

CHILDREN'S RIGHTS AND THE ENLARGEMENT PROCESS

CONTRIBUTION OF DG ENLARGEMENT

GROUP OF COMMISSIONERS ON FUNDAMENTAL RIGHTS, ANTI-DISCRIMINATION AND EQUAL OPPORTUNITIES

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Introduction

Membership in the European Union requires among other criteria that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. These so-called political criteria have been developed by the European Council in Copenhagen in 1993. The European Commission and in particular DG Enlargement have throughout the accession process closely monitored the progress of all the candidate countries in that respect and published the results in the Opinions and annual reports. Monitoring continues also with regard to the potential candidate countries in South-East Europe.

Children's rights form part of the human right issues which have to be respected by candidate countries as integral element of the common European values referred to in Article 6 of the EU Treaty. There are various human rights instruments on European and UN level which either include protection of children or address specific children's rights under economic, social or cultural aspects and in the context of protection of minorities, such as the European Charter of Fundamental Rights signed in December 2000 and meanwhile integrated into the future Treaty establishing a Constitution for Europe, the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and also the United Nations Convention on the Rights of the Child adopted on 20 November 1989. These instruments are considered inseparable of the realisation of the objectives of the Union and, therefore, they are crucial references and benchmarks for the Commission to assess the progress made by candidate countries.

Furthermore, as regards financial assistance, the Commission has always given high importance to projects that aim at improving the situation and rights of children in candidate countries, particularly in the area of childcare, education or specific assistance to disadvantaged groups such as Roma.

Monitoring children's rights

The Commission's "Regular Reports on Candidate countries progress towards accession", drawing on all available sources of information including reports by UN and other international organisations as well as NGOs, have, over the years, underlined concern on the situation in one or more candidate countries about the following issues:

Roma children

The Roma population is significantly younger than the majority populations in their home countries. Currently between 25 and 30 percent of Roma are under 15 years of age, in contrast with 10 percent for the majority population.

This matches with the momentous fact that children and adolescents in Roma communities are particularly exposed to poverty, exclusion, social stigma and discrimination. In many countries in EU25, acceding States as well as current and potential candidate countries, they are often excluded from mainstream educational institutions and frequently placed in "special schools" or in segregated classes where they receive substandard education on the ground that they are considered as socially and culturally handicapped.

The Commission has consistently emphasised the need to combat discrimination of Roma children and urged governments to address the problem of their excessive presence in special schools through appropriate policies and adequate resources. During the last few years more than one third of a total amount of almost €100 million PHARE funds for Roma communities were targeted at improvement of education. Although the situation has started to improve, there remains still a lot to be done at all relevant levels.

Other international organisations, international financing institutions and the civil society consider the education of Roma children as one of several key priorities. In the framework of the recently launched "Decade of Roma Inclusion 2005–2015", the World Bank together with other actors has established the "Roma Education Fund" which aims at systemic policy change in the area of education, by improving access to and quality of appropriate education and implementing integration and desegregation. A Donors' conference in December 2004 in Paris collected almost €50 million for that purpose.

Apart from those efforts, the European Union remains the largest donor for Roma, taking into account not only continuous PHARE support but also the even more substantial structural funds for EU25, as from 2007 including Bulgaria and Romania, which despite mainstreaming of programmes and actions will provide considerable support for Roma in the field of education.

Children in childcare institutions (residential care)

Children who cannot live with their parents, whether due to abandonment, orphaned, neglect or simple poverty, are an especially vulnerable group. Whereas most Western European states were replacing institutional care by substitute care, such as foster care, day care and other forms of assistance to families in the first half of the 20th century, in Eastern European states there was until 1989 a strong focus on institutional care. Demographic policies led to a high number of children in large residential institutions. Efforts to change this situation started immediately after 1989, although with different speed and success. DG Enlargement has played a key role in encouraging reform and funding the childcare sector in Romania and also supported the reform of childcare in Bulgaria.

For example, in Romania, since the end of 2000, a multi-annual Phare programme, with a total value of €59.5 million has started to support the efforts of the Romanian government to reform child protection and finance the closure of large old-style childcare institutions by replacing them with alternative child protection services. Significant progress has been made: some 90 large institutions were closed and replaced by over 300 alternative child protection services. This programme was accompanied by a large public awareness campaign to inform the public at large of existing alternatives to institutionalisation.

Trafficking of children

Several candidate countries are faced with a dramatic situation of child prostitution, sexual abuse and trafficking of children, which is closely linked with the opening of the borders. The EU and candidate countries have started addressing these problems. It is, however, increasingly important to stop the demand and to attack the problem at the roots.

Abuse of international adoption system

Concerning intercountry adoptions the Commission's policy is univocally in the interest of the child.

In Romania, for example, in the end of 90s, the abuse of the adoption system, which had become close to a market for children, became apparent. After criticism of the European Parliament and the European Commission in 2000–2001, the Romanian government temporarily suspended intercountry adoptions. Serious efforts were undertaken to modernise the Romanian child protection, also with EU financial assistance. An Independent Panel of EU Experts on Family Law was set up by the Commission in December 2002 in order to examine if the new Romanian draft legislation on children's rights and adoption was in compliance with the UN Convention on the Rights of the Child and the European Convention on Human Rights, and with practices in the EU Member States. Currently, the new laws no longer foresee intercountry adoption as a general child protection measure.

The fact that Romania halted intercountry adoptions has led to increased pressure on the other countries for adoptable children. Therefore, there is an urgent need for a consistent approach of the Commission among the different countries of the region in line with international instruments such as the UN Convention on the Rights of the Child.

Child labour

Among the candidate countries, Turkey still needs to address the problem of child labour, although the number of working children in the 12–17 age bracket has declined significantly from about 1 million in mid-2002 to 770 000 in mid-2003. Although the age limit for child labour has increased from 12 to 15 years since 1971, a significant number of children under 15 are still employed, in particular in small enterprises and in agriculture. They are thus denied the right to education.

The Government of Turkey has ratified the ILO Convention No. 182 on the Worst Forms of Child Labour which calls for immediate and effective measures to secure the prohibition and elimination of these forms of labour for all children under the age of 18 as a matter of urgency. In 2002, the Turkish government initiated the development of an explicit policy on child labour with the aim of eradicating the worst forms of child labour within a defined period of time. Moreover, in ratifying the European Convention on the Exercise of Children's Rights in June 2002, Turkey demonstrated its commitment

towards the protection of children. However, legislation concerning child labour should be fully aligned with the *acquis* and also include provisions to protect children working in sectors currently not covered, such as agriculture.

EC FINANCIAL ASSISTANCE AND CHILDREN'S RIGHTS

Minorities

Access to education is an important right of the child. The Commission's regular reports on Candidate Countries' progress towards accession have underlined the need to ensure equal access of minority children to educational opportunities. In Central and Eastern European countries, school attendance by especially Roma children is much lower than for other children and they are all too often segregated in 'Roma schools' or sent to special schools for mentally handicapped children. Financial support has therefore been provided under the Phare programme to ensure effective access to education for Roma children, for example:

- In **Bulgaria**, Phare provided €500,000 in 1999 for a Roma project, including a component to increase Roma children's access to education. Furthermore, financial support was provided to improve school attendance by Roma children by removing economic and cultural barriers at pre-school and primary level, increase the number of skilled teachers working in a multi-cultural environment, and introduce a nationwide multi-cultural content revised curriculum (part of a €1,65 million project under Phare 2001). Measures (institution building and investment) aiming at fostering access of Roma children to education are being continued under the multi-annual Phare 2004–2006 programme.
- In **Romania**, Phare provided €7 million in 2001 and €9 million in 2003 for a project to improve access to education for disadvantaged groups, with a special focus on Roma. The programme will be continued under the multi-annual Phare 2004–2006 programme.

Turkey

In **Turkey**, €5.3 million EC assistance is foreseen for eradicating the worst forms of child labour. The project will enhance the national and regional capacity for actively removing children from the worst forms of child labour and preventing "at risk" children from beginning such work. The project will provide capacity building support to the Child Labour Unit of the Ministry of Labour and Social Security, in particular reinforcing its policy development and implementation skills, field capacity and project management skills. Provincial Programme Coordination Offices (PPCOs) will be established in the seven provinces selected for programme implementation. The PPCOs will be established with sufficient infrastructure and human resources to provide educational, withdrawal, preventative, monitoring and counselling services to working children and their families. Comprehensive child labour monitoring systems will be established to refer child labour cases. Education and counselling services will also be provided to a number of targeted children.

Western Balkans

Under the CARDS Regional programme 2003 on Democratic Stabilisation / Support to Civil Society Organisation, the Commission funds a project “Juvenile Commitment to Democracy – Schools of Democracy and Youth Parliaments” in **Bosnia and Herzegovina** (€138 383). The project has the purpose to put an end to passiveness, non-involvement and isolation of young people in school settings, as well as in the local communities especially in the countries of South Eastern Europe; to intensify the co-operation among pupils from elementary and secondary schools, and generally young people with non-governmental organizations, municipal authorities and corresponding bodies; ensure involvement of youth in the activities of the community; and their influence in the decision making process.

Moreover, a “Youth Voice Project” in **Serbia** and **Kosovo** funded under the EU CARDS Regional programme 2003 (€146 801) and starting shortly has the objective to provide means for youth to become active in civil society. Through education, participation in local government and expression of ideas, 15–19 year old young people from Serbia, Kosovo/Albanian and Kosovo/Serbian will get support to begin to be active members of society, improve their ability to critically analyse their local situations and their role in the society, be more tolerant of persons of other ethnicities, and, therefore, promote tolerance and democracy.

SUPPORT TO REFORM OF CHILD PROTECTION POLICY IN ROMANIA AND BULGARIA

Romania

The European Union has played a key role in encouraging reform and funding the childcare sector in Romania. The progress achieved has been widely acknowledged and Romania's child protection is considered nowadays a model for the region.

Some €100 million were spent initially on improving conditions in institutions and subsequently on preparing and funding reform policy and projects. In 2001, the EU started a multi-annual support for the reform of the sector, through grants under the PHARE programme. A budget of €59.5 million has been allocated to the Government to fund local projects creating childcare services leading to closure of large residential institutions and a nationwide public awareness campaign with the message "A Children's Home Is not a Real Home" to inform people of alternatives to institutionalisation. Implementation has begun in 2001 and will continue until 2006. Special attention is given to closure of large institutions for very young children and for children with special needs, by replacing them by alternative child care.

The 2004 Regular Report on Romania's progress towards Accession acknowledges that Romania made significant progress with the reform of child protection through the closure of large old-style institutions and the creation of alternative care. The total number of children in residential care is 37 000. Some 85 large institutions remain, most of which are providers of residential special education. In general living conditions are appropriate. Due attention should be given to the exercise of parental rights and to facilitating contact between children in public care and their parents where this is in the interest of the child.

Bulgaria

Bulgaria is confronted with the same issue of over-institutionalisation of children. The Commission has provided financial aid to alleviate the humanitarian situation of children in institutions during the economic crisis in 1997 and 1998.

In 2000 the National Assembly adopted the Child Protection Act, which creates a National Agency for Child Protection responsible for organising and co-ordinating the implementation of child protection state policies, including the preparation and implementation of national and regional programmes to ensure child protection. Under the law, children may be placed in the care of special institutions only when all possibilities of remaining in a family environment are exhausted. Various strategies and action plans aiming at ensuring conditions conducive for the observance of children's rights are in place.

The European Commission has supported Bulgaria's efforts to reform the childcare system so as to systematically reduce the number of children in institutional care in particular through developing alternative social services aimed at children and families. Assistance has been provided to improve policies and the provision of care for socially marginalised children – including a significant number of Roma children. Support and training has been provided to the national State Agency for Child Protection, the Bulgarian body charged with overseeing child welfare reform, and local Child Protection Departments. The Commission also aimed to support the Bulgarian Government in the design of alternative forms of child care and in the reform of the management and care of

children in a number of selected homes. Other projects are being implemented to improve social services for disabled, to increase school attendance by Roma children and social integration of vulnerable groups.

The 2004 Regular Report on Bulgaria's progress towards Accession registered significant progress in adoption of the legislative framework related to child welfare. However, despite a number of efforts, the living conditions of children placed in institutions in some cases continue to be inadequate. There is no comprehensive approach to the closure of institutions on the basis of agreed criteria and to develop and promote alternative forms of care.