



European Court of Human Rights fails students with disabilities

Ruling against Ștefan Stoian fails to protect the right to education of learners with disabilities, and blames their parents instead.

For years Ștefan Stoian was carried on his mother's back so he could attend his class on a second-floor classroom. On several occasions Ștefan was refused support by the school to access the bathroom, leaving him soiled and a target to bullying.

Last Tuesday, the 25 June 2019, the European Court of Human Rights added one more indignity by ruling against Ștefan, a quadriplegic teenager, on a case he and his mother brought against Romania for denial of the right to education.

On ruling against Ștefan, the court shows a fundamental misunderstanding of the right of inclusive education and non-discrimination, in light of Romania's legal obligations under the UN Convention on the Rights of Persons with Disabilities and the court's own jurisprudence, in particular the [Enver Sahin v Turkey](#) case.

Stoian's legal team argued that:

- Ștefan's right to education had been violated due to the repeated refusals to provide him with in-class personal assistance, support and reasonable accommodations.
- Ștefan's rights to non-discrimination and freedom from degrading treatment has been repeatedly violated due to the conditions he was subjected to.
- The treatment he experienced amounted to an infringement of his private and family rights.
- Remedies that were granted by the national court were never implemented by Romanian authorities.

Their case was supported by third party interventions from the European Disability Forum, the International Disability Alliance, the Centrul European pentru Drepturile Copiilor cu Dizabilități, Inclusion International and Inclusion Europe, Validity, Amnesty International, the Council of Europe Commissioner for Human Rights, the United Nations Special Rapporteur on the Rights of Persons with Disabilities and the Regional Network for Inclusive Education Latin America.

The ruling against Ștefan shows fundamental failures including:

- The Court blames Ștefan's mother rather than recognising the duty of Romania to ensure the right to education for all students.
- The Court does not understand the difference between accessibility and reasonable accommodation, for instance qualifying "architectural accessibility of the school buildings" as reasonable accommodation.
- The Court considers that minimum efforts by the state is sufficient to comply with the right to education, even when they do not address the needs of the student.
- The Court did not consider Romania's obligations under the UN Convention on the Rights of Persons with Disabilities (CRPD).

Finally, we find it deplorable that the Court did not recognise the importance of the case and allocated it to a Committee that does not allow for appeal. It is inadmissible that a case which raised novel issues and attracted numerous third-party interventions received so little scrutiny.

We, the undersigned organisations, urge the European Court of Human Rights to comply with the most recent international human rights laws, including the UN Convention on the Rights of Persons with Disabilities, which guarantees the right of every person with disabilities to education.

Autism Europe

European Association of Service Providers for Persons with Disabilities

European Disability Forum

European Network of (ex)-Users and Survivors of Psychiatry

European Network of Independent Living

International Disability Alliance

Inclusion Europe

Inclusion International

National Council of Persons with Disability in Romania

Regional Network for Inclusive Education (RREI Latin America)

Validity