamëz municipality, Durrës municipality). They are responsible in their lack of provision for the rights of the biological family, and in not offering alternative services such as foster care etc. in line with the established process for social state care.
- The municipality of Shkodra is responsible as the direct administrator of this institution and service.
- The Regional Department of State Social Service has the obligation to cooperate with social administrators in municipalities on the offering of services aimed at supporting disadvantaged families.
- Providers of services for children have the responsibility to have contacts with units for protection of children regarding the implementation of a plan for the child, facilitating the contact between children and families etc.
- The School Children's Home in Shkodra is responsible for their lack of effective cooperation with municipalities aiming to support Romani and Egyptian children's families.
- The Ministry of Social Welfare and Youth is responsible for the failure in effective cooperation with local authorities regarding the provision of alternatives for the support of Romani and Egyptian families. The Ministry is responsible in cooperation with the State Social Service for not undertaking effective monitoring of the social standards in state care institutions, and especially the lack of thought towards a plan for the future for children who are raised for long periods in state care institutions.
- Gaps in the legal framework regarding the roles and responsibilities of different actors in child social care have negatively affected Romani and non-Romani children in this state care residential institution. This is a problem accepted even from the system.

**We are calling the Commissioner for Protection from Discrimination to find this situation to be discriminatory based on the ethnicity of those affected, to recommend the responsible institutions undertake effective measures to stop this situation and also to undertake measures with clear goals and deadlines to support the families of Romani and Egyptian children accommodated in this institution.**

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July 2016