

Comments of the Romanian authorities to the report by the Commissioner for Human Rights of the Council of Europe, following his visit to Romania from 31 March to 4 April 2014

Romania attaches great importance to the protection and implementation of human rights and the commitments regarding the international human rights standards.

Romania considers that the work of the Commissioner for Human Rights is a valuable part of the human rights protection in general and of the European system of human rights protection in particular.

Romania acknowledges the significance of the visit of the Commissioner for Human Rights and the consistence of the dialogue held with the Romanian officials as well as with the civil society on the occasion of the visit to Romania, during March 31 – April 4, 2014.

Romania took note of the observations made in the report and elaborated the following comments which are intended to supplement or respond to certain aspects in the report that need clarification from a broader domestic perspective in addition to the Commissioner's remarks.

Romania expresses its appreciation to the work of the Commissioner for Human Rights and wishes to continue the constructive cooperation with the Commissioner.

Rights of persons with disabilities

The National Strategy on Social Inclusion of People with Disabilities 2014-2020 sets out Romania's social policy objectives in the field of protection of disabled people: accessibility, participation, equality, quality services in the community, employment, education and training, social protection, health and external action.

Recognizing the need for action in these directions, Romania wishes to emphasize the importance given to promoting, protecting and ensuring the full exercise and under conditions of equality of all human rights and fundamental freedoms by all persons with disabilities, and improving the quality of life of people with disabilities in Romania.

1.1. The Right to Live Independently and to Be Included in the Community, Paragraph 40.

Romanian authorities show a continuous preoccupation for training the staff involved in the administration of justice.

Thus, the National Institute of Magistracy regularly organizes seminars („Health, sickness and discrimination in the workplace”, „Judicial dialogue about non-discrimination on grounds of age, gender, sex, disability and race”), aimed at training judges and prosecutors in the field of combating discrimination in civil and criminal matters.

Concerning the initial training, disciplines like „Fighting Discrimination” and „ECHR” are included in the curricula of the judicial trainees – „auditors of justice” (future judges and prosecutors).

1.4. Legal and Institutional Framework for the Protection of the Human Rights of Persons with Disabilities, Paragraph 90

As a result of the institutional efforts made by the Ministry of Justice and the People's Advocate, in June 2014 the Romanian Government adopted an emergency ordinance which establishes, within the People's Advocate Institution, a National Prevention Mechanism

having the task to examine, at regular intervals, the conditions of detention and treatment of detainees, and make recommendations for improvement.

Rights of the child

2.1 Abandoned and Homeless Children”, paragraph 96

We need to underline that in our opinion the “abandoned children” living in institution are not necessarily the same with the category of those whose parents are working abroad, to whom refers the paragraph in question.

According to the data available at central level based on the reporting of the local authorities, the vast majority of the children whose parents are working abroad are not subject to institutionalization in a special unit, most of them are either in the care of the other parent who remained in the country, or to other members of the extended family.

In this respect we would like to make the necessary clarifications in order to accomplish a clearer perception of the two categories of children, namely those belonging to the residential care special protection and those whose parents are working abroad.

At the same time, we draw the attention to the fact that, according to the national legislation in place, the notion of “abandoned child” is no longer used. The notion in use is “child temporarily or definitively deprived of parental care”.

2.1 The situation of the street children, paragraph 101

Even though the Romanian authorities are still concerned about this subject, the official data based on the official reports made by the local competent authorities differs very much from the numbers reported by the NGOs working with this category of children.

Since the data reported by the NGOs is mainly based on subjective estimations, which were never confirmed by official reports, we express our reserve in regard to the number of “1000 and 2000 living in Bucharest and up to 5000 in other localities around the country”.

Paragraph 106

Regarding the insufficient number of “intervention services” dedicated to this category of children and the insufficient financing allocated by the local authorities, due to the “decentralization of the child protection services”, Romania mentions that the financing of this kind of services is made by the local authorities facing this problem based on the real needs and situation existing within the area of their constituencies.

Therefore, there are counties where such services are developed due to the high number of beneficiaries and counties where the capacity of the set up facilities is limited and related only to providing access to “vital items, such as clothing, hygiene products (...)” due to the specific of the situation existing within that particular area.

Within the new strategy regarding child protection, the authorities elaborated a pack of measures directly addressed to this category of children. Nevertheless, the authorities in charge with the child protection are to approach these measures from a multi-institutional point of view in order to ensure an efficient long term protection plan for these children and their families.

Paragraph 119

Regarding the lack of proper mechanisms for reporting the possible abuses suffered by the children living in institutions, it should be mentioned that, despite the situations pointed out by different NGOs, within the special protection system a set of standards is in place providing clear rules based on which the institutionalized children have access to mechanisms through which they could report any kind of abuse.

Such norms are compulsory for every institution, irrespective of the size of the unit or the category of children protected there. It is compulsory for the experts working there and the management of these units to listen, investigate and solve any such complaint.

2.3. Juvenile Justice, paragraphs 136, 141.

Educational centers are institutions specialized on social recovery of detained minors, with adequate facilities and personnel, where minors benefit from school education, vocational training and other programs and activities falling within social reintegration. By law, detention centers operate in security and surveillance regime.

Paragraph 142

According to Law 254/2013 on execution of punishments and measures of education in deprivation of liberty ordered by the judicial bodies during the criminal trial, educational/detention centers have adequate facilities for school instruction (art. 140), while the teaching staff is insured by the Ministry of National Education, through county school inspectorates (art. 141).

Paragraph 144

Issues concerning minors have been addressed over time by initial and continuous training of staff involved in the administration of juvenile justice.

Thus, initial training programs for penitentiary staff include topics based on: vulnerability in the prison environment, psychological characteristics and peculiarities, reintegration activities, conditions of detention.

Continuous training programs have as fundamental objectives: communication skills and relationship with minors, EU standards on human rights with respect to minors in execution of custodial sentences. Penitentiary staff has been trained to provide vocational counseling, career guidance and motivational support in the development of personal autonomy.

Rights of Roma

3.1. Institutionalized Anti-Gypsyism, Housing, Education, Health and Employment of Roma in Romania, paragraphs 195, 202

The new Criminal Code prohibits public incitement, by any means, of hatred and discrimination against „a category of persons”. Motivation related to race, nationality, ethnicity, language, wealth or social origin, where these are considered by the perpetrator as „causing a person’s inferiority as compared to others”, is an aggravating circumstance for all offences provided under the Code.

Romania has a data collection system on criminal offences, which comprises information about the offences mentioned in the Commissioner’s report. The fact that the number of cases recorded in the system is very few should not be considered as a State's inability or lack of expertise in the justice system that can lead to the identification of such crimes.

There is the will to update the data collection system by introducing a special criterion in order to gather information on the aggravating factors with respect to final decisions in criminal matters.

3.2 Violence against Roma, paragraph 196

In order to ensure a balanced presentation of the situation brought into attention in paragraph no. 196 Romania wishes to bring the following clarifications. Unfortunately, the situation described in paragraph no. 196 led to the death of one Romanian citizen. On 10.06.2012, in Mureş County, Agrişteu village after several conflicts between two numerous groups of citizens (approximately 100 persons), the Romanian Gendarmerie was asked to intervene, together with the Romanian Police, in order to avoid further confrontations between the two

groups. The persons from both groups were carrying heavy objects. After the squad consisting of 8 gendarmes showed up, one of the groups started to attack the gendarmes. Consequently, the squad had to apply the legal summons, gradually, which were finalized with the firing. The actions of the Romanian Gendarmerie officers are pending before the courts.

Paragraph 204

In order to ensure a safe and secure environment for all citizens, under the Code of Criminal Procedure, prosecution is required to act ex officio when there is evidence of the commission of any offense (art. 7). Moreover, investigations must be conducted in compliance with the procedural guarantees and rights of the parties so as to bring perpetrators to justice in a reasonable time (art. 8).