



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



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Mr Sorin GRINDEANU
Prime Minister of Romania

Strasbourg, 16 March 2017

Dear Prime Minister,

Further to the constructive dialogue I had with your authorities during my visit to Romania in 2014 and with your predecessor last year, I would like to follow up on certain major issues concerning the human rights of persons with disabilities.

In the 2014 visit report I expressed my serious concern about the widely reported abuse suffered by persons with disabilities living in social care and psychiatric institutions and the lack of effective access to justice affecting these persons.

I noted that, on 2 January 2017, your authorities submitted to the Council of Europe Committee of Ministers a revised action plan for the execution of the Strasbourg Court's judgment in *Valentin Campeanu v. Romania*. This judgment dates from 2014 and concerns notably the lack of adequate protection to a young man who died at the Poiana Mare neuropsychiatric hospital.

Against this background, I would like to share with you some thoughts concerning a number of issues which in my view require your authorities' urgent attention.

1. Living conditions and ill-treatment in medical and social care centres

It worries me deeply that serious abuses against institutionalised persons with intellectual and psychosocial disabilities are still widely reported by expert organisations. Recently, I was informed and am concerned about inadequate living conditions and ill-treatment, including beating and chaining to beds, of inmates of the Centre for recovery and neuropsychiatric rehabilitation in Maciuca. Yet, the criminal complaint lodged by the Centre for Legal Resources was rejected by the prosecutor's office attached to the Valcea County Court as revealing no cause of action.

People with disabilities are extremely vulnerable persons who have limited access to justice and are practically incapable of defending themselves from abuse. Thus, I hope that a thorough investigation of allegations concerning so serious human rights violations will be conducted by the competent authorities. I would appreciate receiving any information you may have thereon.

2. Changes in legislation concerning guardianship

In the aforementioned report I highlighted that the legal representation of persons with disabilities in Romania is inadequate, with no guardian being appointed, or with conflicts of interest arising between the guardian and the concerned persons. The absence of an appropriate legal framework providing an independent legal representation for persons with disabilities renders illusory all protection formally recognized to them by the national legislation.

I have been informed that a working group has been set up in order to submit proposals for new legislation aimed at enhancing legal representation of persons with disabilities. Therefore, I urge the national authorities to adopt and effectively implement the new legislation in the shortest time possible.

3. Independent living and inclusion in the community

In my 2014 report, I also deplored the lack of alternatives to institutional care and I called on your authorities to effectively reform the social care system for persons with disabilities by developing community-based alternatives.

Unfortunately, I have been informed of a steady increase in the number of residential institutions for adults, while many persons with disabilities are living in medical institutions, mostly in psychiatric hospitals, under the authority of Ministry of Health.

I would like to re-emphasize the importance of phasing out institutional options and replacing them with community based services, with measurable targets, clear timetables and strategies to monitor progress. In this context, I welcome the adoption by Romania of the Strategy 2016-2018 for deinstitutionalization of persons with disabilities currently living in large and old institutions. I call on your authorities to ensure that the new day-care centers and small residential units envisaged do not perpetuate isolation and segregation, and that those persons with disabilities are enabled to live in the community.

4. Deaths in medical and social care centers

It was brought to my attention that official statistics show a high number of persons with disabilities who died in recent years in institutions under the authority of Ministry of Health. According to information available, 4 699 deaths in psychiatric hospitals were recorded from 2010 to 2016. The number of deaths which occurred in local social-care centers could be even higher, but is difficult to ascertain since data have not yet been centrally collated. Despite the legal requirement to inform the judicial authorities about the death of a resident and the obligation to perform a forensic autopsy, only a small number of these deaths has been subject to such procedure and an autopsy has been performed.

I would be grateful for information concerning the number of deaths in all types of residential institutions and any measures taken or envisaged for the respect of the obligation of performing a forensic autopsy and conducting a subsequent effective investigation in all cases of questionable cause of death.

5. Children living in institutions

I welcome the fact that the number of children institutionalized dropped from 49 965 in 2002 to 19 333 in June 2016, due to the continuous efforts of your authorities to develop alternative, family-type services which have permitted the closing down of a certain number of institutions and a decrease in the number of children benefitting from the special protection measures in residential-type services. I strongly encourage your authorities to pursue this policy to which adequate resources should be allocated.

However, I am concerned about the living conditions and state of health of institutionalized children. Several reports have alerted me to the abuses in placement centres for institutionalized children. In some of these centres, reportedly more than 50 percent of the institutionalized children receive medication for psychiatric disorders. In some counties, the overall percentage of institutionalized children receiving psychiatric medication exceeds 60 percent. However, the corresponding medical reports appear to be missing or incomplete, thus preventing an assessment of the need of such treatment. I am equally concerned about reported cases of children under the age of three placed in institutions and about young children living for a long period in emergency centres which are not properly equipped to accommodate them.

As a matter of urgency, I call on your authorities to adopt measures that would effectively safeguard the human dignity of all children and their right to respect of their physical integrity. Efforts are needed so that children are not placed in institutions and that emergency centres are not used to accommodate children for long periods. Teaching arrangements for an inclusive education and

meaningful activities should be provided in institutions in order to alleviate the negative effect of institutional rearing on children's development and to avoid subsequent adverse effects.

Children with disabilities should benefit from the highest attainable standard of health. Effective measures are required to ensure that their legal representatives and the patients themselves are involved and participate fully in planning, as well as in carrying out and monitoring the implementation of individualized medical treatment. Systematic reviews of the treatment should be regularly conducted in order to avoid and correct abuses such as using psychoactive substances to control the residents, rendering them silent and motionless.

6. *Effective functioning of the National Preventive Mechanism (NPM)*

I welcome the broad mandate given to the NPM functioning within the Ombudsman's Office. NPMs play indeed an essential role in raising human rights awareness and in preventing torture and other forms of ill-treatment of persons in institutions.

I note with satisfaction that since 2014, the NPM has visited a considerable number of residential institutions. In this context, I wish to highlight the NPM's statutory obligation to identify and report to the prosecution authorities any incidents that may constitute criminal offences. If such data is available, I would be grateful if you would share it.

7. *Cooperation with expert NGOs*

I seize this occasion to underline the importance of a close co-operation between your authorities and NGOs involved in the protection and promotion of the human rights of persons with disabilities. I encourage equally the NPM and the Prosecutor General's Office attached to the High Court of Cassation and Justice to make the best use of Romanian NGOs' extensive, valuable expertise in this field.

In this context, I welcome Romania's "Strategy for increasing the effectiveness of investigations conducted in cases of ill-treatment applied by the State agents in connection with the exercise of their professional duties" and "Strategy regarding the investigation of crimes perpetrated against institutionalized individuals", which were elaborated by the Prosecutor General's Office in the context of the execution of the *Barbu Anghelescu* group of cases and the *Valentin Campeanu* judgment of the Strasbourg Court. These are very important documents that can play a catalytic role in the efforts to enhance protection of human rights, especially of vulnerable persons in institutions. I would thus recommend that these documents be made public and subject to consultation with all national stakeholders.

I look forward to receiving your reply and continuing our constructive dialogue and co-operation,

Yours sincerely



Nils Muižnieks