



Human Rights Watch
Universal Periodic Review Submission
Romania
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This submission will focus only on Human Rights Watch's key concerns regarding Romania's compliance with international human rights law in its treatment of children and youth living with HIV. It draws on research and recommendations presented in greater detail in our August 2006 report, *Life Doesn't Wait: Romania's Failure to Protect and Support Children and Youth Living with HIV* (<http://hrw.org/reports/2006/romania0806/>). In January 2008 Human Rights Watch consulted with sources in Romania who reported that the problems identified in our 2006 report persist and that the government has done little to address them effectively.

I. Background

More than 7,200 Romanian children and youth are living with HIV—the largest such group in any European country. They are the survivors among the more than 10,000 children infected with HIV between 1986 and 1991 in hospitals and orphanages as a direct result of government policies that resulted in large numbers of children being exposed to contaminated needles and “microtransfusions” of unscreened blood. A key aspect in their survival has been the early provision and progressive expansion of access to antiretroviral drugs. However, lacking has been an equal commitment to combat the pervasive stigma and discrimination against people living with HIV that frequently impedes their access to education,

medical care, government services, and employment. Thousands of children living with HIV are also aging out of existing social protection programs without the skills and support necessary to become productive, integrated adult members of Romanian society.

II. Discrimination in and Barriers to Access to Education

Fewer than 60 percent of Romanian children living with HIV attend any form of schooling, despite legislation providing for free and compulsory education through tenth grade or until age eighteen. Romanian law bars children who are more than two years older than their grade level from attending mainstream classes, making many children living with HIV “too old” because they have fallen behind due to long periods of hospitalization or substandard educational programs in government institutions. Programs such as tutoring, distance education, or special classes are scarce, and may be inappropriate or inaccessible to children living with HIV. Children in school risk ostracism, abuse, and even expulsion if their HIV status becomes known; in some cases their health is at risk. Other children living with HIV are inappropriately relegated to special schools with inferior resources. Children who manage to complete the eighth grade face a new set of hurdles—created by mandatory testing—if they wish to attend vocational programs in the cosmetology, child care, food service, and hospitality fields (see *Discrimination and Barriers to Employment*, below).

III. Violations of the Right to Health

Patients living with HIV face discrimination in access to necessary medical services including dental care, dermatological care, ear, nose and throat specialists, gynecological care, mental health care, routine and emergency surgery, and emergency transport for patients who are bleeding. Doctors often refuse treatment to patients living with HIV, or try to discourage them by repeatedly rescheduling appointments, asking them to come back after all other patients have left, or referring to them as “AIDS people” in front of other patients. Although people with HIV are particularly susceptible to depression, anxiety, and psychiatric disorders, few outpatient mental health care programs exist to treat them. Psychiatric hospitals sometimes refuse to treat HIV-positive patients even

when they are suffering from serious psychiatric disorders, and nutrition and living conditions in many psychiatric facilities are so substandard that in-patient care in those facilities poses a risk to their health.

Patients with HIV also have difficulty in accessing medications for common opportunistic infections, which by law, should be paid for by the state and available through private or hospital pharmacies. However, frequently these drugs are not available at hospital pharmacies because the state has not provided funding for them, and private pharmacies may refuse to fill these prescriptions for fear that they will not be reimbursed.

Romanian children have no automatic right to know of their HIV status without parental consent, and doctors sometimes refuse to inform even young adults of their HIV status without parental consent. Where that consent is absent, children and youth are unable to exercise their right to make informed decisions on medical treatments, educational and employment plans, and their sexual lives. Doctors and social workers cannot counsel children on their disease or fully explain the prevalent risks. Information on reproductive health and HIV transmission is limited, currently provided in an optional class offered once during the seventh grade, making it inaccessible to children living with HIV who do not attend school or have not yet reached the seventh grade.

IV. Violations of the Right to Privacy

Breaches of confidentiality about individuals' HIV status are common and rarely punished. Medical personnel, school officials, social workers, municipal staff, and postal workers are all common sources of leaked information, as are court documents, certificates of disability, and medical testing for employment. In addition, provisions in the Criminal Code set harsh penalties for the knowing transmission of HIV and encourage government officials, police, doctors, and even private individuals to engage in ad hoc "monitoring" of children and youth living with HIV who are suspected of engaging in unprotected sex. This risk of prosecution or monitoring appears to fall disproportionately on girls and women living with HIV, and may make HIV-positive youth less likely to seek assistance and support in a whole range of areas—from police protection

to health services—for fear of disclosing their HIV status and exposing themselves to prosecution or monitoring.

V. Discrimination and Barriers to Employment

Romanian law provides for mandatory medical testing for a wide variety of jobs where the risk of HIV transmission is minimal, including hair dressers, beauticians, manicurists, child care staff, medical personnel, food services, and cleaning staff in the tourist industry. Employers and doctors also order ad hoc HIV testing for jobs where testing is not mandatory. HIV-positive youth have little recourse when denied jobs based on their HIV status, because employment discrimination cases are difficult to litigate and may draw further attention to their HIV status because court documents are not private.

VI. Inadequate Enforcement of Anti-Discrimination and Child Protection Laws

Romanian law provides few meaningful sanctions for those who discriminate, and laws prohibiting discrimination against people living with HIV are rarely enforced. The National Council for Combating Discrimination works primarily in response to complaints received from individuals and NGOs, and has no offices outside of Bucharest. In the few instances where it has intervened in cases involving people living with HIV, its interventions were limited to mediation in cases of children expelled from schools, or the imposition of nominal fines which are paid to the government and not to the victim.

Police, municipal staff, and county-level Directorates of Child Protection who are responsible in cases of abuse or neglect lack the skilled staff to monitor, investigate, and intervene to protect youth with HIV, and children rarely received meaningful assistance. In one extreme case, one girl told us that when she ran away from home to escape domestic violence, police told her “that I couldn’t leave home because I was sick. They said I couldn’t have a boyfriend or get married, I had to stay inside.”

VII. Aging Out of the Child Protection System

The government has no real plan for what will happen to HIV-positive children living in institutions, group homes, foster care, or extended family placements after they turn eighteen, with the risk that as young adults they will find themselves on the streets. While the law allows for the extension of some child protection measures after eighteen, many children will not qualify for these extensions, and no procedures exist to help children apply for the relevant programs. Children who receive disability subsidies are also likely to see the amount of these subsidies drop as they are reevaluated under the stricter criteria for adults with disabilities. While adults living with HIV often can and should be encouraged to work, our investigation suggests that decisions on the disability benefits they receive are often highly arbitrary, and in some instances appear to reflect committee members' ignorance and bias against people living with HIV. Even if this process were not arbitrary, high levels of societal discrimination and the low levels of life skills of many children and youth living with HIV raise serious questions about their ability to become self-supporting at eighteen without assistance.

VIII: Recommendations:

We offer the following recommendations for inclusion in the outcome document:

- Provide effective and appropriate sanctions for discrimination, including breach of confidentiality, against people living with HIV in relation to access to and enjoyment of services or goods.
- End mandatory HIV testing as a condition of employment and ensure that persons living with HIV are not unnecessarily prevented from working or attending vocational school.
- Ensure that people living with HIV have adequate access to necessary routine and emergency medical care, including mental health care and palliative or hospice care for persons with terminal stage AIDS, and to medications needed to treat HIV and common opportunistic infections.

- Protect children and youth living with HIV from abuse and neglect, and ensure that HIV-positive children and youth with mental and physical disabilities enjoy the right to special care suitable to their condition.
- Ensure that children and youth living with HIV are fully informed on how their rights and benefits will change after turning eighteen, and that children and youth in foster, extended family, and residential care are adequately prepared for independent living. Provide appropriate continuing services to young adults who may require them.
- Ensure that all children and youth living with HIV have access to education that is appropriate to their needs, including access to accurate information on reproductive health and HIV and AIDS.
- Repeal article 384 of the Criminal Code, which criminalizes the knowing transmission of HIV.