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**Human Rights Committee**

**Information received from Romania on follow-up to the  
concluding observations on its fifth periodic report\***

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\* The present document is being issued without formal editing.



## Information Note

1. Pursuant to par. 46 of the Concluding observations on the fifth periodic report of Romania, adopted by the Human Rights Committee at its 3444th session and published on 11 December 2017, the present Information Note gives a presentation on the measures taken to implement those recommendations indicated in par. 46 of the 2017 Concluding Observations.

### I. Equality and non-discrimination of Roma (Response to recommendation 12 of the concluding observations (CCPR/C/ROM/CO/5))

#### I.1

2. As the implementation period of the National Strategy for the inclusion of Romanian citizens belonging to Roma minority is approaching its end in 2020, its assessment is ongoing. NAR already launched a recommendation for public policy in the field of inclusion of persons belonging to Roma community for the period 2021–2027.

3. The document proposes an updated approach of the policies for Roma inclusion, based on data, and focusses on the elaboration of national programmes in priority areas, such as education, employment, health, housing, concentrating on combatting anti-Roma attitudes and strengthening the equality and non-discrimination principles culture among public institutions and private providers of public services. These priorities were substantiated on extensive local public consultations with Roma and pro-Roma stakeholders, as well as with the local public authorities involved in Roma social inclusion.

4. Also, the document focuses on the local public administration's responsibility for Roma social inclusion, through a participatory mechanism identifying issues and prioritising measures and allocating budgets.

#### I.2. Access to education

5. In addition to continuing the implementation of the social support measures previously started,<sup>1</sup> the authorities identified new incentives to increase access and school attendance:

- *Social vouchers* to stimulate the participation of children from underprivileged families in preschool education, starting from 2015 (50 lei/month, for a school attendance greater than 50%);
- *Free school supplies* for children from socio-economic disadvantaged families: the project implemented between 2017 and 2019 by MoER offered school supplies packages to 51,539 pre-schoolers and school backpacks to 308,611 pupils in primary and gymnasium education;
- From 2016, MoER implemented, in 50 State pre-university education units, a pilot program *Hot meal for students*, providing food support for pre-schoolers and students;

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<sup>1</sup> Free transportation (by school buses) for students from isolated communities to school/reimbursement of transportation expenses for student shuttle for distances up to 50 km;

- Financial incentives for pupils who cannot receive education in their hometowns;
- Daily snacks for children in pre-primary, primary and lower secondary schools;
- Special scholarships for children from disadvantaged groups for stimulating the attendance of high school (180 lei/month); special scholarships for children who attend professional schools (200 lei/month);
- Special financial support for children from disadvantaged groups to purchase a personal computer (200 lei);
- Classes with reduced number of students in rural areas and in communities with minority population.

the number of beneficiaries in the 2018–2019 school year amounted to 54,709 students. Starting with February 2020, it was further extended to 150 schools.

6. Within the EEA Grants 2014–2021, the programme Education, Scholarships, Apprenticeships, Youth Entrepreneurship Programme, which includes a component targeting Roma pupils (with a total budget of EUR 1,411,756) allowed for the funding of 7 projects on inclusive school and education, tolerance, multicultural environments, anti-discrimination and democratic citizenship, as well as training of teachers on related issues. Each of the funded projects includes the following activities: training of teachers working with Roma children on how to facilitate the inclusion of these children; elaboration of curricula and educational materials on multicultural and inclusive environment; learning and awareness activities on the issue of anti-discrimination.

7. Taking into consideration the early childhood education's fundamental role in developing children's readiness for school, the authorities concentrated part of their efforts in ensuring that children are enrolled in kindergartens.

8. A 2019 amendment to the Law of National Education provides that classes in the pre-school education will become mandatory: the upper class – by 2020 at the latest, the middle class – by 2023 at the latest, and the lower class – by 2030.

9. In December 2021, MoER will complete the implementation of the *Project on the Reform of the Early Childhood Education in Romania*. In March 2019, the training component of the project was completed, with over 60,000 benefitting pre-school teachers, carers/assistants and principals; 7 specific training modules were elaborated; a network of 325 Resource Centres for Education and Development was set up and 12,500 educational units organising preparatory classes were provided with teaching materials. The infrastructure component is to be completed by 31 December 2021. At present, 229 kindergartens have been finalized, while 139 are under construction.

10. The challenges faced by the children from disadvantaged communities are also approached by means of tailored projects funded for European Structural Funds:

- The call for projects “*Motivated teachers in disadvantaged schools*” launched in 2016, is financing 27 projects, with EUR 28,56 million, that will provide to 6,977 beneficiaries (teachers and support staff from disadvantaged schools) trainings and exchange of good practices for developing the necessary competences in working with children in educational risk situations (the majority is represented by children from poor families, children with disabilities, Roma children, children from remote areas etc.); hospitalized children; children in detention (juvenile delinquency)).
- The “*School for all*” call for projects, launched in 2016 as well, aims at: facilitating the participation of 27,593 young children and pre-school children aged 0 to 5 years old to early childhood education and care; supporting 63,268 pupils (primary and secondary level) to attend school and lowering the risk of school dropout; bringing 8,653 youngster age 12 to 16 back to school; ensuring that 8,210 young people and adults, who have not completed the compulsory education, acquire a qualification upon graduating from a *Second chance* programme; ensuring the participation of 15,548 teachers and support staff (school mediators, school counsellors, principals and educational specialists) to training programmes and exchange of good practices; facilitating the improvement of competency for 15,709 teachers and support staff. A number of 127 projects have been selected and are under implementation, benefiting from a total funding of EUR 164,662,306.71.

11. The *Framework Order no. 6134/2016 on the prohibition of school segregation in pre-university education* prohibits all forms of school segregation, that is, segregation based on educational performance, the socio-economic status of families, residence, disabilities, special education needs, besides the ethnical criterion. The order also supplemented the existing legal framework by introducing relevant indicators on quality education and specific and relevant sanctions. The Order stipulates the elaboration and the approval by ministerial order of the *Methodology on the monitoring of school segregation* for all the criteria mentioned above, endorsed in 2019, and of the *Methodology for the prevention and intervention in school segregation cases*, respectively.

12. The Order set up the *National Committee for Desegregation and Educational Inclusion* – a specialized structure of MoER, whose general aim is to prevent school segregation and whose task, among others, is to endorse the two above mentioned methodologies.

13. From the school year 2017–2018, the methodology concerning the enrolment of children in primary education provides that the county school inspectorates may decide upon the reconfiguration of school districts to eliminate the possibility of school segregation based on the place of residence.

### I.3

14. During 2017–2019, NCCD examined cases concerning alleged discriminatory treatment based on Roma ethnicity against individuals, in multiple spheres of life:

Areas of discrimination	No. of files		
	2017	2018	2019
Access to labour market /to professional activities	5	8	4
Access to public services	8	8	8
Personal dignity	27	28	29
Access to education	3	5	3
Access to public places	6	3	3
Others	-	-	-
Access to housing	3		1

15. By way of example, NCCD sanctioned the conduct of local authorities – mayors and District Councils – that either decided to evacuate persons of Roma ethnicity without providing alternative accommodation, either made reference, in a press release, to the ethnicity of persons registered with debts for the living and maintenance expenses.

### I.4. Adequate safeguards against forced evictions

16. Under civil law, unless otherwise provided, the eviction of the tenant is carried out according to a court decision, following an adversarial procedure. The former tenant can request the suspension of the eviction (only after depositing a financial guarantee, as the case may be).

17. Regarding the eviction of tenants from the buildings dedicated to housing, according to the Civil Code, *no evacuation from the buildings dedicated to housing can be made from 1st of December until 1st of March of the next year*, unless the creditor and his family do not have an adequate housing or the debtor and his family have another suitable housing where they can move right away.

18. This provision does not apply to the evacuation of persons who abusively occupy, without title, housing or of those found to put in danger the relations of cohabitation or seriously disrupt the public order.

19. In case a dwelling, shelter or other improvised structure is erected without any authorizations on land pertaining to State property, the said erection is to be demolished, without prior judicial authorization and other formalities, upon decision of the local administration. Still, the decision can be challenged before the tribunals, in accordance with the law on administrative disputes. The interested party can request, from the moment she has challenged the act before the issuing authority, the suspension of the said act. Such a request can be presented before the court even before a judicial complaint is lodged.

20. The prefect of a county is empowered to verify the legality of the administrative acts of the county council, local council or of the mayor, and has the possibility to challenge

before a court for administrative disputes the legality of the decisions of the local public administration. The formulation of such a challenge has an automatic suspensive effect.

21. Moreover, as the case-law of the European Court of Human Rights confirms, the domestic legal system offers access to justice and due process guarantees in case of a forced eviction from an informal settlement, from alternative housing following an eviction of an informal settlement or from risky buildings.<sup>2</sup>

22. In 2019, an amendment to the Law on territorial planning and urbanism introduced the legal concept of “informal settlements”; the public administrative authorities, be they central or local, are under the obligation to identify such settlements and to make them a priority in their public policies on housing, access to infrastructure, public health and on personal security.

23. The amendment introduced a timetable for the authorities, to identify the land occupied by informal settlements and to elaborate the cadastre formalities; to update the database referring to the number of persons inhabiting the informal settlements, the immovable occupied by these persons and the typology of the settlements; and to inform the inhabitants of the settlement on the content of the law and consult them in establishing the responses adapted to the specific of the settlement and the needs of its inhabitants. In order to support the local authorities, a working tool designed to facilitate and order the collection of data on informal settlements, for a better knowledge, quantification and monitoring of their situation, was introduced.

24. After this phase, the next step will consist of : clarifying the legal and economic regime of the plot of land occupied by the settlement, as well as the possibilities to regulate its situation; in case the regulation implies the settlement’s complete or partial dismantling, the local authorities must ensure the relocation of the inhabitants, through housing alternatives or support for the rebuilding of the housing units on plots of land made available by the public authorities that are equipped with utilities; the relocation process must be conducted with the inhabitants’ prior consultation on all possible relocation alternatives and with their approval.

25. At the same time, the projects and programs for informal settlements will be correlated with the social assistance programs that can target either an area affected by insalubrity, lack of services and poverty, or one or more categories of beneficiaries of social assistance measures, largely present in the informal settlement.

### **I.5. Access to health**

26. GEO no. 18/2017 on community health nursing represents an important milestone within the efforts to ensure access to basic integrated healthcare and community services for disadvantaged people, including persons belonging to Roma minority.

27. The community team is an essential vector in disseminating the essential information on the basics of childcare, the advantages of the health insurance system, on healthy eating, in presenting the benefits of family planning and facilitating the communication with healthcare professionals. This team, consisting of a community nurse and a health mediator, monitors and supports, for medical or/and social issues, the most vulnerable persons.

28. The number of health mediators grew from 391 in 2014 to 456 in 2019 and that of community health nurses from 982 in 2014 to 1694 in 2019.

29. In order to consolidate this tool, the Ministry of Health (MoH) implemented several projects, complementing the national health mediation program, in 84 communities from 7 counties; these communities received support from a team composed of a health mediator

<sup>2</sup> Decisions on admissibility in the cases of :

*Cazacliu and others v. Romania* [https://hudoc.echr.coe.int/eng#{"itemid":\["001-173361"\]}](https://hudoc.echr.coe.int/eng#{),

*Farkas and others v. Romania* [https://hudoc.echr.coe.int/eng#{"itemid":\["001-145689"\]}](https://hudoc.echr.coe.int/eng#{) and

*Memet and others v. Romania*

[https://hudoc.echr.coe.int/eng#{"fulltext":\["eviction"\],"respondent":\["ROU"\],"documentcollectionid2":\["DECISIONS"\],"itemid":\["001-198308"\]}](https://hudoc.echr.coe.int/eng#{).

and a community nurse, whose activity made possible an accurate assessment of the basic health needs of the community. Within the project already finalised, almost all the community teams were employed by the local mayoralty with salaries paid by MoH, securing the sustainability of the project and the community health centres were equipped with IT and basic medical equipment.

30. MoH implemented a project delivering guidelines for healthy nutrition and physical activity for children in schools and kindergartens, implemented through the community nurses, schools nurses and Roma health mediators who received special training.

31. Also, through a project ongoing until 2022, in 139 rural and small urban communities, with medium or severe marginalisation, persons affected by poverty will benefit, for 28 months, from medical-social-educational services, tailored to their identified needs (health, social assistance and protection, education, employment, housing and identity documents). The project is interrelated to another financing program, aiming at regional development, as the later one will finance the building or renovation and the equipment of the integrated community centres, the headquarters for the integrated community teams.

## **II. Ill-treatment in public care facilities (Response to recommendation 30 of the concluding observations)**

### **II.1. Improving living conditions and treatment in public care and psychiatric facilities**

32. As of 2014, the NPM, an Ombudsman's department for the prevention of torture and other cruel, inhuman or degrading punishment or treatment in places of detention, was set up. The NPM is competent to visit every detention place, that is, a place where a person is deprived of her freedom upon decision, request or approval of a public authority (therefore including psychiatric hospitals and wards and residential facilities pertaining to the health or the social assistance systems).

33. During 2018–2019, NPM completed over 100 visits in social care facilities, psychiatric hospital facilities and children care centres. The conclusions and recommendations included: improvement of material conditions, shortcomings in medical assistance and lack of treatment, incomplete recording of restraining and isolation measures, legal protection of residents. NPM would also conduct a review to assess the reaction of the facilities' managers to these recommendations.

34. In 2016, the Law no. 8 establishing mechanisms provided by the UN Convention on the Rights of Persons with Disabilities enabled the creation of the National Monitoring Council. The Council, an autonomous administrative authority, is mandated to monitor, through scheduled or unannounced visits, public or private residential facilities, as well as psychiatric hospital units, in order to examine the respect of the rights of persons with disabilities residing or hospitalized in these public or private residential facilities or psychiatric hospital units and to make recommendations regarding the observance of these rights.

35. The Council completed 57 monitoring visits in 2018 and 96 visits in 2019; the recommendations included ensuring the minimal standard living conditions, elimination overcrowding, following up the deinstitutionalization process, professional training for the staff.

36. In 2019, the health inspectors from the County Public Health Directorates completed a monitoring control in psychiatric hospitals and hospital wards; the control covered 131 facilities and included both the quality of the medical assistance and the hygiene-sanitary conditions. The conclusions and recommendations referred to respect of the minimal living space and overcrowding, degraded living conditions, lacking hygienic conditions; 115 administrative fines were issued, where the case the prosecutors' offices were notified. Remedial deadlines for the restauration of isolation rooms were established, and the health inspectors would revisit the facilities to observe the way the respect for recommendations.

37. The Social Inspection, the main control mechanism of MoLSP, carries out missions of evaluation, monitoring and control in the social services destined to the adult persons with disabilities.

38. In 2018 the social inspectors evaluated with a view to granting the operating license 692 services for people with disabilities, of which 91 for adults. 248 measures were ordered for the irregularities found and the licenses for 19 social services were withdrawn. 27 social services were checked as a result of notifications or self-assessments and, as a result of the irregularities found, 39 measures were ordered and two fines amounting to 7,500 lei were applied.

39. In 2019, until the 1st of October, 67 social services were evaluated, controlled and monitored, 87 measures were ordered and a license withdrawal was proposed.

40. The Order of the MoLSP no. 82/2019 approved the revised specific minimum quality standards required for social services for people with disabilities; the document regulates distinctly the activities aimed at maintaining and developing independent living skills; the assistance in decision making process, which implies adequate actions of training, counselling, information and direct support for the purpose of choosing between two or more alternatives, the beneficiary being constantly at the centre of the process, in a formalized and trustworthy environment.

## II.2

41. To boost the deinstitutionalisation process, in 2018, GEO no. 69 established the maximum capacity of the residential centres at 50 places and stipulated the obligation to reorganize the centres with a capacity of up to 50 places and to elaborate the plans for restructuring those with a capacity over 50 places, in accordance with the methodologies elaborated by NARPDCA. At the same time, GD no. 69/2018 provides for a 25% annual reduction in funding from the State budget for residential centres with a capacity over 50 places.<sup>3</sup>

42. Currently, out of the 300 public residential centres for persons with disabilities (where over 16,000 persons are accommodated), 47 centres are over 100 seats. Out of the 85 existing centres throughout the country with over 50 seats, 50 have submitted and obtained approval for restructuring. So far, 31 centres for which the restructuring plans were approved, accessed projects through GDSACPs, with European and national financing mechanisms, in amount of over 60 million EUR.

43. The next national Strategy 2021–2027, developed with EU funding, will provide for a stricter coordination mechanism with measurable targets and indicators, that will contribute to a further advancement of the deinstitutionalisation process in Romania.

## II.3

44. On 13 July 2020, the Constitutional Court concluded that the civil law provisions on full deprivation of legal capacity are unconstitutional, as far as the guardianship setting up is not accompanied by adequate guaranties for the respect of fundamental rights, is not periodical reviewed and is not tailored to respond to various incapacity degrees and the diversity of a person's interests and desires. Consequently, the Constitutional Court considered that the legislator must institute proportional protection measures that reflect the reality of these various incapacity degrees and their variation in time. The publication of the decision's reasoning is awaited.

<sup>3</sup> The difference is to be provided from the county budget – this being an incentive for the territorial units to be more active in the deinstitutionalization process.

### III. Protection of minors and rights of the child (Response to recommendation 42 of the concluding observations)

#### III.1

45. The number of children in residential care (in public and private placement centres, including small group homes) has dropped constantly during 2016–2019, from 19,369 in December 2016 to 15,572 in December 2019.

46. A 2018 amendment to the Framework Law regarding the protection and promotion of the rights of the child extended the exception to institutionalization to the child aged under 7 year; the law only allows her placement in a residential facility if she has serious disabilities, dependent on care in specialised residential institutions.

47. Moreover, a further amendment, currently under debate, additionally extends the exception to institutionalization to include the situation of the children with disabilities under 3 years old. Thus, only a child between the age of 3 and 7 years, and only if she has complete functional deficiency/impairment, as well as activity limitations and complete participation restrictions, for which the access to services of rehabilitation in other types of services cannot be assured, could be placed in a residential facility. If adopted, the provision will enter into force starting 1st of January 2021.

#### III.2

48. The phenomenon of violence against the child, including exploitation through work, is monitored by NARPDCA. The statistics of NARPDCA ([www.copii.ro](http://www.copii.ro)) in 2018-2019 recorded:

2018-2019	Total cases	Cases where criminal investigation was initiated against the perpetrator	Out of which:			
			Emergency placement	psychological counselling	educational services	legal advice/ assistance
Labour exploitation	679	21	37	487	10	256
Sexual exploitation	71	46	17	52		20

49. Prevention is ensured by Inter-sectoral County Teams (ICTs), established by County councils' decision and composed of representatives from GDSACP, police, health, education, labour inspectorate and NGOs.

50. In 2019, ICTs implemented 511 prevention activities, in 32 counties and 4 districts of Bucharest, with 1,207,036 estimated beneficiaries (double than 2018), out of which 915.532 children. The activities included awareness-raising on violence against children, campaigns within the education system, within communities and also professional training for the personnel of institutions that contribute to ICTs, including on child labour and trafficking in human beings/children:

- 50 activities on child labour, with 10,932 beneficiaries, out of which 6,018 children, in 22 counties and district 2 of Bucharest
- 85 activities on trafficking in human beings/children, with 24,270 beneficiaries, out of which 22,615 children, in 24 counties and district 2 of Bucharest.

51. Moreover, as already indicated in Section II, NPM conducted visits in residential facilities for children. Also, the Law no. 9/2018 introduced a new field of activity for the Ombudsman's Institution, namely the Child's Advocate, coordinated by an Ombudsman's Deputy. The Child's Advocate works to promote and protect the rights of children under the age of 18, supports and encourages the observance and promotion of children's rights.

52. The Child's Advocate drafted in 2019 a Special Report on the State of Children's Rights in Romania, containing findings that could support the authorities in improving the child care system; moreover, it made numerous visits to placement facilities and foster care homes to verify the respect for children's rights.

## **Annex**

### **Abbreviations list**

GDSACP	General Directorate for Social Assistance and Child Protection
GD	Government Decision
GEO	Government Emergency Ordinance
MoER	The Ministry of Education and Research
NCCD	National Council for Combating Discrimination
MoH	Ministry of Health
MoLSP	Ministry of Labour and Social Protection
NARPDCA	National Authority for the Rights of Persons with Disabilities Children and Adoptions
NAR	National Agency for Roma
NCCD	National Council for Combating Discrimination
NPM	National Preventive Mechanism

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