

# WRITTEN COMMENTS

BY THE EUROPEAN ROMA RIGHTS CENTRE CONCERNING ALBANIA

For consideration by the Committee on the Rights of the Child, at the Universal Periodic Review at its 47th session, (October-November 2024).

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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## INTRODUCTION

The European Roma Rights Centre (hereinafter also referred to as the “ERRC”)<sup>1</sup> hereby submits these comments concerning Albania for consideration at the Universal Periodic Review at its 47th session (Oct-Nov 2024). The submission focuses on the overrepresentation in state care of Romani children in Albania; segregation in education; access to public services including health and housing; access to clean water and sanitation; risks of statelessness.

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.” The government also 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.

The European Commission’s 2023 Albania report noted that “limited progress was made on the social inclusion of the Roma and Egyptian minorities”. Despite improvements in education, “segregation in schools remains an issue that should be systematically addressed.” Access to personal documents has improved for both communities. However, the Commission noted that the lack of digital skills and access to technology continue to prevent Roma and Egyptian people from fully enjoying their rights and accessing public services, which are increasingly digital.<sup>2</sup>

<sup>1</sup> The ERRC is a Roma-led an 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. 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: <https://www.errc.org/>.

<sup>2</sup> European Commission, *Commission Staff Working Document Albania 2023 Report*, Brussels 8.11.2023.

## ROMANI CHILDREN IN STATE CARE INSTITUTIONS

For over a decade, the ERRC has campaigned and litigated against the placing of disproportionate numbers of Romani children 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 showed 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>3</sup>

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.

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.

The social and economic assessments of families required to assess the prospect of return 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.

In 2016 the Albanian Ombudsman’s special report “on the situation of respect for the rights of children living in residential institutions, and children and baby homes”, 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.

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>4</sup>

<sup>3</sup> ERRC, *Families Divided: Romani and Egyptian Children in Albanian Institutions*. Cause of Action Series, November 2017. Available at: <https://www.errc.org/reports-and-submissions/families-divided-romani-and-egyptian-children-in-albanian-institutions>.

<sup>4</sup> ECRI 2020 Report on Albania (sixth monitoring cycle). Adopted 7 April 2020.

## RECOMMENDATIONS

The ERRC recommends that State Authorities provide a detailed update on progress made with regards to Romani children in state care, and all the recommendations made by the Ombudsman, the Commissioner for Protection from Discrimination, and the Council of Europe Commissioner for Human Rights. In particular, State authorities should:

- Invest in prevention and avoid deprivation of parental rights, expand coverage of family social services, including parental programs, to all geographical areas by allocating sufficient financial, technical and human resources.
- Introduce a gatekeeping system with regard to alternative care, with the aim to reduce the number of children in out-of-home placement, prevent unsuitable entries into the care system and ensure the suitability of placement.
- Ensure that poverty, disability or ethnic origin are not accepted as valid reasons for the removal of children from their biological families; that removal is always an option of last resort, solely guided by the best interest of the child; ensure quality standards with clear guidelines are in place for child protection services; and that all care professionals receive training on the rights of the child.
- Launch public education campaigns promoting a fully inclusive, rights-based and equity-focused approach to child welfare as a benefit for the entire society; sensitise local communities around issues to do with community care and small group homes to mitigate hostility or resistance; and raise awareness around fostering to mobilise new foster families, and to extend the network of foster carers nationally.

## SCHOOL SEGREGATION OF ROMANI CHILDREN

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.” According to the 2021 Global Education Monitoring Report suggests, 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>5</sup>

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.

The 2023 annual report from the European Commission, noted progress made in education support for Roma and Egyptian children, but stressed that segregation in schools remains an issue that should be systematically addressed.

### Romani & Egyptian Families Win Landmark School Segregation Case Before European Court

**On 31 May 2022:** Romani and Balkan Egyptian families won a potentially precedent-setting case against the Albanian government before the European Court of Human Rights (ECtHR) for racial segregation in the Naim Frasheri School in Korça. The Court found that Albania had violated Article 1, Protocol no.12 of the European Convention on Human Rights by failing to implement swift and comprehensive desegregation measures in the elementary school attended almost exclusively by Romani and Balkan Egyptian children. According to the judgment, the Albanian government must take measures to desegregate the school as well as pay damages of €4500 per household to the families.

The applicants were represented by the ERRC which brought the case directly to Strasbourg, bypassing the national courts, after authorities failed to desegregate the school.

The judgment reiterated Article 46 of the Convention which imposes a legal obligation on Albania to put an end to the violation found by the Court (in this case, discriminatory school segregation) and provide redress as far as is possible for those affected by the discrimination. The government was given three months to pay the damages totalling €22,500 plus taxes to the affected families. All of the adult applicants who brought the case to court were Romani and Balkan Egyptian women.<sup>6</sup>

**On 23 February 2023:** the Council of Europe reported that in response to the ECtHR judgment, representatives from Albanian local and central institutions convened in Korça to discuss concrete measures to address segregation in schools and advance the integration of Roma and Egyptian children in education, with support from the European Union and the Council of Europe. It was reported that active discussion took place on measures to be undertaken to support the implementation of the ECtHR judgment.

<sup>5</sup> UNESCO, *Inclusion and Education: All means All*, Global Education Monitoring Report 2021. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000375490>.

<sup>6</sup> For more details see ERRC Press Release, *Albania: Romani & Egyptian Families Win Landmark School Segregation Case Before European Court*. 31 May 2022. Available at: <https://www.errc.org/press-releases/albania-romani-egyptian-families-win-landmark-school-segregation-case-before-european-court>.

## RECOMMENDATIONS

The ERRC recommends that the authorities furnish a detailed account of concrete steps taken to fully implement the ECtHR judgment, desegregate schools and ensure sustainable solutions to prevent segregation in schools in the future. In particular, State authorities should

- Devise a comprehensive, time-bound and fully-costed action plan to finally and fully eradicate segregation and all forms of anti-Roma discrimination in education.
- Clarify what steps were taken to make up for digital disconnection and lack of schooling for Romani pupils during Covid-19 lockdown.
- Ensure that all Romani children who require individualized or other additional education support measures can access these, and that adequate resources are allocated for such purposes.
- Continue to expand accessibility to inclusive preschool education to cover all Romani children.
- Develop a data-collection system – anonymized in line with data protection guidelines – with a view to provide long-term and accurate statistics on school enrolment (including type of school), attendance, transfers, drop-outs, class repetition, attainment and achievement, disaggregated by ethnicity and other appropriate characteristics, and that this is used to identify and address discrimination and segregation, and aiming ultimately to deliver equity in access and outcomes.

## ACCESS TO CLEAN WATER AND SANITATION

ERRC research findings revealed that many Roma suffer disproportionately from the failures of public authorities to secure access to water and sanitation. Significant numbers of Roma included in the research have no access to running water in their homes. Their water sources are often far from where they live, with the burden to secure water falling disproportionately on women and girls. These sources are often not tested to ensure their safety and are exposed to a wide range of contaminants, including dry toilets (pit latrines), insect, and wild animals. Roma often cannot afford public water service pipes and water charges, even if they are accessible. Many Roma communities only enjoy access to water thanks to private donations. The ERRC found evidence that many Romani households remain without water and sewerage due to discrimination.

The situation with the public sewage infrastructure in Romani neighbourhoods is equally alarming. Fewer than 12% of Romani communities had a functioning mechanical flush toilet and drainage systems. Many of these neighbourhoods do not even have a private sewage facility and houses discharge the sewage (a mix of waste water and excrement) to nearby surroundings. Three quarters of Romani households surveyed resorted to use either self-made pit latrines located in some distance from the house or they defecated in the open. The countries with the worst records in this regard were Moldova, France, and Albania.<sup>7</sup>

### **Albanian Authorities Ordered to Supply Clean Water for Roma After Discrimination Case**

**On 12 December 2018:** A Romani community in Fushe Kruje, Albania have won a case before the Commissioner for the Protection from Discrimination, after taking on the local municipality for refusing to provide them with clean drinking water and sanitation. The Commissioner found that the municipality of Kruje discriminated against some 250 Romani families living in the “Kastriot” neighbourhood based on their ethnicity and socio-economic status, and has ordered the municipality to take immediate measures to correct the situation within 30 days or face a fine.

The case was taken before the Commissioner by the Albanian Helsinki Committee (AHC) with the support of the European Roma Rights Centre (ERRC), who provided evidence of the ethnic divide in access to water in Albania.<sup>8</sup>

In May 2022, the World Bank announced that Albania will receive a \$75 million loan and a \$6.3 million grant, to improve the operational and financial performance of water supply and sanitation utilities and to increase access to safe water services in Albania.

<sup>7</sup> ERRC, *Thirsting for Justice*. Available at: [https://www.errc.org/uploads/upload\\_en/file/thirsting-for-justice-march-2017.pdf](https://www.errc.org/uploads/upload_en/file/thirsting-for-justice-march-2017.pdf).

<sup>8</sup> For more details see Press Release: <https://www.errc.org/press-releases/albanian-authorities-ordered-to-supply-clean-water-for-roma-after-discrimination-case>.



## RECOMMENDATIONS

The human rights to water and sanitation require that these services be available, accessible, safe, acceptable, and affordable for all. The ERRC recommends that the authorities provide a detailed update on concrete action taken to ensure that all Roma and Egyptian families have access to clean water and sanitation. State authorities should:

- Adopt laws explicitly recognising the human right to water and sanitation and ensure that all people in the country enjoy access to safe drinking water and sanitation.
- Develop and adopt a comprehensive strategy and an annual work plan that will include specific actions for implementing the human right to water and providing socially-excluded neighbourhoods with public water and sanitation infrastructure.
- Ensure that conditions of housing informality do not prevent people from enjoying the right to safe drinking water and sanitation; allocate resources to connect Romani settlements to public drinking water and sewage systems.
- Ensure that the quality of all alternative water resources, which serve as a drinking water supply, are periodically checked and the quality of water is guaranteed.
- Always consider affordability for socially excluded groups when developing and implementing regulatory policies on water and sanitation fees and conducting enforcement activities.

## BIRTH REGISTRATION AND THE RISK OF STATELESSNESS

Since 2020, the law ensures that children born stateless on the territory, foundlings, adopted children and most children born to nationals abroad acquire Albanian nationality. There have been measures to reduce the risk of statelessness and improve access to birth registration, but children still face difficulties if parents are undocumented or have irregularities in their documentation, and Romani and Egyptian communities are disproportionately impacted.<sup>9</sup>

Negative stereotypes, marginalisation and discrimination make Roma vulnerable to the risks of statelessness in Albania, according to a 2018 report *Roma Belong: Statelessness, Discrimination & Marginalisation of Roma in Albania* by the ERRC, the European Network on Statelessness (ENS), the Institute on Statelessness and Inclusion (ISI), and the Tirana Legal Aid Society (TLAS). The report showed how statelessness exacerbates the multiple types of discrimination faced by Romani people in Albania. Statelessness passes from parent to child, meaning they are often left to grow up *without a nationality, struggling to access key services such as education, healthcare and housing*.<sup>10</sup>

The TLAS and UNHCR mapping in 2018 found that of the 1031 persons at risk of statelessness in Albania, 97% were children. The primary causes reported were: (i) being born outside of Albanian territory (53%), (ii) being born to parents who aren't married (12%), iii) being born at home (10%), and (iv) being born in hospitals or maternity units that hold incorrect personal details on the mother (9%). Altogether 84% of those identified at risk of statelessness had obstacles related to birth registration procedures. Members of Roma and Egyptian communities are disproportionately affected; and they made up half of all recorded cases at risk of statelessness despite representing between 0.4% and 3.3% of the total Albanian population.

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.

By 2021, the Republic of Albania committed to fully implement the 2018 legislative amendments that improve access to birth registration procedures for children of Roma and Egyptian communities, and for children born outside the territory of the Republic of Albania whose parents are nationals of the Republic of Albania.

The European Commission 2023 report noted that while access to personal documents has improved for both communities, the lack of digital skills and access to technology continue to prevent Roma and Egyptian people from fully enjoying their rights and accessing public services, which are increasingly digital.

<sup>9</sup> Statelessness Index 2023, Albania. Available at: <https://index.statelessness.eu/country/albania>.

<sup>10</sup> ERRC, ENS and TLAS, *Roma Belong: Statelessness, Discrimination & Marginalisation of Roma in Albania*. 2018.

## RECOMMENDATIONS

The state authorities should be requested to provide detailed and ethnically disaggregated data update of the numbers of those currently at risk of statelessness, the impact of current measures taken to meet the state's pledges to improve access to birth registration procedures for Roma and Egyptian children, and to eliminate statelessness by 2024. Further state authorities should:

- **Access to fundamental rights.** The Albanian Government should take steps to guarantee access (in law and practice) to fundamental rights for all Romani people on their territory, irrespective of documentation or citizenship status.
- **Tackling prejudice and discrimination.** The Albanian Government should act to ensure that Roma are not directly or indirectly discriminated against in their access to documentation, enjoyment of their right to a nationality, and all other human rights. The Government must ensure that the Albanian legal framework is equipped to identify and prevent multiple discrimination faced by stateless Roma.
- **Access to civil registration.** The Albanian Government should ensure that all civil registration and documentation procedures, including birth registration, are universally accessible by simplifying complex procedures and eliminating barriers related to cost, time, distance and bureaucracy.
- **Children born abroad.** The Albanian Government should strengthen cooperation with other states on the issue of birth registration for Albanian nationals whose children are born abroad. State funded legal aid should be made available to those affected to ensure their births are registered and citizenship recognised.
- **Statelessness lead in Government.** The Albanian Government should designate a lead authority with a mandate for preventing and reducing statelessness and identifying and protecting stateless persons in Albania. Their role should include awareness raising across government departments and institutions, including immigration and asylum, citizenship, and civil registry authorities. The National Human Rights Institutions and Ombudsperson should have a mandate to monitor and report on these issues.
- **Capacity building of state officials.** The Albanian Government should mandate rigorous and continuous professional development for all state officials, such as registry office staff, health workers, and consular officials, who have a legal role to play in civil registration procedures. Working with relevant experts, the Government should ensure that these officials, decision makers and other key actors are equipped to address statelessness and discrimination, by providing training and continuous capacity building on core topics including equality and non-discrimination, statelessness, gender, human rights and public law.
- **Community outreach.** The Albanian Government should conduct ongoing outreach programmes to improve connections and relationships between Roma communities and government institutions and officials. State officials should work with the community to design and conduct outreach campaigns to directly learn from Roma communities about their specific needs and the barriers they face, to share information with them, and to provide them with access to mobile registration teams.
- **Access.** The Albanian Government should make available effective remedies for all those seeking to resolve their documentation status, including high-quality, state-funded legal aid (that does not require the very documentation they have been denied in order to access it), the removal of barriers such as court fees or fees for DNA testing, judicial oversight, and robust complaints and compensation mechanisms.