



General Assembly

Distr.
GENERAL

A/HRC/WG.6/2/ROM/1
25 April 2008

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
Second session
Geneva, 5-16 May 2008

NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15(A)
OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1*

Romania

* The present document was not edited before being sent to the United Nations translation services.

I. METHODOLOGY AND CONSULTATION PROCESS

1. The present report has been prepared in line with the guidance provided in the Human Rights Council resolution 5/1 and the General Guidelines for the Preparation of Information under the Universal Periodic Review, contained in document A/HRC/6/L.24.
2. The information selected and compiled by the experts of the Ministry of Foreign Affairs was supplied by the Romanian institutions members of the Inter-ministerial Working Group, established specifically for this exercise, namely: Ministry of Interior and Administrative Reform, Ministry of Justice, Ministry of Public Health, Ministry of Labour, Family and Equality of Chances, Ministry of Culture and Religious Affairs, Ministry of Education, Research and Youth, Ministry of Development, Public Works and Housing, People's Advocate, Department for Inter-Ethnic Relations, National Council for Combating Discrimination, National Council for Audio-Visual, National Authority for the Protection of the Rights of the Child, National Authority for Persons with Disabilities, National Agency of Equality of Chances between Women and Men, and National Agency for Roma. Non-governmental organizations and individual experts were invited to participate in the drafting of the report, in the framework of a consultative process that included various forms of interactions with the drafting team, over a period of four months. Their comments and observations were duly taken into account.

II. BACKGROUND

3. During the Communist regime, Romania experienced political dictatorship, economic decay and international isolation. After the fall of communism in 1989, the country has been engaged in a long and sometimes painful transition from a totalitarian regime to a safe and vibrant liberal democracy and from a hyper-centralized inefficient economy to a fully functional free market economy. Besides being a member of the United Nations from 1955, Romania acceded to full-fledged membership in the Council of Europe (1994), North Atlantic Treaty Organization (2004) and European Union (2007).
4. According to the Constitution adopted in 1991, and revised in 2003, Romania is a republic and a democratic and social State, governed by the rule of law. The Constitution proclaims that human dignity, the citizens' rights and freedoms, the free development of human personality, justice and political pluralism represent supreme values. Organization of the State is based on the principle of the separation and balance of powers.

III. NORMATIVE AND INSTITUTIONAL FRAMEWORK FOR THE PROTECTION AND PROMOTION OF HUMAN RIGHTS

A. Constitution and laws

5. The Constitution of Romania contains a specific title on fundamental rights and freedoms. Article 15 States that all citizens enjoy the rights and freedoms granted to them by the Constitution and other laws. The following rights and freedoms are expressly provided for: right to life, right to physical and mental integrity, individual freedom, right to defence, freedom of movement, personal and family privacy, inviolability of domicile, secrecy of correspondence, freedom of conscience, freedom of expression, right to information, right to education, access to culture, rights to protection of health, right to a healthy environment, right to vote, right to be elected, freedom of assembly, right of association, right to work and social protection of labour, prohibition of forced labour, right to strike, right of private property, economic freedom, right of inheritance, right to a decent standard of living, protection of children and young people, protection of disabled persons, right of petition, right of a person aggrieved by a public authority. The Constitution requires that Romanian citizens, foreign citizens, and Stateless persons exercise their constitutional rights and freedoms in good faith, without any infringement of the rights and liberties of others. Numerous provisions

safeguarding human rights and fundamental freedoms are contained in various organic and ordinary laws, most of them adopted over the past years.

B. Human rights institutional framework

1. Courts

6. Protection and promotion of human rights is guaranteed by a vast network of judicial, quasi-judicial institutions and other national agencies. According to article 21 of the Constitution, every person is entitled to bring cases before the courts for the defence of his/her legitimate rights, liberties and interests. Courts in Romania are represented by courts of law, tribunals, specialized tribunals, courts of appeal and the High Court of Cassation and Justice. The Constitutional Court guarantees the supremacy of the Constitution. Amongst others, this Court has the power to raise an objection as to the unconstitutionality of laws and ordinances, brought up before courts of law or commercial arbitration, including on grounds related to the respect of human rights and fundamental freedoms. The provisions of the laws and ordinances in force, which are found to be unconstitutional, cease their legal effects, unless brought into line with the provisions of the Constitution. Treaties or international agreements found to be unconstitutional cannot be ratified.

7. As of the date Romania became party to the European Convention on Human Rights (1994), all persons under the jurisdiction of the Romanian State have gained access to the European Court of Human Rights, to defend the rights and freedoms granted under the provisions of the Convention. However, a case can be taken by the Court only after all domestic remedies have been exhausted. Between 1 January 1998 and 31 December 2007, a number of 18,406 persons lodged applications against Romania with the European Court of Human Rights. The Court declared admissible only 283 applications and handed down judgments in 279 cases. In 14 cases, the Government and the applicants reached partial or total friendly settlements. At the beginning of 2008, there were 8,300 applications against Romania pending before the Court. The Court found mostly violations of the right to a fair trial and the right to protection of property. In some cases, the Court found violations of the prohibition of inhuman and degrading treatments, violations of the right to respect the private and family life, home and correspondence, lack of effective investigation or too lengthy proceedings, as well as ethnic discrimination (Roma). Following the decisions handed down by the Court since 1994, the Government paid a total amount of 7,524,208, 28 EUR, 153,655 USD and 424,100.82 FF as remedial measures. In addition, a number of laws, including provisions of the Civil Procedure Code and Criminal Code have been modified.

8. After joining the European Union, protection of human rights is also provided by the Court of Justice of the European Communities.

2. Advocate of the People (Ombudsman)

9. The institution of the Advocate of the People (AvP) was created in 1999 in order to defend the natural persons' rights and freedoms in their relation with the public administration. The AvP is an autonomous institution, acting independently from any other public authority. It exercises its duties *ex officio* or upon request by the persons whose rights and freedoms have been infringed by the public administration. These requests can be submitted by any natural person, irrespective of citizenship, age, gender, political affiliation or religious beliefs. The AvP has a daily program of hearings, which represents the main means of dialogue with the citizens. The AvP has the right to conduct its own investigations and to request from the public administration authorities any information or documents necessary for the proper conduct of the investigations. In exercising its duties, the AvP also makes recommendations, which cannot be subject to parliamentary or judicial control, and notifies the public administration authorities on the illegality of administrative acts or actions. If the AvP finds that a complaint is justified and a human rights violation has been committed, it requests the responsible public authority to revise or revoke the administrative act in

question, to ensure compensation for the damage and to recreate the situation existing before that violation. At the same time, if the AvP finds that a complaint falls under the competence of the court of law, it can redirect it to the Ministry of Justice, the Public Ministry or to the president of a court of law, who are obliged to communicate the measures taken. The AvP submits annual reports to the Parliament or upon request. These reports can include recommendations to modify existing legislation or proposals of measures aiming to protect citizens' rights and freedoms. Also, the AvP may notify the Constitutional Court with objections of unconstitutionality of laws adopted by the Parliament before their promulgation by the President; may seize the Constitutional Court with exceptions of unconstitutionality of laws and ordinances in force; may issue advisory opinions on exceptions of unconstitutionality of laws and ordinances referring to citizens' human rights and freedoms, upon request by the Constitutional Court. The AvP has 14 territorial offices covering the same areas as the jurisdictional competence of the Courts of Appeal.

10. In 2007, the Advocate of the People registered 6919 complaints, performed 15517 hearings, received 5616 phone calls by the dispatch line and issued 1635 advisory opinions on the exceptions of unconstitutionality of laws and ordinances referring to human rights and freedoms. For example, with regard to the alleged human rights violations, the complaints logged in 2007 referred to: 24 per cent to the right of private property, 16 per cent to the right to a decent living standard, 19 per cent to the right to petition, 10 per cent to the right of the person aggrieved by a public authority, 10 per cent to the right to information.

3. National Council for Combating Discrimination

11. The Government created, in 2001, the National Council for Combating Discrimination (NCCD), as the main specialized body of the central public administration responsible for the enforcement and observance of anti-discrimination legislation. The Council is an autonomous public institution, with legal personality, under parliamentary control. It carries out its activity without any restriction or influence coming from other public institutions or authorities. Its annual report is debated and approved by the Parliament. NCCD is an instrument designed specifically to fight all forms of discrimination. NCCD is qualified to investigate, establish and sanction cases of discrimination. At the same time, the Council elaborates and applies public policies in the field of non-discrimination. NCCD receives and reviews petitions and complaints regarding violations of the legal provisions concerning the principle of equality and non-discrimination from individuals and groups of persons, NGOs, other legal entities and public institutions. The Steering Board of the NCCD, in exercising its decision-making role, analyses the petitions and complaints received, and adopts the appropriate measures, following investigations carried out by the specialized staff of the Council (the Inspection Team). Once the decision has been adopted, the Steering Board establishes the sanction, which can be a notice or the payment of a fine. The Steering Board also decides on the specific amount of money to be paid by the natural person or by the legal entity, for perpetrating a discriminatory act. It is possible to appeal against the sanctions applied for committing the discriminatory act, under the procedure provided for by the common law.

12. The situation of complaints filed with NCCD in the period 2002-2007 is as follows: 134 complaints in 2002, 473 complaints in 2003, 353 complaints in 2004, 382 complaints in 2005, 432 complaints in 2006 and 836 complaints in 2007. Out of the total number of complaints, those based on ethnic discrimination (Roma) hold a significant share: 25 per cent - 2002; 14 per cent - 2003; 13 per cent - 2003; 24 per cent - 2005; 16 per cent - 2006; 10 per cent - 2007. Other more frequent discriminatory criteria are social status, beliefs, gender, sexual orientation, nationality, age, disability.

4. Other institutions and national agencies with related competencies

13. The Department for Inter-Ethnic Relations, created in 2001, is a specialized body of the central public administration, within the Romanian Government. One of its main purposes is to develop a coherent policy on interethnic relations based on a real decentralization and partnership with local authorities and civil society. It promotes specific programmes aimed at enhancing understanding and dialogue between the majority and the national minorities. Currently, DIR has 6 territorial offices in the main interethnic areas of the country. The Council for National Minorities, created in 1993, is a consultative body of the Romanian Government. It facilitates a permanent relation with the organizations of persons belonging to national minorities as it is composed of representatives of all national minority organizations represented in the Parliament. The National Agency for Roma was created in 2004, as a specialized body of the Romanian Government, with legal personality, in charge with elaborating, coordinating, monitoring and evaluating public policies for Roma minority in Romania. It is also the main governmental body responsible for the implementation of the National Strategy for the Improvement of Roma Situation (see paragraph 22). The National Agency for Equal Opportunities between Women and Men, created in 2004, is the central public administrative institution responsible for monitoring the implementation of the principle of equal opportunities between women and men and for developing specific policies in the field of gender equality and gender mainstreaming. The National Authority for the Protection of the Rights of the Child, established in 2005, is the State authority responsible for monitoring the observance of the rights of the child. The National Agency for Family Protection was created in 2004 with the aim of preventing and fighting domestic violence. The National Authority for the People with Disabilities (2003) is the specialized agency of the central public administration, coordinating the social protection activities and those related to the promotion of the rights of persons with disabilities. The National Agency against Trafficking in Persons was set up in 2005, as a specialized body of the central public administration, in charge with coordinating, evaluating and monitoring the implementation of policies in the field of trafficking in persons, as well as those in the field of protection and assistance provided to its victims. The National Council of the Audio-Visual is an autonomous public institution, under parliamentary control, which is authorized to adopt normative decisions, issue public summons and apply contraventional sanctions in support of its role to ensure, inter alia, the application of anti-discrimination policies in the field of audiovisual. Between 2002 and 2007, NCAV applied 15 sanctions for breaches of the legal provisions regarding discrimination based on nationality, race, religion, gender, sexual orientation and ethnicity (13 to TV stations and 2 to radio stations).

C. International commitments

14. The Constitution stipulates that treaties ratified by the Parliament are part of the national law. Consequently, the set of rights and freedoms and the scope of protection are expanded under the provisions of all international legal instruments in the field of human rights Romania is party to, including International Covenant on Civil and Political Rights and its Optional Protocol, International Covenant on Economic, Social and Cultural Rights, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol, Convention on the Rights of the Child and its two Optional Protocols, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Prevention and Punishment of the Crime of Genocide etc. Moreover, article 20 of the Constitution stipulates that constitutional provisions concerning the citizens' rights and freedoms shall be interpreted and enforced in conformity with the Universal Declaration of Human Rights, with the covenants and other treaties Romania is party to. In case of inconsistencies between these covenants and treaties, and the national laws, the international regulations shall take precedence, unless domestic legislation comprises more favourable provisions. Romania recognized the competence of the Committee on the Elimination of Racial

Discrimination and of the Committee on the Elimination of all Forms of Discrimination against Women to receive and consider complaints from persons within its jurisdiction.

IV. PROTECTION AND PROMOTION OF HUMAN RIGHTS – CHALLENGES AND ACHIEVEMENTS

A. Equality and protection against any discrimination

15. Article 4 of the Constitution States the principle of equality among citizens, without any discrimination based on race, nationality, ethnic origin, language, religion, gender, opinion, political adherence, property or social origin. It also States that citizens are equal before the law and public authorities, without any privilege or discrimination.

16. In addition, a great number of ordinary normative acts contain anti-discrimination provisions. The Criminal Code incriminates, in article 317, the incitement to discrimination (an offence punishable by imprisonment between six months and three years or by fine) and, in article 247, the abuse of authority by restraining certain rights, including on discriminatory criteria (an offence punishable by imprisonment for a term between six months and five years). The Romanian legislation (G.E.O no. 31/2002) prohibits organizations and symbols with fascist, racist and xenophobic character and the glorification of those found guilty of committing crimes against peace and humanity, establishes a set of criminal offences and sets the applicable sanctions. Further amendments to this Ordinance offer an extended definition of the Holocaust so as to include the Roma ethnics. The Code of Labour defines and bans direct and indirect discrimination. The Law on equal opportunities between women and men establishes the legal framework in the field of equal opportunities. According to the Audio-Visual Law, it is forbidden to broadcast programs which contain any form of incitement to hatred on grounds of race, religion, nationality, gender or sexual orientation. The Law on the protection and promotion of the rights of the child stipulates that the rights specified by its provisions are guaranteed for all children, without any discrimination. The Law on political parties regulates the topic of political representation and participation in the public life in conditions of equality and non-discrimination among citizens. The Law regarding the statute of civil servants prohibits any discrimination among civil servants and created The National Agency for Civil Servants, as a specialized body, to monitor and control the implementation of the relevant legislation. Furthermore, the Code of Conduct of Civil Servants establishes the principle of equal treatment of all citizens by public institutions and authorities. The Law regarding the asylum in Romania states that the legal framework for foreigners applying for a form of protection or benefiting of a form of protection in Romania applies without discrimination. Public institutions are obliged, by law, to ensure the protection of foreigners against all forms of discrimination.

17. The Governmental Ordinance nr.137/2000 on the prevention and sanctioning of all forms of discrimination, as subsequently modified, represents the landmark piece of legislation in the field of anti-discrimination. The Ordinance offers a comprehensive definition of the concept of “discrimination” as any distinction, exclusion, restriction or preference based on race, nationality, ethnic origin, language, religion, social origin, beliefs, gender, sexual orientation, age, disability, chronic non-infectious disease, HIV infection, appurtenance to a disadvantaged category or any other criteria which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life. The Ordinance defines the principle of equality and non-discrimination among citizens, prohibits and sanctions discriminatory acts committed by natural and legal persons, in all their forms (direct discrimination, indirect discrimination, harassment, multiple discrimination, order to discriminate, and victimization). The national anti-discrimination act covers five main areas: a) equality in the economic activity in terms of employment and professional work; b) access to legal, administrative and public health

services, as well as to other services, goods and facilities; c) access to education; d) freedom of movement, choice of residence and access to public places; and e) the right to personal dignity.

18. Recently, the NCCD designed a National Strategy for Implementing Measures on Preventing and Combating Discrimination (2007-2013), establishing guidelines in the field of preventing and combating discrimination, with the aim to develop a society which is inclusive, intercultural and based on policies facilitating interaction, equality, mutual understanding and respect.

19. Apart from the protection offered by the National Council for Combating Discrimination (see para.11), for all discrimination cases, the victims are entitled to claim damages in a court of law, proportional to the act, as well as the restoration of the situation prior to discrimination or the cessation of the situation created by discrimination, in accordance with the common law. The claim for damages is exempted from judicial taxes and is not conditioned by any notice from the NCCD. The period for submitting the claim is 3 years from the date of occurrence of the act of discrimination or from the date when the victim takes cognizance of the occurrence of this act. Starting with 2006, the judgment in discrimination cases takes place with the compulsory summon of a representative of the NCCD, in an expert capacity. Thus, in 2006, NCCD was summoned to take part in 160 discrimination cases brought directly to a court of law. In 2007, NCCD was summoned to 2335 cases and, in 2008, to 940 such cases so far. The number of cases where NCCD acted as an interested party (actions introduced in a court of law against the NCCD's decisions or cases examining obligations under the NCCD's competence) was 46 in 2006, 97 in 2007 and 15 in 2008.

20. The European Court of Human Rights also took up a number of cases of discrimination in Romania. Thus, in 2005, the Court handed down a decision in a case involving members of the Roma minority, inhabitants of the village of Hădăreni. The Court held there were violations of several rights of the applicants, in conjunction with discrimination. Consequently, the Government of Romania designed and implemented a specific Program of development for the community of Hădăreni 2006 – 2008, aimed at preventing further acts of violence, abuse and discrimination against the Roma population living in that village.

21. In the framework of anti-discrimination policies, special attention is paid to the situation of the Roma minority. Roma is a minority numbering approximately 500,000 members, according to the last census (2002). Roma (Gypsy) people are originated from India and dispersed from the Byzantine Empire to the current territory of Romania during the thirteenth and fourteenth centuries. They were enslaved until 1856. Many Roma continue to live even today in precarious economic conditions and are affected by social and cultural backwardness, which may generate negative perception and rejection, by the rest of the population. Sometimes Roma find it hard to adapt to the modern world, in their attempt to preserve certain aspects of a traditional way of life. They are particularly vulnerable to various forms of discrimination and occasionally may face segregation, especially in the field of education.

22. The Romanian Government designed, in 2001, a specific Strategy for the Improvement of Roma Situation, as a comprehensive approach to the problems of the Roma minority. The development of the Strategy is the result of collaboration between the governmental structures and Roma NGOs. The Strategy lays down 10 priorities: community development and public administration; housing; social security; healthcare; justice and public order; child protection; education; culture and cults; communication and civic participation. In 2006, the Government designed a General Master Plan of Measures, to speed-up the implementation of the Strategy over the next two years. The Plan is structured in accordance with the priorities set out in the Strategy and provides for: increased interaction between central and local authorities and representatives of the Roma community, decent housing conditions in urban and rural areas where Roma live,

improved access to the public medical care system for all members of the Roma community, especially women and children, recruiting commissioned and non-commissioned police officers from among Roma minority, encouraging Roma to enlist in kindergartens, schools and universities by affirmative actions, printing and distribution of documentation and publications about the Roma minority and, in partnership with NGOs, initiating a plan of cultural events inspired from Roma folklore, traditions and culture.

23. A complex network of institutions was created with a view to implementing the Strategy and the Plan. It includes the National Agency for Roma (see paragraph 13), the Working Group on the Public Policies for Roma, Ministerial Commissions for Roma, Roma County Offices and Local Roma Experts.

24. With the purpose of responding to the occurrence of and preventing discriminatory acts perpetrated by police officers against Roma, the Police General Inspectorate worked out and applied “The Program regarding the contribution of the Romanian Police to the improvement of the Roma situation”. The General Inspectorate also launched a program aiming at encouraging the enlistment in the force of persons belonging to national minorities, including Roma, as well as their enlistment to entrance exams organized by police schools. The Police Academy in Bucharest allocates annually a number of seats to candidates from the Roma minority (there were 10 seats, both in 2006-2007 and in 2007-2008, out of which 6 were occupied through competitive examinations). At present, there are 71 persons belonging to the Roma minority employed in the structures of the Ministry of Interior – 45 men (11 officers and 34 agents) and 13 women (3 officers and 10 agents). Starting in 1994, the Romanian Police promoted partnerships with NGOs in the field of human rights protection, including Roma NGOs. The collaboration was focused on several areas such as: support for social inclusion of Roma; anti-crime education among Roma communities; improving the relationship between the police and multicultural communities by increasing the level of trust of Roma in the local authorities; preventing, identifying and diffusing tensions between Roma and the majority population; combating discrimination. Since 2000, 9 important projects have been implemented in the above-mentioned action fields.

25. Special attention was given to providing adequate professional training to law enforcement officials in the area of human rights and anti-discrimination. The National Institute of Magistracy also organized a series of seminars for magistrates on issues related to discrimination, including the relevant obligations undertaken within international conventions.

26. Although not the result of any official policy, there were some reports of segregation in schools in relation with Roma. The Ministry of Education, Research and Youth (MERY) formally prohibited the setting up of pre-school, primary and secondary classes comprising exclusively or mainly Roma students. In 2004, the Ministry issued an internal regulation outlining that schools and school inspectors must take action to identify and eliminate any segregation practices. In 2007, MERY adopted an Order formally banning segregation of Roma children in schools and, subsequently, approved the Methodology for preventing and eliminating school segregation of Roma children. In the same context, PHARE projects “Access to education for disadvantaged groups” (2001, 2003, 2004, 2005 and 2006) were designed, inter alia, to enable persons belonging to disadvantaged categories, including Roma, to fully participate in the social, economic and cultural life of Romania and have been implemented with good results.

27. The housing law guarantees the free access to housing. Nevertheless, improving the access to housing for disadvantaged categories, including Roma, represents an important challenge for the national authorities. Since 1999, authorities have gradually restarted to build social houses within the program of the National Agency of Housing. Still, the Agency was more concentrated on providing housing for young employed people. Given the higher rates of unemployment, Roma people have an inferior accessibility to housing. Recent years have witnessed several initiatives by

local public authorities to address this issue. Several ministries are involved in identifying solutions for Roma housing issues such as: solving ownership issues related to houses and agricultural terrains; rehabilitation of housing and environment in Roma neighbourhoods; supporting companies and NGOs involved in providing infrastructure and utilities in Roma neighbourhoods; supporting projects of housing construction and rehabilitation in Roma communities, as well as local Roma initiatives; ensuring non-discriminatory access to social houses.

28. The effects of the policy of forced settlement, targeting Roma, applied during the Communist period, as well as Roma settlements created, spontaneously, in the 90's, at the outskirts of some cities, generated a network of Roma informal settlements. Poverty also contributed to cases of residential segregation in relation to Roma communities. The Ministry of Development, Public Works and Housing (MDPWH) is striving to identify validation principles for informal Roma settlements and to adopt measures in order to prevent informal housing conditions. There is an audit in progress of the urban and housing legislation aimed to improve the relevant legal framework in order to, inter alia, favour the inclusion and social mixture. In January 2008, a framework agreement was signed between the MDPWH and the National Agency for Roma, having among its objectives: improving Roma access to decent housing and public services such as running water, electricity, sanitation, roads and heating systems; implementing pilot projects for building social houses for Roma in 14 localities throughout 8 regions of Romania; providing support to small infrastructure projects (roads paving, water adduction) whose beneficiaries are Roma communities. In general, problems encountered in the implementation of these projects are: lack of information regarding the number, needs and location of the disadvantaged groups (e.g. Roma); difficulties in harmonizing the housing programs and initiatives between the central and local authorities, respectively; lack of sufficient resources.

29. The Ministry of Culture and Religious Affairs developed several programmes aimed at further preserving and freely expressing the cultural, linguistic and religious identities of the national minorities, as well as on fostering intercultural cooperation. The program „Pro-ethniculture” is addressed to all national minorities, whereas the programme „Roma together in Europe” focuses on the preservation and protection of the cultural and linguistic heritage belonging to Roma minority.

30. Given the occurrence of discriminatory behaviour and attitudes in football, numerous awareness-raising and prevention campaigns have been carried out to fight such phenomenon with the support of the NCCD. In addition, Romania started its active participation in the annual European campaign “Action Week against Racism in Football” organized by the FARE network (Football against Racism in Europe).

31. Since 1997, the Government allocates every year a special budgetary fund for interethnic projects and programs aimed at combating intolerance. This financing mechanism is currently run by the Department for Inter-Ethnic Relations (see para.75).

32. As regards gender equality, the 2006-2009 National Strategy and Action Plan for Equal Opportunities between Women and Men provide for actions to improve the situation of vulnerable categories, including those that are the most exposed to marginalization and social exclusion, because of multiple discriminations. Women are very much present in the political, social and economical life but there is still room for improvement insofar as representation at the top-decisional level is concerned. According to the assessment by the National Agency for Equal Opportunities between Women and Men (NAEO), in rural communities, women encounter obstacles in acquiring equal opportunities with men. Therefore, improving the socio-professional condition of women in rural areas is one of NAEO's priorities for 2008.

33. The law (217/2003) prohibits domestic violence and allows for police intervention in such cases. The Government created the National Agency for Family Protection (NAFP) (see para.13). The total number of domestic violence cases registered and reported during 2004 – the third quarter of 2007 is 33.730. NAFP works together with NGOs in order to set up awareness campaigns and to ensure counselling and support to victims of domestic abuse. In light of the increased vulnerability of the Roma women, the authorities adopted special measures to address their situation, taking into account both ethnically-motivated prejudices at the level of society and behavioural and cultural patterns within the Roma communities.

34. Both the National Strategy for Improving the Roma Situation and the National Health Program include measures regarding reproductive health and the establishment of education and information centres for family health. The Ministry of Public Health, in cooperation with the NGO “Romani Criss”, successfully established the system of Roma health mediators (RHMs), in order to facilitate the communication between the medical personnel and members of Roma community, to improve their access to health care services and to educate them on health related issues. RHMs are women with completed mandatory education, selected on the basis of community leaders’ recommendations.

35. Article 200 of the Criminal Code, incriminating sexual relations between persons of the same sex, was repealed in 2002. Discrimination based on gender and sexual orientation is prohibited by law. LGBT communities have become more visible in recent years, including as result of events such as Bucharest’s annual “Gay Fest” parade and Cluj Napoca’s Gay Film Nights Festival. Social attitudes in relation to sexual minorities have started to change and, after years of total silence, this topic is being openly discussed in the media. Nevertheless, sexual minorities are still vulnerable to prejudices and discriminatory attitudes.

36. At the regional level, Romania participates in the initiative entitled “The Decade of Roma Inclusion“ (2005-2015), the result of the collaborative efforts of eight Central and Eastern European countries with the support of the international community, dedicated to the improvement of the situation of the Roma minority. In 2007, Bucharest hosted an OSCE High-Level Conference on Combating Discrimination and Promoting Mutual Respect and Understanding.

B. Right to life. Prohibition of torture or cruel, inhuman or degrading treatment. Death penalty

37. Article 22 (a) of the Constitution States that the right to life, as well as the right to physical and mental integrity of persons are guaranteed; torture, any kind of inhuman or degrading treatment are prohibited. According to article 22 (b) of the Constitution, no one may be subjected to torture or to any kind of inhuman or degrading punishment or treatment. Death penalty is prohibited. The crime of torture and the crime of inhuman or degrading treatments are incriminated by the Criminal Code (art. 267 and art.267¹).

38. Over the past years, non-governmental organizations and individuals continued to report cases of abuses and excessive use of force by the police. Between 2003 and August 2007, 570 complaints containing allegations of abuses and ill treatments perpetrated by policemen (8 officers and 64 agents) were filed with the General Inspectorate of the Police. 41 cases were dismissed, in 7 cases disciplinary measures were applied, criminal charges were brought against 4 persons (1 convicted, 1 discharged, 2 acquittals). 17 complaints are still under investigation.

39. The Code of Conduct and Deontology of the Law Enforcement Officials, approved in 2005, sets out the principles and rules that govern the police officer’s and gendarme’s conduct, In cases where the intervention of a law enforcement official results in a temporary limitation of freedoms and rights, the duration of this limitation must be reduced to the minimum needed to reach the legitimate objective that justified the adoption of such measures. The law enforcement official must

act in the same way in relation to all persons, applying the same measures for similar illegal acts, in accordance with the principles of equality, impartiality and non-discrimination. In accordance with the new profile of the Romanian National Police, the training and education of police personnel aimed at changing their thinking patterns, combating prejudices.

40. All cases of firearms use by police personnel are reported to the General Police Inspectorate. When they resulted in death or injury, a prosecutor is immediately seized upon the case. The law no.295/2004 on the regime of arms and ammunition, as further amended, is currently under evaluation in the light of the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the relevant jurisprudence of the European Court of Human Rights.

41. Legislative and organization measures have been taken in order to address the problems of the Romanian penitentiary system, where conditions sometimes do not meet the generally accepted standards of security, food, hygiene and privacy for the detainees. Law no.275/2006 on the Execution of Penalties and Measures Ordained by Judicial Bodies undertook a radical reform of the penitentiary system. Thus, penalties are executed according to the laws, respect for human dignity is guaranteed and any form of discrimination is prohibited. Special sections for preventive arrest inside penitentiaries have been set up. Persons who have been sentenced by final judgement to a custodial penalty and those being investigated are held in different sections. For certain categories of persons sentenced to custodial penalties (juveniles, women, persons with medical condition) special premises have been set up. Accused juveniles are separated from adults and their trials are accelerated. For the purpose of social recovery and social reinsertion of sentenced persons, four types of prison treatment have been created: maximum security, closed, semi-open and open, which rely on a gradual system, as sentenced persons are able to move from one type to another depending on their conduct during detention. Overpopulation has always been a serious problem in Romanian penitentiaries. However, over the past years, the number of persons deprived of liberty decreased by more than 16,000, which had a positive influence on the occupation ratio, which went down from 143.60 per cent on 01.01.2000 to 89.33 per cent on 28.02.2007, with 44,570 beds installed (6 metric cube of air/detainee). Existing detention facilities are being redesigned and new ones are gradually being built. Following complaints in connection with acts of violence or abuse of any kind committed by detainees self-appointed as "cell leaders", this practice has been abandoned since 1998. Currently, a board composed of personnel from the penitentiary appoints a delegate from among the detainees in each room, based on their proposals. The room delegate represents the detainees in the respective room in their relationship with the administration of the penitentiary, but has no disciplinary powers. The instances of ill treatment reported by persons deprived of freedom are dealt with by judicial authorities. Also, persons deprived of freedom have an unlimited right to file complaints, including through non-governmental organisations or to human rights organisations. Where the administration of a place of detention finds any violations of the rights of persons who are deprived of freedom, it takes measures to punish those responsible, and, where necessary, notifies the bodies of criminal prosecution. To ensure the good organisation and operation of each place of detention, subordinated to the National Administration of Penitentiary, regular, occasional, unannounced, and specialised inspections and checks are being carried out. The persons deprived of freedom may appeal against any measures taken by the penitentiary administration, including regarding limitations of his/her rights as a detainee. Against the decision of the delegated judge, an appeal may be filed with the first instance court in the jurisdiction of which the penitentiary is located. Representatives of national non-governmental organisations and of international human rights organisations the competence of which has been recognised or accepted by Romania have access to the places of detention and on several occasions visited and interrogated persons who are deprived of freedom. The detainees have the right to receive visits of relatives, benefit from legal advice and have access to medical care. Medical personnel are under

obligation to notify the prosecutor about signs of torture or mistreatment ascertained on the body of the detainees. The personnel of the detention centres receive regular training and their behaviour towards detainees is under permanent scrutiny.

42. A matter under the serious attention of the authorities in Romania is trafficking in human beings, as the country is considered a point of both origin and transit for trafficking in persons. In the last years, Romania has made substantial progress in countering trafficking networks and has increased significantly its anti-trafficking law enforcement efforts. The Romanian legislation incriminates all forms of trafficking (Law 678/2001) and offers the necessary legal framework in order to identify these acts and to provide protection and assistance for victims, their families and witnesses (Law 211/2004). The National Strategy against trafficking in persons 2006-2010 and the National Action Plan 2006-2007 for its implementation set clear standards and objectives to be attained by the authorities. The purpose of the national strategy is to mitigate the traffic in persons and to eliminate its negative effects over citizens and society, in general. A network of judges specialized in solving trafficking in persons was set up in 2004. The Government created, in 2005, the National Agency against Trafficking in Persons (NAATP), (see para.13). The NAATP improved national coordination in the area of anti-trafficking. The agency has 15 regional centres, to monitor the phenomenon at local level, identify malfunctions in the national identification and referral system and propose remedial actions, evaluate the activity of the shelters for the victims etc. The NAATP organizes, on a regular basis, information and prevention campaigns in order to sensitize the general public and, in particular, the risk groups (e.g. “Beware of Perfect Opportunities for Perfect Jobs”, targeting teenagers, but also adults who leave or want to leave the country to work abroad, July 2007-February 2008; “Campaign against Sexual Exploitation of Children” launched on February 12th, 2008). A toll-free info line was created by the Agency and addressed to victims, persons wanting to report cases of trafficking or to persons who want to obtain information before deciding on a job abroad. In 2007, 1343 cases of trafficking in human beings were identified and 1330 persons were placed under investigation, as compared to 2006, with 1766 cases identified and 1460 persons investigated. However, more efforts are necessary to improve protection and victim assistance, including by countering the social discrimination they sometimes face once returned in their home towns or villages. The Government will continue to work with domestic and international NGOs to build public awareness of trafficking risks.

C. Administration of justice and rule of law

43. According to article 21 of the Constitution, every person is entitled, without restriction, to bring cases before the courts for the defence of his legitimate rights, liberties and interests. All parties shall be entitled to a fair trial and a solution of their cases within a reasonable term. Also, based on art.52 of the Constitution, any person aggrieved in his/her legitimate rights or interests by a public authority, by means of an administrative act or by the failure of a public authority to solve his/her application within the lawful time limit, is entitled to the acknowledgement of his/her claimed right or legitimate interest, the annulment of the act and reparation for the damage. In order to translate into practice this principle, the legislator created the system of administrative litigation. The State bears patrimony liability for any prejudice caused as a result of judicial errors. The State’s liability shall be assessed according to the law and shall not eliminate the liability of the magistrates having exercised their mandate in ill will or grave negligence.

44. Previous provisions in the Criminal Procedure Code and the Civil Procedure Code defined the institution of annulment proceedings exercised by the General Prosecutor’s Office attached to the High Court of Cassation and Justice, against final judicial decisions, in cases stipulated by the law in a limitative manner. The inappropriate use of these legal remedies, especially in civil matters, was repeatedly sanctioned by the European Court of Human Rights, which criticized their

impact on the stability of the judicial decisions. Consequently, those provisions were abrogated in 2003 and 2004, respectively.

45. One of the main deficiencies of our judicial system is the inconsistent practice by the courts of law. To address this problem, the Public Ministry promoted annulment proceedings in the interest of the law, an institution regulated by the two Codes mentioned above. The High Court of Cassation and Justice issues decisions of unitary interpretation of the law which are obligatory for the courts (in 2007, the High Court was seized by the General Prosecutor with 87 such cases, in comparison with 37 cases in 2006). Also, measures have been taken to improve the access of the magistrates to the jurisprudence and the Official Gazette. Starting in 2006, the Superior Council of Magistracy organizes regular meetings with the presidents of the courts of appeal, with the participation of representatives of the High Court of Cassation and Justice and the Office of the General Prosecutor. Similar coordination meetings are held at the level of each court of law.

46. Problems regarding the length of the judicial proceedings continue to be reported. However, statistically, in 2007, 85.5 per cent of the criminal trials and 83.5 per cent of the civil trials were concluded in less than six months (the recommended timelines). Starting in 2005, the inspectors of the Superior Council of Magistracy monitor, on a regular basis, the courts' activities from the point of view of compliance with the recommended timelines for civil and criminal trials and, where needed, disciplinary sanctions are applied.

47. According to article 23 of the Constitution, individual freedom and security of a person are inviolable. Search, detainment or arrest of a person is permitted only in cases and under the procedure provided by the law. There are time limits for detainment and preventive arrest. Any person detained or arrested is promptly informed, in a language he/she understands, of the grounds for his/her detention or arrest, and notified of the charges against him/her, as soon as practicable; the notification of the charges shall be made only in the presence of a lawyer of his/her own choosing or appointed *ex officio*. A person under preventive arrest has the right to apply for provisional release, under judicial control or on bail. Any person is presumed innocent until proven guilty by a final court decision. Penalties are established or applied only in accordance with and on the grounds of the law. The defendant is entitled to the benefit of a lesser punishment enacted by the law (*mitior lex*). The right of all persons deprived of their liberty to be treated humanely and with respect for the inherent dignity of the human person is also guaranteed by the Romanian Criminal Procedure Code (art.5¹). The law provides for the possibility of temporary release during the trial or before the completion of the term. Special provisions refer to persons responsible with a childcare, dependant or an elderly/ill person.

D. Freedom of opinion and expression

48. In accordance with article 30 of the Constitution, freedom of expression of thoughts, opinions, or belief, and freedom of any creations, by words, in writing, in pictures, by sounds or other means of communication in public are inviolable. Any censorship is prohibited. Freedom of the press also involves the free setting up of publications. No publication may be suppressed. The law may impose upon mass media the obligation to make public their financing source. The Government never initiated a law regulating this aspect, but a group of non-governmental organizations drafted a legislative proposal which has been, recently, endorsed by some members of the Parliament. Freedom of expression undergoes certain limitations, contained in the Constitution and the Criminal Code. In particular, Governmental Ordinance no. 137/2000 incriminates any public behaviour with a nationalistic-chauvinist character, any incitement to racial or national hatred or any behaviour aiming to prejudice a person's dignity or to create an intimidating, hostile, degrading, humiliating or offending atmosphere against a person, a group of persons or a community on grounds of race, nationality, ethnic origin, religion, social category or appurtenance to a disadvantaged category, beliefs, gender or sexual orientation. There are cases in the

jurisprudence of the National Council for Combating Discrimination of sanctions applied to journalists for articles inciting to racial hatred or notices issued to various newspapers for discriminatory advertisements (e.g. in particular with regard to the Roma minority).

49. The Romanian legislation does not make any distinction between the acts committed by any natural or legal persons and the acts committed by journalists. Therefore, the Romanian journalists have advocated, for a long time, against the offences of insult and libel as infringements upon the liberty of the press. In 2006, the crimes of insult (art. 205) and libel (art. 206) under the Chapter "offences against human dignity" have been repealed following amendments brought to the Criminal Code. The Constitutional Court concluded in 2007 that the abrogation of the respective legal provisions was contrary to article 1 (3) of the Constitution, which protects values such as dignity, reputation and honour of the person. However, the Parliament did not act upon the decision of the Constitutional Court by adopting new legislation and, therefore, the two offences remain outside the Criminal Code.

50. Insofar as the Romanian mass-media is concerned, it has evolved as one of the most dynamic in the geographical region. Currently there are 623 radio stations (out of which three nation-wide frequencies) and 261 television stations (out of which two national frequencies, a third one being divided among several operators). The number of print outlets (newspapers, weeklies, monthlies, magazines) is evaluated at about 1500 titles, out of which 15 national dailies. 76.6 per cent of the Romanian population has access to cable TV, 3.6 per cent to satellite television, while the Internet has reached 25 per cent of the households.

E. Freedom of conscience and religion

51. 86.7 per cent of the Romanian population declares itself as belonging to the Romanian Orthodox Church (ROC). The orthodox population also includes Ukrainian, Bulgarian, Greek and Russian-Lipovan ethnics. Catholicism represents nowadays the second largest religion in Romania, with 1,028,401 members (4.7 per cent). Among the other Christian communities, the Calvinist Church is the most important, with 698,550 members (3.2 per cent). The number of members of other Christian communities varies between 2,000 and 300,000. The Religious Association "The Jehovah's Witnesses" was recognized in 2003 by Order of the Ministry of Culture and Religious Affairs. Therefore, there are currently 18 legally recognized religious denominations in Romania. There is also a Jewish community (of Mosaic religion) with 6,179 members (0.02 per cent), as well as a Muslim community (of Islamic religion) of 67,566 members (0.31 per cent).

52. The effort to redress the great injustices done to the Greek-Catholic Church (GCC) during the Communist regime raises some specific challenge. In 1948, this Church was proscribed by Decree no. 358/1948 and a part of its clergy was arrested. However, its activity continued underground. The Church and other parish houses were confiscated and given to the Orthodox Church. Other properties of the Greek-Catholic communities were also confiscated and became property of the State. According to the 2002 census, the Greek-Catholic community of believers counts today 195,481 (or 0.9 per cent of the population), against approximately 1.5 million members (10 per cent of the population) before 1948. The Decree no. 358/1948 was repealed in 1989 and the Greek-Catholic Church was again recognized as being one of the denominations supported by the Romanian State. The measures adopted, including those in the framework of a dialogue with the ROC, with the view to redressing injustices done to the GCC, were sometimes criticised as insufficient or slow in their implementation.

53. The Romanian Constitution establishes, in art.16, the principle of equality between citizens irrespective of their religious. Freedom of conscience is guaranteed and it must be manifested in a spirit of tolerance and mutual respect. Any forms, means, acts or actions of religious enmity are prohibited in the relations among the various denominations. Religious denominations are

autonomous from the State and enjoy support from it, including the facilitation of religious assistance in the army, hospitals, prisons, homes and orphanages.

54. The newly adopted law on religious freedom and the general regime of religious denominations was based on a wide process of consultation, both internally and internationally and, in spite of some criticism, enjoyed eventually the support of the majority of the recognized religious denominations in Romania. This law (489/2006) seeks to establish a transparent system for the recognition of religious denominations, as well as to simplify the procedure in this regard. To this purpose, the law provides that the religious communities need to have been functioning uninterruptedly for at least 12 years (from 1994 onwards) on the national territory and their members should be Romanian citizens, representing at least 0.1 per cent of the population of Romania. With respect to the numerical threshold for the recognition of the religious denominations, the law makes reference only to a percentage of the total population and not to a pre-set number of members. This numerical threshold corresponds to the Romanian traditions, which also have been given careful consideration in drafting the law. The temporal threshold aims at ensuring a minimal stability, complementary to the numerical threshold and does not represent an impediment to the religious activity. The Armenian, Jewish and Lutheran religious denominations, although minor, are exempted from the procedure of recognition, due to their long tradition in Romania and to the number of members at the date of their recognition as religious denominations. Apart from religious denominations, the law regulates a new legal institution – “the religious associations” (bodies consisting of at least 300 members, Romanian citizens residing in Romania, who associate themselves in order to practice a religious belief). Both the religious denominations and the religious associations represent structures of association with legal personality, for religious purpose, being differentiated only by the fact that the religious denominations are granted *de jure* the status of public utility and, therefore, benefit of direct financial support from the State.

55. Freedom of religious education is guaranteed, as well as the right of parents or legal tutors to ensure, in accordance with their own convictions, the education of their minor children. Participation of students to religious classes is optional. Religious education is organized in public schools, but also in schools run directly by religious denominations (61 theological high schools, 22 faculties of theology, and 34 confessional schools).

F. Freedom of association and peaceful assembly

56. According to the Romanian Constitution (art. 39 and 40), public meetings, processions, demonstrations or any other assemblies are free and may be organized and held only peacefully, without weapons and another kind, whatsoever. According to the law, political parties are associations of Romanian citizens having the right to vote and have legal personality. At present, there are 6 political parties represented in the Parliament. According to the Law on trade unions, the employed persons and public servants have the right to create trade unions and to adhere to them. There are 5 trade union organizations represented at national level.

G. Rights of the child

57. In the early 90's, as a result of the ill-conceived pro-birth policies implemented by the Communist regime, Romania had to confront the enormous problem represented by the presence of an estimated number of 100.000 children placed in specially created institutions, run by the State, but under-funded and with few and untrained personnel. Ever since, the reform of the child protection and improvement of the child care have been priorities for the Government. A new system was created in 1997 and responsibility for its functioning was transferred at the local level. The decentralized approach aimed at preventing the institutionalization by providing direct support to the families, as well as closing down the large institutions while finding alternative solutions for protection.

58. In 2001, the Romanian Government adopted “The Strategy regarding the protection of children in difficulty 2001–2004”. The strategy proposed the adoption of a series of radical reforms with the purpose of bringing Romania in line with international standards. Priority number one was changing the “institutionalized” system into a “family” system. The reform meant closing large institutions and replacing them with alternative services, preventing child separation from the family by developing support services. The law no. 272/2004 concerning the protection and promotion of children’s rights represents the main element of the new legislative framework. The adoption of the law was corroborated with significant awareness-raising campaigns aimed at informing all those working for the children, as well as those involved in the education of parents with respect to children’s rights. The public authorities, the civil society and other partners started to share the responsibility for guaranteeing the children’s rights as they are stipulated in the United Nations Convention on the Rights of the Child.

59. The National Authority for the Protection of Child’s Rights (see para.13) ensures the respect of all children’s rights on the Romanian territory, including by intervening in administrative and judicial procedures. Also, the National Authority for the Protection of Child’s Rights is developing programs that address vulnerable categories of children: street children, children with disabilities or HIV/AIDS affected children, unaccompanied children on the territory of other States.

60. The Romanian legislation focuses on the best interest of the child and articulates the principle according to which the parents have the main responsibility in raising and ensuring the development of a child. The subsidiary responsibility falls on the shoulders of the extended family and the local community to which the child belongs. The intervention of the State is only complementary. However, the State retains the obligation to ensure the protection of the child and to guarantee the observance of all his/her rights. The State can intervene in cases of abuse or severe deprivation. The new law aims to change the idea that the State could replace parental care. The analysis of statistical data in the area of child protection shows that, between 2000 and 2007, the number of protected children in placement institutions decreased by more than a half (from 53,335 to 20,990) and the number of children protected by maternal assistants almost tripled (increasing from 5,157 to 18,116). This progress became possible through the allotment of financial resources from local authorities’ budgets, those of NGOs, as well as from the State budget. Externally financed programs also contributed significantly.

61. The Romanian Children’s High Level Group (HLG) was established in 2000, as an independent forum co-chaired by the Romanian Prime-Minister and Baroness Emma Nicholson, member of the European Parliament. The Group includes representatives of the European Parliament, the Romanian Orthodox Church, the European Commission, UNICEF, the World Bank, the International Health Organization and other international organizations, heads of diplomatic missions in Romania which implement programs in this field and representatives of the civil society. Having a consultative status, the HLG’s aim is to assist the Government in improving the health, development, education, protection and social involvement of all children and young people in Romania, according to international standards.

62. After Romania’s accession to the European Union, Child protection system had to respond to the challenges posed by the large number of children left at home, in the care of relatives, extended family or State institutions, by their parents who wished to seize job opportunities abroad. Initially overlooked, this phenomenon has become a real reason of concern for the authorities, when it became evident that parents’ absence may have a serious negative impact on the development of the children left at home. Thus, a number of actions have been initiated, together with the application of new instruments of quantification and monitoring of this phenomenon by competent local and central authorities, in order to design adequate strategies adapted to the real needs of these beneficiaries.

63. At present, the National Strategy for the protection of the child for 2008-2013 is about to be approved. The strategy strives to deal with the whole set of problems concerning the rights of the child in all sectors, including fields which were insufficiently covered so far. Thus, it aims to strengthen the mechanisms of implementation of the relevant legislation by taking into consideration the training needs, the creation of new services, especially day care services, based on a set of national minimum compulsory standards, monitoring mechanisms and the allocation of necessary resources.

H. Rights of the persons with disabilities

64. The percentage of persons with disabilities out of the Romanian population is 1.98 per cent, compared to the average figure in the group of countries members of the European Union of 10 per cent. However, the actual number of the persons with disabilities could be considerably larger, given the fact that, for various reasons, many actual cases remain unreported. Persons with disabilities are often assisted by their family and receive State allowances. However, they do not enjoy full access to the physical environment and measures of active protection are still insufficient. The existing services are moderately diversified, but sometimes scarce, in the field of education, medical assistance, labour employment, public transportation, housing and traffic. The protection institutional system is understaffed and, in general, personnel lack special training.

65. Article 50 of the Constitution and the Law on the promotion and protection of the persons with disabilities set out the legal framework for the rights of the persons with disabilities. The National Authority for the People with Disabilities (see paragraph 13) prepares policies, strategies and standards in this field.

66. The Government approved the National Strategy for the protection, integration and social inclusion of the persons with disabilities - "Equal chances for the persons with disabilities - towards a society without discrimination" - for the period 2006-2013. The Strategy is the platform of all future actions in the area and aims to ensure the full exercise of fundamental rights and freedoms of the persons with disabilities, in order to increase the quality of their life. The main principles of the Strategy are based on the respect of rights and dignity of the persons with disabilities according to the Universal Declaration of Human Rights, on preventing and combating discrimination, the equalization of chances, social solidarity, community responsibility and an integrated approach and partnership with the civil society in the decision-making process. The Action Plan for its implementation promotes social integration of the persons with disabilities as active citizens having the ability to control their life, by, inter alia, increasing the employment rate for this social category, as well as by granting assistance to the families having in their responsibility persons with disabilities.

67. On 26 September 2007, Romania signed the United Nations Convention on the rights of persons with disabilities and its Optional Protocol.

I. Rights of the persons belonging to national minorities

68. The census that took place in Romania in 2002 indicated that there were 20 national (traditional) minorities, represented in the Parliament by 19 organisations (the Czech and Slovak minorities have created a joint organisation): Albanians (under 0.1 per cent out of the total population); Armenians (under 0.1 per cent); Bulgarians (under 0.1 per cent), Croats (under 0.1 per cent); Czechs (under 0.1 per cent), Greeks (under 0.1 per cent); Germans (0.3 per cent); Hungarians (6.6 per cent); Jews (under 0.1 per cent); Italians (under 0.1 per cent); Russian-Lipovan (0.2 per cent); Macedonians (this ethnic minority was not included within the census); Polish (under 0.1 per cent), Roma (2.5 per cent), Serbs (0.1 per cent); Slovaks (0.1 per cent); Tatars (0.1 per cent); Turks (0.1 per cent); Ukrainians, including Ruthenians (0.3 per cent).

69. According to article 6 of the Romanian Constitution, the State recognizes and guarantees the right of persons belonging to national minorities to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity, without prejudice to the principle of equality and non-discrimination. The Romanian authorities have sustained a dynamic policy of participation and integration of all national minorities in the social, political, and cultural life of the country, with the aim of ensuring the preservation and full manifestation of their ethnic, linguistic, cultural and religious identity. The Romanian protection system has been recognized at the international level as a positive model.

70. National minorities benefit from governmental, local and parliamentary representation. The organizations of the persons belonging to national minorities have the same status as political parties regarding the electoral procedures. According to article 62 (2) of the Constitution and the law on elections, the organizations of citizens belonging to national minorities, which fail to obtain the number of votes for representation in the Parliament, are entitled to one Deputy seat each, if they accumulated at least 10 per cent of the average number of votes validly expressed at country level for the election of a representative in the Chamber of Deputies.

71. The Law on local public administration provides for the use of minority languages in the local public administration. In the territorial-administrative units where citizens belonging to national minorities represent more than 20 per cent of the total population, the local public authorities, public institutions under their coordination and decentralized public services will also ensure, in their relations with these citizens, the use of their mother tongue. Decisions of normative nature are publicized, whereas individual decisions are communicated, upon request, in the mother tongue of those minorities.

72. The Law on education has undertaken certain changes until 2007. Nevertheless, it retains a special chapter (XII) on the education of persons belonging to national minorities. Persons belonging to national minorities have the right to study in their mother tongue at all levels and forms of education, as well as the right to types of education for which there is a sufficient request, in accordance with the law. The languages studied in Romania by students belonging to national minorities are: German, Hungarian, Serbian, Slovak, Czech, Ukrainian in educational units with full instruction in the mother tongue; Turkish and Croatian in educational units with partial instruction in the mother tongue; Armenian, Bulgarian, Greek, Italian, Polish, Romani, Russian in educational units with instruction in Romanian but which ensure the study of the mother tongue.

73. The Law on the organization of the judiciary stipulates that all persons are equal before the law, without privileges and discrimination and that justice is carried out equally for all, without any distinction based on race, nationality, ethnic origin, language, religion, gender or sexual orientation, opinion, political affiliation, wealth, social origin or any other such discriminatory criteria. Persons belonging to national minorities have the right to express themselves in their mother tongue before courts; in case all parties request or agree to express themselves in their mother tongue, the court has to ensure the exercise of that right, as well as the proper administration of justice; also, in case one or several parties request to express themselves in their mother tongue, the court has to ensure, free of charge, the use of an interpreter or an authorized translator.

74. The persons belonging to national minorities have equal access to all types of media. Every organisation representing persons belonging to national minorities publishes at least one magazine or newspaper with support from the State budget. These magazines and newspapers promote ideas and attitudes fighting discrimination, racism, xenophobia and intolerance. According to the Audio-Visual Law, TV, national and local radio stations broadcast programmes in minority languages, presenting details about the culture, traditions, religion and public life of national minorities and ethnic communities.

75. The Government allocates every year a special budgetary fund, run by the Department for Inter-Ethnic Relations, for programs against racism, anti-Semitism, xenophobia and intolerance. A part of this fund goes to the organizations of persons belonging to national minorities in support of their activities (projects, events, book-editing, newspapers and magazine-editing, administrative costs). In 2004, DIR carried out approximately 60 interethnic programs and projects; in 2005 - about 100 projects proposed by different NGOs and in 2006-about 130 projects. In 2007, the number of projects reached 120. The areas covered by these projects included education, culture, youth, awareness-raising, promoting intercultural dialogue, enhancing public participation, consolidating the societal integration of minorities. This activity continues in 2008.

76. In 2007, the Government created the Institute for the Study of National Minority Issues, as a public institution under DIR's coordination. Its aim is to carry out multi-disciplinary research programs and projects, with the purpose of broadening the awareness of public institutions and civil society on matters that are relevant for the development of the ethnic, cultural, linguistic and religious identity of minority communities.

J. Right to own property

77. According to art. 44 of the Constitution, the right of property, as well as the debts incurring on the State are guaranteed. No one shall be expropriated, except on grounds of public utility, established according to the law, against just compensation paid in advance.

78. During the communist regime a large number of private and community properties were abusively taken over by the State. The legislative and institutional framework for the restitution of these properties has been gradually developed since 1990. The process is organized and monitored by the National Agency for the Restitution of Properties, established in 2005. The agency keeps the database of real estates subject to restitution and offers methodological guidance to local and central public authorities as well as legal persons involved in this exercise. The claims for restitution submitted by individuals increased over the past years, more than 100.000 of them being solved, almost half positively, either by return of the properties in kind or granting compensation from a fund specially created. At the same time, the restitution effort focused on communities of the national and ethnic minorities, as well as the religious denominations. Important progress has been made in the return of real estates, nationalized with or without a legal title, which belonged to the legally recognized religious denominations. According to October 2007 national statistics, the situation of returned buildings looks as follows: Romanian Orthodox Church, 518; the Roman-Catholic Church, 405; the Greek-Catholic Church, 652; the Calvinist Church, 456; the Jewish Cult, 394; the Unitarian Church, 39; the Evangelical Church B.A., 298; the Evangelical Church, 16; and other cults, 34 files. Agricultural land and forests have also been confiscated from various religious communities in Romania and are subject to the restoration process under specific regulations.

K. Right to education

79. According to article 32 of the Constitution, the right to education is provided by compulsory general education, by education in high schools and vocational schools, by higher education, as well as other forms of instruction and postgraduate courses. Education at all levels takes place in State, private or confessional institutions, according to the law. The autonomy of the Universities is guaranteed. State education is free, according to the law. The State grants social scholarships to children or young people coming from disadvantaged families and to those institutionalized, as stipulated by the law. The Education Law establishes that education is a national priority and that the Romanian education system is organised on the basis of the principles of respect for human rights and equal access to education, without any discrimination, based on social or ethnic origin, gender, social or religious affiliation. Denying the access of a person or of a group of persons to any level or type of education on discriminatory grounds constitutes a contravention.

80. In accordance with the Law, education has as a main objective the development of human personality through, inter alia, “education in the spirit of respect for human rights and fundamental freedoms, dignity, tolerance and free exchange of views”. The general principles of respect for tolerance, democracy and human rights, as well as elements of education against racism, anti-Semitism and other forms of discrimination can be found, implicitly or explicitly, in the common core curricula (compulsory) for subjects such as Civic Education, Civic Culture, Sociology, Philosophy or in the national curricula for optional subjects in the area of socio – humane sciences.

81. Education is compulsory for the first 10 years of schooling, beginning at age six. According to the last statistics (2007), the average dropout rate following compulsory years is about 1.7 percent (primary school) and 2.3 percent (secondary school). The rate may be higher in poorer areas and among the Roma population. Overall literacy rate is 97 per cent. The Ministry of Education adopted several regulations, within the framework of the education reform, to improve the participation of all children and young people to education and to reduce dropping-out and non-schooling. The focus was placed on disadvantaged categories such as children in rural or socio-economic disadvantaged areas, Roma ethnics, and children with special educational needs and other vulnerable groups (institutionalized children, migrants, homeless children, HIV positive children etc), persons above the upper age limit for enrolment in day education, drop-outs. In respect of children with disabilities, HIV positive children or children suffering from AIDS, the relevant policies promote the principle of inclusive education. Although the education system has undergone substantial structural changes, low funding and an insufficient number of qualified teachers throughout the country continue to remain a problem. The State is making efforts to address this situation, notably by increasing budgetary spending on education to 6 per cent percent of the GNP, as compared to 3.4 per cent in 2004.

L. Right to work. Right to just and favourable remuneration. Equal pay for equal work

82. Article 41 of the Constitution prohibits any restrictions to the right to work. Everyone has a free choice of his/her profession, trade or occupation, as well as work place. All employees have the right to social protection measures, such as: health and safety at work, working conditions for women and young people, the setting up of a minimum gross salary per economy, weekends, paid rest leave, work performed under difficult and special conditions, as well as other specific conditions, as stipulated by the law. The Labour Code provides under article 171 that the employer shall ensure health and safety conditions in all aspects related to work, whereas article 176 provides that the employer shall brief the employees on security and health at workplace and provide them access to the medical services of the labour medicine. A Governmental Decision sets the framework for establishing yearly the minimum wage guaranteed (500 RON or 150 Euro for full-time employment of 170 hours/month). The Labour Inspection has control prerogatives over the implementation of legal provisions concerning labour relations, health and safety at work, the protection of employees who work in special conditions and the safeguarding of legal provisions related to social insurances.

83. In the first decade after 1990, Romania experienced high unemployment rates, due to the collapse of the industries unable to withstand the competitive environment of the global market. However, since 2000, the Romanian economy has grown at a steady pace of over 5 per cent per year. At the same time, an estimated number of 2 million Romanians sought jobs outside the country, most of them in Italy and Spain. Consequently, the unemployment rate decreased from 10.2 per cent in 2002 to 4.3 per cent in January 2008. An unemployment insurance system has been established by the law. The newly-created National Agency for Employment is the public employment service managing the employment system.

84. The principle of equal payment for work of equal value is stipulated both in Constitution and the Labour Code. On equal work with men, women must get equal wages. The labour field is

an important chapter of the law concerning the equal opportunities between women and men. The National Agency for Equal Opportunities between Women and Men (NAEO) adopted measures in order to eliminate the occupational segregation based on gender, both horizontally and vertically, as Stated in the relevant National Strategy. Furthermore, there are a number of measures proposed for encouraging a better reconciliation of work and family life.

M. Right to social security. Right to an adequate standard of living

85. According to article 47 of the Constitution, the State has the obligation to take measures for economic development and social protection, to ensure a decent living standard for its citizens. Citizens have the right to pensions, paid maternity leave, medical care in public health centers, unemployment benefits, and other forms of public or private social securities. Citizens also have the right to social assistance.

86. The right to social insurance is guaranteed by the State and shall be exercised, under the terms of the law, through the public system of pensions and other social insurance benefits. Within the public system, the social insurance services shall represent replacement incomes for the total or partial loss of occupational incomes, due to ageing, disability, accidents, sickness, maternity or death, hereinafter called insured risks. Social insurance benefits are granted under the form of pensions or other types of benefits under the law, correlated with the obligations of the payment of social insurance contribution. The standard retiring age will rise from 57 to 60 years for women and from 62 to 65 years for men, by a gradual approach until 2014. The following categories of pensions are granted within the public system: age limit pension, anticipated pension, partial anticipated pension, disability pension, and successor pension. This system, which includes the fund for professional diseases and work accidents representing 0.5 per cent from the total, is financed by social security contributions paid by the employers. At present, Romania does not have specific provisions to guarantee a minimum income for the elderly as a separate and defined element besides the social assistance for all groups of age. However, the elderly benefit from a number of social security benefits (social assistance for insuring minimum guaranteed income, burial assistance, urgency assistance in case of natural disasters, financial assistance for very sick persons). The National House of Pensions and other Social Insurance Rights was created in 2000 and assumed responsibility for administering the public pension system. As from 1 January 2008, a part of the Social Security contributions are to be compulsorily directed towards privately managed pension funds (up to 2 per cent of wages in the first year and increasing, by 0.5 point each year, until reaching a contribution rate of 6 per cent after 8 years).

87. A minimum guaranteed income has been established by the law, as a type of social assistance based on the evaluation of the means and income of the applicant. Measures for stimulating the employment of the beneficiaries of social allowance are provided for. The law also established the framework for a system of granting allowances for heating, which contributes to raising the living standard of the persons in need.

88. Article 34 of the Constitution guarantees the right to health protection and stipulates that the State is under obligation to ensure public hygiene and health. The Law 95/2006 on the reform in the field of health stipulates that the public health protection is an obligation of the central and local public administration authorities, as well as of all natural and legal persons.

89. Article 47 of the Constitution provides for the maternity leave. According to the Labour Code, maternity can not be a reason for discrimination and dismissal during the maternity. In addition, it is forbidden to ask a candidate, when applying for a job, to present a pregnancy certificate and/or to sign a commitment that she will not become pregnant or give birth to a child during the period of validity of her working contract. In the private economic sector, there are situations where pregnancy becomes an obstacle either for getting or for keeping a job. Labour

inspectors are expected to take a more pro-active stance in this respect, thoroughly investigating such instances and applying sanctions accordingly. The child State allowance is a universal right and it is granted according to a special law (61/1993), based on the principle of universality, for all the children until the age of 18, without discrimination, until they finish their studies. There is also a complementary family allowance and an allowance for sustaining the single parent family. Childbirth allowance, trousseau for newborn child (clothes, laundry, and goods for care) and dairy nursery tickets are also provided for.

N. Right to asylum

90. The Constitution States that the right to asylum shall be granted and enjoyed under the provisions of the law, in compliance with the international treaties and conventions Romania is party to. The Law regarding the asylum in Romania establishes the legal framework for foreigners applying for a form of protection or benefiting from a form of protection in Romania. The law regulates the statute of the refugee, the regime of subsidiary protection (protection for foreigners and Stateless persons who do not fall under the incidence of the 1951 Geneva Convention regarding the statute of the refugees) and temporary protection (exceptional procedure in case of a massive flux of displaced persons from third countries).

91. Foreigners benefiting from a form of protection defined by law can enjoy their rights in the same conditions as the Romanian citizens. Also, they may benefit from programs of social integration and can be accommodated in special centres established by the Romanian Immigration Office. The integration programs are worked out and implemented based on the needs of the beneficiaries, without discrimination and in observance of their cultural specificity. Based on a study undertaken by the Romanian Immigration Office for the period July 2006 to July 2007, a number of 167 foreigners received a form of protection and 47 of them were included in integration programs (28 per cent chose to benefit of these programs). In addition, 40 foreigners who received a form of protection in previous years continued their integration programs as special cases (persons with disabilities, seniors, unaccompanied minors, one parent families, victims of torture).

V. INTERNATIONAL COOPERATION IN THE FIELD OF HUMAN RIGHTS

92. Romania actively participates in the work of international organs aiming at preventing and combating violations of fundamental rights and freedoms, at developing existent standards, and at supporting Member States with the necessary assistance for the improvement of their human rights protection system. Romania was elected as a member of the Human Rights Council (HRC) for the mandate 2006-2008.

93. Romania is party to practically all major regional and international treaties and protocols in the field of human rights, international humanitarian and refugee law. Internal procedures have been initiated in order to sign the United Nations Convention for the Protection of All Persons from Enforced Disappearances. Based on its pledges for election to the Human Rights Council, Romania has yet to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment and intends to do so.

94. The Romanian authorities attach great value and work constantly towards the full implementation of the recommendations issued by the United Nations treaty bodies, regarding the development and strengthening of the human rights protection system in the country. They are committed to speed up the process of submitting Romania's overdue periodic reports to the United Nations Conventions.

95. Romania issued a standing and open invitation to the mandate holders of all special procedures of the former Human Rights Commission, some of them having already visited the country (Special Rapporteur on adequate housing – 2002; Special Rapporteur on freedom of

religion or belief – 2003, Special Rapporteur on the right to health – 2004, Special Rapporteur on the Sale of Children, Prostitution and Child Pornography – 2004).

96. As mentioned in its pledges for the HRC elections, Romania increased significantly its voluntary contributions to the budgets of the Office of the United Nations High Commissioner for Human Rights, UNICEF, UNHCR, UNRWA and of other United Nations funds and agencies involved in various human rights-related activities.

VI. PERSPECTIVES

97. Challenges lie, in particular, in the implementation of the normative framework and require mostly an adequate level of resources and a better coordination between various State authorities.

98. The Romanian authorities will continue to seriously address the challenge represented by the limited level of social integration of and related discrimination against certain groups of persons belonging to Roma minority. Among other things, the relevant authorities will also continue the public campaigns aimed at countering prejudice and misrepresentation against Roma people, as a tool of confidence-building and positive interaction between this minority and the rest of the population.

99. Increased attention will be devoted to countering the persistent negative attitude against groups such as HIV-infected people or sexual minorities. In this respect, special emphasis will be placed on awareness-raising activities and promoting a general climate of tolerance and openness for dialogue within the Romanian society.

100. The police will continue to multiply and diversify training aimed at preventing the occurrence of ill treatment and inappropriate use of firearms. The full implementation of the relevant provisions regarding the conduct of the law enforcement officials and the rules of engagement will be strictly monitored. Some legislative changes may also be deemed necessary. Investigations of complaints regarding misconduct by the law enforcement officials will be carried out in a more transparent and impartial manner and with tangible results. At the same time, a set of specific measures that encourage the disclosure and facilitate the investigation of cases of domestic violence are also contemplated.

101. The parliament is expected to take up the issue of insult and libel with a view to clarify the abrogation status of the provisions related thereto in the Criminal Code.

102. The process of restitution of the properties abusively seized by the Communist regime continues to pose a number of difficulties. However, a speeding-up of the “restitution in integrum” is envisaged along with maintaining an appropriate level of capitalization of the Fund established for the compensation of those who cannot benefit from restitution in kind.

103. In the education field, the Government has several important objectives such as ensuring universal access to the first eight years of education (including the total elimination of cases of non-enrolment in education), the gradual generalization of the participation to vocational and high-school education, the eradication of the “homeless children” phenomenon, inclusive education for disabled persons, providing equal educational opportunities (the increase of educational opportunities for children from poor families, from rural areas, from Roma families).

104. In general, Romanian public authorities, in cooperation with civil society, media and other relevant partners, will increase efforts to better inform the population about their rights and freedoms and the protection system at their disposal.