

## **Fourth cycle-43rd session of the Universal Periodic Review – ROMANIA**

*Joint submission by: ACCEPT Association, ARAS-Romanian Association against AIDS, ECPI-Euroregional Center for Public Initiatives, RHRN-Romanian Harm Reduction Network, SECS-Society for Education on Contraception and Sexuality, UNOPA-National Union of Organizations of People affected by HIV/AIDS.*

### **Background information**

The Government of Romania has not taken steps to prevent HIV/AIDS and other sexually transmitted diseases. Measures for prevention focused on key populations and the general population were not implemented or financially supported at national scale. The state is not applying a human rights-based approach to drug users, failing to respect their basic right to health, taking steps in opposite direction to the relevant international recommendations made by various UN agencies. The Parliament is proposing in 2022 an increase of penalties for all drug-related offences<sup>1</sup>, and this legal initiative already passed by Senate- the first chamber of Chamber of Parliament notified, while civil society calls for comprehensive drug prevention and education, drug treatment, and harm reduction financed at national, regional and local scale.

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<sup>1</sup> <https://senat.ro/legis/PDF/2022/22L297FS.PDF>

The Romanian government has had plans in place to adopt national strategy on HIV/AIDS and national strategy on sexual and reproductive health for more than 15 years, however it has failed to make the plans a reality. Concerning HIV/AIDS, the Ministry of Health does not comply with its legal obligations to adopt the HIV/AIDS Strategy, allocate financial resources for prevention programs while HIV incidence is growing abruptly among key populations such as men having sex with men and drug users. While the HIV epidemic in Romania is stable with an estimated <1,000 new HIV infections per year and a resulting HIV incidence of 0.10 (0.07-0.08) and 0.1 HIV prevalence among adults aged 15-49 years<sup>2</sup>, the impact upon key populations such as MSM and IDUs is much higher. The current National HIV Program is primarily focused on ARV treatment and does not provide resources for HIV/AIDS prevention and research. Additionally, the available budget is insufficient for ensuring HIV monitoring, and, at the same time, cases of discrimination based on HIV, sexual orientation and gender identity in healthcare services remain unaddressed and unpunished.

New and effective approaches to HIV prevention are not implemented. At the same time, the people living with HIV are periodically confronted several times per year with stockouts and interruptions to vital medication. Romania was also inactive in implementing the Concluding Observations of 9 December 2014 of the Committee on Economic, Social and Cultural Rights, in which it called upon Romania to adopt a national strategy on sexual and reproductive health, including prevention measures and sexuality education (E/C.12/ROU/CO/3-5, par. 22). The Government's inaction in implementing UN recommendations in this sensitive public health area contravenes its binding treaty obligations under the International Covenant on Civil and Political Rights, specifically Articles 19 (freedom of expression and to seek, receive and impart information) and the

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<sup>2</sup> AIDSinfor Geneva, Switzerland: UNAIDS; 2020 , Available from: <http://aidsinfo.unaids.org/>.

International Covenant on Economic, Social and Cultural Rights, specifically Articles 12 (right to the highest attainable standard of health, and corresponding obligation on States Parties to take necessary measures to prevent, treat and control epidemic diseases and assure access to medical service and attention) and 15 (right to enjoy the benefits of scientific progress and its applications).

### **Right to health**

Theme E 41, Recommendations 114.133 (Australia), 114.134 (Israel), 114.135 (Germany), source of position: A/HRC/38/6/Add.1

Romania has not adopted a National AIDS Strategy since 2007<sup>3</sup>, while an operational plan of measures focusing on HIV testing and prevention at the national level<sup>4</sup> is chronically missing- although such measures are mandatory according to the national legislation<sup>5</sup>. In practice, the Romanian legal commitment to universal access to antiretroviral therapy has not been matched by programs and measures to prevent and combat HIV/AIDS. The international commitment made by Romania in the context of UN Agenda 2030 to end AIDS by 2030 is not one that can be achieved in practice.

The UNAIDS targets for Romania in 2020 (90% of the persons are tested for HIV, 90% of the patients diagnosed to have access to treatment, 90% of the HIV-positive people to have an undetectable viral load) were not met. On the contrary, the access to treatment was

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<sup>3</sup> Romania has in place a National HIV/AIDS Program under the coordination of the Ministry of Health, focused mainly on treatment as part of the National Public Health Programs.

<sup>4</sup> These measures were proposed to the Ministry of Health by a specialized and temporary body on HIV and Tuberculosis (CCM Romania) associated to the Global Fund against HIV and TB since the year 20017, but they did not receive approval and especially funding from the Romanian Government.

<sup>5</sup> <https://legislatie.just.ro/Public/DetaliiDocumentAfis/39744>

interrupted periodically in Romania while access to counselling and testing has been drastically reduced by at least 50% in the COVID pandemic context<sup>6</sup>. The access for people living with HIV to their medical specialists has been very difficult due to the fact that infectious disease hospitals were fully focused on the fight against Covid-19. In the absence of sexuality education in the public educational field and preventive HIV measures at national, regional and national scale, the number of new cases of HIV infection has increased steadily in recent years with a disproportionate impact upon key populations<sup>7</sup> and specialists make worrying predictions of HIV expansion<sup>8</sup>. By preventing new HIV infections, morbidity and mortality can be reduced through coordinated measures under the supervision of the National AIDS Commission.

The National AIDS Commission, an interministerial body that coordinates the state intervention in this field at all levels and guarantees the application of the international obligations undertaken by Romania, was removed by the Government in 2021. By Ordinance 18/2021<sup>9</sup>, the Government of Romania repealed Article 4 of the HIV/AIDS Law no.584/2002 which provided for the establishment of the National HIV/AIDS Commission, but all other provisions and references regarding the role and mandate of the Commission (such as the adoption and coordination of the national HIV strategy, monitoring compliance with the legal obligations of health units in this particular public health area, the adoption of the therapeutical guide, etc.) remained in force in the absence of the interministerial and inter-sectoral institution to apply and monitor them. Such measure goes against the international recommendations addressed in the third UPR cycle by member states such as Australia

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<sup>6</sup> <https://360medical.ro/stiri/unopa-accesul-la-tratament-al-pacientilor-cu-hiv-a-fost-interrupt-de-multe-ori-in-acest-an-din-cauza-bugetului-insuficient-iar-testarea-a-scazut-la-mai-putin-de-50/2021/12/03/>

<sup>7</sup> <https://www.cnlas.ro/images/doc/31122021.pdf>

<sup>8</sup> <https://www.g4media.ro/tot-mai-multi-pacienti-diagnosticati-cu-hiv-sida-dupa-pandemie-medic-infectionist-avem-cu-30-mai-multi-decat-inainte-de-pandemie-in-pandemie-oamenii-nu-au-mai-ajuns-in-spitale.html>

<sup>9</sup> <https://legislatie.just.ro/Public/DetaliuDocumentAfis/245932>

(Recommendation no. 114.113, A/HRC/38/6 (UPR 2018), Germany (Recommendation no.114.135, A/HRC/38/6 (UPR 2018), Israel (Recommendation no.114.134, A/HRC/38/6 (UPR 2018), recommendations which were accepted by the Romanian Government.

There is no evidence that criminalization of HIV transmission had an impact on the rate of HIV infection in society, while the history of more than 2 decades of criminalization of the virus failed to prove the capacity of the entire legal system to detect the existence of a pronounced social risk. The perpetuation of the criminalization of the transmission of this virus induces the idea that people infected with HIV represent a distinct danger in society that must be combated by special measures: this legal type of discrimination in comparison with other types of viral transmissions should not be tolerated by the Romanian state. Also, the increase proposed in Parliament in 2022<sup>10</sup> of the criminal penalties for possession of drugs for personal consumption has no justification and contradicts the recommendations of specialists and various international bodies such as the Global Commission on Drug Policy<sup>11</sup>.

### **Absence of Comprehensive Sexuality Education Based on Evidence and Human Rights Standards**

Theme E 51, source of position: A/HRC/38/6/Add.1 - Para. 18

Sexuality education is not a mandatory subject in schools in Romania. *Education for Health* was introduced in the national curricula for public education in 2004 as an optional subject and addresses only a limited number of topics related to sexuality education. Issues such as

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<sup>10</sup> [http://www.cdep.ro/pls/proiecte/upl\\_pck2015.proiect?idp=19908](http://www.cdep.ro/pls/proiecte/upl_pck2015.proiect?idp=19908)

<sup>11</sup> <https://www.globalcommissionondrugs.org/reports/time-to-end-prohibition>

sexual orientation, gender norms, gender identity, prevention of unwanted pregnancies and safe and legal abortion are not properly addressed. The number of pupils enrolled in *Education for Health* decreased sharply, from 12% in 2011-2012 to below 6% in before 2021<sup>12</sup>. Schools and parents are not encouraged by the Ministries of Education, Health or the Ministry of Youth to access this form of education. Teachers continue to have no access to specific training which is essential in obtaining skills for teaching issues related to sexuality education and are particularly reluctant to discuss issues related to puberty and sexuality. The information pupils receive is not rights-based nor age-appropriate.

The endemic lack of comprehensive, evidence-based sexuality education is one of the contributors to the high rates of teenage pregnancies in Romania. According to data published by EUROSTAT, Romania recorded the highest shares of births of first children to teenage mothers (with 12.3% of total births of first children in 2015).<sup>13</sup> Despite the Final Observations of 13 July 2017 of the Committee on the Rights of Child, in which it urged Romania to extend the scope of the National Program on Sexual and Reproductive Health (2013-2017) to provide comprehensive, age-appropriate health and sexuality education (CRC / C / ROU / CO / 5, para. 36 (d)), the situation in Romania has not improved. On the contrary, the Romanian Parliament voted in 2022 for replacing sexuality education despite the purpose provided by law (art. 46 paragraph (3) letter i) of Law no. 272/2004 on the prevention of "sexually transmitted diseases and the pregnancy of minors"). At the same time, the elimination of the phrase "at least once a semester" of sexuality education from the law affects

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<sup>12</sup> <https://www.hotnews.ro/stiri-educatie-24868491-educatie-sexuala-sanitara-cati-elevi-urmeaza-optional-educatie-pentru-sanatate-reproducere-familie-ministrul-educatiei-sorin-cimpeanu-scoli-programa-clasele-primare-gimnaziu-liceu.htm>

<sup>13</sup> <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20170808-1>

the interests and rights of pupils to regularly receive relevant information with a negative impact on their overall health, including sexual and reproductive health and rights.<sup>14</sup>

### **Recommendations:**

-Adopt and finance the National HIV/AIDS Strategy and its operational national plan based on a multiannual budget with a focus on prevention among vulnerable groups and key populations at increased risk of HIV and uninterrupted treatment for people infected with HIV.

-Create an interministerial and intersectorial oversight body to propose, amend and oversee the HIV Strategy and its plan implementation under the supervision of the Romanian Government.

-Operationalize legislation that allow ministries and state agencies to subcontract NGOs delivering social and medical services targeting populations vulnerable to HIV.

-Support and finance interventions and policies designed to serve people who use drugs reflecting their specific individual and community needs.

- Replace the HIV and drug use criminalisation with health policies based on scientific and medical data and public health goals.

-Increase access to Education for Health as a school subject for all pupils and offer comprehensive, rights- and evidence-based and age-appropriate sexuality education and information in schools.

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<sup>14</sup> The current non-mandatory discipline Education for Health contains a reduced informational segment on sexuality education.