



Child sexual abuse in institutions: ensuring full protection of children and young people living in institutions

Ms Georgiana Pascu

Programme Manager, Center for Legal Resources

We are Romanian human rights NGO, founded by the Soros Foundation. We have been active for more than 15 years and, for the last decade, we have been the only NGO to operate an independent monitoring mechanism to prevent inhuman and degrading treatment applied to institutionalized persons.

The Center for Legal Resources coordinates an Independent Monitoring Mechanism based on unannounced visits aimed at verifying the observance of human rights standards in the case of children and young persons, especially those with disabilities who are living in foster care centers in Romania.

1. How does the IMM work in practice?

These are the crucial elements which make our mechanism work in practice:

- **The model is based on unannounced visits** (this ensures that the institution managers are not aware of our visit and do not have time to alter the situation in the institutions, for example – clean, give better clothes to the residents, organize their answers and pressure staff and residents to offer certain answers)
- **The monitoring teams , usually a lawyer and a psychologist are independent** , this ensures that there is no personal gain, conflict of interests or administrative links between monitoring experts and institution managers
- **The reporting routine** : each monitoring team drafts reports immediately after each visits and submits them to the CLR
- **The communication with central Government** : signed Protocols of cooperation
- **The communication with other international human rights mechanisms**

2. How does the IMM protect institutionalized children from sexual abuse?

Let me tell you a story from practice, about one of the many instances when CLR monitoring experts identified and took measures regarding sexual abuse occurring in an institutional setting.

This is the story of four children, Elena, Laura, Marian and Laurentiu, of which the last three are siblings. All four children lived with their families before entering the system. After spending

an extended period of time in what should have been an emergency center, they were eventually brought to a placement/foster care center in a town in Northern Romania.

Elena, which was 13 at the time, became involved in a local prostitution ring. This was allegedly facilitated by an older resident of the placement/foster care center, Andrei. Once Elena's activities came to light, she was transferred to a family-type house in a nearby town, in order to sever/cut off her ties with the other members of the prostitution ring.

About a year later, Laurentiu, still in the same foster care center, was allegedly sexually abused by Andrei. After being moved back and forth between two centers, he and his siblings were placed in the same house as their friend Elena, in order to keep them away from Andrei's influence, who was allegedly attempting to determine Laurentiu to withdraw his accusations of sexual abuse.

Apparently, this did not prove effective, as the alleged abuser was still able to contact Laurentiu. Whether this was due to his influence or not, Laurentiu told the monitors from the Center for Legal Resources that, in reality, he had not been sexually abused and that he had been forced to falsely accuse Andrei, due to an ongoing feud between Andrei and an official from the county social services.

The CLR did not identify a criminal misconduct on the part of the social service staff in this case, and it did not file a criminal complaint. Nonetheless, the monitors did observe (that the social services suffer from) a serious lack of specialized personnel, especially psychologists, who play an essential role in counseling sexually abused children and in helping children to identify and report sexual abuses. Therefore, the CLR arranged for an independent psychologist to counsel Laurentiu. It also provided an informal training to some of the staff of the social services at county level, especially regarding the observance of the legal provisions concerning the transfer of children from one institution to another and their protection against abusers.

Since the CLR manages this independent mechanism, people started perceiving us as a solution for abuse against children. This is a story of sexual abuse that came to our knowledge not during monitoring visits, but by being contacted by people who knew about our activity.

This is the story of a teenaged girl named Aurora. Until recently (two weeks ago), she was a resident of a social apartment in a town not far from Bucharest. She was sexually abused by one of her male educators. One day, she overheard the same educator telling another man about the forced prostitution ring they operated using the girls residing in the apartment.

Aurora talked to a policeman about her situation, but he was an accomplice of her abuser. Aurora also told what had happened to the other girls in the apartment, as well as to the rest of her educators. Despite this, she could not find any help.

Instead, her situation was about to become much worse. Her abuser found out that she had been talking, and planned to bring her into the prostitution ring as well. He explicitly told her that she was next. He also attempted to persuade her to go along, by complimenting her physical appearance and telling her she would fit right in.

Aurora decided that she would either run away or commit suicide. Fortunately, she chose the former, and one day, after school, she took a bus to a nearby village. A family she knew offered

to shelter her for a while. She remained there for one week, until monitors from the Center for Legal Resources went and transfer her to Bucharest. She is now safely away in a private center, and the Center for Legal Resources filed a criminal complaint against her abuser and his accomplices.

3. Why is there such a great need for this particular IMM?

These stories show that it is almost impossible for children and especially children with mental disabilities to have an effective access to justice either during their placement within an institution or in the care of a professional caretaker.

The national legal framework concerning "legal representation" works against institutionalized children, since, there are cases in which they are abused by the very same persons designated to protect their rights;

If a child is abused by his/her family, the child protection services take him/her out of the family. If a child is abused within the foster care center, the manager of the center which is "his/her legal representative" should file a complaint against himself, on the child's behalf.

In practice, with very few exceptions, there are no procedures in place for registering and solving the complaints of institutionalized children and young persons with disabilities;

In practice, death occurring in institutional facilities is rarely investigated and examined forensically, in spite of the existing legal obligations.

There is no legal assistance system aimed at institutionalized children with mental disabilities and no access to appropriate means of communications as telephone, internet, stamp, paper.

Because CLR has identified cases of treatments amounting to torture applied to teenagers and young adults with mental disabilities¹ These treatments are either inflicted directly by the personnel who is insufficient and untrained (e.g. tying people to their beds, sedating them) or, mutually, by the residents themselves.

Due to the Poor living conditions and small chances of recovery

The CLR monitoring visits identified numerous situations where persons with disabilities live in spaces with poor air quality, heating, lighting, hygiene or food. Special recovery programs are scarce, but simple activities such as spending time outdoors are lacking in some residential institutions. Young persons' oral hygiene is precarious, as they seldom have access to dentists and are also discriminated in accessing medical care outside the institutions. There is also widespread specialized personnel shortage.

4. What is the situation of the IMM now?

By ratifying the CRC, Romania has undertaken, "to see that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment". Romania also ratified the OPCAT on 2009. Now, when the second deadline for the establishment of the National Mechanism for the Prevention of Torture (NPM), set by the UN Committee against Torture, is

around the corner, Romania must apply the Protocol this year, no later than August. In 2009, Romania was granted a three-year postponement for the establishment of the Mechanism. In 2012, when the first deadline expired, **Romania** asked for and received a two-year extension, **so it is the only country in the world that asked twice for a postponement for the establishment of the mechanism.**

A year ago we were in the situation to litigate against a child protection and social work authorities due to the fact they've denied our access even announced and we received complaints that revealed the inhuman and degrading treatment. After a year we received a positive court decision but meanwhile other 20 young adults with mental disabilities are missing from that center. After a six months discussions with the states authorities they finally signed a cooperation protocol with our center. During that particular period of time we were unable to conduct any monitoring visit.

These are our findings and we work hard to change the situation, hoping that we'll be able to have on our side not only the Romanian authorities but also the regional organizations responsible for protection of all the children and institutionalized young adults.

Thank you.