



**ROMANIA**

**NATIONAL GUIDELINES**

**POLICY CENTER FOR ROMA AND  
MINORITIES**



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# Introduction

*Roma periphery to be demolished -  
Catalin Berescu*

EU Member States have included their most important social problems on the list of priorities to be funded by the EU (using especially ESF and ERDF). For Romania, EU money represents an important source of implementing strategic social measures in fields such as education and deinstitutionalisation.

Although the generally agreed aim is to use EU funds with efficiency and sustainable results, there is an aspect that has not been discussed in Romania: compliance with the fundamental rights. Among the 6 countries included in the FURI project, Romania was the country with the lowest awareness level on this topic at the beginning of the project. Neither management authorities nor the NGO sector have brought this issue into the discussion. Of course, respect of the human rights, (especially Charter of Fundamental Rights of the EU and UNCPRD) was part of the evaluation process of every project. But except this, there was no debate or significant discussion on this topic, which may lead to the conclusion that there has been no significant violation of human rights using EU funds.

Our research, while not comprehensive, managed to find ten case studies where at least there should be doubts about the use of EU funds. It highlighted several important weaknesses of the system regarding the implementation of EU funds for vulnerable groups, that may favour the violation of basic human rights: lack of knowledge related to basic human rights at the local level, justification of violation of human rights (for example segregation of Roma children in school justified by lack of alternative available classrooms or other reasons), identification of human rights violation in EU projects should be done by the implementors themselves, any other external stakeholders has little access to relevant information, beneficiaries have no idea about the complaint mechanisms in case of violation of human rights, etc.

The most common potential violation of human rights were identified as segregation in education and housing (in the case of Roma) and deinstitutionalisation of the persons with disabilities.

When it comes to violation of human using EU funds there are two important questions: who should monitor the projects and look for potential violation and what mechanisms should be in place so that this can be prevented and addressed. Romania has such a mechanism at central level (Ministry of Investments and European funds), but until now it has not received any notice or complaint.

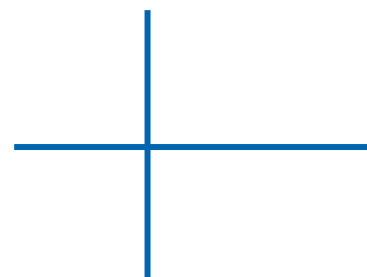
# Objective and scope

The objective of this document is to provide guidelines for the national and regional authorities on ensuring respect of the fundamental human right (as described by the international treaties that Romania has ratified) while implementing EU funds for the benefit of vulnerable groups.

The target groups are the main stakeholders implementing EU funds and human rights: Ministry of Investments and European Funds, Regional Development Agencies, National Council for Combating Discrimination and Romanian Ombudsman.

The main EU Funds covered are European Social Fund and European Fund for Regional Development. The covered period is 2028-2034.

This document is also very relevant for local municipalities and other stakeholders involved, as it details the main human rights legislation that should be respected during any type of intervention.





# Legal and policy framework

*New small group houses -Alina Ursoi*

## Regulations at EU level

The most recent relevant document on this topic is the **Multi-annual Financial Framework proposal of the EC**[1].

It specifies that:

- The rule of law is essential for Europe's democracy, security and economic stability
- All plans must respect the rule of law and the EU Charter of Fundamental Rights
- Identified breaches must be addressed in a timely manner
- If conditions are not met, parts of payment can be suspended anytime

**Charter of Fundamental Rights of the European Union** has the following relevant articles:

Art.1 Right to human dignity – all the cases presented in the Romanian case study, referring to segregation in education, deinstitutionalization, and segregation in housing can be directly related to human dignity.

Art. 7 Respect for private and family life – the way that small group homes were built in Romania (usually 2-3 houses in the same yard) makes it very difficult to have a private life

Art. 17 Right to property – in the case of forced evictions, most of the dwellers lose their acquired possessions

Art. 21 Non-discrimination

Art. 25 The rights of the elderly – especially in the case of deinstitutionalization and evictions

Art. 26 Integration of persons with disabilities – small group homes rarely lead to effective integration

Art. 34 (point 3) – Social security and social assistance (the right to social and housing assistance) – housing segregation cannot be considered as leading to a “decent existence”

Art. 41 – Right to good administration (the obligation of the administration to give reasons for its decisions) – school and housing segregation (or evictions) are not good administration

**UNCRPD** is extremely relevant, especially articles no. 5 and no. 19:

Art. 5 underlines that state parties will prohibit all forms of discrimination against persons with disabilities and will take appropriate steps to ensure proper accommodation.

Art. 19 recognizes the right for persons with disabilities to live in the community, to choose their residence to benefit from services inside the community and not to be segregated.

General comment no. 5 on art. 19 of UNCRPD comes with more details about independent living and inclusion in the community.

**Racial Equality Directive 2000/43/EC** establishes a framework for combating discrimination based on race and ethnicity. Art. 2 defines the concept of direct discrimination, indirect discrimination and harassment, while art. 5 speaks about positive action.

# Relevant national policies and legislations in the field of fundamental rights

## **Fundamental rights and anti-discrimination legislation in Romania**

The Romanian Constitution in art. 4(2) guarantees the equal treatment of all citizens, while Art. 16 provides for equality of all citizens before the law and public authorities. Also, the art 20 provides for the primacy of international human rights treaties over national laws, where inconsistencies exist.

Romania has signed and ratified all major international and European human rights instruments, except for the Additional Protocol to the European Social Charter.

The Romanian anti-discrimination law was adopted in 2000, namely Government Ordinance 137/2000. The last significant round of amendments was made in 2013.

The Civil Code allows for tort claims for damages, including damages generated by discrimination.

The Criminal Code includes protection against incitement to discriminate, hate crimes and abuse with a discriminatory intent in the exercise of an official function.

A Law defining and criminalising Anti-Gypsism was adopted in 2021.

## **Policies related to Roma**

“Romanian Government Inclusion Strategy for the citizens belonging to the Roma minority for the period 2022-2027” represents the guiding document related to policies for Roma. It mainly describes measures in the four main fields (education, employment, health and housing) and it mentions segregation both in education and housing. The EC assessment of this document emphasizes, among others, that measures for combating education and housing segregation should be more ambitious.

## **Policies related to persons with disabilities/deinstitutionalisation**

The main policy documents are:

Strategy for Prevention of Institutionalisation of Adult Persons with Disabilities and Speeding the Deinstitutionalisation process for 2022-2030. (adopted in 2022)

Law for supporting and speeding up the deinstitutionalization process (Law 7/2023)

## **Policies related to desegregation**

The latest document is Ministerial Order 7701/2024 for approval of the methodology for monitoring, evaluation, identification, prevention and combating school segregation

# Guiding principles and safeguards

**The guiding principles** for respecting human rights in the implementation of EU funds in Romania are:

The first principle is the rule of law. This should be the basis for achieving long-term sustainable development.

The other principles refer to the respect of national and international human rights standards, as appear in the national legislation and international treaties Romania is part of. Here are some of the most important:

Inclusive education – is the education that ensures equal access to all children to quality education. This includes making sure that diversity does not become a criterion for separating children in different schools or classrooms.

The principle of non-segregation forbids investments in new isolated facilities or strengthening existing ones.

The principle of de-segregation aims at dismantling and relocation of people living in segregated communities. De-segregation should be considered as a first option and non-segregation as a second option.

The right to independent living, as defined by art. 19 of the UNCRPD, implies that persons with disabilities live inside communities and have choices equal to others.

Deinstitutionalization is the process of replacing taking care of adults with disabilities in institutions with community care. This is a process that takes time, but it should not result in small group homes.

## **General safeguards**

In Romania the main problem is related to segregation. The deinstitutionalization process in Romania is ongoing, and it is expected that EU funds will not support institutions in the next programming period. So, except for respect for EU Charter of Fundamental Rights and UNCRP, that are already embodied in the guides issued by the Management Authority, the main safeguards should be related to the principles of non-segregation and desegregation. In the field of education, the Education Ministry has started to collect data at the national level about segregation, data that can be used by the Management Authority. In the field of housing, there is no mapping of segregated communities, but information can be identified and collected.

# Programming of the fundamental rights requirements in the national and regional partnerships plans

## Country specific considerations

The 3 most important challenges are:

First there is a widespread lack of knowledge about the respect of human rights among institutions at local level, what are the main provisions, regulations and most importantly how can these regulations be applied in practice. People (working in public institutions) seem to find it difficult to understand segregation and institutionalisation as they are generally defined.

Collecting information on discrimination at local level might prove difficult, as public information is not easily released by institutions and sometimes even violence is used towards persons revealing discrimination cases. Donors (management authorities) should be more involved here, as they are entitled to conduct such investigations, along with the National Council for Combating Discrimination.

Cooperation between stakeholders is another challenge. NGOs, regional bodies and management authority do not always communicate or have a good cooperation. This can only be solved by creating a cooperation mechanism and building trust between stakeholders.

### **Recommendations:**

For the 2028-2034 financial period, preparation of administrative personnel working with EU funds on topics of human rights is absolutely necessary. Building on the experience of the Romanian government since 2007 in the field of implementing EU funds with the respect of human rights, relevant persons should be trained in the field of human rights as expressed by the Romanian and international legislation.

Management authorities, together with National Council for Combating Discrimination, should pay field visits and conduct investigations, where reasonable suspicions exist.

A cooperation mechanism between management authorities and local civil society should be developed. Such mechanism should help identifying and addressing possible cases of human rights violation.

# Application of fundamental rights requirements (including case law)

**Intersectionality** in Romania is related to institutionalisation and Roma children. Also in institutions part of the residents are Roma. This problem is not openly recognized by authorities (as shown in the report), but this overlap between ethnicity and institutionalisation is recognized by practitioners. Segregation of Roma in special schools has also been signalled by NGOs, but again data and recognition are missing.

## **Recommendation:**

For the next programming period, a system for preventing and addressing intersectionality should be in place. It should all start with a proper documentation of cases and with the recognition of this problem by the local authorities.

Application of **horizontal principles** across all thematic areas

In Romania, the fundamental rights requirements seem to be recognized easier in the field of deinstitutionalisation. In the current programming period institutions are not financed anymore. In terms of Roma segregation in education, although our research was not at all comprehensive, there are reasons for a deeper investigation into this topic. Housing segregation is the least understood and probably most widespread form of discrimination.

In the previous programming period, the **link between enabling conditions and implementation** was not very strong. It existed (as recommendations accompanying the guides) but there were no concrete actions on this topic.

In the actual programming period this link has been strengthened: there are declarations for respecting human rights that are obligatory when submitting projects and there is also a committee in charge with possible violations of human rights while implementing EU fund, inside the Ministry of Investments and European Funds.

The institutional set up seems good, the challenge for the actual and next programming period would be to make it more functional, in the sense of identifying and addressing possible vulnerabilities.

## **Recommendation:**

For the next programming period, for the effective functionality of conditionalities the already existing mechanism should be reinforced and made more functional, in the sense of third-party identification, in the field of possible violation of human rights. Implementors of the projects will not recognize or admit the violations of human rights, so a third party (NGOs, civil society, beneficiaries, etc) should be involved.

In the actual programming period, the Ministry of Investments and European Funds released detailed guidance about discrimination. Romania has requested EU Funds for legalisation of informal settlements, that might imply relocation. Under this call a detailed guidance about segregation was attached to the guidance, based on EC recommendations on this topic.

In education should be easier, as there is a data base of segregated schools that can be access, upon request, by the interested parties.

**Recommendations:**

Segregated educational facilities, segregated housing and small group homes should specifically be mentioned as activities that will not be funded by EU.

In Romania there is a system in place that measures school segregation for every school.

In case of the educational projects, the beneficiary school can be checked if it has a history of discrimination and if segregation has been addressed. This can be done in two different ways: either the evaluators requests information to the Ministry of Education about the potential beneficiary schools or someone from the management authority of the fund receives access in the system (for a limited period of time) and has the possibility to check the entire history of segregation for the beneficiary schools.

In case of **non-compliant investments**, the procedure should be gradual. The applicant should develop a plan to address as soon as possible the existing problem, and a monitoring system should be in place. In case this plan is not implemented according to the schedule, then financial adjustments are required, as investing in segregated facilities is not allowed. In case the problem is still not solved, suspension of payments can be taken into account.

# Implementation mechanisms of fundamental rights requirements in the national and regional partnerships plans

## Measures to ensure the enforcement of fundamental rights in practice

### **Investment in inclusive education**

Applicants and partners (in case school is a partner) should be checked in the national registry if there is a history of segregation. In case there is, the application and possibly the implementation should be carefully checked and monitored.

Application should clearly specify how inclusive education is ensured and segregation is avoided. In case the formulation is not clear, further clarification should be requested during the evaluation procedure.

**Community based services** (based on the CRPD Committee Guidelines on deinstitutionalization, including in emergencies)

Small group homes are not in line with UNCRPD. In case similar solutions are proposed, the evaluator of the proposal should make sure that all the provisions of UNCRPD (and general comments) are respected, especially the ones related to transition to community services and independent living. No small group housing should be funded.

### **Social housing (non-segregated)**

In case of housing segregation, it might be difficult to see from papers (proposals) if the new location for building social housing is segregated or not. Recommendation is that, before signing the contract, a field visit should be made by the contractor (possibly with a housing specialist or human rights specialist) and see if the new location is segregated or not.

# Excluded investments

Based on previous experiences, the following activities should be excluded from financing:

- The funding of institutional service structures and the building of new or renovation of existing residential institutions for people with disabilities, children deprived from parental care, elderly
- The organisation of segregated educational services, the building of schools only for Roma, renovation of buildings or classrooms that will accommodate only Roma students. National guidance and regulations on school desegregation should be respected
- Building new or renovation of existing segregated/isolated houses for Roma community exclusively
- Building small group homes

## Monitoring mechanisms

In Romania there is already a mechanism dealing with the protection of human rights in implementing EU funds. It is called the “Committee for EU Charter of Fundamental Rights”. The main responsibilities of the committee are:

- receives information related to any inconsistencies related to the EU Charter in the documents and actions developed by the Management Authority
- offers consultancy to the Management Authority while dealing with possible cases of human rights violation and in any step of the programming and implementation of EU funds
- suggests solutions to the Management Authority in case of possible human rights violations using EU funds

Among its members are representatives of every management authority, National Council for Combating Discrimination, Ombudsman, National Authority for the Protection of the People with Disabilities Rights and other institutions. Guests can be invited to meetings, according to the needs.

It functions based on complaints coming from the local level. Until now no complaints have been received.

### **Recommendation**

There is a need to build capacities of understanding basic human rights and how they apply them to EU projects for the following stakeholders:

- Regional Development Authorities, management authorities
- Roma and non-Roma NGOs, especially the ones from the local level, that can notice violations of human rights

As Romania has a special monitoring committee on this topic, its role is fundamental in addressing human rights violation. It functions upon complaints, so local level stakeholders should be more active in addressing this issue.

### **Recommendation**

For the next programming period (2028-2034), this mechanism should not only be maintained but developed. The current monitoring system of EU funds is very much based on reports (implementation and financial reports). As human rights violations will not come put from reports, a mechanism of checking possible situations of human rights violation in the field should be developed.

## **Indicators on fundamental rights**

In case of housing segregation definitions, guidelines are issued by the Ministry of Investments and European Funds, but there is a need for a stronger recognition from the central authorities in charge of housing (like a ministerial order, or governmental decision), in order to offer more strength to the document.

In case of education, the Ministry of Education has a complex methodology for identification of segregation, so for the next programming period a cooperation agreement and mechanism should be in place.

## **Timeline**

In case a complaint is made or a possible human rights violation is signaled, the responsible authorities should act immediately and not wait for the yearly meeting of the committee in charge.

## **Capacity building of stakeholders**

There is a general need for training in the 3 major topics: segregation in housing, segregation in education and deinstitutionalisation. For the next programming period, trainings should be targeted at regional and local level, at public institutions and NGOs.

Trainings should have as topics the EU Charter of Fundamental Rights, UNCRPD, introduction to human rights, national and international standards in terms of respecting the rights of vulnerable groups, especially of persons with disabilities, and especially in housing and education.

## Role of complaint mechanisms

There is a complaint mechanism in place in Romania, at the Ministry of Investments and EU Funds. All the relevant institutions are part of this committee. The recommendation is that whenever a complaint is received, before addressing it inside the committee, a field visit should be made by representatives of this committee, and a report should be issued. Based on this report the committee should discuss the human rights violation. The first solution should be to address the problem and solve it. In case this does not happen, other solutions can be suggested (like suspension of payments).

The problem with this mechanism is that it is not very well known, except for the regional structures. The cooperation with local civil society can support the aim of this committee. For the next programming period the functioning of this committee can be revised and improved.

Outcomes of the investigations should be made publicly available to all beneficiaries, so that they know how to avoid or address possible human rights violations.

## Designing of call for proposals

- Objectives and priorities should be based on systematic data collection and/or research.
- Target groups are identified based on a needs assessment;
- The needs assessment should be realistic. At the moment there is no way of checking how accurate the information is. This has led in some projects to real difficulties like not having the entire target group or not being able to implement some activities. In order to be realistic the needs assessment should involve the representatives of social work departments or other departments that hold relevant data.
- Only measures that are clearly aligned with fundamental rights should be eligible for funding.
- Measures that violate legal obligations, such as those outlined in Section 6.2, should be explicitly excluded.
- Independent civil society organisations representing rights holders, as well as public bodies responsible for promoting social inclusion and fundamental rights (e.g. rights of racialised communities, persons with disabilities, children, families, homeless persons, older people, gender equality, and non-discrimination), should be consulted in the design of calls and meaningfully involved in implementation, monitoring, and evaluation.
- Calls for proposals should be designed to complement each other and support integrated, cross-sectoral approaches. For example, supporting deinstitutionalisation may require sequential calls on social housing, training of community-based care providers, and recruitment of personal assistants. In some cases, applicants may need to apply to multiple calls.
- Calls for proposals should include relevant indicators. These should be based on the identified needs and adapted to the specific objectives of the call.

# Selection of operations

The process should have the following steps:

1. Evaluation stage – despite the words used in the application, evaluators should correlate with other data (like number/percent of Roma in the community, if there is a history of segregation, etc) in order to correctly establish the danger of human rights violation
2. Monitoring stage – here is also a problem because the monitoring process is based only on papers related to implementation of activities and of the budget – this would not allow anyone to spot human rights violation. An investigation in the field is required for a proper decision.
3. Project modification in case there is a danger of human rights violation
4. Financial corrections

5. Assessment of the project

## Measures to ensure structural reforms across thematic areas

### Education (restructuring small scale schools, training for teachers on inclusive education, etc)

In the field of education usually the issue of segregation comes together with a lower quality of education. Despite years of intervention and millions of Euro invested in education, the rate of functional illiteracy is raising, especially in disadvantaged communities. In case of segregation and low quality of education, projects should address at least 2 issues:

- Preparation of teachers for working with children from disadvantaged areas – their understanding of poverty (many times intergenerational poverty) or disability is almost absent, so they are at risk of discriminating children; the next step can be the physical segregation of these children
- Preparation of teachers and school staff in understanding segregation – like many professional categories, discrimination was not part of their curricula in school, so they act based on their own understanding; behind the personal level of understanding, what should be required in EU projects implementation for the next period is a proper understanding of the main national and international legislation on this topic

In the situation where schools are restructured, situations where Roma children or children with special needs or with disabilities are segregated should be avoided. This can be achieved through mixing the children in classrooms.

### Housing (social housing, deinstitutionalisation)

In the field of social housing, projects should support building of social housing, but with the respect of non-segregation and desegregation principles. The recommendation is to make sure from the very beginning (before signing the contract) that the location selected for building houses or institutions is not a segregated one. This cannot be achieved without field visits. Also, some projects can promise that there will be other facilities built in the neighbourhood (like school, shops, etc). This can be taken into account only if there is a clear source of funding for that.

## Accessibility of built infrastructure, services

Basic infrastructure (water, sewage, electricity) should be available to all. What happened in many similar projects was that they did not include disadvantaged communities. Not including disadvantaged communities in these projects is a form of discrimination. For the next programming period these issues should be clearly addressed, by asking municipalities to submit their local investments and development plans and see if vulnerable communities are included or not. In case they are not, financing can be questioned.

## Community-based reception / social housing

The infrastructure in Romania is not very well developed, so these will be necessary actions. What is important for the next period is that these facilities are built in areas that are accessible to beneficiaries, otherwise investments might not meet the expected outcome.

## Independent living (restructuring of social, healthcare and housing services)

Independent living is not only an issue of housing but also of human resources. Projects should support not only the building of infrastructure (in accordance with UNCRPD provisions) but also by training and ensuring a well-paid human resource and services for community integration.

### Possible indicators

Number of people using the newly-developed community-based services;

Number of closed down institutions;

Number of people using personal assistance;

Number of newly-developed housing options that allow people to live in their own home in the community;

Number of persons (e.g. children deprived from parental care and with disabilities, adults with disabilities, persons with psychosocial disabilities, older people, homeless people) who moved out of the institutions to live independently in the community;

Number of children deprived from parental care reintegrated with their biological families;

Number of people using family assistance;

Number of children deprived from parental care placed in foster families;

Number of sheltered homeless people moved into permanent (supported) housing at home;

Capacity of new or modernised social housing;

Capacity of new or improved community-based services (other than housing)

Number of students benefitting from renovated educational infrastructure

Number of desegregated schools

# Conclusions

In Romania, in this programming period, respect for basic human rights is compulsory when submitting a project proposal. The applicant should sign 2 letters committing to respect EU Charter and UNCRPD. There is also a complaint mechanism at the central level.

What is needed for the next programming period (2028-2034) is for this mechanism to be more efficient in the sense of really monitoring the projects at the local level. In case of violation of human rights, it is the applicant or the partners who can signal this situation. This is not a realistic, as it is an independent party that should signal this kind of situation.

NGOs should support this complaint mechanism and develop a network of local NGOs that are able to be partners of dialogue for the applicants, local authorities and management authority. For this they need a proper training and a cooperation mechanism in place.

When discrimination is signaled, the National Council for Combating Discrimination should be involved as a stakeholder with expertise, if needed.

In case of education, the school can be evaluated also based on the history of discrimination recorded in the system run by the Ministry of Education.

A lot of training on understanding human rights and international treaties on human rights are needed both at regional and local levels.

If the discriminatory situation is not properly addressed, cutting funds can be a viable solution, but this should be addressed gradually, from changing/removing the discriminatory activities to financial corrections.

