

# Children's Rights in Romania

**Submission by Save the Children Romania related to Romania  
for Universal Periodic Review  
2nd session**

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## 1. NORMATIVE AND INSTITUTIONAL FRAMEWORK FOR THE PROMOTION AND PROTECTION OF CHILDREN'S HUMAN RIGHTS

In Romania, major developments have taken place in terms of the child rights protection. The legislative and institutional frame was developed: the National Authority for the Protection of Children Rights (NAPCR) was established within central administration, and at local level, specialised services for child protection were in place; also, in 2005, the Law no. 272/2004 for promoting and protecting children's rights entered in force (the law follows the principles and the rights stated in the CRC and represented an important step towards implementing this international document). Also, part of the secondary legislation enforcing the law has been developed and adopted.

### Difficulties in enforcing the legislation

#### *From the viewpoint of non-governmental organisations*

The assessments carried out by the non-governmental bodies<sup>1</sup> highlighted the following issues hindering the reform process:

- difficulties in increasing the responsibility of local authorities with regard to the children from the protection system or with a view to preventing the child's separation from the family;
- the slow reform pace in other sectors complementary to the child protection system (education, healthcare, local administration);
- staff qualification in compliance with the minimal compulsory standards (shortage of qualified staff, improper remuneration of the existing staff, staff leaving the system);
- lack of experience/democratic exercise in involving the community in the improvement/solving of problems and reintegrating the young people leaving the protection system;

#### *From the viewpoint of the staff working in state institutions*

The interviews conducted<sup>2</sup> with persons working in institutions responsible for child rights protection and centres for disadvantaged categories of children highlighted the non-unitary interpretation and hence implementation of the legislation, the shortage of qualified staff and the lack of motivation among the specialists to work in this field of activity, as well as the shortage of financial resources for the attainment of the compulsory standards.

### The institutional infrastructure

#### Monitoring bodies

Despite that the UN Committee on the Rights of the Child underlined in its last concluding observations that Romania should complete as soon as possible its plans to establish an ombudsman for children as an independent structure for child rights monitoring, the Romania still has no Ombudsperson for Children. A deputy for "the rights of children, family, youth, elderly people and persons with disability" is acting within National Ombudsman. This deputy addresses only few child related cases per year (and sometimes the cases are referred to the NAPCR). Also, the personnel are semi-specialised in child rights field<sup>3</sup>. The number of received petitions and actions taken ex officio regarding children rights is extremely low due to the insufficient information of the public opinion, mainly with regard to the existence and role of this institution.

#### Juvenile justice

The final observations on juvenile justice matters, formulated by the Committee on the Rights of the Child<sup>4</sup> mentioned the large number of children under preventive arrest, the lack of specialised judges to investigate cases of juvenile delinquency, the lack of alternatives to the deprivation of liberty and a severe incapacity of the judicial system to provide quick interventions or trials for juvenile criminals. Although these problems should have been the basis for supplementing and amending Law no. 304/2004 on juvenile justice, the new judicial organisation law is in fact a regression in this respect, as it replaces the *obligation* of setting up specialised juvenile and family courts with the *possibility* of establishing such courts, leaving the decision up to the court presidents.

## 2. IMPLEMENTATION OF HUMAN RIGHTS OBLIGATIONS IN RELATION WITH CHILDREN

Although the complexity of benefits and services is a strength of the Romanian social protection system, its restrictive trend towards the poorest population fraction, by promoting selective benefits, together with the low amounts and their constant decrease in real value compared to inflation and salary increases raise several question marks related to the ability to support appropriate social security for children and their families. The services and benefits are mainly accessed by families facing economic difficulties, although parenting is not only conditioned by the family's incomes and the right of the child are not just the ones that refer to vulnerable children. There are no counselling and guidance services for young

<sup>1</sup> „Dissemination of child protection standards”. A project implemented by ProChild Romanian Federation in partnership with the Federation of Child Protection Non-Governmental Organisations (FONPC), financed by World Learning, May 2005 - April 2006.

<sup>2</sup> Save the Children Romania, "Child Rights Enforcement in Romania", Bucharest 2006

<sup>3</sup> "Child Rights Monitoring at Local Level – A pre-study in Estonia, Lithuania, Moldova, Romania, Serbia and Sweden", Save the Children Sweden 2007

<sup>4</sup> Review of the regular reports submitted by the state parties, in compliance with article 44 of the Convention, the Committee on the Rights of the Child, 32nd Session, 2003.

couples, especially for future parents, except for the pre-natal specialist or other major interests regarding the promotion and the implementation of all the rights a child is entitled to.

## **Juvenile justice**

The children from penitentiaries have never heard of specialised juvenile judges nor have they noticed any differences in terms of the procedures used compared to adults. On the contrary, they complained that the judges do not treat children fairly, do not listen to them and give them no credit.

The statistics provided by National Administration of Penitentiaries and Ministry of Justice showed that almost 45% of the total number of children deprived of liberty are held in the police arrest or in penitentiaries. Although according to a fundamental principle of criminal law – the benefit of the doubt – these children should be considered and treated as not guilty until the passing of the final ruling, they are detained in penitentiaries for adults, most of them under maximum security, without having the necessary conditions for educational, development and reintegration programmes. In its article 57, the Criminal Code provides that the minors sentenced to imprisonment should execute their penalty separately from adult detainees or in special detention places, while having the opportunity to continue their compulsory education and acquire a vocational training adapted to their skills. Nevertheless, during preventive arrest, which may last a few months, children are not included in any form of school education or vocational training. The situation is the same following the final conviction, in case the children execute their penalty in the penitentiary for adults, while the situation is incomparably better in the rehabilitation centres and penitentiaries for minors and youth. Within each of these institutions there are schools and all the children must attend the compulsory courses. It is obvious that the children from the adults' penitentiaries, who represent more than half of the children deprived of liberty, besides the fact that they do not have access to education, they are also discriminated compared to those who committed the same crimes but who, because of a less severe judge, were sent to a rehabilitation centre ( Save the Children Romania , "Child Rights Enforcement in Romania").

## **Non-discrimination principle**

A recent study regarding the access of Roma people to social services, conducted by the Community Development Agency "Impreuna" (Together)<sup>5</sup> reveals that the most stringent problem with which Roma children are confronted is the lack of access to education, in all its forms: pre-school, school, professional, family, civic and religious, healthcare. The interviews carried out in a school from Craiova highlighted a clear discrimination based on ethnic criteria, the reason being the "sanitary and corporal hygiene of the Roma children".

Mentalities, mostly of people from rural areas, still have discriminatory effects upon teenage girls who become mothers. Thus, in a village from the county of Gorj, the behaviour mark of a girl from the 8<sup>th</sup> grade who gave birth to a child was decreased and it was even envisaged that she would be expelled or transferred to another school in order to avoid giving a negative example to others (the case was highly presented into mass media in 2006).

Although there are no official statistic data available, there are still cases of children deprived of identity documents. Mainly, they belong to the Roma ethnic group or to the category of street children.

According to a research published by the Open Society Institute<sup>6</sup> in 2006, in the Roma families' culture, girls are generally encouraged to leave school earlier than boys. To the same extent, the school discrimination phenomena, coming from other children's parents but also from certain teachers, discourage Roma people from going to school. According to the above mentioned inquiry, more than half of the interviewed Roma women state that their own children are facing discrimination issues in school, while 19% mention that most of the schools their children are going to are Roma. Discrimination attitudes towards Roma people were also revealed by a survey conducted within the Child Rights Monitoring Group, where a percentage of 12% of investigated children would not wish to sit at the same desk as a Roma child.

According to a report of the Institute for an Open Society, in September 2005 only 28% of about 52,000 children with mental disabilities had benefited from any form of education, because most special schools did not accept children with severe mental disabilities<sup>7</sup>.

## **Child participation**

Concerning pupils' organisations existing in the different towns, a recent Save the Children national research<sup>8</sup> revealed that about 70% of the children are not aware of or have never heard of the main child representative institutions (Youth's Parliament, Local Youth's Council, Pupils' Government etc.). The majority heard about Pupils' Council but only 5.3% of the ones that are aware of this structure had resorted to its support to solve a problem or make a proposal and 22.9% resorted to it rarely while 70.9% of them never resorted to this forum which is supposed to promote their proposals and represent their interests. Over ½ of the pupils consider that during school classes they do not have the opportunity to freely express their opinions to a sufficient, large or very big extent and that they rarely can amend school regulation.

According to the opinions of the young people responding to the inquiry, optional courses included in the school curriculum do not always take account of the specific students' needs. Only 36.1% of the investigated students think that

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<sup>5</sup> The Community Development Agency „Impreuna” (Together) and the Foundation for an Open Society. Roma access to social services. Realities and trends in 2005. Bucharest, 2006, p.28-30.

<sup>6</sup> Broadening the agenda. The status of Romani women in Romania, Open Society Institute, 2006, p 11.

<sup>7</sup> US State Department, Country report for Romania regarding respect for human rights, 2005, p25.

<sup>8</sup> Save the Children Romania, "Pupils' opinion regarding their rights", Bucharest, 2006

optional courses taught in school correspond to their interests, while 10% do not have the chance to take a class that interests them. Moreover, some of the students interviewed within the focus groups say that “*Optional courses are optional only by their name! The school curriculum is taboo! We cannot change anything*”.

### **Protection of children against alcohol and drugs**

Although a few years ago, Romania was a simple stop in the drugs’ itinerary towards the Western European market as a result of the conflict in former Yugoslavia, following the improvement of its economic situation, Romania becomes a market for these psychotropic substances.

Statistics show an increasingly worrying situation as to the incidence of drug consumption. While light drugs like marijuana were used in the past, now there is a direct passing to intravenous heroine. As for the consumers’ age, it decreased dramatically, the minimum age recorded being 10. Therefore, according to a research conducted by Save the Children in 2004-2005<sup>9</sup>, 4% of the children aged 11 to 18 used drugs. Children living in large cities, especially boys, are the most exposed.

In Romania there are only few centres for methadone treatment and the therapeutic community providing psychological assistance to people going through rehabilitation after the discontinuation of methadone treatment is not developed. There are services dealing with the physical addiction, but there is no constant intervention on the psychological addiction developed by drug use.

### **Children victims of exploitation and violence against children**

Law 272/2004 regarding the protection and fostering of child rights contains a whole chapter regarding child protection against economic exploitation and provides for the schools’ obligation to promptly inform the social services of any minors who miss the classes in order to work but despite the frequency of **child labour** cases, there are no data confirming that anyone has ever been accused or convicted in 2005 under any law banning child labour.<sup>10</sup> According to the Report on child labour in Romania, developed in 2004 by the National Institute of Statistics, the number of children involved in the worst forms of labour in the urban and rural areas is about 70,000. In the urban areas, most such children beg on the streets in order to help their families survive. Of all the children working on the street for over 8 hours a day, 44% beg in difficult conditions, most of them suffering from skin diseases, tuberculosis or hepatitis; 61% of them have dropped out of school at the age of 11, 34% of them are illiterate and 40% have poor reading and writing skills.

Romanian government developed the institutional and legislative framework for the preventing and combating child abuse and trafficking, but the implementation of these measures are still slow. A 2005 study<sup>11</sup> showed that 8.5% of the sex workers inquired during the investigation proceedings were minors, and 20% of them had spent part of their childhood in child protection institutions. Furthermore, 45% of them declared they had been sold/bought, compared to 24.5% of the girls who had never been to such an institution.

### **Children left behind while their parents migrated for work abroad**

The increase of labour force’s movement within European borders brought Romania in front of a massive migration, Romanians trying to find job opportunities in countries with a more developed economy. This phenomenon is more characteristic for poor areas of the country, where large communities migrated abroad, leaving behind a high number of children, in the care of grandparents, other relatives or even in no one’s care. The National Authority for the Protection of Children’s Rights revealed, in June 2007, a minimum of 82,464 children left in the care of one (47,154) or no parent (35,310) while the lasts migrated abroad for work. Alarming is the fact that almost 2,500 children left behind entered in the social special protection system and that the monitoring and identification methods are still in developing phase, concluding that the number of children is obviously higher. A study carried by Soros Foundation<sup>12</sup> indicates that more than 170,000 pupils from V-VIII grade have at least one parent abroad. A study carried out by Save the Children in 2007<sup>13</sup> shows that grandparents or other relatives need support in their communication with children, especially while exists the risk that the children may develop behavioural problems like school dropout and absenteeism or even juvenile criminality.

### **Institutionalised children and young people who exit the social protection system**

Romanian protection system can provide children’s basic needs (food, clothing, shelter), but has low possibilities of solving the problem of the exits from the protection system because most young people who come of age try to remain in the system as long as possible. Therefore, the current services provided to this category of age should be reconsidered in order to be capable of providing proper social integration. There is a need for coherent strategies to be applied during institutionalisation, so that the young persons can adapt to the requirements of an independent life and mitigate the shock of de-institutionalisation.

<sup>9</sup> Save the Children Romania, “Research Report – Illicit and non-illicit substance consume within Romanian teenagers and young people age 11-22 ”, Bucharest, 2006

<sup>10</sup> US State Department, Country report for Romania regarding respect for human rights, 2005.

<sup>11</sup> Commercial sex, a public health and social perspective. The Romanian Anti-Aids Association, a study conducted on a sample of 395 prostitutes from 12 cities in the period May 10<sup>th</sup> – July 21<sup>st</sup>, 2005.

<sup>12</sup> Soros Foundation, “Migration’s Effects – Children Left Behind”, Bucharest, 2007

<sup>13</sup> Save the Children Romania, “The impact of Parents’ Migration on Children Left Behind”, Bucharest, 2007

Concerning children with mental disorders, there are no psychiatric departments for children, who are placed within adult psychiatric departments where they are not supervised, they are sedated and in risk of being aggressed and intimidated by adult patients<sup>14</sup>.

### **Access to care services**

**Children with disabilities** are still in a difficult situation in as much as the equality of rights, social integration and normalisation of living conditions are concerned. Insufficient expertise on disabled children of young age is one of the most important issues. For most of the children, the disability is identified and the child is oriented towards specialised services when he/she enters the education system. The task of identifying disabled children belongs to family doctors, who are not trained to establish a differentiated diagnosis and specific recovery programmes. The lack of programmes and centres of early detection and intervention in the case of disabilities, having appropriate human and technical resources, affects the children's chances of recovery, and the delayed identification of a disability eliminates the possibility of an early intervention, which is the most efficient in these cases. Recovery and integration plans are not sufficiently personalised and the community is still insufficiently involved in the care process. An important issue is the decrease of the number of children with disabilities living in institutions (from 568 in 2003 to 329 on June 2006, according to the National Authority for Disabled Persons) but in the same time, there is also quite a low access to recovery care for children born in the rural areas. There is also a lack of so-called "respite centres" taking care of children with disabilities for certain periods of time and giving parents the possibility to deal with certain issues and/or to rest.

More than 7,200 **children and young people with HIV** must face discrimination related to access to necessary medical care, including dentist, dermatological, otorhinolaryngologist or gynaecologic treatment, psychiatric assistance, routine or emergency surgery or ambulance services for bleeding patients. Very often, doctors refuse to treat children and young people with HIV or try to discourage them to come back by repeatedly changing appointments or asking them to come after all the other patients had left or by calling them "the persons having AIDS" in front of other patients<sup>15</sup>. Psychiatric hospitals sometimes refuse to treat children and young people HIV-positive even when suffering of a severe psychiatric disease; in addition, the living conditions and meals in certain facilities are very poor, which involves health risks for the patients. Despite Romania's declared commitment and despite the Government's efforts to ensure antiretroviral treatment for all the persons fulfilling medical criteria, the access to therapy is different from one county to another and hospitals dealing with antiretroviral distribution cannot structure their budget so that they may prevent the eventual delivery delays or interruptions by creating stocks. The violation of the confidentiality related to the HIV-positive status, even within professionals, is frequent or rarely punished.

According to the National Institute of Statistics<sup>16</sup>, approx. 20,000 children were delivered by minor mothers in 2005. **Child-mothers**, who either got pregnant by accident or are already married, are forced to grow up sooner and leave school. The percentage of babies born from by young mothers is still high especially among the Roma, with an average of 2 babies by the age of 19, growing to 5 babies before 39<sup>17</sup>. This situation is due, on the one hand, to Roma family traditions, and on the other hand, to the insufficient use of contraception.

### **Education, culture and leisure time**

The reform of the national educational system registered a rapid evolution, but not always the generated effects were positive ones. The main problems of the educational systems are given by the instability of the adopted measures, by the reduced financial motivation of the teachers and also by the major differences between rural and urban areas in what concerns the material conditions and the scholar registration rate. The poor economic situation of a large number of families and also parents and children's mentality towards education contributed to a high school abandonment. Comparing with the value of 0.6% in the school year 2000-2001, the drop-out rate reached 1.7% in the school year 2004-2005, as it is showed in the statistics offered by Ministry of Education, Research and Youth.

The school registration rate of Roma children is much lower than the national average, and their discrimination in school environment is accentuated. Also, the multicultural education is still insufficiently promoted; the number of classes in Romani language is low, reuniting for example, in school year 2004-2005, 118 pupils from I-VIII grades. In the same scholar year, 22 children benefited from specific kindergarten classes in Romani language.

The education for children with disabilities still takes place mainly in segregated forms, although remarkable efforts for including them in the mass education system are carried out. Therefore, the Ministry of Education, Research and Youth showed that 10,338 disabled children were individually integrated in mass education and 3,957 in compact classes, in the school year 2005-2006. Also, for these children, 699 support teachers were trained, number still insufficient related to the pupils' number. This fact determines the school drop-out of some children with disabilities and also the failure in reaching the objective of the inclusive education.

Repeatedly, the press highlighted the fact that in Bucharest, state **kindergartens** fail to meet all the requirements, and school inspections admit that there are 10,000 children in excess of the number of available places<sup>18</sup>. According to the data provided by the Ministry of Education Research and Youth, there is a decrease of almost 50% of pre-school facilities,

<sup>14</sup> Save the Children Romania, "Child Rights Enforcement in Romania", Bucharest 2006

<sup>15</sup> Life is not waiting, Human Rights Watch, 2006.

<sup>16</sup> Children having children, Evenimentul Zilei, May 16, 2006.

<sup>17</sup> Access of Roma people to social services, Realities and trends in 2005, Bucharest, 2006.

<sup>18</sup> Kindergarten panic, Ziuva, June 5th, 2006.

due to the educational system reorganisation and efficiency efforts and according the National Institute of Statistics, kindergartens' number decreased from 5,687 in 2004 to 1,720 in 2006. Therefore, kindergartens having a small number of children, lost their legal personality but were not closed down, as they were taken over by a superior institution (secondary school, high school or technical school).

The **school counselling** system was developed during these past years but the number of centres and trained counsellors is still insufficient. Only 53.3% of the students investigated by Save the Children<sup>19</sup> state that there is a school counsellor in their school, while 35% are not aware or have never heard about the existence of this counsellor. Moreover, among those who mentioned the counsellor's presence in schools, almost 75% have never used school counselling services.

### 3. RECOMMENDATIONS

#### **Children in placement centres**

- Legislation harmonisation on certification and inspection, according to existing resources. Establishing the steps of the process of enforcing minimal compulsory standards.
- Strengthening a real public-private partnership and permanent dialogue. Diversification of community-based services, focused on prevention and not intervention. Creating professional training systems/ framework programmes – initial and in-service – for the staff working in the field of right protection and promotion.
- Introducing beneficiaries in independent life skills development programmes, as early as possible. Drafting framework regulations for placement centres including a communication and motivation system (based on awards and sanctions) for children-staff relationships. Involving children in decisional activities concerning them, including administrative activities of the institution (cleaning, cooking etc)
- Maintaining and encouraging parent-child relationships, including by creating day-care centres where institutionalised children may spend most of their time, benefiting from complete assistance (supervision, food, didactic support, etc.)

#### **Children having parents working abroad**

- Awareness raising campaigns for parents, carried out by public institutions (including Consulates) and NGOs and aiming at informing them regarding the risks their children may encounter while they are left behind and regarding the methods to maintain a strong communication with the children
- Developing counselling services for the persons who are taking care of children in the absence of parents; multiplying the school counsellors network, the day centres and "school after school" type of programmes
- Involving mass media in promoting solutions for these situations and positive examples
- Developing local action strategy: forming consultative groups and enhancing the network of local social institutions, identifying the vulnerable children, allocating the necessary budget for protecting these children

#### **Children in detention**

- Establishing a special procedure for the enforcement of legal decisions concerning children. Changing the approach of the legal act in order to focus on the guilty person and on his/her social reintegration and not on the crime in itself and on the punishment.
- Creating specialised centres for minors replacing police or penitentiary cells in the case of preventive arrest. Creating custody centres for children having committed very serious crimes but not being criminally liable.
- Diversifying alternative sanctions besides minors' detention. If the minor is to be deprived of liberty, he/she should be placed in specialised institutions and not in adults' penitentiaries. Increasing the number of social reintegration and surveillance counsellors and increasing budget resources allocated to these services.
- Creating community centres intended for juvenile delinquents where they are supposed to come regularly in order to participate in different educational activities and to benefit from assistance and counselling services.

#### **Child's health and wellbeing**

- Strengthening actions promoting mother, child and family health through: health and hygiene education; sexual and contraceptive education, family planning; special monitoring and child care programmes for pregnant women; child health monitoring services; local (community) medical care, especially in schools.
- Developing a community medical care system and improving the cooperation with the social assistance services by: developing social assistance services within the medical care system (medical institutions and community); developing community nurses and health mediators' networks; developing medical-social units.

#### **Education, culture and leisure time**

- Stimulating the participation of children from rural areas to education, with a particular focus on pre-school education and access to higher education following the completion of the compulsory level.
- Stimulating the pupils' initiative to organise representations forums which should be known and recognised by all pupils, including those in disadvantaged situations. Increasing the awareness of the mass media with regard to the importance and the role of the children's opinion in various social, cultural or political events. Furthering the teachers' training programmes in identifying and leveraging each pupil's interests and skills, while fostering school and vocational counselling for all children.

<sup>19</sup> Save the Children Romania, "Child Rights Enforcement in Romania", Bucharest 2006

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