

REFERENCE: GH/fup-135

27 July 2022

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 12, 30 and 42 of the concluding observations on the report submitted by Romania ([CCPR/C/ROU/CO/5](#)), adopted by the Committee at its 121st session held from 16 October to 10 November 2017.

On 6 October 2020, the Committee received the reply of the State party. At its 135th session (27 June to 27 July 2022), the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Addendum 4 (see [CCPR/C/135/2/Add.4](#)) to the Report on follow-up to concluding observations (see [CCPR/C/135/2](#)). I hereby include a copy of the Addendum 4 (advance unedited version).

The Committee considered that the recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation. Given that the State party accepted the simplified reporting procedure, the requests for additional information will be included, as appropriate, in the list of issues prior to submission of the sixth periodic report of the State party.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

Please accept, Excellency, the assurances of my highest consideration.



Vasilka SANCIN

Special Rapporteur for Follow-up to Concluding Observations
Human Rights Committee

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Evaluation of the information on follow-up to the concluding observations on Romania

Concluding observations (121st session): [CCPR/C/ROU/CO/5](#), 6 November 2017

Follow-up paragraphs: 12, 30 and 42

Information received from State party: [CCPR/C/ROU/FCO/5](#), 6 October 2020

Committee's evaluation: 12[B], 30[B][C] and 42[B]

Paragraph 12: Equality and non-discrimination of Roma

The State party should intensify its efforts and take measures to address systemic discrimination against the Roma population, including ensuring that the local authorities are accountable for actions taken contrary to anti-discrimination legislation. It should ensure that the law provides adequate safeguards against forced evictions; reinforce its efforts to implement measures to promote the inclusion of Roma children in mainstream schooling, including enrolment of Roma children in preschool; and implement measures to promote the equal access of Roma to health services. The State party should ensure the effective implementation of the strategy for the inclusion of Roma, including by allocating sufficient funding, and the effective coordination and accountability of local authorities. The State party should also establish a comprehensive data-collection system to assess the scale of discrimination against Roma and other minorities.

Summary of the information received from the State party

Under civil law, evictions are carried out in accordance with a court decision; tenants can request the suspension of the eviction. The provision of the Civil Code prohibiting evictions between 1 December and 1 March does not apply in the case of persons who abusively occupy housing without title or of those who disrupt the peace in communal housing or seriously disrupt public order. Unauthorized dwellings, shelters and other improvised structures erected on State land should be demolished without prior judicial authorization or other formalities upon the decision of the local administration. The decision to do so can be challenged before the court.

Under the 2019 amendment to the law on territorial planning and urbanism, informal settlements must be identified and prioritized in policies on housing, access to infrastructure, public health and personal security. If the decision is taken to dismantle them, the local authorities must, beforehand, consult and gain the approval of the inhabitants for their relocation to alternative housing or provide them with land and support to rebuild elsewhere. Social assistance programmes can often benefit those in informal settlements.

In order to promote the inclusion of children from socioeconomically disadvantaged families in mainstream schooling, many families are provided with social vouchers and many children receive free school supplies and hot schools meals. The Education, Scholarships, Apprenticeships and Youth Entrepreneurship Programme of the European Economic Area includes a component targeting Roma pupils and funds projects on inclusive school and education, tolerance, multicultural environments, anti-discrimination, democratic citizenship and training of teachers working with Roma children. The 2019 amendment to the national education law provides for mandatory preschool education. In December 2021, the Ministry of Education and Research will finish implementing the project on reforming early childhood education. The challenges facing children from disadvantaged communities are also addressed through tailored projects funded by the European Union Structural Funds. Framework Order No. 6134/2016 prohibiting school segregation includes methodologies on monitoring and preventing school segregation and intervening in cases where it is found, and provides for the establishment of the National



Committee for Desegregation and Educational Inclusion. As of 2017/18, county school inspectorates can reconfigure school districts to eliminate segregation.

Government Emergency Ordinance No. 18/2017 on community health nursing aims to ensure that Roma have access to basic health care and community services. A community team, composed of a nurse and a health mediator, disseminates essential information on basic childcare, the advantages of the health insurance system, healthy eating and family planning, facilitates communication with health-care professionals and supports the most vulnerable persons to address medical and social issues. The number of health mediators increased from 391 in 2014 to 456 in 2019 and the number of community health nurses from 982 in 2014 to 1,694 in 2019. Most community teams are paid by the Ministry of Health, guaranteeing the sustainability of the project. The Ministry also provides guidelines on healthy nutrition and physical activity for children in schools and kindergartens. The inhabitants of 139 marginalized communities will benefit from tailored medical, social and education services in a project due to end in 2022.

The assessment of the National Strategy for the inclusion of Romanian citizens belonging to the Roma minority is ongoing. The National Agency for the Roma launched public policy recommendations regarding Roma inclusion for 2021–2027, which proposed a databased approach with focus on local authority responsibility. The National Council for Combating Discrimination has sanctioned local authorities that have evicted Roma persons without providing them with alternative accommodation and others that have referred in press releases to the ethnicity of persons registered as having living or maintenance debts.

Committee's evaluation

[B]

The Committee welcomes the amendment made to the law on territorial planning and urbanism and several guarantees therein, including in relation to prior consultation with the inhabitants of informal settlements in case of dismantlement, their relocation and targeted social assistance. It requests information on the implementation of this amendment, in particular, on the provision of adequate advance notice of eviction and cases of legal challenges made in relation to eviction orders against Roma.

The Committee welcomes the information on the Education, Scholarships, Apprenticeships and Youth Entrepreneurship Programme, the amendment to the national education law on mandatory preschool education and the establishment of the National Committee for Desegregation and Educational Inclusion. It requests information on the enrolment status of Roma children in preschool during the reporting period and on measures taken to prevent and intervene in cases of segregation of Roma children, including the reconfiguration of school districts.

The Committee welcomes the information concerning government Emergency Ordinance No. 18/2017 on community health nursing, the services provided, the increased number of health mediators and nurses and the contribution of the Ministry of Health in that regard. It requests information on the impact of these measures, including on the health status and life expectancy of Roma.

The Committee notes the ongoing assessment of the National Strategy for the inclusion of Romanian citizens belonging to the Roma minority, the launch of policy recommendations on Roma inclusion by the National Agency for the Roma and the sanctions imposed on local authorities for discriminatory acts. Nevertheless, it regrets the lack of specific information on effective coordination with local authorities and a comprehensive data-collection system on discrimination against Roma. It reiterates its recommendation and requests information on the results of the assessment of the National Strategy and the sanctions imposed on local authorities for discriminatory acts against Roma during the reporting period.



Paragraph 30: Ill-treatment in public care facilities

The State party should, as a matter of urgency, ensure that treatment of persons with mental, intellectual and psychological disabilities is in conformity with the Covenant by: (a) improving living conditions and treatment in public care facilities, for persons with disabilities and persons in psychiatric institutions; (b) taking appropriate measures to ensure that persons with disabilities are not discriminated against in the enjoyment of their rights; (c) taking all measures necessary to implement a policy of deinstitutionalization of persons with disabilities accompanied by appropriate community-based support; (d) ensuring that any restrictions are legal, necessary and proportionate to the individual circumstances and include guarantees of an effective remedy; and (e) pursuing legal amendments in order to eliminate full deprivation of legal capacity and strengthen efforts to restore the legal capacity of persons with disabilities. The State party should also strengthen independent monitoring of institutions and complaints mechanisms, thoroughly investigate allegations of abuse and prosecute those responsible, and ensure independent representation of persons with disabilities in any proceedings to safeguard their rights.

Summary of the information received from the State party

(a) In 2018 and 2019, the national preventive mechanism, a department within the People's Advocate, completed over 100 visits to social care facilities, psychiatric hospitals and children's homes. It concluded that there was a need to improve material conditions and the legal protection of residents, there were shortcomings in medical assistance and a lack of treatment, and the recording of restraint and isolation measures was incomplete.

The National Monitoring Council monitored residential facilities and psychiatric hospitals to examine the respect of the rights of persons with disabilities during its 57 visits in 2018 and 96 in 2019. Its recommendations included ensuring the minimum standard living conditions, eliminating overcrowding and training staff.

In 2019, health inspectors from the County Public Health Directorates monitored 131 psychiatric hospitals and hospital wards. They noted overcrowding, deteriorated living conditions and a lack of hygiene, and issued 115 administrative fines.

The social inspection unit of the Ministry of Labour and Social Protection evaluates, monitors and controls social services for adults with disabilities. In 2018, social inspectors evaluated 692 services, ordering 248 measures for irregularities and withdrawing 19 licences. Between 1 January and 1 October 2019, social inspectors evaluated 67 services, ordering 87 measures and proposing one licence withdrawal. Ministry Order No. 82/2019 stipulates minimum standards for social services for people with disabilities and regulates activities for independent living skills and assistance with decision-making.

(b) No information is provided.

(c) To boost deinstitutionalization, in 2018, government Emergency Ordinance No. 69 established the maximum capacity of residential centres at 50 places and obliged centres with up to 50 places to be restructured. Government Decision No. 69/2018 provides for a 25 per cent annual reduction in funding from the State budget for residential centres with over 50 places. The forthcoming national strategy (2021–2027) will provide for a stricter coordination mechanism with measurable targets and indicators, to further contribute to deinstitutionalization.

(d) No information is provided, except for the incomplete recording of restraint and isolation measures found during the national preventive mechanism's visits (see (a) above).

(e) On 13 July 2020, the Constitutional Court found the civil law provisions on full deprivation of legal capacity to be unconstitutional, as the procedure for appointing a guardian does not encompass adequate guarantees for the respect of fundamental rights and as such agreements are not periodically reviewed or tailored to differing degrees of disability and the diversity of the interests and wishes of the person with a disability. The



Court considered that the legislator must institute proportional protection measures reflecting the reality of different degrees of disability and their variation over time.

Committee's evaluation

[B]: (a) and (c)

While noting the monitoring activities conducted by the national preventive mechanism, the National Monitoring Council and social inspectors, the Committee regrets the lack of information on the implementation of the recommendations made by these monitoring bodies on improving living conditions and treatment in public care facilities. It reiterates its recommendation and requests such information.

The Committee welcomes the efforts made towards the deinstitutionalization of persons with disabilities, including by setting a maximum capacity at residential centres and restructuring the centres. It also notes the coordination mechanism under the 2021–2027 national strategy. Nevertheless, it regrets the lack of information on community-based support provided in the context of deinstitutionalization and requests information in this respect.

[C]: (b), (d) and (e)

The Committee regrets the lack of information on specific measures taken to ensure that persons with disabilities are not discriminated against in the enjoyment of their rights, and that any restrictions are legal, necessary and proportionate to the individual circumstances and include guarantees of an effective remedy. It reiterates its recommendations.

While welcoming the Constitutional Court's decision of 13 July 2020, finding full deprivation of legal capacity to be unconstitutional, the Committee regrets the lack of information on measures taken to pursue legal amendments in this regard and on any efforts made to restore the legal capacity of persons with disabilities. It reiterates its recommendation and requests information on the implementation of the Constitutional Court's decision, including any proportional protection measures requested by the Court.

The Committee is concerned about the absence of information on specific measures taken to strengthen complaints mechanisms for persons with disabilities and persons in psychiatric institutions to investigate cases of abuse and prosecute those responsible, and to ensure independent representation of persons with disabilities in any proceedings to safeguard their rights. It reiterates its recommendation.

Paragraph 42: Protection of minors and rights of the child

The State party should intensify its efforts to encourage the placement of children in alternative family-based settings and take measures to avoid the institutionalization of children from single parent households in the first place. The State party should also ensure adequate living conditions and health care in all children's institutions and regularly monitor the conditions and the treatment in these institutions so as to protect children from all forms of exploitation. The State party should further ensure that, in accordance with its laws, no children under the age of 3 are institutionalized in childcare facilities, including children with disabilities. It should strengthen measures aiming at eliminating the economic exploitation of children, such as child labour, begging and sexual exploitation, and sanction those responsible for such exploitation.

Summary of the information received from the State party

The number of children in residential care decreased between 2016 and 2019. A 2018 amendment to the law on the protection and promotion of the rights of the child extended the exception to institutionalization of children to those under 7 years of age. The law now only allows their placement in a residential facility if they have serious disabilities and are dependent on care in specialized residential institutions. A further amendment, currently



under consideration, would extend the exception to children with disabilities under 3 years of age. Thus, only a child between 3 and 7 years old who has a complete functional disability, activity limitations and complete participation restrictions, for which access to other types of rehabilitation cannot be assured, could be placed in a residential facility. If adopted, the amendment will enter into force on 1 January 2021.

The National Authority for the Rights of Persons with Disabilities, Children and Adoptions monitors the situation of violence against children and labour exploitation. In 2018 and 2019, it registered 679 cases of labour exploitation of children and 71 cases of sexual exploitation of children. The intersectoral county teams, composed of representatives from the General Directorate for Social Assistance and Child Protection, the police, the health, education and labour inspectorates and non-governmental organizations, ensure prevention by implementing awareness-raising campaigns and training, including on child labour and trafficking. The national preventive mechanism visited residential facilities for children. The new Child's Advocate in the Office of the People's Advocate, established under law No. 9/2018, drafted the 2019 special report on the state of children's rights and visited placement facilities and foster care homes.

Committee's evaluation

[B]

While welcoming the decrease in the number of children in residential institutions and the legislative measures taken, including the proposed amendment to limit the institutionalization of children under the age of 3, the Committee regrets the lack of information on specific measures taken to avoid the institutionalization of children from single-parent households, to use alternative family-based settings and to ensure adequate living conditions and health care in residential facilities. It reiterates its recommendation in this respect.

The Committee notes the efforts made by the National Authority for the Rights of Persons with Disabilities, Children and Adoptions and the intersectoral county teams to combat the exploitation of children, and the establishment of the Child's Advocate. It requests further information on the impact of those measures.

While noting that a number of investigations have been conducted into cases of exploitation of children, the Committee regrets the lack of information on the outcome of those investigations, including the punishments that were imposed. It reiterates its recommendation and requests information on any remedies provided to victims in such cases.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 2027 (country review in 2028, in accordance with the predictable review cycle).
