

STATEMENT
UPR Pre-session on Romania
Geneva, 14th of December 2017
Delivered by: Equality and Human Rights Action Centre (ACTEDO)

1 – Presentation of the Organisation

This statement is delivered on behalf of Equality and Human Rights Action Centre (ACTEDO), a human rights nongovernmental organisation, established in 2013 in Cluj-Napoca, Romania. ACTEDO's mission is to promote fundamental rights and gender equality and to act against human rights violations.

2 – Plan of the Statement

This statement addresses the following issues: (1) the access to justice of vulnerable groups; (2) sexual and reproductive health and rights (with a focus on sexuality education for youth), and specialised services for survivors of sexual violence.

3 – Statement

The report is a result of our direct working experience: since 2014, ACTEDO has coordinated a national pro bono clearinghouse aimed at facilitating the access to justice of vulnerable groups (women, Roma, persons with disabilities, etc.) and, between 2015 and 2016, ACTEDO implemented an advocacy campaign for the development of integrated specialised services for survivors of sexual violence.

i. The Access to Justice of Vulnerable Groups

A. Follow-up to the first review

Several countries during the 2013 review gave general recommendations regarding the access to justice of vulnerable groups and the advancement of anti-discrimination policiesⁱ, particularly related to children, women, ethnic and gender and sexual minorities. There were no explicit recommendations regarding alternative forms of legal assistance, such as pro bono lawyering, and little has been done to address the obstacles to access to justice faced by vulnerable groups.

Romania does not have a national strategy dealing with access to justice, in particular of vulnerable groups, and collects little or no data on this issue.

Furthermore, there is a lack of understanding of vulnerability on the part of legal practitioners and a need for human rights trainings for professionals dealing with victims and minorities (judges, prosecutors and lawyers), also acknowledged by the Special Rapporteur on the Independence of Judges and Lawyers. A 2014 study found that the majority of magistrates did not recognize certain social groups, such as Roma, children, single mothers or people living with HIV/AIDS, as vulnerable.

Romania has one of the lowest budgets for legal aid in Europe, of approximately 0.084 Euro/capita. Legal aid in civil matters is allotted to people whose net monthly income per family member is below 300 RON (67 euros), which is very low. This is particularly alarming given that almost 40% of the Romanian population was at risk of poverty and social exclusion in 2014ⁱⁱ. Consequently, only a small percentage of legal problems faced by low income people are addressed by the public legal aid, which has a disproportionate impact on those who are most vulnerable in society.

B. New developments since the first review

Pro bono lawyering is not regulated in Romania, nor is it encouraged, regardless of the vulnerability of the beneficiaries. In addition, further barriers to pro bono were added in November 2016, when the National Association of Romanian Bars (NARB) issued a methodological norm (no. 1/2016), which requires that any lawyer wishing to provide free legal assistance in any given case submit a written request for approval to the county Bar Dean. Such requests are to be approved only in “exceptional cases”, when there is proof that the client “lacks material means” (without specifying what this entails) and their rights would be “harmed by the delay”. Apart from discouraging pro bono lawyering, this professional norm imposes an additional burden on the beneficiary to prove the lack of financial means and an unnecessary time risk for their situation. It also perpetuates a lack of understanding of vulnerable groups and an uneven practice across the country.

At the 2017 Congress of Lawyers, it was decided to remove the mandatory requirement of the approval of the Bar Dean for a pro bono case. However, at the time of this statement no such decision has been formally adopted.

Since the submission of our report, further barriers to pro bono lawyering have been added. In August 2017, the Council of the NARB adopted Decision no. 272, issuing recommended minimum tariffs for lawyers. After a series of unfavourable public opinions on the matter, the Permanent Commission of the NARB adopted Decision no. 250/ Sept. 2017, which postpones the entry into force of the aforementioned decision.

C. Recommendations

We therefore recommend that the Government of Romania:

1. Urgently remove any restrictions to the practice of pro bono lawyering, and acknowledge, encourage and finance pro bono practices as tools to promote human rights.
2. Design and implement a national strategy on access to justice targeting vulnerable groups, including by establishing a system of data collection on barriers to justice and the legal needs of vulnerable groups, within two years.
3. Increase the annual budget allocated to public legal aid until the next Review.
4. Immediately organize annual human rights and anti-discrimination training programs for the judiciary, with an emphasis on the experiences of vulnerable groups.

ii. Specialised Services for Survivors of Sexual Violence and Sexuality Education

A. Follow-up to the first review

At the 2013 UPR, there were several recommendationsⁱⁱⁱ regarding support services for victims of sexual violence, but little progress has been made on the issue. There are currently no integrated support services for survivors of sexual violence (where the aggressor is not a family member) and few protection measures. Consequently, victims must go through difficult and costly procedures in order to have access to forensic assistance, psychological and legal counselling. Furthermore, victims cannot apply for restraining orders against the aggressors or be housed in shelters, since these measures and services are restricted to victims of domestic violence. According to a 2016 EU survey, 55% of Romanians believe that rape is justified in some cases^{iv}, so there is an urgent need for the government to implement measures to prevent sexual violence and protect victims.

The 2013 UPR also included specific recommendations regarding the creation of a national strategy on SRHR and the introduction of sexuality education. Romania has not implemented either of them. This is particularly alarming given that Romania has the highest percentage of teenage births in the EU – 12.3% of first births in

2015 were to teenage mothers (aged 10-19)^v. Sexuality education is offered in a very limited number of schools and is generally met with opposition from parents and teachers alike.

B. New developments since the first review

In order to address the lack of support services and protective measures for survivors of sexual violence, a coalition of NGOs coordinated by ACTEDO initiated in 2015 a cross-sectorial working group hosted by the Superior Council for Magistracy, which included the Ministry of Justice, the Ministry of Health, the National Agency for Gender Equality and, among others, networks of women's NGOs. After several meetings, a Governmental Decision was drafted to create integrated support services for victims of sexual violence. These would be located inside the hospitals and include free medical, legal and psychological support. The Decision has yet to be adopted even though the Governance Programme for 2017-2020 includes the creation of 8 such rape crisis centres. In a letter received from the National Agency for Gender Equality (part of the Ministry of Labour) in June 2017, we were informed that a draft order to establish such services was not finalised due to the lack of consensus within the Ministry of Health and that separate partnerships between the Ministry of Labour and county hospitals will be created. However, at the time of this statement there has been little progress on the issue.

C. Recommendations

We therefore recommend that the Government of Romania:

1. Establish integrated support services for victims of sexual violence that include free medical aid, forensic assistance, legal and psychological counselling immediately.
2. Amend Law 217/2003 on preventing and combating domestic violence to expand its scope to all forms of gender-based violence. Ensure the effective implementation of the Law by providing adequate financial resources, setting up a sufficient number of shelters, including for women affected by sexual violence and other support services.
3. Introduce mandatory sexuality education programmes in schools, from a human rights perspective and with a compulsory training component for teachers.

Thank you for your attention.

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References:

ⁱ Rec. 109.40 Viet Nam, 109.46 Egypt, 109.77 Iran, 109.45 Australia.

ⁱⁱ Eurostat, 2015:

http://ec.europa.eu/eurostat/statistics-explained/index.php/People_at_risk_of_poverty_or_social_exclusion

ⁱⁱⁱ Rec. 109.95 Australia; 109.97 Belgium; 109.96 Liechtenstein; 109.37 Italy; 109.111 Netherlands; 109.112 Slovenia.

^{iv} Eurobarometer, 2016:

<http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2115>

^v Eurostat, 2015: <http://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20170808-1?inheritRedirect=true&redirect=/eurostat/>