

Street Children and Juvenile Justice in Romania



Asociatia Sprijinirea Integrarii Sociale (ASIS)

In partnership with
The Consortium for Street Children





The International Project

Consortium for Street Children

'Promoting and Protecting the Human Rights of Street Children in Juvenile Justice Systems', January 2002 – December 2003

The Consortium for Street Children (CSC) is a network of NGOs working with street-involved children, and children at risk of taking to street life in Africa, Asia, Eastern and Central Europe, and Latin America.

Street children are particularly vulnerable to abuses in juvenile justice systems: they are more likely to come into (actual or perceived) conflict with the law, and they are less able to defend themselves from abuse once within the system. CSC has undertaken a two-year research and advocacy project with local partners to examine the situation of street children in juvenile justice systems in six countries: Kenya, Nicaragua, Nigeria, Pakistan, the Philippines and Romania.

This report documents the findings from this project in relation to Romania.

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**This report was written by Rodica Gregorian and Elena Hura-Tudor (ASIS)
with Thomas Feeny (CSC)**

Front Cover photograph © The Railway Children

"In their little worlds in which children have their existence, there is nothing so finely perceived and so finely felt, as injustice...."

Charles Dickens, "Great Expectations"

**“In our country, street children are only the visible part of the iceberg called juvenile
« poverty »”**

Rodica Mihaela Stanoiu, Minister of Justice

PREFACE - Putting 'justice' back into the 'justice' system

The Consortium for Street Children (CSC) is a network of NGOs working with street-involved children, and children at risk of taking to street life in Africa, Asia, Eastern and Central Europe, and Latin America. In many countries around the world street children are particularly vulnerable to abuses in juvenile justice systems: they are highly likely to come into contact with the criminal justice system in the first place, and they are less able to defend themselves from abuse once within the system. In some countries, in the absence of adequate social welfare responses, the criminal justice system is used to warehouse homeless children regardless of whether or not they have committed a crime. In other countries, outdated legislation means that children face harsh sentences for petty (often 'survival') theft, substance abuse, begging and 'vagrancy'. In short, these children are discriminated against and have their rights violated because they are poor.

In response to the internationally identified need to address the particular overlap between street children and the criminal justice system, CSC has undertaken a two-year research and advocacy project working with local partners to examine the situation of the human rights abuses of street children in juvenile justice systems in six countries: Kenya, Nicaragua, Nigeria, Pakistan, the Philippines and Romania.

Research was undertaken and national, cross-sectoral workshops were convened involving street children themselves, civil society organisations, the police, judiciary, social and probation services and other stakeholders to identify key obstacles to the implementation of international human rights standards for street children in juvenile justice systems in each country. With an emphasis on constructive dialogue and collaboration between civil society and government, the workshops addressed issues of national relevance, examined examples of innovative good practice in this area and outlined recommendations for further action.

The project helped to promote international exchange of experiences through a workshop attended by project partners from all six countries, held in London in July 2003. The discussions from this were then compiled together with case studies and the findings from each country into a practical, international handbook on street children and juvenile justice.

CSC would like to thank all those who contributed to this project in Romania, in particular our local partner, Asociatia Sprijinirea Integrării Sociale (ASIS) without whose dedication, enthusiasm and hard work, none of this would have been possible. Special thanks also go to the children who had the opportunity to take part in this project, as well as to those who did not: those who are still on the streets or behind bars. Hopefully this project will go some way towards sharing their stories and highlighting their incredible resiliency, courage and imagination in the face of exceptionally difficult circumstances, reminding us that street children are first and foremost children, humans entitled to human rights, who need us to work together as a matter of urgency to put the 'justice' back into the 'justice' system.

Marie Wernham, Advocacy Officer, Consortium for Street Children,
www.streetchildren.org.uk

The International Project

The aim of the project under which this report was made, is the mobilization of national and international response to uphold the human rights of street children within the juvenile justice system, recognizing and highlighting the pivotal issues and problems and working towards child-friendly resolutions. As part of an on-going global campaign and a multi-country production of a Handbook on Street Children and the Juvenile Justice System by **The Consortium for Street Children**, this report is also intended as a tool for lobbying and advocating the rights of street children in detention or in the juvenile justice system

The Project in Romania

Culling reports and studies made by different government organizations and agencies, NGOs and other institutions, this report is the culmination of researches and a workshop conducted by the Asociația Sprijinirea Integrării Sociale (ASIS). The assistance of ASIS, along with other organisations and individuals who took part in the project, was indispensable throughout the workshops, which were conducted with support from the Consortium for Street Children (UK), Community Fund, UNICEF Romania and the UK Methodist Church.

The organizations and people, particularly the voices behind this report believe it is paramount that street children in general and children in conflict with the law (CICL) in particular play a key role in the development of policies and programming for their own rehabilitation, reintegration and education.

The project was conducted in three consecutive parts, beginning with a Perceptions Questionnaire circulated among state and non-governmental specialists working in the area of children in conflict with the law (CICL) and street children in general. Interviews were then conducted with street children who had come into contact with the juvenile justice system at some time. The final stage was to conduct a national workshop in Sinaia in order to share the experience and elaborate a set of recommendations.

The National Workshop on Street Children and Juvenile Justice

10-12 November 2002, The Holiday Inn, Sinaia

The objectives of this workshop were:

- To elicit from both adults and children the main challenges and problems relating to street children and the juvenile justice system;
- To raise awareness and promote a better understanding of the rights, laws, policies and programs for street children and the juvenile justice system;
- To draw out good practices in upholding and promoting the rights of street children in the juvenile justice system;
- To come up with realistic and systematic recommendations that could improve the functioning of the juvenile justice system and the experience of children within it.

A total of 45 adults (28 women and 17 men) took part in this workshop, drawn from a variety of sources, including government-run children's institutions; civil society organizations involved in the rehabilitation of street children; police stations involved in the diversion

programme. The views of 130 street children, 31 NGOs, 28 Probation Service Officers and 45 workers from the Child Protection Division were also collected through questionnaires sent out prior to the workshop commencing.

These questionnaires informed the issues discussed at this workshop, and included:

- The relationship between street children and juvenile justice
- The treatment of children within the juvenile justice system
- The gaps in theory and practice in relation to international standards
- Models of successful interventions and good practices
- Strategies and recommendations to reduce the flow of CICL and improve their treatment within the juvenile justice system

The intention was that all of this information and learning – along with that from the other countries involved in the project - would then feed into the development of a practical, international handbook on street children and juvenile justice, available separately.¹

¹ This handbook highlights factors common to all countries and includes examples of good practice from across the four continents. It contains: practical help on advocacy on this issue; specific sections on gender, on racial, ethnic, socio-economic and other forms of discrimination, and on street children's coping strategies, resiliency and participation.

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INTRODUCTION

With the United Nations Convention on the Rights of the Child (UN-CRC) definition of a child as the backdrop, this report provides an overview of the situation of Romania's street children and Children in Conflict with the Law (CICL)² as well as the status of the Romanian juvenile justice system. Within the context of traditional culture, social organization and local setting, the work provides a demographic and qualitative description of Romanian street children, CICL and their families.

We have purposefully limited the discussion on the profile of street children and CICL to the topic of age and gender. This is a departure from previous studies, which have lumped factors such as educational attainment, home environment, alcohol and drug abuse as part of the profile of street children and CICL. For this report, we clearly qualify them as interrelated factors that have brought children to circumstances leading to conflict with the law. *These factors are not part of the sum of the identities of these children.*

This report also examines the reasons behind children ending up in the street as well as the offences they commonly commit/are accused of committing. It also explores the socio-cultural factors behind the commission of crimes. However, rather than just presenting these children within the realm of risks and offences, the report is also an attempt to feature their resilience. While interest in the concept of resilience is quite recent among local and overseas professional workers and researchers, we are hoping for a shift in perspective. By using this forward approach, we hope to remove the stigma from these children and de-emphasize the 'street' in 'street children'.

In reality, the "street" is hardly a representation of "the sum total of their social networks or experiences."³ Definitely, "there is more to the lives of [street] children than what is revealed by *ad hoc* categorizations based on criteria of physical location, social neglect, and economic activity."⁴ Documenting the experiences of street children from the point they had left their homes to the time of arrest, detention, prosecution, the conduct of post-trial processes, and rehabilitation and reintegration, the report records the voices of these children.

The report also contains an overview on the existing responses and projects by the national and regional governments, NGOs and other institutions, as well as examples of successful intervention and good practices. In identifying the gaps and challenges both system and society face in their efforts to address the plight of street children, the report looks into the

² The usage of the term, "Children in Conflict with the Law" (CICL) is reflective of international concerns for the promotion of the child's sense of dignity and worth. However, there recently is an increasing tendency to talk about "Children in Actual or Perceived Conflict with the Law" (CAPCL), which more actually captures the situation of street children who can come into contact with the law even if they had not committed any crime. There is also the debate about whether any of these terms accurately capture the idea that some laws are "in conflict" with the children, such as outdated legislations on vagrancy. Nonetheless, the "child-friendlier and child-sensitive" term "Children in Conflict with the Law" is becoming more popular among Romanian NGOs, but the terms "youthful offender" and "juvenile delinquent" continues to appear in many official government documents, reports and articles. Connoting a prejudicial and negative outlook towards children who are alleged or accused of breaking the law, these two terms strongly reflect the rather out-dated nature of Romanian laws on juvenile justice.

³ Panter-Brick, C. (2002) 'Street Children, Human Rights and Public Health: A Critique and Future Directions', *Annual Review of Anthropology* (31), pp.147-71 (p3).

⁴ Ibid, p8.

Romanian juvenile justice system, and presents proposals as stated by the workshop participants for the improvement of mechanisms at the legislative, administrative, judicial and policy levels.

The information included in this report has been extracted from previous studies, research and reports, and the primary field research and workshop organized by ASIS in Sinaia. *With regards to the names of the children who participated to the field research and whose statements were quoted in the report, they have been changed for purposes of protection and privacy.* We have provided English translations in the cases the quotes were in the vernacular. Stressing the use of child-sensitive terminology and unless quoting references and identifying the titles of previous researches, we carefully avoided using the terms “youth offender” and “juvenile delinquent,” which appear all too often in local literature on CICL. As part of this policy point, we, unless quoting sources, have also used the word “children” and not “minors” or “juvenile” in referring to children. Terms such as “juvenile” and “minor” detract from the reality that children are children.

We hope that as virtually an extension of the workshop, this report will be valuable to policy makers and implementers, and stimulate increased support and genuine concern from the general public for the welfare of street children and CICL in particular.

ROMANIA AND CHILD RIGHTS



For territorial and administrative purposes, Romania is divided into 40 counties and the capital city of Bucharest. Each county is governed by an elected county council. Local councils and elected mayors are the public administration authorities in villages and towns. The county council is the public administration authority that coordinates the activities of all village and town councils in a county.

Politics

Romania is a constitutional democracy with a multiparty, bicameral parliamentary system. President Ion Iliescu is the Head of the State and Prime Minister Adrian Nastase is the Head of Government.

Soviet occupation following World War II led to the formation of a Communist "people's republic" in 1947 and the abdication of the king. The decades-long rule of dictator Nicolae Ceausescu (who took power in 1965) and his Secret police state became increasingly oppressive and draconian through the 1980s. Ceausescu was eventually overthrown and executed in late 1989.

The year 1989 represented, in Romanian history, the passing year from a communist society to one intending to be based on democratic mechanisms. The following years, known generically under the name of "years of transitions" have been characterized by a dramatic balance between economical reforms and social reforms, the costs and shocks of transitions being most of the time hard to bear for marginalized social groups. Following 1989, Romanian society was characterized by political battles in order to gain and maintain power, with the ensuing governments eager to improve their domestic and international image. Economic and sometimes political actions were therefore determined much of the time under the pressure of certain social groups to the disadvantage of those already marginalised.

Preoccupied by their party or personal image, the representatives in power have repeatedly neglected the effects that a transition to a market economy has upon certain marginalized groups. These include the Roma population, families with a lot of children, institutionalized children and especially those leaving state institutions when they turn 18. This neglect can be directly linked to the apparent explosion of the street children phenomenon in certain districts of the country from 1993 onwards. The prioritization of economic rather than social reforms, and of restructuring privatisation rather than addressing existing rights violations among ethnic communities has thereby delayed the resolution of many social problems in Romania (such as street children), and in many cases exacerbated them.

Romania applied to join the European Union in 1997 and, as it fulfils all of the Copenhagen political criteria for membership, accession is planned for 2007. However, EU membership has been made conditional on certain domestic improvements, with a particular stress on the rights of children and minorities. As a result, under the pressure of international authorities, the politicians' speeches over recent years have begun to include (if somewhat vaguely) issues regarding marginalized social groups. At the ministerial level, new divisions, agencies, departments and committees have also been created to elaborate potential strategies, partnerships and protocols to reduce marginalization, poverty or discrimination.

People

With a current population estimated at 22 million, World Bank and UNDP reports show that the average income of the poor is twenty-six per cent below the poverty line. Thirty-one per cent of the population live on less than \$3 a day and eighteen per cent on less than the universal standard of \$1/day/person. Infant and maternal mortality have worsened in the past decade, and life expectancy is low by European standards.⁵

There are approximately 5.6 million children under 18 in Romania, among which 0,65 % are living in residential institutions and 1.5% (82,544) are registered in the records of the public services for child protection. Recent statistics from the National Authority for Child Protection and Adoption (31 August 2003) show that 36, 948 children are living in public or private residential institutions, 76% of whom are between 10 and 18 years old. Besides this, 45, 596 children are protected in a family-like environment, such as foster families or enlarged families. Some of the children living in institutions are abandoned but most of them have been institutionalized due to transition-related problems, such as poverty, malnutrition, school abandonment, social exclusion, disabilities, HIV/AIDS and unhealthy lifestyles.⁶

Economy

The aggressive pro-natal policy in 1966, the structural crisis of socialist economies and the petrol crisis in 1974 have all contributed to the deterioration of Romania's economy from 1980 onwards. The continuous degradation of living standards has lead to an increase in the proportion of the population suffering poverty, with notable rises in the number of unemployed, families with a lot of children, and the homeless.

Previously, the socialist policy made almost full use of the working force, with a male rate of employment close to 100%, and a female rate of employment higher than in the West. The minimum salary was also high enough to ensure a decent standard of living, and the social benefits awarded for children were nearly 10% of the average salary. Priority for obtaining a home was given to those families with a lot of children (more than three), with the cumulative effect of these factors being to drastically reduce the proportion of the population in poverty.

After 1980, a drop in general living standards (executed through a continual decrease in real income) was attempted in order to encourage and maintain an artificial economic growth. However, during the last years of the communist regime the economy began to fall, and the quality and quantity of basic food articles also decreased, as did unemployment. The social security system suffered similar deterioration, evidenced in the sub-financing of certain public

⁵ See DFID's *Country Strategy Paper*, at: http://www.dfid.gov.uk/Pubs/files/romania_csp.pdf

⁶ UNICEF website <http://www.unicef.org/infobycountry/romania.html>

sectors such as education and health, and those families with large numbers of children found themselves no longer able to cope and many children were abandoned in state homes.

Romania began the transition from Communism in 1989 with what was therefore a largely obsolete industrial base and a pattern of output unsuited to the country's needs. The country eventually emerged in 2000 from a punishing three-year recession thanks to strong demand in EU export markets. Despite the global slowdown in 2001-02, strong domestic activity in construction, agriculture, and consumption have kept growth above 4%. An IMF Standby Agreement, signed in 2001, has been accompanied by slow but palpable gains in privatisation, deficit reduction, and the curbing of inflation. Nonetheless, recent macroeconomic gains have done little to address Romania's widespread poverty, while corruption and red tape hinder foreign investment.

The Romanian people thus continue to be significantly affected by economic hardship, lack of material resources for families with many children, inflation and unemployment. After more than 13 years of transition in Romania, the Gross Domestic Product (GDP) and real wages are still less than their 1989 levels. For example, in 2002, GDP was 85.1% and real wages were 77.1% of their total in 1989.

This has had serious negative impacts on family welfare. Although only 6% of the population was recorded as living in poverty in 1989, in 2000 this figure has leaped to 43%. By definition, it is said that a family lives under the poverty line when the daily income is less than 6 USD; when the monthly income represents less than 60% of the average income; and when these amounts do not cover the basic family needs.

Health

The evolution of HIV/AIDS cases is extremely alarming. By 31 December 2001, 4597 cases of HIV/AIDS children were registered, out of which 4270 were HIV infections and 321 AIDS cases. The highest incidence of HIV/AIDS is in children aged between 10-12 years old - a total number of 3043 cases. Out of these, 2826 were HIV cases (1609 boys and 1217 girls) and 217 were AIDS cases.⁷

The number of medical staff is also continually decreasing, a direct consequence of the lack of wage incentives. The remuneration level of doctors is three to five times lower than in other Central and Southeastern Europe, and 20-30 times lower when compared to Western Europe.⁸

⁷ The Response of the Romanian Authorities to the list of issues to be taken up in connection with the consideration of the Second Periodic Report of Romania – (CRC/C/65/Add19)

⁸ Save the Children, ILO/IPEC (2002) Working Street Children in Bucharest: A Rapid Assessment, ILO/IPEC: Geneva

Child Rights Implementation

The United Nations Convention on the Rights of the Child (CRC) was ratified by the Romanian Parliament on September 28th, 1990. In order to supervise and promote the implementation of the CRC, a National Committee for Child Protection was then established in 1993. Eight years later, another child-focused authority was founded within government in response to widespread international criticism of adoption practices – the National Authority for Child Protection and Adoption (ANPCA). This remains the most relevant government organism today, and is responsible for monitoring policies in the field of child protection. It also coordinates the activity of the local/regional Departments of Child Protection, under whom in turn the local mayor of each county is required by the Family Code to ensure the integrity of the fundamental rights of the child within the community by which he was elected.

The European Commission, in the 2003 Report who covered the period until 30 September 2003, notes that:

‘Romania has continued to make significant progress in the reform of child protection. Significant progress has been made with the development of strategies at county level in order to ensure a correct implementation of the national strategy. Regional differences in the implementation of the reform are decreasing as knowledge of best practices on child protection is extended.’⁹

The issue of children's rights is very important in Romania at the moment. However, there are currently many problems in this area, such as the vast numbers of institutionalised children, children with HIV/AIDS, and children suffering from domestic abuse, as well as mass-scale unregulated adoption and trafficking of children. Some of these issues were highlighted in the Concluding Observations of the Committee on the Rights of the Child on 18 March 2003, and many are relevant to both street children in general and the juvenile justice system in particular:¹⁰

Concerns relative to Street Children in general

- The lack of an efficient, systematic and comprehensive compilation of data on all areas covered by the Convention for all persons under 18.
- The principle of non-discrimination is not fully implemented for all children in all parts of the State party, and that unequal enjoyment of economic, social, cultural, civil and political rights persists (i.e. for children with disabilities, children living with HIV/AIDS, children in care institutions, children in detention, asylum-seeker and refugee children, foreign children, children between 16 and 18 years, children from poor households, and children belonging to Roma and other minority groups).
- The alarming increase in the number of children addicted to drugs, the high rate of smoking and alcohol consumption and the lack of awareness of the problems caused by these negative behaviours.
- That children belonging to certain categories do not benefit from equal opportunities as concerns education (i.e. children from less favoured families, children with

⁹ The European Commission (2003) *Regular Report on Romania's Progress towards Accession 2003*, http://europa.eu.int/comm/enlargement/report_2003/pdf/rr_ro_final.pdf.

¹⁰ Compiled from ‘Concluding Observations of the Committee on the Rights of the Child: Romania’, 32nd Session, 18 March 2003

disabilities, children affected by HIV/AIDS, children living in the streets and the Roma and refugee children).

- That there remain large numbers of children living on the street in urban areas, and in particular that they are vulnerable to, among other things, sexual abuse, violence, including from the police, lack of access to education, substance abuse, sexually transmitted diseases, HIV/AIDS and malnutrition;
- The negative attitudes and prejudices of the general public [towards Rromas], in the political discourse and media representations as well as at incidents of police brutality and discriminatory behaviour on the part of some teachers and doctors.

Concerns relative to the Juvenile Justice system

- The high number of allegations of children being ill-treated and tortured by law enforcement officials, received by the Special Rapporteur on the question of torture. The Committee regrets that the majority of these allegations have not been responded to and is concerned that they may not have been effectively investigated by an independent authority. Furthermore, the Committee is concerned that cooperation with the Special Rapporteur in this respect has been insufficient.
- That there are no judges specially trained and appointed for cases involving minors, nor are there prosecutors specializing in investigating juvenile delinquents;
- A high number of children are in pre-trial detention;
- Very few children are dealt with by diversionary or alternative measures;
- There is a serious lack of capacity within the judicial system to provide rapid intervention or trial, as needed, for juvenile offenders.

STREET CHILDREN IN ROMANIA

Definitions and Estimates

The United Nations have defined the term ‘street children’ to include “any boy or girl... for whom the street in the widest sense of the word... has become his or her habitual abode and/or source of livelihood, and who is inadequately protected, supervised, or directed by responsible adults.”¹¹ A generic term indeed, the label is often understood to include all children found in or on the streets doing some activities regardless whether they had a family or not. The term also widely refers to (1) children forced to live in the streets and fend for themselves either because they have no families, were abandoned, or had run away from their families and (2) children forced to work in the streets but return home after having earned enough or at the end of the day.¹²

The varied interpretations of the term ‘street children’ and the need for clarity in its usage have made difficult to obtain exact estimates of how many children fall into this category in Romania. It is generally accepted that before 1990, the children living on the streets were very few due to the socialist policies of the communist regime described earlier, and the denial that poverty or social exclusion should/could exist in a socialist state. Most national reports have consequently dated the increase in children on the streets to around 1993.¹³

With regard to specific estimates, different methodologies and definitions among government and NGO sources have produced exaggerated, under-estimated statistics over the years surrounding the number of street children in Romania. One study suggested that there were around 600 street children in Bucharest and 2,000 in the entire country¹⁴. Yet another study just two years later suggested this figure had risen to 3,500¹⁵. According to government estimates compiled using reports from the police territorial units, there were 1,821 street children at a national level between June 2001 and November 2002.¹⁶ The most recent statistics received from ANPCA show that at the end of 2003 there were approximately 400 *street children in Bucharest, and at the level of the entire country, approximately 1500.*

In fact, it remains rather difficult to make any accurate quantitative evaluations due to the specific dynamics and diverse characteristics of street children, and also because of seasonal fluctuations.

11 Panter-Brick, C. (2002) ‘Street Children, Human Rights and Public Health: A Critique and Future Directions’, *Annual Review of Anthropology* (31), pp. 147-71 (p4).

12 The Consortium for Street Children (CSC) acknowledges the limitations and many connotations, both positive and negative, of the term “street children”, but – in the absence of a widely acceptable alternative – uses the term for convenience, on the understanding that “in reality, street children themselves often defy such convenient generalizations because each child is unique”. CSC also maintains that definitions of “street children” in different contexts must take into account the child’s own perceptions of their individual circumstances and how they themselves wish to be described.

13 Botescu, G., ‘The diagnosis of the street children phenomenon’ in Zamfir, E. (2000) ‘Antipoverty and communitarian development strategies’, Expert Publisher, Bucharest.

14 Children and Work, Save the Children Romania and UNICEF, 1997

15 Statistic taken from ChildHope Website http://www.childhopeuk.org/projects/europe/bucharest_asis.shtml.

16 The response of the Romanian authorities to the list of issues to be taken up in connection with the consideration of the Second Periodic Report (CRC/C/65/Add.19) -2002

To obtain a more general qualitative and quantitative picture of street children and juvenile justice in Romania, ASIS sent out questionnaires as part of this project to a range of professionals who, by nature of their work, have researched or are in frequent contact with street children. This target audience included personnel from 31 NGOs, 28 Social Reintegration and Supervision Services and 45 Child Protection Divisions). From their combined experience looking at the size and severity of the phenomenon at a local district level, it would appear that it is not uniformly spread: 25 % consider the phenomenon of street children as less or not at all worrying, 36% think the problem is ‘worrying’, and 9% see it as ‘extremely worrying’.

Children on and of the street

Although the complexity of every child’s situation cannot be underestimated, it would appear that street children in Romania largely fall into four categories.

The first category is children who work and live on the street full time. They maintain loose or little family contact and live in groups in temporary makeshift shelters, sewers or dark alleys near to marketplaces, commercial centers and near railway stations such as the Gara de Nord in Bucharest.

The second category is children who work on the streets by day but link up with their families in the evenings. This category maintains family contact. Besides lucrative activities, they may be on the streets, to pass time or due to overcrowding in their homes, which may provide little more than a place to sleep. In Romania, this category constitutes the majority of street children.

The third category is the youths who live in the street – the former street children for whom the reintegration procedures applied in previous years by governmental or non-governmental institutions have failed. Even if physically and legally these youths are no longer seen as ‘children’, they are still assimilated to the street children category.

The fourth category is that of children who live with their parents on the street, and includes also youths who live in the street and have become parents themselves.

According to the questionnaires carried out by ASIS for this project, it appears that around 20% of street children are believed to organise their lives in the streets, without contact or awareness of their own families. Children who keep in touch with their families, work on the streets and come back home in the evening represent around 60% of the street children. The remainder are those children spending temporary and short periods on the streets and who later return to their family (13%) and those whose families live on the street together with them (7%).

Ethnicity and Origin

In the last census of 2002, the Roma population numbered approximately 535,000. However, the proportion is believed to be much higher, largely because a great number of Romas declare themselves as Romanian or Hungarian to avoid the negative connotations associated with the term of Roma or Gypsy ; some observers, including the European Commission ,

estimated the Roma population at between 1 800 000 and 2 500 000. According to scientific research in *Gypsies between ignorance and concern*¹⁷, the Roma population was more accurately estimated as approximately 4.6% of the country population. The study also suggested that:

- More than half of the adult male Romas have no qualification at all, not even for a traditional profession. The percentage was even higher for women;
- Over half of adult Romas employed have no qualification, rendering them more vulnerable than others to dismissal;
- A quarter of the Roma population is illiterate;
- In over 10% of Roma families, 5 or more persons live in the same room¹⁸.

These problems have contributed to the increased vulnerability of Roma children as compared to children from other groups. In the same time the economical situation of the Romanian society in general, to which ethnical particularities are added, the traditional customs and generalized discrimination at the community levels (including access to justice, health and education) have led to Roma children facing the following disadvantages:

- Most Roma children live in poor conditions, with two-thirds of them below the poverty line. The dwelling space in their homes is also usually inadequate, with many persons living in a single small room.
- Nearly half of the Roma children of a school age do not go to school and are illiterate;
- Many Roma families are headed by a single parent, through fathers having left after the first few years of marriage, or being detained in prison; many children are exploited by their own families, being obliged to steal and beg.
- The health conditions of Roma children are generally worse than that of most of the population. Over the years, approximately 30% of mothers interviewed have outlived the tragedy of one or more of their children's death, and another 21% of the Roma families have declared that their children regularly have health problems;
- 3.5% of Romas lack identity documents, with more than half of these being children below 14 years of age¹⁹.

According to the European Commission on Racism and Intolerance:

Romania has recently taken a number of steps to combat racism and discrimination, including the introduction of a comprehensive anti-discrimination law, the development of a strategy to improve the situation of the Roma community, and some measures to address the problem of police misbehaviour towards members of minority groups. Such measures demonstrate an acknowledgement on the part of the authorities that problems

¹⁷ Zamfir, E., Zamfir, C., '*Gypsies between ignorance and concern* ', Alternative Publisher, 1993.

¹⁸ Ibid.

¹⁹ Ibid.

of racism and intolerance exist in Romania and need to be addressed; in this respect, co-operation between the authorities and representatives of civil society has been improved and represents a positive trend which ECRI welcomes.²⁰

There is a tendency [for Romania] to blame the Roma/Gypsy community for its own problems and for the problems of society as a whole, and to perceive this community as a risk for and even a threat to society against which repressive measures should be taken. Such attitudes are manifested in overt discrimination in many fields of life, notably education, employment and access to public places such as bars and restaurants²¹.

The ECRI reports also suggest that although no reliable data appear to exist in this area, discrimination against Romas extends throughout the justice system, with Roma offenders likely to receive harsher sentences than others accused of similar crimes.

In the same time, ECRI point out that the analysis contained in its second report on Roma dated 22 June 2001, and that any subsequent development is not taken into account.

The European Commission notes, in the 2003 Report who covered the period until 30 September 2003, the positive impact of Phare programmes in a number of important fields among that:

Fighting against marginalization and social exclusion by improving access to education for disadvantaged groups, with a special focus on Roma.²²

In the same time, The European Commission Report notes that:

Discrimination against the Roma minority continues to be widespread in practice and the social inequalities to which the Roma community is exposed remain considerable. Living conditions are poor and access to social services is limited.²³

Age and Gender

The lack of disaggregated data on the age and gender of street children in Romania makes it difficult to assess such ratios with any accuracy. According to most of the research carried out with children in Bucharest, approximately two-thirds of those working on the street were boys, with the majority falling between the ages of 12 and 15 for both genders.²⁴ More disaggregated research suggests that children between 12 and 14 represent 30% of the total street children population, with those aged 14-16 representing 21%. The author himself suggests that the concentration of this age group among street children reflects the psychosocial characteristics of “showing off” and “adventurism” common among their peers.

²⁰ European Commission against Racism and Intolerance (2002) *Second Report on Romania*, April 2002, Sec. 39

²¹ Ibid

²² European Commission (2003) *Regular Report on Romania's Progress towards Accession 2003*, http://europa.eu.int/comm/enlargement/report_2003/pdf/rr_ro_final.pdf

²³ Ibid

²⁴ Save the Children, ILO/IPEC (2002) *Working Street in Bucharest: A Rapid Assessment*, ILO/IPEC: Geneva.

This may also help to explain why the research finds an overwhelming proportion of boys (80%) among the street children²⁵.

Although some sources claim that in Bucharest there is a higher than average proportion of girls of the streets²⁶, gender identification remains difficult in the capital due to the tendency of many girls to adopt a male identity and camouflage their femininity as a defense against rape²⁷.

Having said that, girls living on Romanian streets since the collapse of communism are also now beginning to have children of their own, and the incidence of so-called 'street families' appears to be increasing. For example, after her impoverished family abandoned her at birth, A.M. (19) spent most of her years in an orphanage, but on turning 18 she was once again told to leave. Having made her way to Bucharest's main train station she was raped by another street boy, leading to her pregnancy. E. L. (20) led a similar life on the streets and now attempts to support both herself and her baby through begging on the steps of the same station. Childhoods within state-run institutions afforded her little help in preparing her for adult independence, and "If you don't have a place to live, nobody gives you work"²⁸. This is made more difficult because of the low number of maternal centres where pregnant mothers and those with young children can receive help should they need to go out and work. The fact that most street mothers are over the age of 18 also means that they may be effectively excluded from assistance programmes targeted at street 'children'.

Education

Low levels of education are a common characteristic among street children. Alongside family abandonment, dropping out of school represents one of the main causes of the street children phenomenon. Most of these children come from poor families who cannot support them materially and morally to attend school.

In fact, a study carried out in 1997 by Save the Children shows the very low degree of education among Romanian street children with 45 % dropping out before grade 4 and 20 % never having been at school²⁹.

Children from broken families also have an education level lower than that of the children coming from state residential institutions where the presence to classes is obligatory.

Street Children Group Dynamics

'The first children ending up in the street have become young group leaders. They have formed a lifestyle and a leadership based on their direct experience in the street. There is an obvious change in a group in which a child who was abused in the street becomes a leader with a different point of view. When the phenomenon first appeared, there were only children and no groups or leaders.'³⁰

²⁵ Botescu, G, 'The diagnosis of the street children phenomenon' in Zamfir, E. (2000) 'Antipoverty and communitarian development strategies', Expert Publisher, Bucharest.

²⁶ Website, http://www.childhopeuk.org/projects/europe/street_children_in_eastern_europe.htm.

²⁷ Sinagra, L. (2001) 'Beneath Bucharest', *City Pages. Com*, 7 July 2001.

<http://www.citypages.com/databank/22/1092/article9929.asp>.

²⁸ Kyriakidou, D. (2003) 'Romania's Street Children now have Kids of their Own' CYCNET Feature, 23 July 2003.

²⁹ Save the Children Romania and UNICEF (1997) *Children and Work*

³⁰ Member of the Department for Child Rights Protection, Bucharest, quoted in Save the Children, ILO/IPEC (2002) *Working Street Children in Bucharest: A Rapid Assessment*, ILO/IPEC: Geneva

Street children in Romania tend to hang around in groups, held together by a variety of bonds including fear and insecurity, friendship and work. The groups are commonly of mixed-gender with memberships spanning ages from 10-18. This apparent flexibility is offset by the fact that each group usually has a well-established hierarchy and role-assignment determined by age, sex, experience or personality. Thus, the youngest children are forced to beg by the older ones and girls are protected in case they have an intimate relationship with a boy. The one with the strongest personality (nearly always boys) becomes the leader of the group, and according to other members, deals out sufficient physical and verbal aggression to ensure his authority is not questioned. Through organizing and managing the different skills of his members, the leader is often able to reap significant profit, whether monetary, status-linked or sexual. For the social worker attempting to establish contact with street children, the leader is therefore the key-element for approaching the group, and will often control the extent to which group members' access or take advantage of external interventions.³¹

Finally, research developed at the national level has identified also the existence of the so-called 'street family groups', in which more children coming from the same family are begging together.³²

Street Work and Survival

The vast majority of street children need to work, some to feed and clothes themselves, others to supplement family income and/or avoid beatings and punishment from parents back home. Many start from an early age – Save the Children found that out of 150 children interviewed 28% of pre-school or school age children already work in the street.³³

The main activities undertaken, in order of popularity, are:³⁴

1. Begging

According to a selection of research conducted in 2002, 45-75% of street children in Bucharest spend their days begging for money, food and clothing as their main activity³⁵.

In accordance with the power relations established in well-structured groups, usually only some of the children beg, while the rewards are split between all. These children are generally found in crowded places such as subway stations, intersections, supermarkets, car parks, train compartments and often perform songs or tell stories in order to attract attention. Sometimes the children are accompanied by younger siblings (as young as two or three) or puppies to generate further sympathy, but they often struggle to cope amidst the pollution, bitter cold or extreme heat. The risk of being hit by a car is particularly acute for these children as drivers become increasingly impatient with their presence.

³¹ European Network on Street Children Worldwide,
http://www.enscw.org/eng/satellite/country_salvati_copii.htm

³² Botescu, G., 'The diagnosis of the street children phenomenon' in Zamfir, E., (2000) 'Antipoverty and communitarian development strategies', Expert Publisher, Bucharest.

³³ *Children and Work*, Save the Children Romania and UNICEF, 1997.

³⁴ Unless otherwise stated, statistics and information quoted in these Activities are taken from Save the Children, ILO/IPEC (2002) *Working Street Children in Bucharest: A Rapid Assessment*, ILO/IPEC: Geneva

³⁵ Asociația Sprijinirea Integrării Sociale (2002) *Street children and juvenile justice*; Save the Children, ILO/IPEC (2002) *Working Street Children in Bucharest: A Rapid Assessment*, ILO/IPEC: Geneva

2. Car washing

Just under a fifth of children – particularly teenagers – turn to car washing as a source of income and can be found with their buckets and sponges at intersections or parking areas. At traffic lights they race to quickly wash the windscreens and lights of the cars, while in the parking areas they have more time to wash the whole vehicle. Like the child beggars, they are exposed to noxious car fumes for many hours a day, are often verbally abused by drivers and run a similar risk of being involved in an accident.

3. Selling merchandise/Street Vendors

A similar proportion of children as those washing cars undertake informal vending throughout the day. This is one of the less dangerous types of work, and usually involves selling low-priced items, such as newspapers, city maps and car deodorants, etc.

4. Loading and unloading merchandise

This is one of the worst forms of exploitation, and involves around 10% of street-working children. Because of the manual labor required, this work is usually performed by teenagers (but it does not exclude younger children) in large warehouses, supermarkets, construction sites or commercial areas in general. Although this is a very hazardous and physically challenging type of work, it is very poorly paid by the ‘employers’.

5. Household activities

This activity is dominated by girls, and represents the work performed by children either within their families or for other families the children's parents may be indebted to. It is particularly popular as a second source of income after spending the day begging.

6. Collection of waste products

This is the most common activity undertaken by Roma children and their families, who scavenge for recyclable iron, glass or paper to sell to the factories. The danger of this work lies in the environment the children come into contact with every day when collecting: mainly garbage fields and abandoned construction sites.

Many Roma children entered into conflict with the law for having acquired as ‘scrap iron’ various objects belonging to various companies or firms.³⁶

7. Sex work

According to a study carried out in 1997 by Save the Children Romania, around 15% of children undertake sex work of one form or another during their time on the streets.³⁷ The Gara de Nord in Bucharest was particularly notorious as a place where children can be picked up for sex, and has a worldwide reputation for child prostitution tourists. Well-organised paedophile groups from France, Germany and the UK often pose as tourists or businessmen, and later ‘rent apartments where they abuse children after bribing or coercing them’.³⁸ One boy, a former paedophile victim, told how a Frenchman had enticed him and two younger boys for a car ride to a forest outside the capital where he proceeded to abuse them:

He said it would be very good for us if we had oral sex and sexual relations with him. He said he would give us money or perhaps even take us back to France with him. If I

³⁶ *Street children and juvenile justice*, Asociatia Sprijinirea Integrarii Sociale, 2002

³⁷ *Children and Work*, Save the Children Romania and UNICEF, 1997

³⁸ Save the Children, “Romania holds British child sex suspect”, *Reuters*, 7 August 1997

*met a paedophile from a foreign country now, I would say to him: 'you are coming here and you are destroying the health of our children, and you only give them enough money to eat.'*³⁹

Homeless children have also reportedly been trafficked under false pretences and forced into prostitution in Berlin and Hamburg (Germany) and Amsterdam (Holland)⁴⁰ At the same time however, street children leaders in Romania sometimes act as pimps and prostitute those younger or more vulnerable in the group as a source of income (see case study below).

CASE STUDY – STREET CHILDREN LEADERS AS PROSTITUTION PIMPS

- **[Interviewer]** *Did a lot of kids make money for B. L.? (B. L. is one of the leaders of the street children's groups in Bucharest)*

- **[Street boy]** *Yes, while I was living in Dristor several children made money for him (George, Faianta, the Moldavians, etc.)*

- *Do you know what a call girl is?*

- *Yes, I do. While Lenuta was living with Rubina she would go to Ion's place, they washed together and then he took her to bed and paid her - about 150-200,000 lei (approx. 5 \$). In Basarab there are also a lot of girls who wear short skirts and show their legs to people. These people stop the car, they get in and they take the girls I don't know where.*

- *What can you tell us about the girls in Basarab? Do they have a home or do they also live in sewers or barracks?*

- *Yes, with those people they live with.*

- *So they live with their pimps?*

- *Yes, they don't go by themselves, younger children ask people around "would you like a girl?" and then take them to their place."*

Source: Save the Children, ILO/IPEC (2002) *Romania – Working Street Children in Bucharest: A Rapid Assessment*, ILO/IPEC: Geneva.

Data collected by the ILO/IPEC in 2002 also indicates that ethnicity determines the type of work performed by children. Thus, in the case of Roma children, the data indicated a high incidence of work such as "car-washing" (67% of those engaged in this type of work) and collection of waste products (89%). For the Romanian street children, the preponderant types of work were "household work" (65%) and "begging" (60%). The distribution by gender of the interviewed children indicates the prevalence of male working street children as far as the city of Bucharest is concerned: boys (68%), girls (32%).

According to another study of Roma communities in 2001⁴¹, the use of child labour to contribute to family income is regarded as a tradition. As well as work around the home, the

³⁹ Clark, A. (1998) *Romania: Life in the Streets*, Save the Children, <http://www.foreignwire.com/abuse.html>

⁴⁰ Idem.

⁴¹ Foundation ECHOSOC, The Ministry of Education and Research, UNICEF (2001) PHARE Program for the Improvement of Romas' Situation – *Report on Socio-Cultural Characteristics and on Life Conditions of Roma(street)children who work or are involved in other dangerous activities.*

children may be expected to labour with their parents in agriculture, selling produce, construction or casual work on the streets (e.g. begging or washing windscreens).

Working Hours

For a child working on the streets of Romania, the day extends far beyond sunrise and sunset, with rarely a day off. Over 50% of the working children interviewed by ILO/IPEC in 2002 reported working seven days a week, and most of these for more than 8 hours a day⁴². Those who undertook begging were never 'off the job' as it were, and more than half the overall number of children reported feeling sleep-deprived, with potentially very serious consequences, including:

- Difficulty in focusing on work which increases the risk of accidents, especially for children performing different types of work (washing cars, begging) in crowded places such as intersections;
- Major difficulties in motor coordination, with possible risks for children engaged in hard work such as loading and unloading merchandise, construction work, etc;
- Problems in relating with the employer or the workmates leading to inter-group conflicts that may degenerate into physical and verbal violence and eventually the child's dismissal by the employer.

These short-term effects may have a devastating impact in the long term through accidents that may disable the children (e.g. via amputation), prevent them from finding work, or encourage their parents to abandon/banish them.

Drug Abuse

Aside from the evident lack of adequate sanitation, shelter and nutrition, one of the most pressing health problems facing street children in Romania is currently drug abuse, which an increasing number see as offering an escape from the harsh daily realities of family break-up, poverty, violence and homelessness. At present, one of the most widely used drugs is *Aurolac*, a paint thinner that is easy and cheap to obtain. According to some sources, Aurolac is 'extremely addictive, and destroys the brain, liver, kidney and lungs'.⁴³

One of the immediate effects of the consumption is the occurrence of a euphoria state due to the stimulation or disinhibition of the central nervous system, in charge with behavioral control. Under these circumstances, the child is far more likely to fall into antisocial behavior. Other effects are observed at the level of speech (an unclear and low pronunciation of words), a general state of confusion, a weakening of the judgment capacity, visual hallucinations, nausea, etc. For children consuming this kind of substance who have been living on the streets for many years, the effects of inhalation of volatile substances are visible, the consumption producing a slow deterioration of the child from the physical and psychological point of view.

⁴² Save the Children, ILO/IPEC (2002) Working Street Children in Bucharest: A Rapid Assessment, ILO/IPEC: Geneva.

⁴³ SoRelle, Ruth. "Children of the Streets." Houston Chronicle – 1996. February 21, 2002. <http://www.chron.com/content/interactive/special/romania/story2.html>

These substances remain cheap however, and their acquisition is easy. Children buy them directly from chemical and paint stores, and despite regulations prohibiting their distribution to children, many children report sellers in the streets offering these substances in special small bottles.

Recent reports also suggest that Heroin is becoming more common among street children in Romania, thereby increasing the risk of HIV/AIDS through groups of children sharing needles to inject.⁴⁴

The reasons for taking these drugs are varied and many. Some report sniffing glue helps them eat the rotten food they are forced to eat for survival, while others admit using it to quell their constant hunger pains. In many areas, sniffing glue may be cheaper than eating. Glue and other drugs may also be used for the following reasons: to keep street-living children awake for work; alert to possible violence; facilitate sleep during the cold nights, or anaesthetise physical or emotional pain. The case study below shows just how common the drug abuse is among street children living and working in the Gara de Nord in Bucharest.

CASE STUDY – ALCOHOL AND GLUE BENEATH THE STREETS

"Under the city, a series of tunnels hold sewage and water pipes. The water pipes are hot, making the tunnels a warm place to sleep in the winter. Climbing down into a tunnel one sees fleas, vomit and faeces from the children. The kids say rats are common, too. But the main threat is disease. Inside, six kids and an older man with a moustache looked up through the manhole into the overcast midday sky to look for a familiar voice. A year ago, Marian, 17, ran away from a foundation: The responsibilities were too much, and he missed the glue. Since then, Marian had become sickly and thin, and Claudiu doubted he would live through the winter.

Viorel, a 15-year-old boy with an infected sore on his upper lip, said Marian had not been seen in days. He told Claudiu that Marian probably jumped on the train. Many kids like the nomadic life of the streets. They can hop on the train and travel the country. Seven kids climbed up the inside rusted ladder to say hi to Claudiu. Cars zipped past. A strong alcohol and paint-like smell drifted from the opening of the tunnel. The older boys were still drunk or high from the night before. One kid demanded the help of four younger boys to push him out of the sewers. When he was out, he lunged into traffic, unable to stand. Viorel caught him and pulled him back. The drunken boy insisted on walking into traffic, yelling at people. Viorel, half his height, gained control and made the kid lie down under a tree. Men in business suits passed these kids as if they were invisible.

A few nights later, Paul visited the train station with three other team members. We ran into Marian, who instantly recognized Paul with a smile. His front teeth were missing. Marian was with three friends, all high on glue. The team members gave them hamburgers from the nearest McDonald's. Paul pulled Marian away from the group to talk. After a few minutes, Marian fell into Paul's husky arms. Silent tears rolled down his face. He didn't hold on to Paul, just collapsed, as if exhausted, resting his head on Paul's chest. "I told him he was killing himself with glue and the streets," said Paul. When asked why Marian left the foundation as people there love him? Paul said "He's addicted to the glue. He can't get away".

Source: Care and Relief for the Young (CRY) <http://www.cry.org.uk/page/street%20scenario>

The problems of drug addiction come in addition to more general health concerns for street-living and street-working children. The combination of malnutrition, inadequate sleep and the characteristics of the street (crowded, extremely hot or cold with many noxious substances)

⁴⁴ Sinagra, L. (2001) 'Beneath Bucharest', *City Pages.Com*, 7 July 2001.
<http://www.citypages.com/databank/22/1092/article9929.asp>.

have afflicted many with skin disorders such as scabies, wounds and burns and a number of respiratory disorders caused by cigarette smoke and glue-sniffing. Most of the street-living children have only one set of clothes that quickly become dirty and shabby, and only bathe two or three times a week in the Dâmbovită River. Many children who return home to families at the end of the day also report being denied the possibility of taking a decent bath, as they often live in one-room apartments with no utilities.⁴⁵

⁴⁵ Save the Children, ILO/IPEC (2002) Working Street Children in Bucharest: A Rapid Assessment, ILO/IPEC: Geneva

FROM HOME TO STREET

In the National Study on Street Children's Situation carried out in 1999, Salvati Copiii (Save the Children Romania) identified the main causes that lead to children ending up in the streets as poverty, family conflict and violence.

Poverty

As discussed earlier, Romanian families have been significantly affected by the generalized crisis exemplified by economic hardship, lack of material resources for families with many children, inflation and unemployment. After more than 13 years of transition in Romania, the Gross Domestic Product (GDP) and real wages are still less than their 1989 levels. (GDP is 85.1% and real wages are 77.1% for 2002 in comparison with 1989).

This has had serious negative impacts on family welfare. Compared to 1989, when only 6% of the population lived in poverty, in 2000, 43% of the Romanian population lived in poverty.

The poverty ratio in Bucharest is the lowest as compared to the other big cities in the country (19.81%) but still represents more than half million people. The city is a real 'collector' of disadvantaged populations (homeless families, the unemployed, ethnic minorities, etc.), and is the city street children prefer in that it offers the most survival opportunities.

Because of their life lead below survival limits, to which unhygienic living conditions are added, unemployment, alcohol use, some parents are also more likely to send their children to work in the capital and in other cities.

In contrast to many other countries, fewer children found working in the streets in Romania appear to be there because of their parents. In fact, 73.3% of street-working children questioned in 2002 reported that they had started working on their own initiative, and had not been forced by their parents.⁴⁶ Although there is no guarantee that their responses were truthful, this would at least suggest that some children from poverty-stricken families feel a significant sense of responsibility to contribute, and are likely to take up the opportunity without significant pressure from their parents. General circumstances such as family abuse and separation (discussed below) rather than individual family members are also likely to play a key role in children's decisions to take to the street.

Family Conflict and Violence

Since 1989, different generations within Romanian families have become increasingly estranged from each other, as adults struggle to cope with the massive changes in their lifestyles and responsibilities. Under communism, most people's lives were carefully planned out and people knew for example, at the age of 20 what their pension would be when they retired 45 years later. Encouraged to have large families through Ceausescu's pro-natal

⁴⁶ Save the Children, ILO/IPEC (2002) Working Street Children in Bucharest: A Rapid Assessment, ILO/IPEC: Geneva.

policies, women were expected to have at least five children and depend on the state for assistance in supporting them. When communism collapsed, those families who had moved to Bucharest to take advantage of the industrial and urban boom lost or were forced to sell the houses given to them by the state after losing their jobs. Yet they refuse to return to their rural origins, despite offers of land and housing from the Social Services. As one man put it,

“They brought us to Bucharest, they gave us houses, jobs, why should we leave now? The state must give us jobs and provide for everything.”⁴⁷

With the loss of the communist welfare system, the legacy of large families quickly became burdensome and part of the young mothers have abandoned their children to government institutions, that is why Romania was called “land of orphans”.⁴⁸ Today, all the old certainties relied upon are gone, and many people are unable to deal with the freedom of making decisions about their future and their own lives. Many middle-aged people, especially women, have lost their jobs and are now unable to earn enough to provide for themselves and their families.

All of these factors - poverty, unemployment, overcrowding at home and alcoholism – have all increased the likelihood of family conflict and abuse, which in turn raises the probability of children escaping to the streets (see case study below).

CASE STUDY – Children in conflict with their family and the law

Iulian is 17 years old and is executing for the second time a freedom privative punishment in a penitentiary for having committed a robbery (i.e. theft committed by violence or threats). The second attempt came in one month after he was released from the penitentiary.

Iulian comes from a torn family of 8 members, many of whom already had penal records before he grew up. His family relations have been characterised by physical violence, alcohol use by both parents, arrests of the father and prostitution practiced by the mother. Iulian is aware of all these, but when he tried to explain to his mother that part of the problems experienced by himself and his siblings was the lack of material and emotional support from their parents, she chased him out of the house. Iulian admits he has committed several thefts he was never caught for, has consumed alcohol, gambled and used violence towards both his friends and parents. In the penitentiary also, he has been punished several times for violent behaviour in the relation to his room mates and / or with the personnel. Yet Iulian believes this life style to be closely connected with his family situation and see it as the only one possible for him. As such, he is determined not to continue living with his family after he is set free from the penitentiary, and had decided instead to live on his own on the street.

Source: Asociatia Sprijinirea Integrarii Sociale (ASIS), 2002.

Like Iulian, many street children linked the poor conditions of their home environment to an increase in various forms of violence within the family that ultimately contributed to them running away permanently. Many street children described being victims of physical and emotional abuse and being punished by one or both parents if they did not bring home enough money. This punishment may take the form of cursing, beating and/or food deprivation:

⁴⁷ Save the Children, ILO/IPEC (2002) Working Street Children in Bucharest: A Rapid Assessment, ILO/IPEC: Geneva.

⁴⁸ Children’s Relief Network website, www.romanianchildren.org.

- *Why don't you go home, to your mother and father?*
- *Because my father drinks, he beats me up with a chain and he forces me to get them money, begging in buses, and I didn't want to anymore so I left and went in the street.*⁴⁹

A massive 47% out of 1,500 households surveyed by the Romanian government and NGOs were found to practice some form of physical punishment against their children, with slapping and beating particularly common.⁵⁰ Reducing the level of abuse is no easy task however, as it is believed to stem in the large part from a traditional mentality that tolerates and even supports corporal punishment against children. Even on the occasions when the children were not recipients of the abuse themselves, the effects of witnessing conflict between other family members – particularly parents – can be morally debilitating and can have very serious practical consequences, as the case study below shows.

CASE STUDY – VIOLENCE IN THE HOME

"I was seven years old when he killed my mother. We had a well in our backyard and the neighbors would come for water. He was very angry and he made a lot of fuss about that. My mother went to work to sell sunflower seeds in Basarab railway station and apartment blocks and she used to take me with her to wash myself.

Op. - How did your parents get along?

He couldn't stand her, he would hit her with his fists to the point where she almost died and eventually he went to a neighbor and got a shovel and started hitting her in the head and on the back until we woke up from all the noise he made beating our mother. And then he told me to stay in bed with my little brother and then he hit her in the head with the shovel once more and then went to the table and got a knife that he threw at her. The knife came right here and so he killed her.

- I don't understand, where did the knife come from?

- Right here in the liver, into her belly, I don't know, and he did away with her.

- What do you mean? He did away with her?

- She couldn't speak, couldn't breathe, she just laid there for a minute or two and then she removed the knife herself and in the end she asked me for some water after taking out the knife and she died on the spot. Eventually a neighbor came and asked what happened. So I told her that he killed my mother and that woman called the police right away.

- And what were you doing in the house, were you screaming, crying?

- We were crying and when he went to get some vodka I wiped my tears cause he would beat me too, he cared a lot about me. Then came the police and the ambulance, a lot of people gathered, we were very young, he killed her on December the 14th 1991, I was 7 years old at that time. I spent a whole year in courts because my father wouldn't confess to killing my mother".

Source: Save the Children, ILO/IPEC (2002) *Romania – Working Street Children in Bucharest: A Rapid Assessment*, ILO/IPEC: Geneva.

⁴⁹ Child interviewed in Save the Children, ILO/IPEC (2002) *Working Street Children in Bucharest: A Rapid Assessment*, ILO/IPEC: Geneva.

⁵⁰ Tomiuc, E. (2002) 'Romania: Report reveals child abuse may be rising', *Radio Free Europe/Radio Liberty*, 1 May 2002.

Emotional abuse⁵¹ appears today as the most widespread form of child abuse in Romania, apparently present in 55% of the Romanian households surveyed.⁵² Neglect is particularly prominent within this sphere, and a cause for deep-felt resentment among many children on the street:

My mother is not interested in where I am and what I am doing.

My mother doesn't know where I am, she spends all her time shooting craps with my father.

*My father doesn't care about me, what I do or where I go, he's into drinking and gambling.*⁵³

As implied here, the neglect of children has been exacerbated by the problems encountered by adults/parents in adapting to the post-communist Romania and the consequent rise in alcoholism and gambling as distraction activities. By the year 2000, alcoholism and physical violence had respectively become the second and third most common reasons cited for divorce across Romania.⁵⁴

⁵¹ According to The World Health Organisation, 'emotional abuse' denotes the failure of a caregiver to provide an appropriate and supportive environment, and includes acts that have an adverse effect on the emotional health and development of a child. Such acts include restricting a child's movements, denigration, ridicule, threats and intimidation, discrimination, rejection and other non-physical forms of hostile treatment. (World Report on Violence and Health, 2002: Chapter 3).

⁵² Tomiuc, E. (2002) 'Romania: Report reveals child abuse may be rising', *Radio Free Europe/Radio Liberty*, 1 May 2002.

⁵³ Taken from interviews with street children in Save the Children, ILO/IPEC (2002) Working Street Children in Bucharest: A Rapid Assessment, ILO/IPEC: Geneva.

⁵⁴ Council of Europe (2003) Recent Demographic Developments in Europe 2002, Council of Europe: Strasbourg.

JUVENILE JUSTICE IN ROMANIA

Romania does not have special laws regarding juvenile justice, and all the legal texts referring to young offenders are included in the Criminal/Penal Code and in the Criminal Procedure Code. In the absence of domestic legislation, it is stated that:

...the principles and stipulations of the Convention on the Rights of the Child regarding justice for minors, and the United Nations Standard Minimal Rules for the Administration of Juvenile Justice (The Beijing Rules), and the recommendation R(87) 20 of the Committee of Ministers of the Council of Europe regarding social reaction to phenomenon Children in Conflict with the Law become applicable, together with other international judicial instruments to which Romania has adhered.⁵⁵

The European Commission against Racism and Intolerance Second Report mentioned that: Romania has ratified many of the international conventions of relevance to the fight against racism and intolerance.⁵⁶

According to Articles 11 and 20 of the Constitution, international instruments ratified by Parliament form an integral part of domestic legislation and as such are directly applicable. Provisions relating to human rights have primacy over domestic legislation in case of discrepancy

The main features of this legislation with regard to juvenile justice are summarised in the box below.

MAIN FEATURES OF JUVENILE JUSTICE IN ROMANIA

Criminal Responsibility

Children under 14 shall not be held liable for penal offences.

Children between 14 and 16 shall only be held liable if they are proved to have committed the offence wittingly (article 99 in the Penal Code) while children over 16 shall be held liable for the offences committed in all circumstances.

Arrest and Detention

The legal authorities are under the obligation to inform the child defendant of the act for which he/she is accused and of its judicial classification, and to ensure that he/she is represented by a lawyer.

Upon the decision to detain a minor the prosecutor or judge has to inform a member of the family or a person designated by the family within 24 hours

⁵⁵ Government of Romania (2002) Second Periodic Report to the Committee on the Rights of the Child, Section 8(B) paragraph 463

⁵⁶ European Commission against Racism and Intolerance (2002) Second Report on Romania, April 2002. http://www.coe.int/t/E/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Romania/CBC2-Romania.asp#P143_19466

Trial

The judging of the case is performed in the presence of the child;

A social inquiry is mandatory for the penal investigation authority and for the board of judges;

The tutelary authority, the parents, the guardian or the person to whom the child is entrusted and the social reintegration and surveillance service for the execution of freedom non-privative sentences afferent to that court ⁵⁷, together with anyone whose presence is deemed necessary, should attend the trial;

The trial session is to be held separately from other sessions and is not public. The judges can decide to excuse the child after having heard him/her if they decide that the investigation and proceedings might have a negative influence on the child;

Sentencing

Children who can be held liable for their offences can be either submitted to an educational measure (reprimand, restricted freedom under the supervision of parents or legal guardians, enrolment in a re-education centre or in a medical educational unit) or to a punishment (imprisonment, the terms being reduced by half, or fines).

In selecting the penalty or educational measure for convicted children, the judge has to consider the degree of social menace of the crime, the physical status, moral and intellectual development, conduct and living conditions of the child, as well as other elements which may characterize the child. Educational measures are predominant and penalties are conditioned only by demonstrable proof that educational measures would be insufficient.

The Emergency Ordinance of the Romanian Government No. 26/1997 regarding the protection of the child in difficulty stipulates the right to protection of children having committed a criminal action but who cannot be held penally responsible. The Commission for the Protection of the Child must take educational measures in such cases, to be applied for the children's best interest.

Imprisonment

Imprisoned children may not be used for harmful labour. Their rights to contact their families are more permissive than those for adults. Children may not be placed in solitary confinement. Also, minors in detention in penitentiaries have a more permissive right to leisure and recreation than adults and have to be provided with food fitting their age needs.

Source: Government of Romania (2002) *Second Periodic Report to the CRC Committee*, Section 8(B)

Note: In Romania there are 4 reeducation centers and one medical-educational unit.

Most street children in Romania come from very poor sections of the population, and have little education and/or access to information. As such, the vast majority do not know the rights they are entitled to within the justice system, do not understand them or are not properly aware of the consequences their actions and lifestyle may have under the law.

A perception study carried out with street children by ASIS as part of this project also revealed the following:

- Children easily use the names of various types of crimes, and may even admit that they have committed them at one time or another, but they only have a very vague understanding of the personal and social consequences of these acts. The terms most

⁵⁷ The modifications of the Criminal Procedure Code through L no. 281/2003 stipulate also the subpoena in underaged causes of the social reintegration and surveillance service according to art.484, modification entered in force on 1st January 2004

commonly used in reference to a court sentence are ‘fine’ and ‘prison’ – mention is rarely ever made of the educational measures which they should be subject to as children.

- A large number of children considered that ‘beating’ and ‘bad words’ are punishments applied by police officers.
- Notions such as ‘rights’ and ‘obligations’ are practically non-existent in the children’s vocabulary, or vague at best. The notion of ‘lawyer’ does not exist. Not even one of the children interviewed has seen their lawyer as a significant figure to the extent of referring to them when discussing their contact with the justice system.

This study suggests that children are still not listened to by those who, both socially and legally, are called to represent, help and protect them.

The rise of children in conflict with the law in Romania

After 1990, the number of children in conflict with the law registered an explosive growth, being 2.2 times bigger in 1991 as compared to 1989 and 3.6 times bigger in 1997, when a record figure of 13,674 children were formally accused of various crimes. After 1998, this number dropped slightly (most visibly in 2000, when 7 322 children were registered in conflict with the law), but continues to remain a significant concern.⁵⁸

While the rise in the numbers of children in conflict with the law in Romania ties in with the explosion in the street children population following 1989, there have also been some important changes in the nature of the crimes committed. For example, research has shown that

- The gravity of crimes committed by or implicating children has increased, particularly those involving violence and robbery;
- The average age of those committing crimes has dropped, the number of crimes committed by children below 14 is facing an increase rhythm higher than that afferent to the category of 14-18 years of age.
- Street children increasingly band together in groups, which are more likely to become involved in criminal activity than individuals alone.⁵⁹

Through studying these trends and characteristics, researchers have suggested that the following three groups of children are most at risk of coming into conflict with the law:

1. Street Children (including runaways, children sent away by their families, children abused physically or sexually by adults, and children working on the streets).
2. Institutionalised children (those who have been abandoned without protective social and economic support, and who are vulnerable to falling into the wrong company)

⁵⁸ Banciu D., Radulescu S., Teodorescu V: *Actual tendencies of crime and criminality in Romania*, Source: “Criminological study of the Prosecutor’s Office near the Supreme Justice Court”, Bucharest, 2002

⁵⁹ Botescu G., ‘The diagnosis of the “street children” phenomenon and of its criminal effects’, in the work ‘Antipoverty and communitarian development strategies’. Expert Publisher, 2000, p. 373

3. Children who have dropped out/failed at school, or who lack the financial means to attend⁶⁰

Within these categories, children from the Roma ethnic minority are particularly prone to conflict with the law, the high number of Roma children having entered into conflict with the law being significant as compared to the proportion of the Romas at the level of the population of the entire country. The higher proportion of Romas in penal justice is due to several causes such as: poverty, marginalization and the low level of education⁶¹. In fact, one study carried out in Romanian penitentiaries emphasized the significance of ethnicity in juvenile justice when it found that: ⁶²

- The typology of crimes committed by Romas hardly differs at all from that of the crimes committed by the population of other peoples;
- The proportion of the unemployed among the Roma population at the date of the arrest was higher than in the case of the majority population;
- Over 50% of the Romanians arrested had graduated higher than 8th grade, while only 20% of the Romas were in the same situation.
- Over 60% of Roma prisoners in the penitentiaries were being detained for at least the second time, compared to 35% of their Romanian inmates. This high rate of recurrence would suggest that neither Roma families nor state institutions are able to offer adequate support for social reintegration following a criminal sentence.

It has even been suggested that in Roma families, ‘the adolescent considers prison as a test of manhood, and the woman unconditionally respects the man, becoming often even an accomplice to his illegal activities’.⁶³

Typology of Actual/Perceived Crimes

According to the 1997 government statistics on children in conflict with the law in Romania,⁶⁴ it would appear that the vast majority are arrested on charges of robbery or theft of private property (84%), and that a massive 95% of all children arrested are boys from urban areas (see table below).

⁶⁰ Banciu, D., Radulescu, S., Teodorescu V: *Actual tendencies of crime and criminality in Romania*, Lumina Lex Publisher, Bucharest, 2002

⁶¹ Cace S., Lazar C., Teodorescu V., ‘*Discrimination against rromas in justice and in the penitentiary system in Romania*’, Penal Reform International-Romania, Bucharest, 2003

⁶² Durnescu I., Lazar C., (2000) ‘Identification of the proportion and socio-cultural characteristics of the rroma population in Romanian penitentiaries’, The Applied Psychology Magazine, Timisoara.

⁶³ Cace S., Lazar C., Teodorescu V., ‘*Discrimination against rromas in justice and in the penitentiary system in Romania*’, Penal Reform International-Romania, Bucharest, 2003

⁶⁴ Government of Romania(2002) Second Periodic Report to the Committee on the Rights of the Child, Section 8(B)

Total minors: 2,662 of whom:	- in re-education centres	582
	- in pre-trial detention	1,561
	- imprisoned	519
The structure of minor convicts:		
(a) by the type of crime:	- homicide	3%
	- rape	7%
	- robbery	20%
	- causing death or serious injuries	1%
	- theft of public property	1%
	- theft of private property	64%
	- assault	1%
	- other	3%
(b) by gender:	- male	95%
	- female	5%
(c) by age:	- 14-16	9%
	- 16-18	52%
	- over 18	39%
(d) by education level:	- under grade IV	18%
	- in grade IV	9%
	- graduates of grades V-VII	47%
	- graduate of grade VIII	17%
	- graduate of more then grades VIII	9%
(e) by professional qualification:	- qualified	2%
	- in the process of qualifying	1%
	- unskilled	97%
(f) by criminal record:	- with a previous record	4%
(g) by ethnic origin:	- Romanian	73%
	- Hungarian	3%
	- Roma	23%
	- other	1%
(h) by social environment:	- urban	65%
	- rural	35%

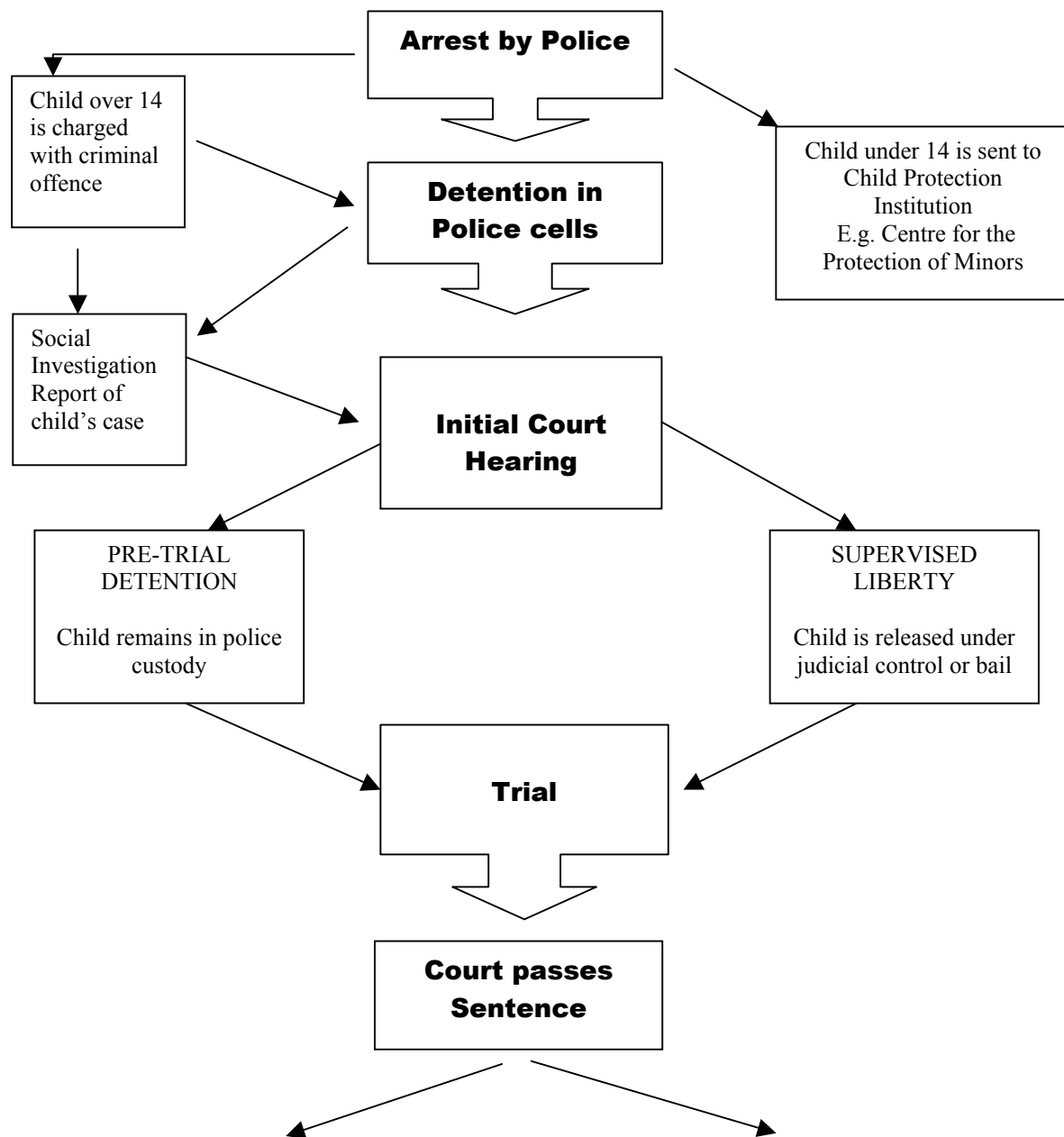
Table showing the breakdown of minor penitentiary inmates on 1 June 1997

(Source: The Ministry of Justice/General Directorate of Penitentiaries, reprinted in Government of Romania's Second Periodic Report to the CRC Committee, 2002)

5 years later (in 2002) these proportions remained approximately the same: 53% of children in conflict with the law were sanctioned for theft and 32% for robberies⁶⁵. However, one notable increase was in the number of children having committed thefts with violence and aggression.

⁶⁵ Coca-Cozma M., Craciunescu C., Lefterache V., coord. '*Justice for the underaged*', Universul Juridic, Bucharest, 2003

The Stages of Juvenile Justice in Romania



EDUCATIVE SENTENCE

Reprimand
 Restricted freedom under the supervision
 of parents or legal guardians
 Enrolment in a re-education centre
 Enrolment in a medical-education centre

PENALTY SENTENCE

Detention
 Penal Fine

ARREST AND DETENTION

Police Reform after Communism

The years immediately following the revolution in Romania were times of rapid and extreme social change. Radical transformations of major social institutions, following the isolationism fostered by Communism, were necessary. Among these transformations, that of converting the police and policing philosophies and strategies to those of a democratic government, which places an emphasis on human rights and the rule of law, was initiated without great emphasis and with little concern for the consequences of such a major change. Implementation of the laws on the Status of the Policeman and the Organization and Functioning of the Romanian Police began in the summer of 2002, and marks an important step in the reform of Romania's police forces.

Under their new status, policemen are civilian public servants serving the rule of law. Demilitarization of the police has meant that jurisdiction for prosecuting abuses by the police has been transferred from the military to the civilian court system. However, the other security forces, including the gendarmerie, remain subject to military judicial control.

'Despite these positive developments, there has been little measurable progress in terms of increased police efficiency. New legislation has not been accompanied by a modernization of police structures and the Romanian police force remains a highly centralized body with little exposure to principles such as transparency, accountability, sound and efficient management or modern human-resources policy.'⁶⁶

Today, there are three different kinds of law enforcement personnel in Romania:

- (1) **The National Police** (responsible for general law enforcement)
- (2) **The Gendarmerie** (responsible for preserving public order)
- (3) **The Border Police** (responsible for national border security)

All are supervised by the Ministry of the Interior, and all but the Border Police come into frequent contact with street children, perhaps on a daily basis. The numbers recruited into the Gendarmerie force have been increasing due to the need to demilitarize law enforcement for EU accession, and most of the Police stations around the country are now doubled with a Gendarmerie station. Combinations of these personnel maintain a very visible presence in public areas of the cities such as stations, schools, shops and squares.

⁶⁶ The European Commission (2003) Regular Report on Romania's Progress towards Accession 2003, http://europe.eu.int/comm/enlargement/report_2003/pdf/rr_ro_final.pdf

Arbitrary Arrest

*I don't like living in the streets anymore, the police take you, they won't even let you work at the intersections or in the buses.*⁶⁷

Physical and verbal abuse from policemen is almost a daily problem for street children in Romania. Arbitrary arrest, although prohibited within the national Constitution, continues to take place according to the reports provided by various NGOs in the country or by international organizations regarding human rights.

According to article 31 of the Police Organization Law of 2002, police officers can “accompany to the police headquarters those who, through their actions, endanger the lives of other people, the public peace or other social values, as well as those persons suspected of having committed certain illegal acts, whose identity could not be established under the legal conditions; in case the dispositions provided by the police officer are not abided, he/she is authorized to use force; the verification of the situation of this category of persons and taking the legal measures, as the case may be, are accomplished within 24 hours the most, as an administrative measure.”

Given that street children rarely have identity documentation, it is all too easy for police who view them with suspicion (or simply disdain) to apply this article and arrest them. Also, ‘Roma were disproportionately affected by this detention provision and often are viewed suspiciously by police. They often lacked appropriate identity documents, which made it easier for police to apply this article’.⁶⁸

According to the European Commission against Racism and Intolerance (ECRI) dated 22 June 2001, police raids on areas where Roma/Gypsy communities are living, often at night and with no authorization, are relatively common: persons thus apprehended, including women and children, are then taken to the police station for questioning. Such raids, which are often violent, are reported in the press and on the television: no measures are taken by the media to conceal the identity of the persons affected by such raids. On the contrary, the fact that Roma are involved is often stressed and exploited to feed the general prejudices and stereotypes within society against this community. It has also been reported to ECRI that some police controls carried out in trains, ostensibly in order to identify persons travelling without tickets or persons begging, target mainly Roma/Gypsies.⁶⁹

In the same report, The European Commission against Racism and Intolerance acknowledges the progress made by Romania as regards the fight against racism and discrimination and welcomes a positive trend represented by the cooperation between authorities and representatives of civil society. The Second Report noted the intensification of training initiatives aimed at changing mentalities and behaviours of police officers towards the vulnerable groups, especially the Roma/Gypsy minority, including the organization of

⁶⁷ Street boy quoted in Save the Children, ILO/IPEC (2002) *Romania - Working Street Children in Bucharest: A Rapid Assessment*, ILO/IPEC: Geneva.

⁶⁸ U.S. Department of State (2003) *Romania: Country Report on Human Rights Practices 2002*, 31 March 2003. <http://www.state.gov/g/drl/rls/hrrpt/2002/18387.htm>.

⁶⁹ European Commission against Racism and Intolerance (2002) *Second Report on Romania*, April 2002 http://www.coe.int/t/E/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Romania/CBC2-Romania.asp#P143_19466.

seminars at central and local level in conjunction with representatives of the target groups, in order to improve communication and understanding.⁷⁰

The European Commission, in the 2003 Regular Report on Romania's progress towards accession mentioned that:

‘Cases of excessive police violence against suspects, even in connection with petty crimes, have continued to be reported during the reporting period. Several of these cases have involved the use of firearms.’⁷¹

According to the new Police Organization Law which entered into force on May 9, 2002, if the case should require the police officer is authorized to use firearms after giving warning: “Freeze, or I’ll shoot!”

According to the art. 36 of this new Police Law, the usage of white weapons or firearms against women with visible signs of pregnancy, against persons with visible signs of disability and against children are forbidden, except those cases in which they commit an armed robbery or a group one, which endangers the life or bodily integrity of one or more persons.

Considering the profile of the street children in Romania, it is very unlikely that they should attack with arms or in groups other persons in such a manner as to endanger their lives. Under these circumstances, the usage of firearms against street children whose first reaction to an advancing police official is likely to be to run away, is not authorized by law.

Moreover, there is no information regarding incidents in which police officers had used firearms against children.

Detention and Abuse

*I want to be a policeman so I can beat others just as they beat us .*⁷²

Under the Law on Police No.218 / 2002 a suspect may be held for 24 hours ‘for the purposes of identification’ in the absence of an arrest warrant.

There were reports that minors ill-treated, usually while being questioned at a police station without their parents or representatives of a child welfare agency present. Charges against suspected officers were brought only in exceptional cases.⁷³

Although under the Penal Procedure Code children are subject to special treatment when undergoing a criminal investigation, the vast majority of abuse takes place at the time of apprehension or during initial questioning – stages which, according to the Romanian authorities, precedes a criminal investigation.⁷⁴

⁷⁰ European Commission against Racism and Intolerance (2002) *Second Report on Romania*, April 2002. http://www.coe.int/t/E/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Romania/CBC2-Romania.asp#P143_19466.

⁷¹ The European Commission (2003) Regular Report on Romania's Progress towards Accession 2003, http://europe.eu.int/comm/enlargement/report_2003/pdf/rr_ro_final.pdf

⁷² Street boy quoted in Save the Children, ILO/IPEC (2002) *Romania - Working Street Children in Bucharest: A Rapid Assessment*, ILO/IPEC: Geneva.

⁷³ Amnesty International (2002) *Romania: Ill-treatment of Children*, released 16 December 2002. Index: AI EUR 39/005/2002.

⁷⁴ Amnesty International (2002) *Romania: Ill-treatment of Children*, released 16 December 2002. Index: AI EUR 39/005/2002.

Finally, the physical state of police lock-ups is also very poor. Although the problem of overcrowding is not as acute as in the actual prison penitentiaries, the cells are dark, dank and dingy. In most cases, the cells are located in the basement of the police station and have only a small window that provides minimal natural lighting. The heating is poor and the cells are extremely cold during the winter months. These conditions are exacerbated by the fact that the detainees are allowed only one hour a day outside of the cells for exercise.⁷⁵

The European Commission, in the 2003 Regular Report on Romania's progress towards accession refers to the report made by the Council of Europe's European Committee for the Prevention of Torture who was

‘...particularly critical of conditions in police detention facilities, and drew attention to the fact that all categories of detainees are ill-informed about their rights, have difficulty accessing legal advice, and are subject to various forms of ill-treatment.’⁷⁶

The Investigation Procedure

Following arrest, police and prosecutors are required to carry out a formal investigation into the charges laid against children who are 14 or over (who are therefore penally liable under Criminal Law). An interrogation of the suspect usually constitutes the first step in this process, and is in several cases conducted without a family member and legal representative, whose presence is required by law. This lack of external assistance holds particularly true in the case of street children, whose family relations may have disintegrated, either intentionally or through geographical distance. Without auxiliary specialised personnel trained in representing children's interests, it becomes unlikely that the police personnel (who have little or no training in dealing with children) will successfully individualise the interrogation according to the child's maturity or circumstances. It also allows for the increasingly common instances of unmonitored intimidation, physical and verbal abuse of the child, as already discussed.

Once the police have filed their initial investigation file, this is then forwarded to the prosecutor's office, which supervises further paperwork needed for the trial (such as the social inquiry report carried out by the Legal Guardian department). This latter document is critical in relation to street children, and yet the opinion of a considerable part of the professionals called to administer justice to children is that social inquiries are superficial and sometimes defective, with many being conducted and assessed at the desk rather than the field. For a social inquiry to best represent the interest of a street child, it necessitates contact with the child's family, the arresting police personnel, NGOs who have been in contact with the child, and specialists needed to assess the child's physical and psychological well-being. However, this is rarely achieved through a combination of insufficient personnel and a lack of communication between the relevant institutions.

A new Penal Procedure Code for Romania entered into force on 1st January 2004, and contains some modifications which aim at safeguarding children's rights when in conflict

⁷⁵ Commission on Human Rights (2000) Civil and Political Rights, Including the Question of Torture and Detention – Visit by Special Rapporteur to Romania, 23 November 1999 (E/CN.4/2000/9/Add.3).

⁷⁶ The European Commission (2003) Regular Report on Romania's Progress towards Accession 2003, http://europe.eu.int/comm/enlargement/report_2003/pdf/rr_ro_final.pdf

with the law. One of the modifications refers to the preventive measure of restraint, in response to the fact that most rights violations occur within the first 24 hours following arrest. To this end, it is provided for in article 160/g that a child between 14 and 16 cannot be detained for a period longer than 10 hours under the control of the prosecutor, unless there is any specific and clear information that he/she has committed a crime punishable with life (or 10+ years) imprisonment. The same article shows that a child over 16 can be arrested for a period of 20 days at most, and although extension is possible, this cannot run beyond a cumulative total of 90 days. This is except if the sentence is potentially life detention or 10+ years imprisonment, when the preventive arrest may then be extended up to 180 days.

A second modification is made to article 146 of the Penal Procedure Code, which now states that pre-trial detention (during the investigation procedure) can only be ordered by a judge in response to a request from a prosecutor. The duration of arrested children should therefore last no longer than a maximum of 3 days (article 160/h).

According to article 171 (paragraph 2) of the Penal Procedure Code, legal assistance for children is obligatory along the entire penal investigation and trial. When legal assistance is obligatory, measures are taken to appoint a lawyer. The penal investigation authority will ensure the presence of the lawyer when the accused is being interviewed. In this case, the problem of the access to the legal assistance of the persons belonging to the poorest social environments is raised. The lawyers appointed are young, and the quality of the defence services can be questioned, especially for children in conflict with the law, or for the roma poor families.

Starting with 1st January 2004, once the modifications of the Penal procedure code has been enforced, the prosecutor can no longer decide, for a 5 days period, the interdiction of the contact between the arrested accused and the defender. The new paragraph has the following content: ‘the person detained or arrested has the right to contact the defender, the confidentiality of the conversations being ensured (article 172, paragraph 4, Penal Procedure Code).

Police Accountability

It is difficult to obtain statistics concerning police abuses. “The Ministry of the Interior, which is responsible for investigating such abuses, responds unevenly to inquiries from monitors. Often victims are reluctant to come forward, and the Government did not promote transparency in this regard”.⁷⁷

Complaints originating among the Roma communities appear particularly numerous, but few ever reach the stage of official investigation.

In one case reported to Amnesty International, one mother of a 14-year-old Roma boy who was being beaten by gendarmes was fined for ‘disturbing the peace’ after she shouted at them to stop. The fine was withdrawn only on the promise that the mother would not lodge an official complaint against the gendarmes.⁷⁸

Although the Government has investigated some police officers suspected of abuse and suspended them from duty or indicted those accused of criminal activities in military courts,

⁷⁷ US Department of State (2003) Romania: Country Report on Human Rights Practices 2002, 31 March 2003 <http://www.state.gov/g/drl/rls/hrrpt/2002/18387.htm>.

⁷⁸ Amnesty International (2003) Romania Country Report for the period January to December 2002, Ref: AI POL 10/003/2003

according to the U.S. State Department Report on Human Rights in Romania 2002, 'investigations of police abuses generally were lengthy and inconclusive and rarely resulted in prosecution or punishment'. The report also claimed that 'at times, some military prosecutors blocked proper investigation of alleged police abuses, or courts passed extremely light sentences'.⁷⁹ However, under the Police Officer's Status Law, which came into force on 24 June 2002, police officers will be investigated for crimes by civilian prosecutors. Military prosecutors will continue to try cases that involve "state security," and the gendarmerie and Border Police continue to fall under military jurisdiction.

On the other hand, The European Commission, in the 2003 Regular Report noted that:

'County-level strategies for relation with the Roma have been developed by the police. While cases of unjustified police violence against Roma communities continued to be reported, there have also been cases of police officers being sanctioned for such abuse (which is a significant development). Roma have been able to benefit from the new framework for anti-discrimination and are responsible for over half of all complaints made to the National Council for Combating Discrimination.'

⁷⁹ U.S. Department of State (2003) *Romania: Country Report on Human Rights Practices 2002*, 31 March 2003. <http://www.state.gov/g/drl/rls/hrrpt/2002/18387.htm>.

TRIAL

Legal Provisions

Article 40 of the CRC states that a child accused of a criminal offence shall be entitled:

- To have the matter determined **without delay** by a competent, independent and impartial authority or judicial body in a fair hearing according to law, **in the presence of legal or other appropriate assistance** and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
- Not to be **compelled to give testimony or to confess guilt**;
- To examine or to have examined adverse **witnesses** and to have witnesses under conditions of equality;
- If considered to have infringed the penal law, to have **this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority** or judicial body according to law;
- To have the free assistance of an interpreter if the child cannot understand or speak the language used;
- To have his or her **privacy fully respected** at all stages of the proceedings.

Despite these provisions, there remains a country-wide lack of specialised Law Courts for children, and the two Children's Courts in Iasi and Bucharest are still only experimental.

To try and speed up the operation of the courts and improve the enforcement of judicial decisions, a revised version of the Civil Procedure Code entered into force in April 2001. In a separate measure, the government also made it necessary for judges to publish the reasoning for all their decisions (previously this was only necessary in cases involving appeals to higher courts).

Legal assistance for children is obligatory along the entire trial (and penal investigation procedure). which effectively means that a lawyer must be present for the trial to proceed. However, street children rarely have the material support to pay a lawyer, and those appointed by government are of varying and often questionable quality.

The revised article 484 of the Penal Procedure Code also provides that the social reintegration and surveillance (probation) services can be called by the judge in court when children are judged to safeguard their appropriate treatment. The reintegration counsellor therein "has the right and duty to make clarifications, to forward requests and present proposals as regards the further measures to be taken" (art. 484 paragraph 3 Penal Procedure Code). This modification is particularly important for street children, as their family members rarely attend court sessions and the lawyers are often ineffectual. Also, a significant increase has been noticed in the latest year in the number of evaluation reports requested by the courts from the social reintegration and surveillance services. These reports are important in providing the judge with essential information on the background of the accused child.

SENTENCING

Non-Penally Liable Children

Article 99 of the Romanian Penal Code stipulates two categories of children who are deemed not to be penally liable for offences they may have been accused of. These are:

- (a) Children who have not yet reached the age of 14;
- (b) Children who are less than 16 years old but who were not able to discern the offence they committed.

These two groups of children are not applicable for sentencing, but their future is instead dictated by the Emergency Ordinance no. 26/1997 regarding the ‘protection of an infant in difficulty’. This invariably means that they are then placed in a government-run Centre for the Protection of Minors, where children who are simply *suspected* of perpetrating a crime are also held.

CASE STUDY- Non-Penally Liable Children in Conflict with the Law

Alin, aged 13, cannot be yet penally judged for the crimes he committed. Under these conditions, he was boarded in a state protection institution after police authorities found him wandering on the streets. He declares that, when he was living on the streets, he was stealing from pockets or from markets. Alin was abandoned when he was little to a children’s shelter, from where he ran away to Bucharest and was recorded in the books of several NGOs. Alin declares he preferred life on the streets as it gave him a lot of freedom: “I eat whatever I want if I have money, I wake up whenever I want, I don’t have to go to school...” Alin declares that he is using damaging substances by inhalation but, when he wants to, he has been able to give up relative easily. Brought forcefully by police authorities to a shelter for minors in order to be identified and transferred to his home town, Alin declares he will stay a few more days (for the hot meals and the bed) and afterwards he will run again on the streets.

Case observations:

1. The child is not used to terms such as crime, law, punishment..
2. The only authority from the legal chain known by him is the police. A well known figure is also the public warden.
3. For pocket stealing, consumption of damaging substances by inhalation, beggary or wandering - the punishment, in his view, is the same: beating.
4. The child was not appropriately taken care of and educated as a child, not learning a minimum set of social rules, not being able to get used to a program specific to his age. He complains about the abuse of the personnel in the child shelter wherefrom he ran to Bucharest.
5. The child is not listened to and no effort is made to explain the decisions which are being taken for his own interest. As a result, he declares openly that he will run back to the streets if he will be transferred from Bucharest.

Source: Asociatia Sprijinirea Integrarii Sociale (ASIS) -2002

Penally liable children

According to the Romanian Penal Code,

To the penal liable minor either an educational action or a penalty can be applied. In choosing the sanction one should consider the social threat of the deed, the physical state, the intellectual and moral development and the behaviour of the minor, the conditions in which the minor was raised and lived and any other elements that could help characterise the personality of the minor.

The sentences that can be handed down to children deemed penally liable thus fall into two categories, Educative measures and Penalties. In theory, the Penal Code provides that 'educational measures are predominant and penalties are conditioned by demonstrable proof that educational measures would be insufficient.' However, the statistics of children in detention do not bear this provision out, and children continue to be imprisoned for very minor offences. For example, in his visit to Romania in 1999, the UN Special Rapporteur on Torture spoke to a 15-year-old boy who had been held for three months in the police lock-up for having stolen a packet of cigarettes from a store; another 18-year-old boy had stolen 400,000 lei (equivalent to a few United States dollars) from a car. The Special Rapporteur also spoke to individuals who had been detained because they were unable to pay fines; it was reported that in some cases, for amounts as small as 400,000 lei (approx. USD \$12), individuals had been sentenced to serve 40 days in prison.⁸⁰

EDUCATIVE SENTENCES

There are four different forms of educative sentencing that a judge may hand down to a child:

1. Reprimand
2. Restricted freedom under the supervision of parents or legal guardians
3. Enrolment in a re-education centre
4. Enrolment in a medical educational unit

1. Reprimand

This consists of explaining to the child the social threat of their deed, counseling them regarding the reform of their behavior, and making them aware of the fact that if they commit a new penal deed they will be punished more severely or will be liable for a penalty. The warning is usually used for deeds of minor threat that might reflect childish habits and mentalities, and is designed to impress upon the child the gravity of their act and their social obligations.

⁸⁰ Report by the UN Special Rapporteur on Torture, Visit to Romania, (E/CN.4/1999/61).

For instance: Tibi, a 16-year-old boy boarding in ASIS residential centre, stole (together with a young adult) a few spare parts from a car. He was later called to stand trial while in the care of ASIS. During the trial, Tibi was accompanied by the case-worker in charge who sustained and forward to the court an evaluation report. This report included an account of Tibi's progress since committing the crime, and the judge eventually decided, in this case, to apply the educational measure of reprimand.

However, reprimands are rarely given in practice, even to children coming from stable families, not to mention street children. In fact, a 'not guilty' verdict is often preferred as for a Court to give a warning they must be certain that this simple measure is sufficient to prevent the child from further offending. Whether or not the warning may actually be enough for some is left unexplored, as popular perceptions of street children view them as repeat offenders who by virtue of their status require a more serious penalty.

2. Restricted freedom under the supervision

This consists of releasing the child into the close supervision of his parents, legal guardian or close relatives for a period of one year. It must be accompanied by informing the school the child attends, or the institution the child works at so that collaborative responsibility can be taken for the child's reform. The Court may also impose specific provisions within the period of supervised liberty, requiring the child (a) not to go to certain places; (b) not to contact certain persons; or (c) to work voluntarily in a public interest institution, indicated by the Court, for 50-200 hours, no more than 3 hours/day, after school, on free days and holidays. Completion of these imposed tasks is then supervised by the social reintegration and supervising services. If, during the one year trial period of supervised liberty, the child eludes the supervision or exhibits bad behavior, the Court may revoke the supervised liberty sentence and intern the child in a rehabilitation center.

CASE STUDY – SUPERVISED LIBERTY AT A CHILDREN'S SHELTER

Radu, aged 16, lives in a state child protection institution in Bucharest. This is a centre hosting children who commit less serious penal crimes such as petty theft and minor drug abuse.

Radu started stealing at the age of 12, together with a 17-year old friend with whom he was boarding in a similar shelter institution in another area of the country. After some time he ran away to Bucharest out of fear after discovering local police were looking for him, and eventually landed a job in one of the capital's restaurants. But when he was found stealing from the cash desk he was thrown back onto the streets, where he was then arrested by police.

As there had been several penal files forwarded in his name for theft (both in Bucharest, and in the district where he ran from), he was sanctioned with the educational measure of 'supervised liberty' for one year at the child protection institution where he is now resident.

Radu has run away many times from both of the institutions where he was placed, and is unashamed about his intention to continue doing so until he can live his own life on the streets of Bucharest:

I do not trust the people at the centre, they consider me a problem child. No-one has ever asked about my troubles, and my transfers between centres are never explained to me. There is a lack of respect, and much violent language at the centre.

Radu is similarly unaware of any 'educational measures' that were supposed to be applied to him during his time in the centres, the responsibilities he should have assumed in this period, or the

consequences of committing new crimes. In fact, he has very little understanding of the various actors in the judicial process (judge, lawyer, etc.) or how they could help him.

Source: Asociația Sprijinirea Integrării Sociale (ASIS) -2002

With regards to street children in particular, the measure of ‘supervised liberty’ is often of little consequence, because these children have no parents or relatives to watch them over, and there are still no institutions with the level of abilities in supervising and monitoring children stipulated by the law.

It therefore falls to the Social Reintegration and Surveillance Services to monitor the extent to which the child respects the obligations imposed by the court. They can also assist the child in finding a new home or job through attending professional training sessions, obtaining identification documents and resolving health issues etc. These personal needs must be met first if the child is to cope with and successfully follow the obligations imposed by the court.

3. Enrolment in a Re-education Centre

According to the outline of local and national social rehabilitation (or ‘re-education’) centres suggested in the Government of Romania’s Second Periodic Report to the CRC Committee in 2002,

The conditions of detention will be applied with impartiality, without discrimination, and with a view to protecting the life and health of minors, to develop their sense of responsibility, to encourage those attitudes and abilities which may benefit them in integrating in society and may increase their chances of discontinuing contact with criminal environments, to minimize the differences between life in the centre and outside it, to develop self-esteem, to ensure unlimited contacts with the family and with the local community in order to facilitate reintegration in society.⁸¹

The actual conditions appear to be far less encouraging however. Few children admitted to these centres are able to remember or describe any particular educational benefits they accrued during their supervision, some were denied the opportunity of family contact and others learnt nothing regarding the consequences of their crime or their rights within the legal system. This means they are more likely to re-offend after their release.

CASE STUDY- Enrolment in a Re-education Centre

Madalin, aged 17, is boarded in a re-education centre for having committed several aggravated theft crimes from motor vehicles. Before this educational measure, the child was sanctioned with supervised freedom, the surveillance falling into the task of the child’s mother.

According to Madalin, the theft crimes from motor vehicles were committed together with criminals of his age whom he met on the street. He left his rural home and chose life on the streets of the capital city due to the hardships he had to face in his family. Madalin was raised by his mother whom he says he loves, but was unable to stay due to the chronic material difficulties and the fact that the money earned by him through daily labour in the village was spent by his alcoholic mother.

⁸¹ Government of Romania (2002) *Second Periodic Report to the CRC Committee*, Section 8/B, Paragraph 13

Madalin has now been living on the street for 3 years, consumes alcoholic drinks and makes a living out of beggary, but also out of pocket stealing and thefts from motor vehicles, crimes for which he has never been sanctioned. In the re-education centre, Madalin has behaved very aggressively, has not collaborated with the personnel of the centre and his group of friends from the re-education centre is viewed as 'negative' to his rehabilitation.

Source: Asociația Sprijinirea Integrării Sociale (ASIS) -2002

Most of the memories that children have of re-education centres in Romania relate to beatings from other room-mates and the secret exchange and bribery of food, clothes and cigarettes among children. Very few of the interviewed children who had spent time in these institutions could remember one good thing they had learnt or one person who had helped and supported them during their sentence. This is despite the apparent presence of educators, social assistants and psychologists enrolled at these centres.

Enrolment in a Re-education Centre is for an undetermined period, but once the child turns 18, they are free to leave, unless the Court sees fit to prolong the boarding period in order to achieve its goal. A child may also leave the Re-education centre before 18 if, after at least one year from their enrolment, they have given sufficient proof of reform, diligence in learning and improving their professional preparation.

A great number of specialists involved in administering juvenile justice consider this option to be the educative measure most suited to street children, not only because it would ensure them shelter and a warm meal, but also because there are specialized personnel in a re-education center who may be a good substitute for parents.

4. Enrolment in a Medical-Educational Unit

For the minors who suffer from physical afflictions that need medical treatment and special education, the law gives the possibility of enrolment into a medical-educational unit. This sentence is also taken for an undetermined period of time, but again only until the child turns 18. If the medical problem afflicting the child is seen to stop while inside the center, they are then transferred to a Re-education centre.

Once again however, this educative measure is difficult to apply because there is only one medical-educational institute in Romania. This is in spite of considerable need for such an institution, which would undoubtedly benefit the large number of street children with different behavioral or psychiatric disorders caused by prolonged drug addiction.

PUNITIVE SENTENCES:

Under the Romanian Penal Code, there are only two possible penalty sentences for child offenders, detention (imprisonment) or a penal fine.

1. Detention

Detention is the only liberty depriving penalty applicable to a child, with the detention periods specified under the Penal Code as half of those stipulated for a similar deed committed by an adult. Children cannot be sentenced to detention for life (when the law for adults implies it), but will rather serve a period between 5-20 years. Children also benefit from shorter terms for parole liberation, according to the art. 60 of the Penal Code which states that “those who were convicted while underage, when they become 18 can be liberated on parole, after completing a third of the penalty, if the penalty is no more than 10 years, or half of the penalty longer than 10 years”. This is provided they meet the conditions from article 59 of the Penal Code: “the convict should be persuasive in his/her work, disciplined and should give serious prove of straightening”.

Also, Romanian legislation stipulates the penalty of conditioned suspension for the imprisonment and the suspension of the execution of the crime under supervision. These penalties can be applied also to the under-aged, the trial period including also the duration of the imprisonment punishment, to which a time interval of 6 months to 2 years set by the court is added. Alongside with the restricted freedom, the suspension of the imprisonment execution with the implementation of certain measures and special obligations during well determined periods can be considered alternative sanctions to detention. The surveillance of the measures and obligations set by the court falls into the task of probation services, fact which offers the opportunity to develop individualized programs for assistance and counseling for children.

In Romania there is only one penitentiary for children, in Craiova. All the other penitentiaries are primarily for adults but have special sections for convicted or arrested children. On the whole, Romania's prison population is high compared to the size of its population. Overcrowding remains the most serious problem, and despite the building and modernization of some prison facilities, the number of inmates exceeds the capacity of the prison system (although improvements have been traced compared to the previous period). While efforts have been made to improve prison facilities, overall prison conditions are very poor: the quality of food is below acceptable standards; educational and cultural activities are insufficient; and staff shortages mean that many inmates spend all day locked in their cells.

Alternatives to imprisonment are very limited, which is a major cause of the overcrowding. Statistical data show that, on 1st June 1997, in penitentiary units in Romania (prisons and re-educational centers) there was a number of 2,662 children, out of which 1,561 in pre-trial detention, so almost 60% were without conviction and awaiting trial.⁸²

In 2002, a decrease almost to half is signaled as at the number of children in penitentiary units, as well as a significant reduction of the proportion of those children in pre-trial detention. Thus, out of the 1,384 children in penitentiary units in Romania, 25.79% were in preventive arrest, respectively 342 boys and 15 girls.⁸³

The report on the activities of the British team in Romania – the British Government's Department for International Development – who has been supporting the development of probation in Romania since 1996, notes that:

⁸² Government of Romania (2002) Second Periodic Report to the Committee on the Rights of the Child, Section 8(B)).

⁸³ The Statistic Annuary 2002, Justice Ministry – General Penitentiary Division

‘Statistics from the General Directorate of Penitentiaries show that in 1996 there were over 10,000 juveniles held in custodial establishments in Romania (both in prisons and Centres of Reeducation). By 2003 this figure had been reduced to under 1,000. These reductions are evidenced both in a decline in the number of juveniles held in custody on preventative detention (remand) and those definitively sentenced.’⁸⁴

Moreover, the probation system is still in the process of being developed. The probation system has been developed in the entire country, meaning that there are 41 such services in all country’s districts. Although there is a collaboration protocol between the probation and penitentiary divisions to provide children in detention with assistance and counseling for their social reintegration following release, the process is difficult due to both the limited human resources of the probation services and the limited communitarian opportunities (free medical services, access to education, jobs, access to a home, etc.) Therefore, although legislation on pardoning certain penalties has resulted in 2 700 prisoners being released, there is still very little assistance for former inmates released on parole to reintegrate successfully into society.⁸⁵

2. Penal Fine

This consists of half of the amount an adult is required to pay for a similar deed. In practice though, fines are rarely handed out as it is stipulated as a penalty only for a few offences.

⁸⁴ Haines, K ., Mansell, C., Shaw, R.& Goatly, R., Probation in Romania, Report 2003

⁸⁵ The European Commission (2003) *Regular Report on Romania’s Progress towards Accession 2003*, http://europa.eu.int/comm/enlargement/report_2003/pdf/rr_ro_final.pdf.

ANALYSIS OF CURRENT INTERVENTIONS

The challenges of assisting children in conflict with the law are multiple and diverse from country to country. They are particularly acute in Romania, where social integration measures for street children have not been a priority for the government agencies for a long period of time. For example, although it was established back in 1997, it was a considerable number of years before the Department for Child Protection properly understood who street children were and how best to use their finances to help them.⁸⁶

Similarly, interventions by NGOs have lacked proper support from the state, and failed to generate the results expected. The lack of coordination of services provided by non-governmental organizations made their intervention overlap or, more than that, by granting supplies in the streets, even favoured the phenomenon.

The ambitious government-led campaign “Home Again” implied the coordination at the national level of numerous public services specialized for child protection - e.g. the police, the mayor halls, the sanitation services, transport departments and NGOs - in order to reintegrate street children back into society. However, this level of coordination is yet to be achieved. Moreover, the act of ‘bringing home’ a child from the streets needs to be sustained through individualized assistance of each child separately, under the supervision and monitoring of child protection divisions in each district.

Since June 2001, the character of the measures taken by authorities has won in firmness and coordination. An intervention programme was elaborated in favour of street children, which was initiated *through emergency measures* and will continue as long as necessary in order to eradicate the phenomenon or to significantly reduce its dimensions.

The program of national interest for social integration of street children is in progress at the moment. Between 2001 – 2003 within this program, projects were initiated aiming mainly at founding or modernizing emergency centers, the foundation of day and night shelters for these children, as well as the development of the street workers’ network.

Due to the fact that Bucharest is the area with most street children, a series of actions at the level of the capital city aimed at decreasing the number of street children was initiated. Thus, in the 6 Divisions for child protection in our capital city there are services functioning for this category of beneficiary, with 3 to 10 social street workers. For accommodating children, approximately 400 seats are prepared in the capital city in emergency shelters, ensuring hygienical, disinfection, hot food, proper clothing and medical assistance conditions, and through specialized personnel, an evaluation of the children.

Within the reform project of the child protection system, financed by BDCE and BIRD, *10 day and night shelters* are financed for street children in Bucharest and in the country. At the moment, 5 shelters are functionable (2 in Bucharest and 3 in other cities), the others being about to be finalized as regards the construction works, personnel selection and proper

⁸⁶ Focus group discussion with staff from the Romanian Department for Child’s Rights Protection, in Save the Children, ILO/IPEC (2002) Working Street Children in Bucharest: A Rapid Assessment, ILO/IPEC: Geneva.

functioning. The total maximum capacity of these shelters is of 145 seats, out of which 63 in shelters in Bucharest.

Shelters are considered by ANPCA only as a transitional solution, for a limited period of time, which provide the child with both accommodation and food, clothing, counselling, identification, evaluation and preventive medical care, educational and leisure activities. The shelter can be accessed and left at free will, and children are supported to come here by street workers in specialized teams, by police and by other children frequenting the shelters.

Shelters address especially to *children living permanently on the streets*, but are also useful in case of *children living occasionally on the street*, by providing a refuge in case of abuse and allowing the intervention of local authorities.

They prove to be efficient enough for the intervention in case of children living on the street for a little while and who are not addicted to hallucinogen substances.

Starting with 2002, training programs of the personnel in the street children field (social street workers and personnel in shelters) are developed together with UNICEF in Bucharest and in the country.

Finally, specialized services for juvenile delinquency have been opened at the level of each local Child Protection Division, and work with children and their families in the hope of reducing as early as possible the likelihood of them coming into conflict with the law.

Institutionalisation of children also appears to be gradually becoming less common, with a growing number of children being directed towards other forms of placement (maternal assistants, communitarian services centres, social flats) or returned to their original family (family integration). However, it is not clear how many of these reintegration mechanisms are voluntary and requested by the children, and it is still unlikely that the supporting resources necessary for successful reintegration (counselling, material support, educational support also in order to find a job, etc.) are sufficiently developed. This increases the risk that institutionalised children find themselves at the end of the day on the streets.

Although it is still too early to gauge the overall impact of these initiatives yet, it has been observed that, at least at the level of Bucharest, the street children phenomenon is less visible than in the previous years.

GOOD PRACTICE EXAMPLES

(A) Prevention - Reducing Children in Conflict with the Law

Residential Day Centre for Homeless Children – Cluj Napoca

Problem:

The efforts made by local authorities in Cluj district to reform the child rights protection system and assist street children have proved to be insufficient due to a lack of funding, coherent policy and the absence of any real collaboration between the actors involved (Child Rights Protection Direction, Social Assistance Service within the District Direction for Labor and Social Protection, Minors Receiving Center, Guardian Authority within the City Hall, Police). This has led to large numbers of children on the street, whose poverty and lack of identity documentation brings them into constant conflict with the local law enforcement.

Solution:

To try to solve the ballooning street children problem in Cluj-Napoca, the Prison Fellowship Romania Foundation initiated a project called “The Residential Center for Street Children”. The centre itself is a building given to the Foundation free of rent for 20 years by the local council, and now operates as a busy hostel for street-working and street-living children to use.

Specific objectives of the Centre:

1. Creating a residential centre for up to 50 children permanently living in the street.
 - Preparing children for social and familial reintegration and building self identity (familial, professional, cultural, civic)
 - Restoring relationships with the families of these children, including distant relatives, in the attempt of reintegration of the child in the family
 - Material support and preparations for the families identified for fostering these children.
2. Changing the attitude of the community of Cluj towards homeless children and motivating it to get involved in their social reintegration process.

Activities:

1. Identification of the beneficiaries of the project is done by an outreach team formed of social workers, through direct contact with the involved institutions (Child Rights Protection Direction, Social Assistance Service within the District Direction for Labor and Social Protection, Minors Receiving Center, Guardian Authority within the City Hall, Police) and through signing agreements and protocols with them.
2. Creating and running the Residential Center for Homeless Children. The staff here offers, in a personalized manner, the following services:
 - Satisfying emergency needs (hygiene, medical help, food)
 - Psycho-pedagogic services (counseling, psycho-pedagogic intervention, logopedy, educational and cultural activities)
 - Social assistance (gathering information regarding familial and social situation of children, clarifying identity, juridical actions, if the case, supporting children to social and familial reintegration, preparing natural or foster families for tending children)

3. Informing the community about the situation of homeless children:

- Distributing leaflets in institutions and on the street.
- Press-conferencing about objectives, activities and outcomes of the center.
- Meeting with institutions directly involved in homeless children protection (Child Rights Protection Direction, Social Assistance Service within the District Direction for Labor and Social Protection, Minors Receiving Center, Guardian Authority within the City Hall, Police).

Lessons learned:

A year and a half after the centre opened, the fluctuating movement of children in and out of the centre had considerably reduced, with most of the initial beneficiaries successfully integrating into the program rather than returning to the street. Of course, there were difficulties in reintegrating those children who had never attended school into the formal educational system. Restoring relationships with family members where desired has also been difficult, but there are some positive encouraging results, with many of the identified families declaring themselves available to assume responsibility for raising their children after they finish the program (2 years of residence in the center).

The range of activities in the residential centre (shows, communitarian work, sports contests, painting etc.) have all helped to sensitize the local community to become more sympathetic to street children and to their difficulties. It has also helped establish a more widespread sense of community responsibility in assisting them.

(B) TRIAL – Assisting Children in Court

Minors Courthouse in Iasi

(Project coordinated by the “Social Alternatives” Foundation and the Magistrates Association)

Problem:

Insufficient adherence to and respect for the national and international standards regarding penal trials involving children as both offenders and victims.

Solution:

Creating in March 2001 the Minors Courthouse Iasi, a project which aims at:

1. Ensuring an optimal climate for hearing and judging cases involving children
2. Building a team of specialists for processing and judging their cases
3. Reducing the negative consequences suffered by children and their families during the process.

Currently all cases involving children in the region have been diverted to the Minors Courthouse, thus complying with Article 485 of the Penal Procedure Code.

Description of the project:

In order to achieve its goals, the project undertook the following activities:

- Refurnishing the Minors Court with adequate furniture, so that children could feel more comfortable, and providing audio-video systems to allow for the contribution of evidence without being in the actual court;
- Creating an information leaflet outlining the proper investigation and judging mechanisms for cases involving children, with details of social assistance services offered by partner NGOs. These leaflets were given to children under trial, their families and the public.
- The training (through a series of seminars) of 33 specialists to carry out and judging penal cases with children (10 police workers, 8 prosecutors, 7 judges, 2 attorney, 4 social workers, and 2 psychologists). The objectives of this training were: informing participants about the functioning mechanism of the Courthouse, providing them with knowledge about emotional, physical and sexual abuse on children, ways of identifying abuses, counseling services for victims and their families, investigation techniques and rehabilitation methodology;
- To ensure correct functioning of the Minors Courthouse, a Coordination Committee was created, consisting of 2 representatives from each institution involved in the project. The purpose of this committee is to establish a common strategy based on the strategies of each institution and to find optimal solutions to implement the project;
- A second seminar was held focusing on ‘Child development psychology’, and was attended by police workers, prosecutors, judges and members of NGO partners in the project. The objectives of this second seminar were: gaining knowledge in the monitoring of child’s rights within the family and government institutions; gaining knowledge regarding the negative consequences arising from abuse and neglect.

Lesson learned:

Legislative difficulties:

- Lack of legal framework to promote diversion in cases with minors;
- Lack of procedures to avoid multiple interviewing of minors victims;
- Not accepting evidence on video-audio support;

Professional difficulties:

- Need of developing university and post-university preparation in the field of juvenile justice and criminology;
- Writing some practical manuals for police officers, prosecutors, judges and social workers involved in the juvenile justice system.

CONCLUSION

As this report has shown, the issue of children in conflict with the law in Romania is complex and multi-faceted, affected by numerous economic, social and political factors. The involvement of street children has been particularly difficult to pin down, given their continually changing profiles and characteristics. The cliché of blaming a transitional economy for the street and criminal populations therefore remains insufficient in excluding the interplay of issues at the level of the individual child (physical and sexual abuse, illness, behaviour disorders, etc) and society (family break-up, widespread illiteracy etc.). It is the cumulative influence of these that has led to current concerns around the rise in the number of children committing crimes, the increase in aggression and violence used in these crimes, and the ever-decreasing ages of their perpetrators.

In this report we have tried to portray the most pressing issues for street children and the juvenile justice system in Romania today, and the potential for Romanian state and civil society groups in helping improve the situation. The main areas needing attention are: the lack of knowledge and application of legal instruments at all levels; the lack of specialised training within and coordination between various authorities; the lack of material support across detention institutions and the inexistence of social assistance systems for early prevention and/or reintegration. To this end, although this report concentrates on the particular vulnerability of street children in actual or perceived conflict with the law, the findings and recommendations relate to *all* children who become embroiled in the penal process.

The effort and coordination required to improve the situation in Romania are not undaunting, and yet every institution, group or department working with either street children or the juvenile justice system (or both) has the potential to make a significant contribution. This may be through the diversification or intensification of prevention activities, social reintegration programmes, personnel training, lobbying for amendments to existing laws or more formalised communication and collaboration between institutions. These goals are far from unattainable, and all are necessary if we are to offer children both on and off the streets the protection and respect within the justice system that they deserve.

RECOMMENDATIONS

The recommendations made during this project have been synthesized and divided into 5 categories: prevention, personnel specialization, collaboration between institutions, community involvement and suggestions for improving the legislative regulations referring to the route of the child through the system before involving him in the penal trial, but also to the stage of investigations, trial, execution and post-penal assistance.

Intensifying preventive actions

Although in Romania, according to the statistics, phenomenon Children in Conflict with the Law has been raising year by year, counter fighting against the phenomenon is not reflected in national legislative projects in the direction of the international regulations regarding, juvenile justice nor in implementing social policies adjusted to the size and gravity of this phenomenon. Under these circumstances, most of the recommendations refer to improving the legal framework regarding phenomenon Children in Conflict with the Law prevention according to the international regulations, as well as to implementing a set of plans, programs and strategies at all state-institutional, familial, educational, mass-media and community levels, capable of stopping the path of children towards street life and delinquency.

Specific Recommendations for Preventive Action:

- Create a monitoring system of the street children situation as a whole and conduct psycho-social studies in order to have a professional evaluation of the situation of these children.
- Assess and monitor the material, health and socio-educational needs of these children and ensure that these are fulfilled to the minimum standards outlined in the UN Convention on the Rights of the Child.
- Devise a methodology to analyze the child protection system at district levels in order to assess the gaps and build better prevention strategies and programs.
- Create a central information system for raising awareness about the rights and needs of children. This system could consist of seminars, workshops, counseling services, brochures and other informative materials, and requires involvement from all governmental and non-governmental institutions (including the family) providing social and/or juridical assistance for children. This system should then be regularly monitored to ensure that preventive strategies reflect the changing characteristics of the street children phenomenon.
- In order to conduct coherent and effective prevention programs, children need to be informed about their rights as well as their obligations to respect the law. This involves learning about the risks they take and the consequences of their own actions.

The Specialization of Personnel

Recommendations regarding specialization of personnel at all levels of social protection and juridical assistance intervention referred to the need for:

- Training of personnel to respect the private life of the children who come in contact with the penal justice system.
- Familiarizing relevant personnel with national and international legislation regarding children's rights.
- Gaining knowledge about child psycho-social development in order to understand children's behavior generally and street children's behavior especially and the specific problems these children are dealing with.
- Knowing and using the most efficient methods of working with street children through specialization of personnel for intervention types (e.g. drug interventions vs. sexual exploitation interventions)
- Creating specialized services for children to benefit from alternatives to internment in rehabilitation centers or detention, in order to reintegrate and monitor them.
- Creating special penitentiaries and rehabilitation centers for children in every district in order to facilitate continued access to and contact with the child's family.
- Specialization of personnel within the judicial system to work with children in conflict with the law (police, prosecutors, judges, reintegration counselors, personnel from rehabilitation centers and penitentiaries). Development of a Child's Attorney institution.

Collaboration between institutions in order to make the interventions more efficient

Poor collaboration between governmental and non-governmental institutions or between social assistance institutions and law and order defenders is an important issue for Romania which quite often results in a lack of efficiency regarding interventions targeting street children and children in conflict with the law. Although some regions of the country appear better than others at this (e.g. Timis, Iasi, Cluj, Bacau, Arad), most of the time the interventions overlap or contradict, with little continuity in action.

Specific Recommendations include:

- Collaboration in building a database mapping the work of relevant institutions, e.g. the Child Protection department, specialized services within city halls, NGOs, police sections, prosecutor's offices, law courts, and services responsible for executing Court's decisions. This database would improve the collaboration between institutions and facilitate more efficient interventions.

- Introducing the position of Case Manager – a dedicated individual responsible for protecting the welfare of the child at all levels (including penal trial). The Case Manager would remain in contact with all the institutions involved in the case, and monitor and assess progress to ensure the coherence and continuity of the intervention.
- Increasing NGO involvement to help facilitate rehabilitation centers and penitentiaries, and to help mediate relationships with the family in preparation for reintegration if desired.

Greater Involvement of the community

Involvement of the community in the administration of justice and the reintegration of children in conflict with the law are both new concepts to the Romanian system. The activities carried out in closed institutions (such as rehabilitation centers and penitentiaries) need better continuity with subsequent communal and familial efforts for reintegration, with increased NGO assistance at both levels. They should also ensure that the child is given assistance that is sufficient but avoids financial or emotional dependence on external institutions.

More specific recommendations include:

- Running efficient programs of counseling and assistance, targeting individuals and/or groups, and focusing on specific issues that increase their confidence, decision-making skills and self-respect.
- Reintegration in the family through an individualized intervention that aims to support the child and their family through legal and, if necessary, social protection. Involving the family at all levels of intervention is essential in ensuring long-term stability.
- Mobilizing community resources more effectively to assist in the reintegration of children in conflict with the law. This may be financial, emotional or practical. For example, creating social support groups comprised of community volunteers, or developing schemes for local businesses to employ reintegrated children and help them become more independent.

Improving the legal framework

Although during the past few years Romania has ratified international regulations and has made some important efforts to improve internal legislation regarding child's protection, there is still some way to go to reach compatibility between the two levels. Adopting more probationary elements would be a significant step forward in reducing the number of children unnecessarily detained in penitentiaries under-trial, and also offer more positive and constructive opportunities for children to avoid coming into conflict with the law in the future.

Specific recommendations for improving the legal framework in Romania include:

- Developing and implementing a special code of practice for children in conflict with the law.
- More alternative options to detention for children who are penally-liable, and enlarging the area of communal sanctions, so that institutionalization will be an extreme action.
- Introducing more alternative actions at various stages of investigation, trial and sentencing, including alternatives to preventive arrest (e.g. emergency receiving centers or diversion programs) and probation as opposed to automatic detention. Voluntary work for the community and the obligation to work for free may also be suitable sentences for the majority of child offenders.
- Ensuring that special provisions are made for children in detention, including dedicated compounds and facilities separate from adults, access to family members and suitable opportunities for rehabilitative training.
- Creating specialized institutions for administering justice to children (Law Courts for Children, Children's Attorney Services, etc.), and modifying the Penal Code to require the presence of the legal guardian at all stages of the justice process.
- Transforming the psycho-social evaluation reports for child defendants (made by the social reintegration and monitoring services) from a consultative document into a compulsory document. The presentation of these reports in front of the Court should be done by authorized social reintegration and monitoring advisers only.
- Establishing stricter deadlines for all actors of the justice process, in order to speed up the processing of cases involving children in conflict with the law.