

WRITTEN COMMENTS

OF THE EUROPEAN ROMA RIGHTS CENTRE, CONCERNING ROMANIA

For Consideration by the Committee on the Rights of the Child at its
Pre-session Working Group for the 75th Session (3-7 October 2016)



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

TABLE OF CONTENTS

Introduction	3
Discrimination of Romani children in education - Article 2, Article 28 and Article 29	3
Factual Information on Segregation	3
National Legal and Policy Framework on School Desegregation	4
Right to housing as part of the right to an adequate standard of living under article 27 § 1-3 taken together with articles 2 and 3	5

INTRODUCTION

The European Roma Rights Centre (ERRC)¹ respectfully submits a list of issues concerning Romania for consideration by the Committee on the Rights of the Child (CRC) at its pre-session Working Group for the 75th Session, which will be held from 3rd to 7th October 2016.

The ERRC has undertaken regular monitoring of the human rights situation of Roma in Romania and this list of issues reflects the current priorities in our work in Romania.

According to current unofficial estimates, Roma in Romania make up approximately 9% of the population (approximately 1,850,000)². However, a verified and accurate count remains elusive. According to the final results of the 2011 Census of the Population and Households published on 4 July 2013 by the National Statistics Institute, Romania had a total population of 20.12 million. Among the 18.88 million respondents who self-reported their ethnicity, 621,600 were Roma (3.3%, an increase from 2.46% in the 2002 census).

Deeply entrenched anti-Roma attitudes can be vividly seen in the annual surveys carried out by the National Council for Combating Discrimination: in 2005³ 61% of respondents thought that Roma were a source of shame for Romania, while 52% of respondents went further to say that Roma should not be allowed to travel outside the country. These attitudes have not improved much: in 2013⁴ 48% of respondents said that they did not want a Romani work colleague, 41% would not want a Romani neighbour, and 38% would not want any Roma in their municipality. Public authorities are not insulated from these wide-spread and pernicious attitudes; in the absence of robust safeguards these attitudes may translate into violations of the Convention.

DISCRIMINATION OF ROMANI CHILDREN IN EDUCATION - ARTICLE 2, ARTICLE 28 AND ARTICLE 29

In Romania thousands of Romani children remain in segregated education. Experts have identified various forms of segregation: children from compact Romani communities are directed to schools traditionally and informally identified as “Roma schools” (even though mixed schools exist nearby); Romani children are arbitrarily directed to special schools; Romani pupils are placed in separate classes in mixed schools, ostensibly on ability or merit, or based on the pretext of their late enrolment or failure to have previously attended kindergarten.⁵ All these practices are specifically forbidden by Romanian law.

At its last review of Romania in 2009 the Committee highlighted the issues that Romani children are faced with: enrolment in primary school had decreased and the number of school dropouts had increased significantly in the preceding years affecting children of Romani origin. They have a significantly lower pre-school and primary school enrolment rate; many experience some form of school segregation, have lower school attendance rates, and may be wrongly enrolled in special schools as families cannot afford education-related costs.

FACTUAL INFORMATION ON SEGREGATION

No official data on school segregation has been made available since the Committee’s last review of Romania in 2009. Data collected by the Ministry of Education in 2006 suggested that between 37.9% and 45.4% of

- 1 The ERRC is a Roma-led international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma, in particular strategic litigation, international advocacy, research and policy development, and training of Romani activists. Additional information about the organisation is available at: www.errc.org.
- 2 Council of Europe estimates on Roma populations in European countries, available for download at: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680088ea9>.
- 3 The 2005 survey is available at: <http://www.cncd.org.ro/Files/?FileID=106>; see page 37.
- 4 The 2013 survey is available at: <http://www.cncd.org.ro/files/file/Sondaj%20de%20opinie%20CNCd%202013.pdf>; see page 33.
- 5 Enikő Vincze and Hajnal Harbula, *Strategii Identitare și Educație Școlară Raport de cercetare despre accesul copiilor romi la școală* (Cluj: Editura Fundației pentru Studii Europene 2011) EDUMIGROM / România, Available at: <http://sparex-ro.eu/wp-content/uploads/strategii-identitare-si-eduatie-scolara-Volum-2011.pdf>.

Romani pupils in Romania were subject to some form of school segregation, in 444 schools.⁶ According to the data taken into account in the 2015 revision of the National Roma Inclusion Strategy (NRIS) there are approximately 1,680 schools with a Romani population of at least 15% Romani pupils.⁷ These include majority Roma schools and schools where Roma children are at risk of being placed in segregated classes. However, a recent official analysis⁸ implausibly estimates that there are only 33 segregated schools nationwide. This is strongly contradicted by independent research.

A 2008 UNICEF-supported study⁹ found some form of segregation of Romani children in 67% of the schools it surveyed: 31.6% of these schools were majority Roma, while 35.3% (non-majority Romani schools) placed Roma in segregated classes. This study was carried out soon after the entry into force of the main piece of desegregation legislation, Ministry of Education Order no.1540/2007. At that time 63% of the schools surveyed were not aware of or did not implement this order. The situation did not improve significantly in the subsequent years. In 2011, according to another UNICEF-supported study,¹⁰ at primary school level, 64.5% of Romani students attended majority Roma classes (the study does not distinguish whether these were in majority Roma schools or not) and at middle school level the percentage was 53%.

School segregation persists to this day. Recent research from 2016¹¹ in North-Eastern Romania alone¹² found that 81 schools out of 394 for which data was available displayed some form of segregation of Romani children. In half of the 112 municipalities surveyed there was at least one school that practised some form of segregation.

There is a consensus across the above-mentioned studies that Romani pupils in segregated classes or schools have significantly worse learning conditions than their peers in mixed facilities: buildings are often in a state of disrepair and more often lack heating and access to electricity and sanitation than mixed schools. Their teachers more often lack the qualifications required by law and suffer from poor morale. These conditions lead to a significantly higher dropout rate and poorer educational attainment.

NATIONAL LEGAL AND POLICY FRAMEWORK ON SCHOOL DESEGREGATION

Romania has taken formal steps to end school segregation, mainly by adopting the Education Minister's Order no.1540/2007 on the prohibition of school segregation of Romani children. While it prohibits school segregation on paper, in practice the authorities have continuously failed to even discharge their organisational and reporting obligations, let alone actually roll back segregation.

The ministerial order appears not to be implemented by schools or school inspectorates, who take advantage of the absence of precise and severe sanctions.¹³ The order envisages a full-range of sanctions: disciplinary, civil and even criminal. However, no specific sanction is provided for any particular failure. An account of the Ministry's efforts between 2007 and 2014 to implement the order and obtain information on desegregation measures is available from various sources. Apparently these consisted of repeatedly reminding school inspectorates of their obligations, without any indication of any sanctions being adopted. In any case, the Ministry appears to have finally obtained some data. It has reportedly compiled an "Analysis of the stage of segregations/

6 Open Society Institute, *Equal Access to Quality Education for Roma* (2007), 362, available at: https://www.opensocietyfoundations.org/sites/default/files/2roma_20070329_0.pdf.

7 *Strategia Guvernului României de Incluziune a Cetățenilor Români aparținând Minorității Rome pentru perioada 2014-2020* (2014) available at: http://www.anr.gov.ro/docs/Site2014/Strategie/Strategie_final_18-11-2014.pdf.

8 Ministry of European Funds, *Analiză socială desfășurată în județele din România* (October 2015), available at: http://www.fonduri-ue.ro/images/files/transparența/romi/23.03/Analiza_judetelor.RO.pdf.

9 Laura Surdu, *Monitorizarea aplicării măsurilor împotriva segregării școlare în România* (MarLink, 2008) available at: <http://www.unicef.ro/wp-content/uploads/monitorizarea-aplicarii-masurilor-impotriva-segregarii-scolare-in-romania.pdf>.

10 Laura Surdu coord., Enikő Vincze and Marius Wamsiedel, *Roma School Participation, Non-Attendance and Discrimination in Romania* (2011), 9, available at: http://www.unicef.org/romania/Roma_school.pdf.

11 Eugen Crai et al., 2016, *Raport de monitorizare privind segregarea / incluziunea școlară a elevilor romi în regiunea Nord-Est*, available at: <http://www.cado.org.ro/segregare-scolara-in-regiunea-nord-est-moldova.html>.

12 In five of Romania's 41 counties: Botoșani, Iași, Neamț, Suceava and Vaslui counties, which comprise some 14% of the total population.

13 Romani CRISS, *Segregarea Școlară, Sub Lupa Societății Civile* (2011) available at: http://www.romanicriss.org/Brosura_segregare_pasi%20strategici%20educatie%202009-2011.pdf.

desegregations [sic] in the school year 2012-2013” dating from 19 July 2013 and further data was transmitted by county school inspectorates between January and April 2014 which was included in an internal document of the ministry intended for analysis and action.¹⁴ However, this data was never made public.

The Ministry has not complied with its own obligation of publicising data on desegregation either in its general annual report or in any other form. The latest Annual Report on the State of Education in Romania was published in 2010,¹⁵ and contains no data about school segregation.

In 2015, Romani CRISS, a national Roma rights NGO, have requested information from the Ministry of Education, the National Agency for Roma, and all the 42 county-level school inspectorates on the implementation of the ministerial order, in particular on the current status of school segregation and plans to address it. The Ministry of Education and the National Agency for Roma have failed to respond to the request. Similarly a majority of county school inspectorates either failed to respond or denied the existence of segregation without providing any specific data.¹⁶

Nor is it apparent that the Ministry has at least shared its data with other state authorities: a 2014 assessment on the implementation of the National Roma Inclusion Strategy available on the webpage of the National Roma Agency¹⁷ describes various communication problems with the Ministry of Education and explicitly states that no data has been communicated on the reduction of cases of school segregation, the number of schools/classes desegregated or the number of desegregation plans drafted and monitored.

Policy measures aimed at school desegregation are included in the National Roma Inclusion Strategy. However, according to the European Commission’s assessment “no significant desegregation or antidiscrimination measures have been implemented so far. Fighting discrimination is not prioritised enough in the revised strategy”.¹⁸

General anti-discrimination law, Government Ordinance no. 137/2000, is no more effective in securing school desegregation. In all but one of the school segregation cases brought before the National Council for Combating Discrimination (NCCD), the outcome was a recommendation or a warning to the segregating school. No binding desegregation order was ever issued by either the NCCD or the courts.

We consider the legislative changes adopted by the Romanian government to be highly insufficient, arguing that they alone cannot secure equal access of Roma children to education if not accompanied by any concrete and sustainable de-segregation policies and measures.

Suggested questions for the Government:

- What measures will be undertaken to ensure that the Education Minister’s Order no.1540/2007 on the prohibition of school segregation of Romani children will be effectively implemented? Are there any sanctions envisaged for failure to comply with the provisions of the order, such as failing to report on current segregation or failure to adopt desegregation plans?
- Is there any follow-up by the Romanian authorities to segregation findings of the National Council for Combating Discrimination and the courts in order to ensure the desegregation of the relevant schools?

14 Luminița Costache, Gheorghe Sarău and Ion Sandu, *Rromanipen educațional* (București: UNICEF, 2014) available at: http://www.unicef.ro/wp-content/uploads/Ghid.Rromanipen.web_.pdf.

15 Andrei Macsut, *Topul Transparenței. De la primării de sector, consilii județene sau ministere, instituțiile statului nu se grăbesc să le spună contribuabililor ce-au făcut un an întreg* (2015) available at: <http://www.romaniacurata.ro/topul-transparenței-de-la-primării-de-sector-consilii-județene-sau-ministere-instituțiile-statului-nu-se-grăbesc-să-le-spuna-contribuabililor-ce-au-facut-un-an-întreg/>.

16 Romani CRISS, *Implementarea Măsurilor privind Incluziunea Socială a Romilor – Domeniul Educație* (2015), 40 available at: <http://www.dare-net.eu/cms/upload/file/shadow-report-on-roma-segregation-in-education-romania-romanian.pdf>.

17 Agenția Națională pentru Romi, *Analiza Implementării Strategiei Guvernului nr.1221/2011* (2014) 20-21 available at: <http://www.anr.gov.ro/docs/Site2014/Strategie/Analiza%20implementării%20strategiei%20Guvernului%20nr.%201221%20din%202011.pdf>.

18 European Commission, *Factsheet on the Romanian National Roma Inclusion Strategy* (2015) http://ec.europa.eu/justice/discrimination/files/roma_country_factsheets_2015/romania2015_en.pdf.

RIGHT TO HOUSING AS PART OF THE RIGHT TO AN ADEQUATE STANDARD OF LIVING UNDER ARTICLE 27 § 1-3 TAKEN TOGETHER WITH ARTICLES 2 AND 3

In its 2009 Concluding observations on Romania the Committee expressed its concern that “forced evictions of Roma families with children have been carried out without the provision of alternative lodging or adequate compensation.” There has been little progress ever since.

Forced evictions of Roma communities have continued, as illustrated by events Cluj¹⁹ in 2010 and Eforie Sud in 2013,²⁰ 2014²¹. More often than not, Romani families are moved to periphery of the city, usually in environmentally hazardous places. These forced relocations expose Romani families and children to significant health risks and jeopardise access to education.

Nor has there been progress in the legal framework on evictions. There is still no legal remedy in place with automatic suspensive effect in the case a potential eviction, nor are there any provisions for sufficient notice to and consultation of the affected communities. Judicial eviction procedures, under articles 1033-1048 of the Civil Procedure Code, do not provide for any proportionality analysis of the effects of the eviction, including its impact on the rights of any children affected. More worryingly, demolitions of informal (unauthorised) housing are not treated as evictions under Romanian law, thus precluding prior judicial review and denying the modicum of safeguards applicable to other evictions. This particularly affects Romani families who are disproportionately more likely to live in informal housing.

The ERRC and other NGOs have consistently engaged with the Romanian authorities for the adoption of safeguards against forced evictions.²² These efforts have been unsuccessful to date.

The threat of eviction is compounded by significant difficulties relating to the affordability of housing and widespread discrimination in access to social housing.

Legal provisions on state support for vulnerable families to meet their utility costs, under Law 116/2002 on preventing and combating social marginalisation, are not known or not implemented by local authorities, leading to evictions for failure to meet such costs. This was recently illustrated by a new threat of eviction against a Romani community in Eforie Sud in April 2016.²³

The allocation of social housing, largely regulated at the local level, is often marred by discriminatory scoring criteria.²⁴ One widespread and particularly egregious example concerns the number of children: families applying for social housing generally receive additional points for more children; however, this is often capped at three children. The ERRC believes that such a cap is motivated by the age-old stereotype of large Romani families.

While housing is generally the responsibility of local authorities, the central government plays a significant role. It funds a majority of social housing developments and contributes to housing related subsidies. County prefects, which represent the central government, review the legality of local decisions including the allocation of social housing, as well as all eviction and demolition orders. No measures are in place for the central government to monitor and ensure that local housing policies and decisions, including evictions, are not discriminatory.

19 European Roma Rights Centre, *Taken from the City: Romanian Roma Evicted to a Rubbish Dump* (2012) available at: <http://www.errc.org/cms/upload/file/romania-report-pata-rat-17-dec-2012-en.pdf>.

20 ERRC, *Press release on the Eforie 2013 eviction*, available at: <http://www.errc.org/article/romania-eviction-leaves-100-people-homeless-in-dangerous-conditions-%E2%80%93-authorities-must-act-urgently/4204>.

21 ERRC, *Press release on the Eforie 2014 eviction*, available at: <http://www.errc.org/article/romanian-roma-victimised-by-new-evictions/4303>.

22 For details see the *Joint letter of Amnesty International, the European Roma Rights Centre, and Romani CRISS to the Romanian Government*, (2016), available at: <http://www.errc.org/cms/upload/file/romania-joint-letter-of-concern-on-measures-to-prevent-forced-evictions-12-april-2016.pdf>.

23 ERRC, *Press release on the Eforie 2016 threat of eviction*, available at: <http://www.errc.org/article/in-second-emergency-order-in-a-week-european-court-temporarily-halts-eviction-of-roma/4469>.

24 UN Special Rapporteur on extreme poverty and human rights, *Report on visit to Romania* (2016), available at: <http://www.errc.org/cms/upload/file/alston-report-on-romania-8-april-2016.pdf>.

Suggested questions for the Government:

- What measures does the Romanian State envisage to ensure that evictions of any kind are carried out in compliance with international standards in a non-discriminatory manner, in particular by carrying out meaningful consultations with the affected communities, providing adequate alternative accommodation and ensuring continued access to services such as healthcare and education?
- How is the proportionality of evictions assessed, in particular in relation to the best interest of any affected children and their potentially discriminatory character? Are there any plans to allow courts to conduct such proportionality reviews of planned evictions, including demolitions of informal (unauthorised) housing? Does the central government monitor the legality and impact of evictions on the affected families including their children?
- What steps are taken to guarantee that social housing is allocated in a non-discriminatory manner? Do prefects monitor local policies on social housing? Are any measures envisaged to ensure that central funding for social housing development does not go to municipalities with discriminatory social housing policies?
- Does the state monitor the allocation of financial support for utility costs? Are any measures envisaged to guarantee that vulnerable families are not evicted because of utility debts that should have been covered with state support?
- Are any measures envisaged to collect ethnically disaggregated data in the field of housing to ensure that housing policies and decisions, including eviction decisions, are not discriminatory?