

Universal Periodic Review
(2012 submission doc /2013 review)

Romania - 15th Session (Jan/Feb 2013)

I. CCPR - Human Rights Committee (Civil and political rights)

1. In the past 2 years both the government and the presidency have been interested in the Constitution. Main purpose of various political groups was related to the regulation a balance between the Powers in the state (especially between the institution injunction and the government) as well as analysis report of powers between Parliament and Constitutional Court. Side of intervention has been based exclusively on interests partisan in the dispute between the power and the opposition, leaving out the essential aspects of constitutional doctrine, as well as to the ratio lens of constitutional provisions and individual rights. SIRDO shows interest for this problem and in the procedure the previous revision of Romania, claiming, among other things, the direct access of citizen's justice system should be reformed. (*Annex no. 1*).

2. Romania is strongly affected by the corruption by politicians who are in high positions and post public. Corruption files, which are in phase of the investigation/judgment, make reference to the facts which are covered by criminal law: abuse of intellectual forgery, forgery, etc. The sentence to prison sentence with execution of a former prime minister in June 2012 the sentence controversial in different levels political, social, cultural, under the aspect ratio of morals, ethics, social equity and justice, marks the beginning of an phenomenon for the restoration of the role of law. Mobilizing institutions of the state to prevent and fight against corruption is expressed in the Declaration of Parliament No 2/12.06.2012 implementation to support new Strategy against Corruption 2012-2015. A fact which remains neglected from the act of justice and the perspective of the initiative reform is linked to the harmful effects of corruption which has developed for 22 years, with effects difficult to repair in segments of the population vulnerable (elderly, sick, people with disabilities, ethnic minorities, migrants, refugees, Political Prisoners) but especially in the category and intellectuals in the second echelon of young people, for the most part, they have chosen a path migration. In this respect, ratification by the EU to the United Nations Convention against Corruption would represent an important step to have a legal instrument for the prevention and eradicate corruption, but especially for the opening road to accounting for costs generalized corruption and carrying out a major step forward towards political balance and social peace.

3. Representations of Romania the international institutions and regional is dominated by the interests of the party/parties which were in the shoes of power. In this respect, the appointment to the office of minister of Foreign Affairs of a party shall entail, as a consequence, the promotion interests of the political party or coalition which is a part. Romanian citizens, which were experiencing major difficulties when they are outside the borders of Romania, are marked by their inability consulates Romania on solving the problems. Under the name facilitated and budget for subsistence, the role these institutions does not exist. Ex: in Germany, officials in Hamburg, who was facing Romanian migrant without shelter they dit not find out real help from the officials who represent Romania); In Poland (memories received the prison Warszawa - Bialoleka reveal the fact that the prisoners Romanians do not benefit from the judicial assistance and support from the Romanian consulate); in Italy (mass-media of the Romanian national reported that 104 families of Romanians in the homeless camp in Mirandola, after earthquake in 10.06.2012 , they have received some help only from the Romanian parish in the area, while Romanian Consulate to the Bologna crackly only official communiques on the safety in which the people affected by earthquake). As a conclusion to the submissions it is imperative to Ministry of Foreign Affairs to be out of political influence, as well as reorganize consular department for it to represent, by mandate, actual interests of the Romanians with final or temporary residence in other states.

4. In a democratic society, the prerogatives of militarized structures shall be the subject of standards and specific rules. Through the process of demilitarization in Romania, employees from police stations and prisons have acquired status of public servants employees.

A fact worrying which requires that return to normalcy is linked to the conferment "in secret" in the past 2 years, by the Ministry of National Defence to the degree of "colonel" of people with high positions in parliament, government, local administration, the media (source: the newspaper "Libertatea", 21.06.2012).

5. The State Department of USA mentions in the report on compliance with human rights - 2011 that justice system has been biased, and sometimes has been subject to influences from the area politics, reveals laws that restrict freedom of opinion by the fact that prohibit "defaming religious" and " public offend of symbols of religious", and comments on freedom of the press are stonily: "While independent media were active and could express many views without restrictions obvious, there are politicians and persons in relation to gambling who have directly or controls in a direct way many local and national media channels and their voice editorial views often reflect their owners. The tendency for the national media organizations in the hands of few people very rich still continued".

II. CESCR - Committee on Economic, Social and Cultural Rights

1. The system of education at all levels has suffered for 22 years numerous shocks related to the changes of framework legislation, history syllabus, manuals, study materials, etc. , for the sake of exercise of power by any government mandate which has succeeded in charge. Therefore this negative phenomenon, but and poverty, have led a small part of young people to face the competition, and a significant part to proceed to abandon school - European Commission - Romania among the first countries) and illiteracy (Ziarul de Tulcea, 26.03.2012 - 171 roma minors have not been at the school). Over 500,000 Romanians are illiterate, over 76% coming from the rural areas, access to education is prevented through traditions entice groups, poverty, the absence of any homes, and the lack parents who work in other countries, 70,000 of the children being forced to work instead of learning ("Save children"- Romania). Private education is a real business considering legal basis assimilated, the one of the entities; non-profit tax exempt from certain obligations. Accumulation of capital in private education institutions has caused unfair competition of education by the state, but limited and responsibilities of the first category to the criteria of competence (operation to create sections that are not accredited). More than that, the graduates of private universities are faced with a lack of recognition of legitimacy and the value diplomas acquired. Crisis of which is in present education, identification of the causes and the consequences should be part of an initiative advisory panel of Romania with a special Rapporteur on the Rights to education as a result of full recognition of the term the Country visits.

2. The human rights field of study is not a branch of stand-alone in curricula of education. It is only limited to information relating to ECHR case law in the education profile with legal requirements. An imperative aspect, that the Romania should take into account is defined by the General comment No. 13 of the CESCR on 'education in both human rights itself and indispensabil means of realizing other human rights" having in view the essential features: (a) availability, b)accessibility, c) acceptability, c) adaptability.

3. Cultural policy in Romania is based its formal intervention by the Ministry of Culture in the scope national heritage being ignored the broad range of cultural diversity. Such reform will remain outside all cultural forms of creativity as well as creating adequate institutional infrastructure. A major step forward in the protection of expression cultural that is likely to become extinct, restoring staircase adjustments as well as to build opportunities for the development of continuous creation would be carried out by ratification of the UN Convention of the protection and promotion of the diversity of cultural expression.

4. US State Department Report in 2011: The restoration of properties has continued at the same time slowly, and the government has failed to take concrete measures for the restitution properties that belonged to the Greek Catholic churches confiscated by the communist regime in 1948. This fact has

continued with all instead ECHR decided in 2010 the judgment pilot concerned Maria-Atanasiu vs. Romania, meant to regulate restitution of the houses seized abusively during communism. In any of the obligations arising out of its relations with ECHR, the government initiated a controversial bill that generated conflicting opinions on the part of civil society and associations professional jurists and lawyers. (*See the SIRDO - Annex 2*).

III. CERD – Committee on the Elimination of Racial Discrimination Early-Warning Measures and Urgent Procedures

1. Discrimination of Roma has come to have a potentially explosive situation for those 1000 roma living in makeshift shelters, where there were installed in 1990 in the area Craica-Baia High. Baia Mare city council project, which was launched on 1 June 2012, on relocating families of Roma in the enclosure former combined CUPROM chemical has been denounced as discriminatory by NGOs and Governmental Authority for the Roma. Local authorities have already begun decommissioning with bulldozers of the zone Craica roma and transferring roma people only based on the hypothesis that the government will finance this project and that will receive European funds. Mass media reports that roma people are afraid that life in the factory Cuprom will be like in prison. Segregation of Roma people in Baia Mare has been even marked by the construction in 2011 of a wall around the roma districts. Reuters news agency has reported that " the mayor of Baia Mare has obtained 86% of the votes after he managed to move a community of Rroma people in a factory dismantled that separated it from the rest of the city with a high wall of almost two meters. He is accused of racism and not involving, their dwellings made available to Rroma do not have kitchens, no restrooms and even bedrooms properly arranged".

IV. CEDAW – Committee on the Elimination of Discrimination against Women

1. By law no 25/2012, which amended and supplemented the legislative precedent to combat domestic violence, it is expected that the state must be actively involved to achieve the aim by law. Unfortunately, enforcement of the law and functioning of institutions is not a positive response to the principles that govern this law - the principle of legality, compliance with human dignity, of prevention, the celerity, the partnership, of the equality of chances and treatment (*Annex no. 3*). In accordance with Optional Protocol to the CEDAW Committee should formulate recommendations and suggestions relating to the preparation institutions, which have the duty to implement the provisions of the law in accordance with articles and the subjects Convention.

2. Romania has become the country "children who are born children", being first in Europe to the number registered by childbearing among young girls, reaching an average of 8,500 per year (National Institute of Statistics). The question which entails the development of the phenomenon, which is visible in particular in rural areas, it is related to the existence of families often diverted to which is added to lack of education concerning the health and contraceptive measures of young girls. Until the present, the Romanian authorities have shown no framework for concrete measures in response to a situation with deep roots in the real world.

V. CAT – Committee against Torture

1. Romania continues to offer an inadequate response measures in the eradication and prevention torture. In accordance with its commitments from the date of 07.05.2012, should have been instated national prevention mechanism in accordance with OPCAT in collaboration between the Ombudsman and civil society. More than that, Reform aimed at the Ministry of Justice (by "coup d'etat by the parliament" which has caused political dismissal of PDL team of the government) on the implementation of recommendations contained in the report of the Committee for the prevention of torture european released to the public on the date of 24.11.2011 (CPT/INF(2011)31, and the reply to the procedure whether asserted by legal proceedings issued by the European Court of Human Rights (ECHR (the case Jacob Stanciu 35972/05) at the beginning of the year 2010 will emphasize the

system dysfunctions related to overpopulation in detention, precarious conditions of hygiene, absence or unsteadiness medical care (the cases Bragadireanu, Al-Agha, Marian Marinescu, Jiga, Ogica, Racareanu, Iamandi, Ciupercescu, Dimakos, Florea, Coman, Marcu, Cucolas, grozavu, Ali, Porumb, Dobri, Colesnicov) etc., the nature of the laws in the field of disruption of execution of the sentence (cause Ahron Schwarz). There is also the lack of concern of executive power for the construction of modern establishments and delaying inclusion public-private partnership in the mechanism of outsourcing some of the services and independent activities intended to ensure detainees' conditions that satisfy human dignity. Serious problems of penitentiaries are added and the application of precarious measures for the protection of detainees to the no smoking active with all that Romania has ratified the 2006 framework Convention for the control of OMS tabacului. With all that Romania was condemned in 2010 by the European Court in the case Florea (37186/03) to passive smoking in conditions of detention, after which they followed and other sentences, the Parliament of Romania has adopted in 2011 national law profile, being exempted for the penalties no smoking in the rooms of the detention.

2. Police lock-ups have characteristics which affect human dignity by conditions which may be assimilated with torture: police lock-ups are so arranged during the communist regime in the basement of the police headquarters, the rooms are small, with group health without division, with small windows which are doubled with metal site to access natural light and ventilation with insufficient ventilation, by the route aisles are arranged the pipes to transport water, gas, heat which present a hazard in the event of damage.

3. The administrative detention centers are a closed territory, in which the authorities, under so called 'voluntary return' expelled migrants and potential refugees in countries with dictatorships in power in which there is legislation on penalty of death. Gravity, in these cases, is linked to extreme measures to be taken in accordance with the conditions in which there is final court decisions in cases in which shall regulate stay legal in Romania, and others in the process of finish on the issue of custody in the public further procedures for obtaining the protection in Romania. In these cases it is not visible attitude toward NGOs, which have concerns in this area, given the fact that European structural funds are in the management MAI- Direction Asylum and Integration, being worried about in the case of a backing of the causes that it will be necessary to suspend funding. Taking into account the fact that the right to asylum, by side material, it is discretionary, in hand of States and EU policy for the allocation of funding is established in the enclosure governmental department, SIRDO initiated protection with effect from October 2011 (UNHCR Romania, UNHCR Budapest, a Special Rapporteur on Torture) in the case Maki Albert Imbia, a citizen from Cameroon, asylum seeker in Romania, born on the 18.08.1975 , located in the center for migrant - Otopeni, and after expulsion he sent in May 2012 a request at the European Court for Human Rights. In 2011, have been registered in Romania 2,365 requests for asylum and approved 185 (55 from Afghanistan, 50 from Iraq, 15 from Cameroon). Considering that in 2011 European Union countries have hosted the 84,100 asylum seekers (Eurostat), small number of persons registered in Romania, be positioned as the first country of asylum seekers in the area east of the EU, can be explained through practice of the authorities prevention, through obstruction, the access to the review procedures and the excess for expulsions, before the judicial proceedings have been finished (*Annex no. 4*).

Recommendations

- Carry on by The Ministry of Justice of the reforms for the eradication and prevention legislation by the application of the measures which are derived from commitments and recommendations to the international and regional bodies and the allocation of funds to the sector custodial,
- Prepare staff active in the management sector in pre-trial detention including the medical services,
- Harmonisation of national provisions with the international standards in criminal matters in the implementation of changing Penal Code and penal procedure, amendment article 100 ff penal law according to which in the investigation can be used "derived proves" that may be obtained by torture.
- Developing and implementing the national program for social reinsertion post-detention and adaptation of activities the probation existing minors and to the needs of young people;

- Setting up cooperation with SPT by the introduction of national mechanism for prevention (OPCAT) for making transfer of expertise to government and to create actual link with CPT and ECHR in order to implement reform;
- Dismantle existing arrest cells in which serious deviations from human conditions of the accommodation for prisoners and the organization houses of detention under the authority of the Ministry of Justice;
- Funds allocation to the Ombudsman for inspections in the premises of the detention criminal but especially in public spaces for safe custody where migrant are accommodated.

Relevant sources:

The Report of the USA Department - 2011 reports poor accommodation in prisons, as well as reports on police and gendarmerie abuses against detainees, ECHR case law for Romania, the cases sent by SIRDO to the UN Special Rapporteur on Torture, CPT report as a result of his visit in Romania in September 2010, Reports by SIRDO sent to UNVFT which have in the annex relevant cases to practicing torture in detention.

VI. CRC – Committee on the Rights of the Child

1. A study carried out by World Vision Romania relating to "well-being of children from rural area" has low level of education of children, and involve them in activities household is regarded as a method of education. The access to schools and at the kindergartens is prevented through large distances to the journey between home and the location of education institution, facts which determine and abandon school (E-mail: rom_office@wvi.org).

2. The children exploited in the election campaign - although the law forbids election campaign in the educational establishments - at the school in the Roata village, Giurgiu County, all the pupils of primary cycle were dressed in the classroom with T-shirts and caps with insignia of Social Democratic Party (Realitatea TV - 22.05.2012).

3. In the report of the year 2011 of the European Committee for Social Rights (CEDS), which ensure the monitoring compliance with the provisions laid down by European Social Charter, Romania was received conclusions of non-conformity, also related to the fact that child exploitation through work remains unpunished. The report says that, although Labor Inspection indicated hundreds of cases in which children were made different gainful activities, in some cases very heavy conditions, the courts have been closed down the arguing that there was not sufficient evidence for the hiring criminal proceedings, as there was any evidence for any danger to society. According to statistics in 2009 presented in the report, the children worked in the households, gainful activities without contracts of employment, they had signs of cases of forced labor, work on the streets or other illegal activities, and experts CEDS mentioned that the Ministry of Justice does not have the statistics of the penalties applied. Romanian officials, on condition of anonymity, said that the prohibition to work before the age of 15 years is not observed because of legislation but does not accept that this state of affairs is a contemporary form of slavery. Romania ratified ILO Convention and ILO Worst Forms, of Child Labor Convention (no. 182). Having regard to the coordinates of the situation related to contemporary form of slavery should be to ratify Protocol 3 to the Convention on the rights of the child.

4. In Romania, in the past 2 years over 20,000 children were born prematurely. In addition to official data provided by the National Institute of Statistics, the doctors draw attention to the fact that children born with low weight or come in the world ahead of time are the cause general poverty and in some cases prematurity result in mortality.

VII. The role of civil society

The civil society is a voice that does not have an echo in the undertakings of good governance in Romania.

1. At the beginning of the year 2012, civil society organizations have started a list of extreme requests all political parties, which reveal serious malfunctions in the democratic system, thus affecting a variety of categories social, economic and political, in terms of an infringement of human rights (Annex no. 5):

2. After 10 years of promoting steering gear mechanism of 2% from the state budget by the civil society, the coalition to support individual philanthropy, initiated by several NGOs, claim a proposal from a mechanism for filling in the fiscal measures to stimulate the philanthropy behavior by a lion contributed by the state by reducing taxation base. The Coalition proposes an analysis relating to the encouragement philanthropy behavior of natural persons and companies in relation to analysis of the appropriateness of recognition in tax law and requires support from the government to strengthen democracy and local communities.

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