

Romanian Laws Affecting Children

The United Nations Convention of the Rights of the Child was ratified by Romania by **Law 18/1990**. Through this law, Romania guarantees the rights of all children in order that they may be able as adults to fully contribute to the economic and social development of their country.

Article 27 recognizes the right of every child to a standard of living adequate for the child's physical, mental and social development. The state is obligated to assist parents in exercising this right and when necessary, providing material assistance and support. The state is obligated to protect and guarantee the rights of all children in their territory including those without formal civic documentation.⁸⁸

Education Law 84/1995 updated by Law 268/2003 stipulates mandatory education of 10 grades, starting from age 6. According to this law, the responsibility for ensuring school attendance in the mandatory school system belongs to the parents. If they fail to comply, the parents may be fined between 50 and 200 lei. In case the parents cannot or do not fulfil their legal obligation regarding their children's education, the local authorities and schools are legally responsible to intervene.⁸⁹

Education Law 272/2004 for protection of children's rights, Art. 47 states that all children have the right to receive an education that allows the development of their aptitudes and personality and that prepares them to be contributing members of society.

Law 272, Art. 48 requires the Ministry of Education, school inspectorates and schools to implement measures to prevent school abandonment caused by poverty. They are required to take action to ensure adequate social services in the school environment, including: food, school supplies, transportation and other services deemed necessary for the child's attendance at school.⁹⁰

Law 272, Art.91 stipulates that all suspected cases of abuse or neglect must be immediately reported by professional staff who interact directly with children (e.g., teachers). They must notify the local Social Protection Services (SPAS) or the General Division of Social Work and Child Protection (DGASPC)⁹¹. The Ministry's School Directives states that teachers have the responsibility to monitor children's school attendance, keep regular contact with the parents, and notify social assistance/education institution cases in which children are at risk for school abandonment.⁹²

Schools, supported by local authorities and population monitoring services of the Police Department, are obligated to conduct an annual census of children 6-7 years of age in their assigned geographical areas.⁹³

Not all the measures above are routinely enforced. Indeed, many teachers are unaware of the provisions and sanctions of Law 272.⁹⁴ And while the legislation is clear with regard to children who have abandoned school or are at risk of doing so, the law is silent regarding children who have never been registered for school, and consequently do not show up in school records.

⁸⁸ Breaking the Cycle of Exclusion: Roma Children in Southeast Europe, UNICEF, Serbia, 2007, p. 9

⁸⁹ Law 272/2004, art. 45, (2) In cases where parents cannot satisfy their children's minimum needs of housing, food, clothing and education, the state, through the local administration, is required to provide parents with financial and in-kind support, as well as services provided according to the law.

⁹⁰ Law 272, Art. 48, paragraph F

⁹¹ Failure to comply represents severe disciplinary breach and is punished according to the law (Art. 134).

⁹² Regulamentul de Organizare și Funcționare a Unităților de Învățământ Preuniversitar Art.84. (4): The personnel involved in education is obliged to notify, if needed, the public social assistance/education institutions, the Child Protection Department, with regards to aspects that affect the dignity, and physical and psychological integrity of the child/student.

⁹³ Regulamentul de Organizare și Funcționare a Unităților de Învățământ Preuniversitar Art. 10 (5) School units, with support from local authorities and the population ID service (Serviciului de Evidență a Populației), are obliged to do an annual census of children age 6/7 from their allocated areas.

⁹⁴ In a recent workshop with teachers and school directors from Dambovita, Braila and Brasov counties, the general opinion was that teachers know they *can* notify the authorities if they think a student is at risk of dropping out – but are not aware that they are legally obligated to do so. Furthermore, the teachers asserted that such a written notice would be useless because the social assistance departments are not likely to act. One teacher said her school director does not encourage teachers to report these cases because he didn't want fuss created around his school.

Law 272, Art. 100 gives the **National Child Protection Authority (ANPDC)** responsibility for monitoring how children's rights are respected, as well as coordinating and controlling the protection and promotion of children's rights.

Law 272, Art. 102 requires local public administration to guarantee and promote the enforcement of children's rights.

Law 272, Art. 103 stipulates that local public authorities must involve the local community in identifying both the needs of the community and local solutions for the social problems affecting children. In order to accomplish that, 'consultative community structures' (i.e., local action groups) can be established. These groups may include clergy, teachers, local business people, medical staff, social service professionals, police officers and others. Their main role is to resolve cases that have been identified and to answer to education-related needs of the community. They may also be consulted when special protection measures need to be taken. Service on these committees is voluntary; members are selected by the Mayor and Local Council.

Law 272, Art. 106 requires public social assistance services to (1) monitor and analyze the situation of children living in their jurisdiction, and enforce children's rights, ensuring that relevant data be collected and analyzed and (2) counsel and inform families about their rights and obligations regarding their children and the services that are available locally.

At present these laws tend to be passively interpreted. For example, SPAS is required to monitor and analyze the enforcement of children's rights in their jurisdiction, including the right to education, but they do not, as a rule, get involved in the identification of school age children who are not in school. This responsibility is considered to be the exclusive domain of the schools⁹⁵. The lack of clarity in the law combined with the lack of communication between local agencies allows many impoverished children to fall between the cracks of the system. Ideally Community Consultative Structures should create a link and a 'quality control' mechanism to oversee the upholding of children's rights, but at present in most communities they do not serve that function.

School Mediator Order 1539/2007 provides the legal framework for schools to obtain a school mediator (i.e., a person from the local community specially trained to serve as a liaison between the families and the school)⁹⁶ if they:

- are situated in communities with large numbers of children who are not attending; kindergarten or school;
- have multi-ethnic or predominantly Roma students;
- have high abandonment rates, low attendance and poor academic results;
- have a high percentage of students from disadvantaged families;
- have many minority students, but no teachers from the respective minorities.

A school mediator can be requested by any community group that identifies the need (parents, school, authorities, NGOs, etc). But in reality (1) the number of trained school mediators is inadequate for the need, (2) many communities/schools that meet the criteria have not requested a mediator, (3) many communities that need mediators do not budget for the position, (4) the pay scale is too low to attract and keep truly qualified mediators. Most school mediators currently employed were trained through the EU Phare "Access to Education for Disadvantaged Groups" program. See Section V(8) for further discussion.

⁹⁵**Regulamentul de Organizare și Funcționare a Unităților de Învățământ Preuniversitar** Art. 10 (5) Schools, in cooperation with the local administration and the Department of Population Monitoring, are required to carry out an annual census of children, age 6-7, living in their jurisdiction.

⁹⁶ See Section 3.4 pp. 384-386 of the EUMAP report for a history of Roma school mediators.