



**Ms. Rovana Plumb**

Minister of Labour, Family Social, Protection, and the Elderly  
Ministry of Labour, Family, Social Protection and the Elderly  
str. Dem.I.Dobrescu nr.2-4  
Sectorul 1  
Bucharest  
Romania

*By email*

6 November 2014

Dear Ms. Plumb,

**RE: Civil society monitoring of social care institutions, and the protocol held between Centre for Legal Resources (CLR) and the Ministry of Labour, Family, Social Protection and the Elderly**

The Mental Disability Advocacy Center (MDAC) is an international human rights organisation which uses the law to secure justice, equality and inclusion for people with intellectual disabilities worldwide. MDAC specialises in undertaking human rights monitoring and strategic litigation on the basis of international law. MDAC has consultative status with the United Nations Economic and Social Council (ECOSOC).

We are aware of the protocol that the Centre for Legal Resources currently holds with the Ministry of Labour, Family, Social Protection and the Elderly, guaranteeing them unhindered and unrestricted access to institutions where people with disabilities live with the purpose of carrying out independent monitoring. A copy of the protocol is available on CLR's website ([http://www.crj.ro/\\*articleID\\_1505-articles](http://www.crj.ro/*articleID_1505-articles)). To our knowledge, CLR is the only independent NGO with such rights of access to closed institutions where people with disabilities live in Romania.

It is our understanding that the Ministry has decided to review the terms of the protocol at a meeting scheduled today, 6 November 2014.

**International law**

As a State Party to the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD), the Romanian government is under an international legal obligation to “maintain, strengthen, designate or establish... one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation” of the Convention (Article 33(2)). Further, “[c]ivil society, in particular persons with disabilities and their



representative organizations, shall be involved and fully participate in the monitoring process" (Article 33(3)).

In addition to these obligations, the Convention requires that "[i]n order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that *all facilities and programmes* designed to serve persons with disabilities are effectively monitored by independent authorities" (emphasis added, Article 16(3)), and take preventive and enforcement action (including prosecution) where any instances of exploitation, violence or abuse are uncovered (Article 16(5)).

Article 1 of the Convention states that "[p]ersons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others."

### **Review of the protocol with the Centre for Legal Resources**

As you will be aware, the protocol between CLR and the Ministry was the result of domestic and international litigation. We understand that the 'review' has been initiated by the Ministry.

MDAC has serious concerns that the result of this review may restrict or impair unhindered and unrestricted access by CLR monitors to social care institutions in the country. We are also aware that no other independent civil society organisations are granted equivalent access to social care institutions to provide an alternative, independent perspective on what occurs inside them.

The Centre for Legal Resources has published a number of reports following monitoring visits it has undertaken. Many of these monitoring reports uncover serious human rights violations which require investigation and, where appropriate, prosecution. Victims of such human rights violations should also receive appropriate reparations, compensation and rehabilitation. The serious findings from CLR's monitoring missions show a vital need for independent scrutiny inside such institutions. Restricting the right of access, or imposing other obligations on CLR which otherwise hinder or impede their access would undermine this crucial independent monitoring function.

On 10<sup>th</sup> December 2013, the previous State Secretary of Labour, Social Protection, Family and the Elderly publicly stated that the Ministry would ensure that civil society organisations could gain access to social care and other institutions where people with disabilities reside. The statement was made in explicit reference to the obligations of the Romanian government under the UN Convention on the Rights of Persons with Disabilities. It is of some concern, therefore, that there has been no action on this public statement. Rather than opening up institutions to independent organisations, the present review sends a concerning signal about limiting the access of civil society to undertake independent monitoring.



Any action to breach, restrict or amend the protocol in a way which impedes CLR's access to institutions, or imposes disproportionate additional burdens on their activities, will in effect breach the international legal obligations mentioned above.

### **Independent monitoring**

The Romanian government has an obligation to ensure that representatives of independent civil society organisations can gain access to institutions and other services provided to persons with disabilities. As the CRPD makes very clear, monitoring of the implementation of the Convention requires the involvement of NGOs, Disabled Persons Organisations (DPOs) and people with disabilities themselves. The lack of progress in achieving this is deeply troubling, especially given recent serious allegations arising in social care institutions, and including those where children reside.

Rather than restricting access to the only independent Romanian civil society organisation which currently has a protocol with the Ministry, we call on the Romanian government to discharge its obligations under international law and ensure unhindered access to a plurality of independent civil society organisations. As such, please treat this letter as notification of our intention to conduct monitoring in line with the CRPD in Romanian social care institutions, and in relation to other services provided to persons with disabilities. We request your response clarifying that access will be provided unhindered.

We also urge the Romanian government to take immediate action to set up a formal process for establishing systematic involvement of independent civil society organisations in all monitoring activities required under the Convention, including NGOs, DPOs, people with disabilities themselves, and international civil society organisations. It is our view that there has been no progress since ex-State Secretary Scutaru's public commitment over a year ago.

We look forward to your response, the outcome of your review of CLR's protocol, and any proposals for guaranteeing the involvement of civil society in monitoring of institutions and services provided to people with disabilities.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Steven Allen', with a horizontal line extending to the right.

**Steven Allen**  
Advocacy and Communications Director  
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CC:

Georgiana Iorlescu, Director, Centre for Legal Resources  
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Traian Băsescu, President, Romania  
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Herman Van Rompuy, President of the European Council  
Martin Schulz, President of the European Parliament  
Jean-Claude Juncker, President of the European Commission  
Nils Muižnieks, Council of Europe Commissioner of Human Rights  
Daciana Octavia Sârbu, Member of the European Parliament  
Johannes Hahn, Commissioner for Regional Policy, European Commission  
Loredana von Buttlar, Directorate-General for Regional Policy, European Commission  
Shirin Wheeler, Spokesperson for the Commissioner for Regional Policy, European Commission

Maria Soledad Cisternas Reyes, Chairperson, UN Committee on the Rights of Persons with Disabilities  
Claudio Grossman, Chairperson, UN Committee against Torture  
Malcolm Evans, Chairperson, Subcommittee on Prevention of Torture  
Juan E. Méndez, UN Special Rapporteur on Torture  
Dainius Pūras, UN Special Rapporteur on Health  
Shuaib Chalklen, UN Special Rapporteur on Disability