

ANNUAL REPORT 2013 - Romania

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1 ASYLUM, IMMIGRATION AND INTEGRATION

1.1 Monitoring of forced returns

The 2011 amendments¹ to the Aliens Act² provided that national and international organizations and entities in the field of migration will have the possibility of monitoring the removal of aliens from the national territory.³ The general legal provisions in the field specify the categories of aliens who can be placed in public custody (administrative detention) until their removal from the territory⁴, what is the maximum period of public custody as well as the conditions for judicial control of the public custody measure,⁵ the requirements for granting a temporary permission to remain in Romania (known as toleration),⁶ and the rights of aliens in public custody.⁷

The monitoring system of forced returns established in 2011 by the NGO Romanian National Council for Refugees (NRCR) (Consiliul Național Român pentru Refugiați, CNRR) continued under the project “Improving the implementation and monitoring of forced returns” until June 2013. The project was financed by the European Commission’s Return Fund, 2011 Annual Program. During this project’s implementation the organization provided legal counseling and assistance, as well as material, psychological and medical support to migrants in public custody and monitored the forced return operations.

Starting with August 2013 CNRR will continue until June 2014 to monitor forced returns under escort as a result of a new project “ Assistance for migrants forcefully returned under escort” financed by the European Commission’s Return Fund, 2012 Annual Program.⁸ As in the case of the previous project, the organization will provide legal counseling, material assistance and will monitor forced returns under escort operations. Comparing with the project “Improving the implementation and monitoring of forced returns” when total amount of budget was of 870.638 Romanian Lei the equivalent of 194.882,59 Euro (EC contribution

¹ Romania, Law no. 157/2001 regarding the modification of several laws relating to the regime of foreigners in Romania (*Legea nr. 157/2011 pentru modificarea si completarea unor acte normative privind regimul strainilor in Romania*), 11 July 2011.

² Romania, Government Emergency Ordinance no. 194/2002 regarding the aliens’ regime in Romania, (*Ordonanța de urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*), 12 December 2002

³ Romania, Government Emergency Ordinance no. 194/2002 regarding the aliens’ regime in Romania, (*Ordonanța de urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*), 12 December 2002, Article 91 paragraph 6.

⁴ Romania, Government Emergency Ordinance no. 194/2002 regarding the aliens’ regime in Romania, (*Ordonanța de urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*), 12 December 2002, Article 97.

⁵ Romania, Government Emergency Ordinance no. 194/2002 regarding the aliens’ regime in Romania, (*Ordonanța de urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*), 12 December 2002, Article 97.

⁶ Romania, Government Emergency Ordinance no. 194/2002 regarding the aliens’ regime in Romania, (*Ordonanța de urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*), 12 December 2002, Article 103.

⁷ Romania, Government Emergency Ordinance no. 194/2002 regarding the aliens’ regime in Romania, (*Ordonanța de urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*), 12 December 2002, Article 99-100.

⁸ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrari*), Projects ongoing and implemented by beneficiaries financed from the European Return Fund Annual Program 2012 (*Proiecte in derulare si implementate de beneficiari finantate din Fondul European pentru Returnare Programul Anual 2012*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Fondul-European-de-Returnare/183>.

75%, 652.987,50 Romanian Lei, the equivalent of 146.161,94 Euro calculated at infoeuro exchange rate from the month in which project started to be implemented, June 2012) for the new project “Assistance for migrants forced returned under escort” the total budget is slightly lower 808.296,19 Romanian Lei, the equivalent of 184.172,48 Euro (EC contribution 75%, 606.222,14 Romanian Lei, the equivalent of 138.129,36 Euro calculated at infoeuro exchange rate from the month in which project started to be implemented, August 2013).

The information presented in the table bellow was obtained from the Romanian National Council for Refugees an NGO which is tasked with return monitoring. Until June 2013 the NGP implemented the project “Improving the implementation and monitoring of forced returns” and in August 2013 started a new project “Assistance for migrants forced returned under escort” until June 2014 both financed through the European Return Fund.⁹

1. Organisation appointed	
1.1 Which is/are the national organisation(s) tasked with return monitoring?	Romanian National Council for Refugees (Consiliul National Roman Pentru Refugiatii)
1.2. Indicate the legal basis in domestic law and provide the link.	Emergency Ordinance no. 194/ 2002 on the status of aliens in Romania, article 91, par 6, added by Law 157/2011 for the modification and completion of certain legal norms regarding the regime of aliens in Romania, Article I, point 127. ¹⁰
2. Monitoring of removals	
2.1 Has the organisation (indicated under 1.1 above) accompanied actual removals by being on the aircraft or vessel in 2013?	No. The NGO’s staff was involved just in monitoring of 55 return actions of migrants held in public custody or removed in 24 hours from the discovery moment of their illegal stay. The staff did not accompany actual removals. Origin countries of the returned migrants were Morocco, Tunisia, Algeria, Pakistan, Nigeria, Republic Moldova, China, India, Afghanistan.
2.2 If yes, how often and to which destinations?	N/A
2.3 Did it include Frontex-coordinated returns?	N/A
2.4 If the reply to question 2.3 is yes, how many and to which destinations?	N/A
2.5 Briefly describe which standards the monitor compares his/her observation with (indicate if tools, such as guidelines or	ONLY UPDATE THIS FIELD IF THERE HAVE BEEN CHANGES IN 2013 From the information gathered no changes

⁹ Letter no. 1019 of 13 January 2014 from Romanian National Council for Refugees to the Centre for Legal Resources, on file with the NFP.

¹⁰ Romania, Law 157/2011 for the modification and completion of certain legal norms regarding the regime of aliens in Romania (*Legea 157 din 11 iulie 2011 pentru modificarea și completarea unor acte normative privind regimul străinilor în România*), available at <http://www.lege-online.ro/lr-LEGE-157-2011-%28130383%29.html>.

checklists, exist)	were registered in 2013
3. Funding	
3.1 Was the monitoring of forced return co-funded by the European Return Fund in 2013?	Yes
3.2 If yes, what portion (% and amount in EUR and local currency) was covered by EU funding?	For the project "Improving the implementation and monitoring of forced returns" implemented between 29.06.2012 – 30.06. 2013 the proportion covered by EU funding was of 75% (652.987,50 RON, 146.163,96 EUR) For the project „Assistance for forced returned migrants under escort” that is implemented between 27.08.2013 – 30.06.2014 the proportion covered by EU funding is of 75% (606.222,14 RON, 138.129,36 EUR) ¹¹
4. Reporting	
4.1. Has the monitor issued public reports?	It is estimated that until the end of the projects the National Romanian Council for Refugees will finish to elaborate a summary report regarding monitoring of forced returns which will be published on the NGO's website.
4.2. If yes, briefly describe the key issues raised and provide a link to the document.	N/A
5. Any other comments	
5.1. Include here any other comments on monitoring on forced returns that occurred in 2013 that you may have.	-

According with the information provided by the Romanian General Inspectorate for Immigration (RGII) (*Inspectoratul General pentru Imigrări, IGI*)¹² this institution was involved during 2013 in 3 Frontex- coordinated return flights. With this occasion 4 people (2 Nigerians and 2 Pakistanis) were returned to their origin countries Nigeria and Pakistan.

¹¹ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Projects ongoing and implemented by beneficiaries financed by the European Return Fund Annual Program 2012 (*Proiecte in derulare si implementate de beneficiari finantate din Fondul European pentru Returnare Programul Anual 2012*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Fondul-European-de-Returnare/183>.

¹²Letter no. 2594615 of 8 January 2014 of General Inspectorate for Immigration to the Centre for Legal Resources, on file with the NFP.

1.2 Immigration detention and alternatives to detention

Provide the urls where official statistical data on immigration detention and on the use of alternatives to detention are provided. Include a brief explanatory note clarifying what can be found where.

No reports have been published in 2013, by public authorities or NGOs on the subject of alternatives to detention in Romania.

In Romania there are two detention centers, one near Bucharest situated in Otopeni and another one near Arad. In 2013 no abuses were reported regarding migrants held in public custody comparing with 2012 when allegations of such abuses appeared in specialized media.¹³

According to the information provided by IGI¹⁴ in 2013 there were 234 persons taken into public custody. There were no cases of minors in public custody in 2013. Regarding adults, the situation was the following: 37 persons from Afghanistan (8 women, 29 men), 25 persons from Pakistan (all men), 16 persons from Algeria (all men), 15 persons from Morocco (all men), 14 persons from Syria (4 women, 10 men), 127 persons from other countries (11 women, 116 men).

Toleration represents an alternative to public custody. It is in fact a permission to remain on Romanian territory pending removal.¹⁵ According to the legal provisions in force, when the enforcement of a measure of removal from the territory is suspended, the migrant may be granted tolerated stay on the Romanian territory.¹⁶ Exceptions apply in the case of aliens who are a danger to public order, national security or who are suffering from a disease that threatens public health and refuse to comply with the measures set by medical authorities.

Toleration may also be granted by the General Inspectorate for Immigration, in specific situations, to foreigners who do not have right of residence and who, for objective reasons, cannot leave the country.¹⁷ Toleration is granted for a limited period of time (6 months, but with a possibility of prolongation), and entails the migrant's right to work. Granting toleration does not cancel the obligation of an alien to leave the country once the reasons for which it was granted cease to exist, unless the respective person is granted a form of protection or a

¹³ Migreurop (2012) 'Arad camp (Romania): We are in hell', 14 March 2012, available on: <http://www.migreurop.org/article2088.html?lang=fr>. See also the following sources: <http://www.statewatch.org/news/2012/apr/02romania.htm> ; <http://exilesingreece.over-blog.com/article-open-access-campaign-romania-107765476.html>; <http://exilesingreece.over-blog.com/article-romania-new-testimonies-of-violence-in-the-center-of-retention-arad-103100353.html>.

¹⁴ Letter no. 2594615 of 8 January 2014 of General Inspectorate for Immigration to the Centre for Legal Resources, on file with the NFP.

¹⁵ Romania / Government Emergency Ordinance no. 194/2002 regarding the aliens' regime in Romania, (*Ordonanța de urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*), 12 December 2002, Article 92¹.

¹⁶ Romania / Government Emergency Ordinance no. 194/2002 regarding the aliens' regime in Romania, (*Ordonanța de urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*), 12 December 2002, Article 92¹.

¹⁷ Romania Government Emergency Ordinance no. 194/2002 regarding the aliens' regime in Romania, (*Ordonanța de urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*), 12 December 2002, Article 102 (2).

right to legally reside on the territory.¹⁸ According to the information provided by General Inspectorate for Immigration¹⁹ in 2013 a total number of 438 persons were granted toleration. 326 persons were from Syria (144 women, 182 men), 16 persons from China (7 women, 9 men), 12 persons from Irak (1 women, 11 men), 11 persons from Iran (4 women, 7 men), 10 persons from Palestine (3 women, 7 men), 63 persons from other countries (18 women, 45 men). From the total number of 438 persons which were granted toleration, 146 were minors.

1.3 Fees

1.3.1 Complete the table below, indicating the amount that a third-country national must pay to obtain a residence permit or a similar document.

Due to the fact that according to the information from General Inspectorate for Immigration website²⁰ some fees are in Euro and others are in local currency the calculation was made taking in consideration the infoeuro exchange rate on December 2013.²¹ *The amount of the fees in order to obtain visa or residence permits are the same both for adults and children.*²²

Fees collected for issuing residence permits (by migration authorities – Immigration Service/Ministry of Interior, or the Ministry for Foreign Affairs):

Purpose of permit	Name of permit issued (in original language and in English)	Amount of the fee collected from the applicant for issuing the residence permit and/or card (in EUR and local currency)	Fee collected from another entity (for instance employer) for issuing the residence permit and/or card (in EUR and local currency)	Can the fee be reduced ? If so, specify on which grounds this is the case	Can the applicant get preferential treatment against a higher fee? If so, explain
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¹⁸ Romania / Government Emergency Ordinance no. 194/2002 regarding the aliens' regime in Romania, (*Ordonanța de urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*), 12 December 2002, Article 104 para. 1¹.

¹⁹ Letter no. 2594615 of 8 January 2014 of General Inspectorate for Immigration to the Centre for Legal Resources, on file with the NFP.

²⁰ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrari*), available at <http://ori.mai.gov.ro/>.

²¹ European Commission, Financial Programming and Budget, *Infoeuro exchange rate*, December 2013 available at http://ec.europa.eu/budget/contracts_grants/info_contracts/infoeuro/infoeuro_en.cfm.

²² Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrari*), available at <http://ori.mai.gov.ro/detalii/pagina/ro/Venireacalatoria-in-Romania/67>

Single permits for third-country nationals to reside for the purpose of work (Directive 2011/98/EU)	Permis de sedere pentru angajare ²³ Residence permit for work	Entry Visa fee paid by the employee 120 EUR (532 RON) ²⁴ Total fee paid by the employee for residence permit 179,9 EUR ²⁵ (796 RON) it includes: consular fee 120 EUR (532 RON), fee for the card 59 EUR (260 RON), extrajudicial stamp fee 0,90 EUR (4 RON)	The fee for issue working authorization is collected from the employer before the fees that the employee has to pay ²⁶ For permanent workers the employer has to pay in order to obtain working authorization: 200 EUR ²⁷ 887 RON For seasonal worker the employer has to pay in order to obtain work authorization: 50 EUR ²⁸ 222 RON	No	No
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²³ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for work (*Sederea în România pentru muncă*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Munca/73>.

²⁴ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for work (*Sederea în România pentru muncă*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Munca/73>

²⁵ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for work (*Sederea în România pentru muncă*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Munca/73>

²⁶ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for work (*Sederea în România pentru muncă*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Munca/73>.

²⁷ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for work (*Sederea în România pentru muncă*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Munca/73>

²⁸ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for work (*Sederea în România pentru muncă*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Munca/73>

Residence permits for long-term resident third-country nationals (Art. 8 Directive 2003/109/EC)	Permis de sedere pe termen lung ²⁹ Long term residence permit	<p>For family members of a Romanian citizen for entry visa –no fee required.³⁰</p> <p>For residence permit total fee is 59,73 EUR³¹ (265 RON) and it includes: card fee 58,61 EUR (260 RON) and extrajudicial stamp fee 1,12 EUR (5 RON)</p> <p>For family members of a third country national the entry visa issued after paying a fee of 120 EUR³² (532 RON). For residence permit total fee is 88, 47 EUR³³ 392,5 RON and it includes: petition approval for staying in Romania fee 28,06 EUR(124,5</p>	No	No	No
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²⁹ Romania, General Inspectorate for immigration (*Inspectoratul General pentru Imigrări*), Long term residence in Romania (*Sederea pe termen lung în Romania*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Sedere-pe-termen-lung-in-Romania/79>.

³⁰ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrari*), Family reunification (*Reintregirea familiei*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Reintregirea-familiei/75>

³¹ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrari*), Long term residence in Romania (*Sederea pe termen lung in Romania*), available at <http://ori.mai.gov.ro/api/media/userfiles/permanenti%202.pd>

³² Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrari*), Family reunification (*Reintregirea familiei*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Reintregirea-familiei/75>

³³ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrari*), Long term residence in Romania (*Şederea pe termen lung în Romania*), available at <http://ori.mai.gov.ro/api/media/userfiles/permanenti%202.pd>

		RON), petition for issuing the permit fee 0,67 EUR (3RON), card fee 58,61 EUR (260 RON), extrajudicial stamp fee 1,12 EUR (5 RON)			
Residence permits for family members of third country nationals moving from one Member State to another (Art. 16 Directive 2003/109/EC)	Permis de sedere ³⁴ Residence Permit	Total fee for residence permit 179 EURO ³⁵ (782 RON) and it includes: consular fee 120 EUR (532 RON) and fee for issuing the card 59 EUR(260 RON)	No	No	No
Residence permits for highly qualified third country nationals (Directive 2009/50/EC)	Permis de sedere pentru angajare ³⁶ Residence permit for work	Entry Visa fee paid by the employee 120 EUR (532 RON) ³⁷ Total fee paid by the employee for residence permit is 179,9EUR ³⁸ (796 RON) and it includes consular fee 120 EUR(532 RON), fee for card 59	The employer has to pay fee for obtaining work authorization 200 EUR ³⁹ 887 RON. The fee for issue working authorization is collected from the employer before the fees that the	No	No

³⁴ Letter no. 2594592 of 1 October 2013 of General Inspectorate for Immigration to the Centre for Legal Resources on the file with the NFP.

³⁵ Letter no. 2594592 of 1 October 2013 of General Inspectorate for Immigration to the Centre for Legal Resources on the file with the NFP.

³⁶ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for work (*Sederea în România pentru muncă*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Munca/73>.

³⁷ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for work (*Sederea în România pentru muncă*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Munca/73>.

³⁸ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for work (*Sederea în România pentru muncă*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Munca/73>.

³⁹ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for work (*Sederea în România pentru muncă*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Munca/73>.

		EUR(260 RON), extrajudicial stamp fee 0.90 EUR (4 RON)	employee has to pay. ⁴⁰		
Residence permits for family members of highly qualified third country nationals (Art. 15 Directive 2009/50/EC)	Permis sedere ⁴¹ Residence permit	If you are not family member of a Romanian citizen the entry visa will be issued after paying a fee of 120 EUR (532 RON) ⁴² . For residence permit total fee is 179 EUR ⁴³ (794 RON) and it includes: consular fee 120EUR (532 RON) and fee for card 59 EUR (260 RON)	No	No	No
Residence permits for refugees (Art. 24 Directive 2011/95/EU)	No fees have to be paid for obtaining residence permit by refugees ⁴⁴	No	No	No	No
Residence permits for family members of refugees (Art.	Permis sedere ⁴⁵ Residence permit	Total fee for residence permit is 179 EUR (794 RON) ⁴⁶ and it	No	No	No

⁴⁰ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for work (*Sederea in Romania pentru muncă*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Munca/73>

⁴¹ Letter no. 2594592 of 1 October 2013 from the Geeral Inspectorate for Immigration to the Centre for Legal Resources, on file with the NFP.

⁴² Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrari*), Long term residence in Romania (*Şederea pe termen lung în Romania*), available at <http://ori.mai.gov.ro/api/media/userfiles/permanenti%202.pd>

⁴³ Letter no. 2594592 of 1 October 2013 of General Inspectorate for Immigration to the Centre for Legal Resources on the file with the NFP.

⁴⁴Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*) Documents issued to asylum seekers (*Documente ce se eliberează solicitanţilor de azil*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Documente/95>.

⁴⁵ Letter no. 2594592 of 1 October 2013 of General Inspectorate for Immigration to the Centre for Legal Resources on the file with the NFP.

⁴⁶ Letter no. 2594592 of 1 October 2013 of General Inspectorate for Immigration to the Centre for Legal Resources on the file with the NFP

24 Directive 2011/95/EU)		includes consular fee 120 EUR (532 RON), card fee 59 EUR (260 RON)			
Residence permits for students (Art. 12 Directive 2004/114/EC)	Permis de sedere pentru student ⁴⁷ Student residence permit	Entry visa will be issued after paying a fee of 120 EUR (532 RON) ⁴⁸ Total fee for residence permit is 180 EUR ⁴⁹ 798 RON and it includes consular fee 120 EUR (532 RON), card fee 59 EUR (260 RON), extrajudicial stamp fee 1,12 EUR (5 RON)	No	No	No
Residence permits for school pupils (Art. 13 Directive 2004/114/EC)	Permis de sedere pentru elev ⁵⁰ School pupil residence permit	Entry visa will be issued after paying a fee of 120 EUR ⁵¹ (532 RON) Total fee for residence permit is 180 EUR ⁵² 798 RON and it includes consular fee 120 EUR (532 RON), card fee 59 EUR (260	No	No	No

⁴⁷Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for studies (*Sederea in Romania pentru studii*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Studii/74>.

⁴⁸ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for studies (*Sederea in Romania pentru studii*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Studii/74>.

⁴⁹ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for studies (*Sederea in Romania pentru studii*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Studii/74>.

⁵⁰ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for studies (*Sederea in Romania pentru studii*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Studii/74>.

⁵¹ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for studies (*Sederea in Romania pentru studii*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Studii/74>.

⁵² Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for studies (*Sederea in Romania pentru studii*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Studii/74>.

		RON), extrajudicial stamp fee 1,12 EUR (5 RON)			
Residence permits for unremunerated trainees (Art. 14 Directive 2004/114/EC)	Permis de sedere pentru formare profesionala neremunerata ⁵³ Unpaid vocational training	Entry visa will be issued after paying a fee of 120 EUR ⁵⁴ (532 RON). Total fee for residence permit is 180 EUR ⁵⁵ 798 RON and it includes consular fee 120 EUR (532 RON), card fee 59 EUR (260 RON), extrajudicial stamp fee 1,12 EUR (5 RON)	No	No	No
Residence permits for volunteers (Art. 15 Directive 2004/114/EC)	Permis de sedere pentru activitati de voluntariat ⁵⁶ Residence permit for volunteering	Entry visa issued after paying a fee of 120 EUR ⁵⁷ (532 RON). Total fee for residence permit is 180 EUR ⁵⁸ 798 RON and it includes	No	No	No

⁵³ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for other purposes (Sederea in Romania pentru ale scopuri) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Alte-scopuri/78>.

⁵⁴ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for other purposes (Sederea in Romania pentru ale scopuri) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Alte-scopuri/78>.

⁵⁵ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for other purposes (Sederea in Romania pentru ale scopuri) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Alte-scopuri/78>.

⁵⁶ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for other purposes (Sederea in Romania pentru ale scopuri) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Alte-scopuri/78>.

⁵⁷ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for other purposes (Sederea in Romania pentru ale scopuri) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Alte-scopuri/78>.

⁵⁸ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for other purposes (Sederea in Romania pentru ale scopuri) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Alte-scopuri/78>.

		consular fee 120 EUR (532 RON), card fee 59 EUR (260 RON), extrajudicial stamp fee 1,12 EUR (5 RON)			
Residence permit for researchers (Directive 2005/71/EC)	Permis de sedere pentru activitati de cercetare stiintifica ⁵⁹ Residence permit for scientific research activities	Entry visa will be issued after paying a fee of 120 EUR ⁶⁰ (532 RON). Total fee for residence permit is 180 EUR ⁶¹ 798 RON and it includes consular fee 120 EUR (532 RON), card fee 59 EUR (260 RON), extrajudicial stamp fee 1,12 EUR (5 RON)	No	No	No
Residence card for family member of a researcher (Art. 9 Directive 2005/71/EC)	Permis de sedere ⁶² Residence permit	Entry visa will be issued after paying a fee of 120 EUR ⁶³ (532 RON). Total fee for residence permit is 179 EUR ⁶⁴ (794			

⁵⁹ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for scientific research activities (*Sederea în România pentru activități de cercetare științifică*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Activitati-de-cercetare-stiintifica/76>.

⁶⁰ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for scientific research activities (*Sederea în România pentru activități de cercetare științifică*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Activitati-de-cercetare-stiintifica/76>.

⁶¹ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for scientific research activities (*Sederea în România pentru activități de cercetare științifică*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Activitati-de-cercetare-stiintifica/76>.

⁶² Letter no. 2594592 of 1 October 2013 of General Inspectorate for Immigration to the Centre for Legal Resources on the file with the NFP.

⁶³ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Family reunification (*Reunificarea familiei*), available at <http://ori.mai.gov.ro/detalii/pagina/ro/Reintregirea-familiei/75>.

⁶⁴ Letter no. 2594592 of 1 October 2013 of General Inspectorate for Immigration to the Centre for Legal Resources on the file with the NFP.

		RON) and it includes the following fees consular fee 120 EUR (532 RON) and cad fee 59 EUR (260 RON)			
Residence card for family member of an EU national (Art. 20 Directive 2004/38/EC)	Carte de resedinta ⁶⁵ Residence card	Total fee for residence permit 2,70 EUR ⁶⁶ (12 RON) it includes: card fee 1,58 EUR (7 RON) and extrajudicial stamp fee 1,12 EUR (5 RON)	No	No	No
Residence permits for family members of third country nationals residing lawfully in the territory of the Member States (Directive 2003/86/EC)	Permis de sedere ⁶⁷ Residence permit	Total fee for residence permit 179 EUR ⁶⁸ (794 RON) it includes consular fee 120 EUR (532 RON) and card fee 59 EUR (260 RON)	No	No	No
Other, for the purpose of:					
Employment	Permis de sedere pentru strainii angajati ai unei persoane juridice cu sediul intr-un	Total fee for residence permit is 179, 9 EUR ⁷⁰ (798 RON) it includes the following fees:	No	No	No

⁶⁵Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Registering the residence on the territory of Romania (*Inregistrarea rezidentei pe teritoriul Romaniei*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Inregistrarea-rezidentei/63>.

⁶⁶ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Registering the residence on the territory of Romania (*Inregistrarea rezidentei pe teritoriul Romaniei*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Inregistrarea-rezidentei/63>.

⁶⁷ Letter no. 2594592 of 1 October 2013 of General Inspectorate for Immigration to the Centre for Legal Resources on the file with the NFP

⁶⁸ Letter no. 2594592 of 1 October 2013 of General Inspectorate for Immigration to the Centre for Legal Resources on the file with the NFP

	stat UE detasati temporar in Romania ⁶⁹ Residence permit for aliens (third country nationals) employed to a legal entity based in an EU state and temporary transferred in Romania	consular fee 120 EUR(532 RON), card fee 59 EUR (260 RON), extrajudicial stamp fee 0,90 EUR (4 RON)			
Self-employment	Permis de sedere pentru activitati profesionale (exemplu avocat, notar) ⁷¹ Residence permit for professional activities (such as lawyer, notary)	If the person is also third country national for entry visa a fee will be paid of 120 EURO ⁷² (532 RON). Total fee for residence permit 179, 9 EUR ⁷³ (798 RON) it includes: consular fee 120 EUR(532 RON), card fee 59 EUR (260 RON), extrajudicial stamp fee 0,90 EUR (4	No	No	No

⁷⁰ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for work (*Sederea in Romania pentru muncă*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Munca/73>

⁶⁹ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for work (*Sederea in Romania pentru muncă*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Munca/73>.

⁷¹ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for professional activities (*Sederea in Romania pentru activități profesionale*) available at <http://ori.mai.gov.ro/detalii/pagina/en/Activitati-profesionale/72>.

⁷² Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for professional activities (*Sederea in Romania pentru activități profesionale*) available at <http://ori.mai.gov.ro/detalii/pagina/en/Activitati-profesionale/72>.

⁷³ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for professional activities (*Sederea in Romania pentru activități profesionale*) available at <http://ori.mai.gov.ro/detalii/pagina/en/Activitati-profesionale/72>.

		RON).			
Domestic servitude/au pair	Permis de sedere pentru alte activitati care nu contravin legii romane ⁷⁴ Residence permit for other activities which are not contrary to the Romanian law	If the person is also third country national for entry visa a fee will be paid of 120 EURO ⁷⁵ (532 RON). Total fee for residence permit 179, 9 EUR ⁷⁶ (798 RON) it includes the following fees: consular fee 120 EUR(532 RON), card fee 59 EUR (260 RON), extrajudicial stamp fee 0,90 EUR (4 RON)	No	No	No
Other not referred to above – please specify	Permis de sedere pentru administrator firma ⁷⁷ Residence permit for company administrator	If the person is also third country national for entry visa a fee will be of 120 EUR ⁷⁸ (532 RON). Total fee for residence	No	No	No

⁷⁴ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for other purposes (Sederea in Romania pentru ale scopuri) available at <http://ori.mai.gov.ro/detalii/pagina/en/Alte-scopuri/78>.

⁷⁵ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for professional activities (*Sederea in Romania pentru activități profesionale*) available at <http://ori.mai.gov.ro/detalii/pagina/en/Activitati-profesionale/72>.

⁷⁶ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for professional activities (*Sederea in Romania pentru activități profesionale*) available at <http://ori.mai.gov.ro/detalii/pagina/en/Activitati-profesionale/72>.

⁷⁷ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for other purposes (Sederea in Romania pentru ale scopuri) available at <http://ori.mai.gov.ro/detalii/pagina/en/Alte-scopuri/78>.

⁷⁸ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for other purposes (Sederea in Romania pentru ale scopuri) available at <http://ori.mai.gov.ro/detalii/pagina/en/Alte-scopuri/78>.

		permit 179, 9 EUR ⁷⁹ (798 RON) it includes the following fees: consular fee 120 EUR (532 RON), card fee 59 EUR (260 RON), extrajudicial stamp fee 0,90 EUR (4 RON)			
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1.3.2 Complete the table below, indicating the amount beneficiaries of refugee status or of subsidiary protection status must pay to the relevant authorities to obtain travel documents, pursuant to Article 25, Directive 2011/95/EU.

The act which contain legal provisions regarding travel documents for the beneficiaries of the refugee status or of subsidiary protection is Decision no.1251/2006 for the approval of methodological norms of Law no.122/2006 on the asylum in Romania.⁸⁰

Status of the beneficiary	Fee collected ⁸¹	Can the fee be reduced? If so, specify on which grounds this is the case	Can the applicant get preferential treatment against a higher fee? If so, explain?
Refugee	Total fee is 67,62 EUR ⁸² (299,96 RON) and it includes: consular fee 7,21 EUR (No	No

⁷⁹ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Residence in Romania for professional activities (*Sederea in Romania pentru activități profesionale*) available at <http://ori.mai.gov.ro/detalii/pagina/en/Activitati-profesionale/72>

⁸⁰ Romania, Decision no.1251/2006 for the approval of methodological norms of Law no.122/2006 on the asylum in Romania (Hotararea nr. 1251/2006 pentru aprobarea normelor metodologice de aplicare a Legii nr. 122/2006 privind azilul in Romania), available at <http://ori.mai.gov.ro/detalii/pagina/ro/Legislatie-nationala/121>

⁸¹Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Documents issued to asylum seekers (*Documente ce se elibereaza solicitantilor de azil*), available at <http://ori.mai.gov.ro/detalii/pagina/ro/Documente/95>.

⁸² Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Documents issued to asylum seekers (*Documente ce se elibereaza solicitantilor de azil*), available at <http://ori.mai.gov.ro/detalii/pagina/ro/Documente/95>

	32 RON) and travel document fee 60,41 EUR (268 RON)		
Subsidiary protection	Total fee is 67,62 EUR ⁸³ 299,96 RON and it includes: consular fee 7,21 EUR (32 RON) and travel document fee 60,41 EUR (268 RON)	No	No

1.4 Promising practices

1.4.1 Follow-up on the promising practices reported in Chapter 1 of Annual Report 2012, if they refer to your country. Check any available evaluation results; sustainability – indicating if the promising practice still exists (and if not – why); concrete impacts.

Law no. 158 from 17 May 2013⁸⁴ for the modification of Government Emergency Ordinance no. 194/2002 regarding the aliens' regime in Romania, entered into force and one of the most important legal provisions is the modification of article 99 paragraph 4 from the above mentioned ordinance mentioning that: "During the entire stay in the public custody center, foreigners are allowed to communicate with the representatives of the diplomatic missions of their origin country, with their family members and legal representative".

The National Strategy for Immigration 2011-2014⁸⁵ established the social integration of legally residing aliens as being one of its strategic objectives, emphasizing the importance of

⁸³ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Documents issued to asylum seekers (*Documente ce se elibereaza solicitantilor de azil*), available at <http://ori.mai.gov.ro/detalii/pagina/ro/Documente/95>

⁸⁴ Romania, Law no 158/2003 for amending and supplementing the Government Emergency Ordinance no. 194/2002 regarding the aliens' regime in Romania (*Legea nr. 158/2013 pentru modificarea si completarea Ordonantei de Urgenta a Guvernului nr. 194/2002 privind regimul strainilor in Romania*) available at http://www.dreptonline.ro/legislatie/legea_158_2013_modificare_oug_194_2002_regimul_strainilor_romania.php.

⁸⁵ Romania, Government Decision no. 498/2011 to approve the National Strategy on Immigration for 2011-2014 (*Hotărârea Guvernului nr. 498/2011 pentru aprobarea Strategiei Naționale privind Imigratia pentru perioada 2011-2014*) available at: <http://www.monitoruljuridic.ro/monitorul-oficial/391/2011-06-03/>

integration as a dynamic, two-way mutual interaction, which requires the efforts of regional and local authorities, as well as a greater commitment by the host community and immigrants. The specific objectives included in the Strategy refer to the incorporation of integration issues in all policies of other relevant areas; increasing the participation of foreigners legally residing in Romania in specific activities – with a mention that the main target group of the integration policy is represented by newcomers, who require language training and social orientation; and to creating an environment that is facilitating migrants' integration.

In the view of the implementation of National Strategy for Immigration 2011-2014, the 2012 Annual Program⁸⁶ funded through the European Integration Fund – with projects starting in January 2013 and finishing in June 2014 – included the following actions which are a follow up of the previous actions developed under the 2011 Annual Program – European Integration Fund:

- Action 1: Support for the information and counseling offices in order to provide necessary information and training to third country nationals residing in Romania aiming at social integration in the local communities.
- Action 2: Integration programs for third country nationals legally residing in Romania. The purpose of this action is to provide necessary assistance for third country nationals legally residing in Romania aiming at their integration in the Romanian society.
- Action 3: Research centre in the field of integration of immigrants. The purpose of this action is to develop and maintain the documentation centre created under the 2012 Annual program as well as to provide research on the quality of life of third country nationals in Romania.
- Action 4: Support for the consultation mechanism with third country nationals communities. The objectives of this action are: a) to sustain third country nationals communities in Romania through facilities dedicated for educational, social and cultural activities; b) to sustain dialogue among third country nationals communities and national actors relevant for their integration in Romania.

1.4.2 Provide a maximum of three new promising practices relating to asylum, immigration and integration, putting each one in a separate table

Title (original language)	Integrarea resortisantilor din tari terte cu sedere legala in Romania prin educatie si sanatate ⁸⁷
Title (EN)	Integration of third country nationals legally residing in Romania through education and health
Organisation (original language)	Fundatia ICAR
Organisation (EN)	ICAR Foundation

⁸⁶ Romania, General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări*), Projects ongoing and implemented by beneficiaries financed by the European Return Fund Annual Program 2012 (*Proiecte in derulare si implementate de beneficiari finantate din Fondul European pentru Returnare Programul Anual 2012*) available at <http://ori.mai.gov.ro/detalii/pagina/ro/Fondul-European-de-Integrare/182>.

⁸⁷ Letter no. 444 of 29 October 2013 of ICAR Foundation to the Centre for Legal Resources on the file with the NFP.

Government / Civil society	Civil society
Funding body	European Fund for Integration
Reference (incl. url, where available)	http://www.icarfoundation.ro/eveniment-final-proiect-integrare-migranti/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	January – June 2013
Type of initiative	National initiative
Main target group	Third country nationals with residence in Bucharest city and Ilfov county
Indicate level of implementation: Local/Regional/National	Regional
Brief description (max. 1000 chars)	The project was developed by ICAR Foundation. The main objective was to ensure a range of educational and health services for third country nationals with a special focus on children and youth.
Highlight any element of the actions that is transferable (max. 500 chars)	Creation of innovative psycho-pedagogical intervention methods for children third country nationals for a better integration in the host society. The projective technique is a method of studying personality by confronting the subject with a situation for which the he/she will respond following a meaning it has for him and according to what feels during this response.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The methods developed during the project implementation were included in the daily activity of professionals working with migrant children third country nationals and continues to be used at the present moment with positive results even if the project finished. Even before the end of the project ICAR Foundation tried to identify other financing sources for ensuring the continuity and sustainability of the educational and medical services provided to third country nationals through this project. At the present moment, November 2013, the organization is implementing a similar project thus continuing the activities already started in the project that finished in June this year.
Give reasons why you consider the practice as having concrete measurable impact	The impact upon migrant children was monitored through periodic reports containing detailed description of the results obtained from one session to another, providing a clear image of how children life was improved, his/her communication capacity is better and is able to adapt faster in the new host society.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The projective techniques are not very much used in relation with migrant children assistance. The positive results obtained during project's

	implementation emphasis the usefulness of these methods that can be transferred and adapted also by other organizations at national and international level having as target group migrant children.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	<p>The practical guide for working with migrant children (containing also example of innovative methods) was developed and disseminated with the help of professionals from various Romanian NGOs having as target groups migrants and competent authorities such as Romanian General Inspectorate for Immigration.</p> <p>For the evaluation of the educational services provided to migrant children ICAR specialists (psychologists) made initial psycho-social evaluations and identified in this way their problems and needs concerning socio-economic situation, personal development, educational level. At the end of the project ICAR staff made a final evaluation in order to identify the progress made. The beneficiaries were asked to fill psycho-social evaluation questionnaires, interviews and observation methods were also used. Regarding the evaluation of medical services the following methods were applied concerning project's beneficiaries: initial medical screening, continuous monitoring of beneficiaries health made by ICAR doctors.</p>
Explain, if applicable, how the practice provides for review and assessment.	After projects ending the guide for working with migrant children will continue to be reviewed and completed with other additional innovative techniques created step by step by the professionals (social workers and psychologists) working for the organizations.

Title (original language)	Contributie la integrarea RTT cu sedere legala in Romania prin servicii de sanatate
Title (EN)	Contribution to the integration of TCN's with legal residence in Romania through health services
Organisation (original language)	Fundatia ICAR
Organisation (EN)	ICAR Foundation
Government / Civil society	Civil society
Funding body	European Fund for Integration of Third Country Nationals
Reference (incl. url, where available)	http://www.icarfoundation.ro/integrarea-

	migrantilor-in-romania/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	October 2013 – June 2014
Type of initiative	National initiative
Main target group	Third country nationals
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	Through this project ICAR Foundation will provide to third country nationals medical, psychological, social assistance through its multidisciplinary team (doctors, psychologists, social workers). Special focus will be on vulnerable persons such as people without jobs or with low incomes, children. The integrated package includes consultations, treatments, medical investigations, health education sessions, individual and group psychological counseling.
Highlight any element of the actions that is transferable (max. 500 chars)	The project proposes the development of a professional platform where Romanian and foreign doctors can meet and identify modalities to improve foreign assistance in Romania.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The online platform will continue to be administrated by ICAR Foundation after the project will end and will create the opportunity for a larger group of professionals from the medical field to interact, exchange good practices at national level.
Give reasons why you consider the practice as having concrete measurable impact	The impact will be monitored by ICAR staff through periodic reports containing detailed description of the results obtained, progress made by beneficiaries, how their initial limited access to medical, social services improved during the project's implementation.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	Developing an online platform for Romanian and third country nationals doctors can be a very useful communication tool among specialists in order to understand better migrants needs and how to approach them in order to provide qualitative services. Such a platform having as target group doctors – nationals and third country nationals, can be developed also in relation to other EU states in order to improve medical services provided to migrants.
Explain, if applicable, how the practice	Beneficiaries will be directly involved in the

involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	evaluation of services provided during project's implementation by filling special questionnaires presenting their point of view concerning the quality of services that will be provided to them by ICAR Foundation.
Explain, if applicable, how the practice provides for review and assessment.	After project's ending the good practice guide that will be created will continue to be reviewed and completed with other additional innovative methods that will be created by ICAR staff in order to improve access to medical, social services for third country nationals. Also an internal assessment will be made among ICAR staff to observe their level of satisfaction resulting from their implication in this project. ICAR specialists will fill special questionnaires, participate to assessment meeting in order to express their opinion about their active implication in this project.

Title (original language)	Coaching – Innovative approach for better integration of refugees
Title (EN)	Coaching – Innovative approach for better integration of refugees
Organisation (original language)	Asociatia Pro Refugiu
Organisation (EN)	Pro Refuge Association
Government / Civil society	Civil society
Funding body	European Commission – Grundtvig Program – Partnership Actions
Reference (incl. url, where available)	http://prorefugiu.org/comunicat-de-presalansare-proiect-coaching-innovative-approach-for-better-integration-of-refugees/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	August 2013 – July 2015
Type of initiative	Transnational initiative
Main target group	Professionals from NGOs and national authorities (social workers, legal counselors, psychologists) working with refugees
Indicate level of implementation: Local/Regional/National	Transnational
Brief description (max. 1000 chars)	The project is developed by the Romanian NGO Pro Refugiu Association (as main applicant) in partnership with Caritas Prague Czech Republic and Human Rights League from Slovakia. Its objective is the development of alternative innovative support techniques to

	help refugees to re-build their life in the new host societies. The techniques are taken from coaching and adapted for the counseling sessions with the refugees.
Highlight any element of the actions that is transferable (max. 500 chars)	Coaching techniques are used with positive results in relation to many vulnerable groups but unfortunately not in refugees' case. The coaching support method that will be included in refugees' assistance in all 3 involved countries will be promoted after the end of the project by all partners at European level among other organizations working with refugees in order to transfer the innovative techniques that will be created also in order countries in the benefit of refugees.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The knowledge acquired during the project will help professionals to include the new innovative techniques in their daily activity with refugees and will give them the opportunity based on what they will learn to transfer the information to other colleagues at national and international level.
Give reasons why you consider the practice as having concrete measurable impact	The innovative methods will have a concrete impact upon refugees due to the fact that professionals will acquire new skills that will help them to improve the assistance methods. All professionals that will actively participate during the project will keep monthly activity reports where will include information about the results that will be obtained and how refugees life will be improved as a result of the use of innovative support methods.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	Coaching support methods had during time very positive results for many people that belong to various vulnerable groups. Traditional counseling sessions are not enough for helping refugees therefore at European level NGOs and competent authorities need to use also other alternative innovative approaches that can lead to very positive results.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	During the project a coaching manual will be developed presenting special techniques and methods that can be used for refugees' assistance. For the elaboration of the manual various professionals will be involved not just from the partner organizations, but also from other NGOs and national stakeholders from Romania, Czech Republic and Slovakia.
Explain, if applicable, how the practice provides for review and assessment.	After the end of the project the coaching manual for refugees will continue to be reviewed and completed with other additional innovative techniques developed step by step by the partner organizations.

1.5 Any other significant developments with implications for asylum, immigration and integration

Government Decision no. 1253 published on 22 December 2012⁸⁸ established for the year 2013 a total number of 5500 working permits for foreigners. The types and numbers of the working permits are:

- a. Permits for permanent workers - 3000
- b. Permits for seconded workers - 900
- c. Permits for highly qualified workers - 800
- d. Permits for seasonal workers - 100
- e. Nominal permits - 100
- f. Permits for cross-border workers - 100
- g. Trainee workers permits - 200
- h. Work permits for athletes - 300

⁸⁸Romania, Chamber of Deputies Romanian Parliament (Camera Deputatilor Parlamentul României), Government Decision no. 1253/2012 for determining the number of work permits that can be issued to foreigners in 2013 (*Hotărârea de Guvern nr. 1253/2012 privind stabilirea numărului autorizațiilor de muncă ce pot fi eliberate străinilor in 2013*) available at http://www.cdep.ro/pls/legis/legis_pck.http_act?ida=114866.

2 VISA AND BORDER CONTROL

2.1 Appeal against decisions on refusal / revocation / annulment of a visa

According to the Romanian legislation a visa may be canceled or revoked abroad by the Romanian diplomatic missions or consular offices, and in the country by border police, with the occasion of border control, or during the detection of persons who have crossed or tried to cross illegally the state border, or by the IGI, when foreigners are on Romanian territory.⁸⁹ The enforcement of the measures taken in the country is accomplished by border police or, where appropriate, by the IGI.⁹⁰ The decision of refusal or revocation of a visa issued by the Romanian diplomatic missions and consulates can be appealed, to the commission concerning visa refusal of the Ministry of Foreign Affairs, a commission to be established once Romania fully implements the Shengen aquis, therefore not yet the case. The decision of refusal or revocation of a visa issued by border police can be contested according with the administrative litigation law.⁹¹ The decision of refusal or revocation of a visa issued by Romanian General Inspectorate for Immigration may be appealed within 10 days following communication, at the territorially competent Court of Appeal. The Court must rule on the complaint within 30 days and its decision is final.⁹²

According to the information provided by the Ministry of Foreign Affairs⁹³ 4718 visas requests were rejected and 880 visas were canceled, revoked from a total number of 159.064 visas. During 2013 no appeals in courts were made regarding refusal, cancelation, revocation of visas disposed by the Ministry of Foreign Affairs through its diplomatic missions or consular offices.

According to the information provided by the IGI⁹⁴ 34 visas were canceled, revoked in cases in which the foreigners were already on the Romanian territory. 18 people were from Ukraine, 11 people from Republic Moldova, 3 people from Turkey, 1 person from Egypt, 1 person from Nigeria. The decision to cancel or to revoke a visa will be communicated in a written form to the foreign national that is on the Romanian territory together with the reasons. The communication will be made by means of the return decision according with article 82 from Government Emergency Ordinance no. 194/2002 regarding the aliens' regime in Romania. It was not possible to identify decisions given by the Appeal Courts in relation to cases having as object complaints against IGI decisions concerning cancellation, revocation of visas for

⁸⁹ Romania, Government Emergency Ordinance no. 194/2002 regarding the aliens' regime in Romania, (*Ordonanța de urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*) article 33 paragraph 1 as modified and completed by Law no. 157 / 2011 for the modification of certain normative acts concerning aliens' regime in Romania.

⁹⁰ Romania, Government Emergency Ordinance no. 194/2002 regarding the aliens' regime in Romania, (*Ordonanța de urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*) article 33 paragraph 4 index 1 introduced by Law no. 157 / 2011 for the modification of certain normative acts concerning aliens' regime in Romania.

⁹¹ Romania, Government Emergency Ordinance no. 194/2002 regarding the aliens' regime in Romania, (*Ordonanța de urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*), article 33 paragraphs 1 and 4 index 1 as modified and completed by Law no. 157 / 2011 for the modification of certain normative acts concerning aliens' regime in Romania.

⁹² Romania, Government Emergency Ordinance no. 194/2002 regarding the aliens' regime in Romania, (*Ordonanța de urgență a Guvernului nr. 194 din 12 decembrie 2002 privind regimul străinilor în România*), article 84.

⁹³ Letter no. G5-2/250/09.01.2014 of Ministry of Foreign Affairs to the Centre for Legal Resources, on file with the NFP.

⁹⁴ Letter no. 2594615 of 8 January 2014 of General Inspectorate for Immigration to the Centre for Legal Resources, on the file with NFP.

foreigners which were already on the Romanian territory. According with the information provided by the Bucharest Appeal Court⁹⁵ the cases are registered having as object the generic category „aliens’ regime, administrative and fiscal domain”. The ECRIS system, which is the national system for IT management of the files in Romania, does not provide all the necessary data in order to identify exactly which are the files that have as object complaints against decisions of cancelation or revocation of visas issued by the IGI. Also according to the information provided by General Inspectorate for Immigration⁹⁶ in 2013 no complaints were made against the decisions taken by this authority regarding cancelaion, revocation of visas.

Case title	
Decision date	
Reference details (type and title of court/body; in original language and English [official translation, if available])	
Key facts of the case (max. 500 chars)	
Main reasoning/argumentation (max. 500 chars)	
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	

2.2 Automated border controls

2.2.1 Briefly describe and reference key concerns raised by civil society organisations with regard to:

- 2.2.1.1 the introduction of ABC-gates;
- 2.2.1.2. Registered Travellers Programme;
- 2.2.1.3. the “Smart borders package”;
- 2.2.1.4. the collection of biometric identifiers generally.

⁹⁵ Letter no. 761/BIRP of 8 November 013 of the Bucharest Appeal Court to the Centre for Legal Resources, on the file with NFP.

⁹⁶ Letter no. 2594615 of 8 January 2014 of General Inspectorate for Immigration to the Centre for Legal Resources, on the file with NFP.

In 2013 no petitions were made or concerns raised by civil society organizations with regard to the introduction of ABC-gates, registered travellers programme, the “smart borders package” and the collection of biometric identifiers generally.⁹⁷

2.2.2 Briefly describe and reference promising practices involving civil society organisations being consulted by the State with regard to:

According with the information provided by the General Inspectorate of the Romanian Border Police⁹⁸ and by the Ministry of Internal Affairs⁹⁹ there is no introduction of ABC-gates and no consultations were made involving civil society organizations regarding subjects such as the introduction of ABC-gates, registered travelers programme, smart border package, the collection of biometric identifiers generally. It is estimated that in 2014 will begin the procedures to introduce the automatic border control system.¹⁰⁰

2.2.2.1 the introduction of ABC-gates;

2.2.2.2 Registered Travellers Programme;

2.2.2.3 the “Smart borders package”;

2.2.2.4 the collection of biometric identifiers generally.

Provide a maximum of three promising practices under each of the headings in section 2.2.2, putting each one of these in a separate table.

We did not identify any promising practices in this field.

Title (original language)	
Title (EN)	
Organisation (original language)	
Organisation (EN)	
Government / Civil society	
Funding body	

⁹⁷Letter no. 177043 of 13 November of the General Inspectorate of the Romanian Border Police to the Centre for Legal Resources, on file with the NFP.

⁹⁸Letter no. 177043 of 13 November 2013 of General Inspectorate of the Romanian Border Police to the Centre for Legal Resources, on file with the NFP.

⁹⁹Letter no. 4543672 of 9 December 2013 of the Ministry of Internal Affairs to the Centre for Legal Resources, on file with the NFP.

¹⁰⁰Letter no. 4543672 of 9 December 2013 of the Ministry of Internal Affairs to the Centre for Legal Resources, on file with the NFP.

Reference (incl. url, where available)	
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	
Type of initiative	
Main target group	
Indicate level of implementation: Local/Regional/National	
Brief description (max. 1000 chars)	
Highlight any element of the actions that is transferable (max. 500 chars)	
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	
Give reasons why you consider the practice as having concrete measurable impact	
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	
Explain, if applicable, how the practice provides for review and assessment.	

2.3 Biometrics and VIS (Visa Information System)

Reference landmark 2013 case law relating to biometrics and/or VIS, using the table below.

Put each case in a separate table.

Starting with July 2011 VIS has become operational and is used for issuing national visas until the accession to the Schengen Treaty. In relation with 2013 no complaints about the processing of biometric data through VIS existed.¹⁰¹

Association for Technology and Internet, a Romanian NGO, has published on its website in January 2013 an article concerning the security of biometric passports, presenting its concerns

¹⁰¹ Letter no. 177043 of 13 November 2013 of General Inspectorate of the Romanian Border Police to the Centre for Legal Resources, on the file with the NFP

regarding the safety of its data.¹⁰²The association presents on its website the conclusions of an independent IT expert who helped the NGO to make an empirical analysis of biometric passport security. Certain problems were discovered such as: on authorities' websites the information concerning biometric passports is little and vague, primary data (except the fingerprints) can be inserted on a cip which can be read at distance by using electronic devices, access key which should protect these primary data is relatively easy to guess, the cip can be cloned (except the biometric fingerprints).

Case title	
Decision date	
Reference details (type and title of court/body; in original language and English [official translation, if available])	
Key facts of the case (max. 500 chars)	
Main reasoning/argumentation (max. 500 chars)	
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	

2.4 Follow-up on the promising practices

Follow up on promising practices reported in Chapter 2 of Annual Report 2012, if they refer to your country. Check any available evaluation results; sustainability – indicating if the promising practice still exists (and if not – why); concrete impacts.

Nothing to report.

2.5 Any other significant developments with implications for border control and visa policy

Nothing to report.

¹⁰² Association for Technology and Internet (*Asociatia pentru Tehnologie si Internet*), About the safety of biometric passports and their data (*Despre siguranța pașaportului biometric și a datelor din el*), 28 January 2013, available at <http://www.apiti.ro/siguranta-pasaport-biometric>

3 Information society, respect for private life and data protection

3.1 Briefly describe key reforms that affected data protection authorities in your country, for example, concerning the legal framework underpinning the authority, its mandate, etc.).

No key reforms have occurred during 2013 that affected the mandate, functioning and powers of the data protection authority in Romania: the National Supervisory Authority for Personal Data Processing (NSAPDP) (*Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal, ANSPDCP*).¹⁰³

However, the National Focal Point (NFP) has checked the implementation in 2013 of the legislative reforms carried out in this field in 2012. As a result of these reforms, the powers of the data protection authority in the field of personal data processing and privacy protection specifically in the electronic communications sector were increased.¹⁰⁴

We are more specifically talking about the controlling and monitoring competencies of the ANSPDCP regarding the obligations in the field of personal data processing and privacy protection incumbent on: providers of public electronic communications networks and providers of publicly available electronic communications services. These competencies were expanded in 2012. The power of finding and sanctioning contraventions concerning the failure of providers to observe the provisions regarding security of personal data processing¹⁰⁵, presentation and restriction of calling and connected line identification¹⁰⁶ as well as automatic

¹⁰³ In order to find out whether key reforms have occurred in 2013, the legislation adopted/updated in the field in 2013 was consulted, as well as the data protection authority was asked (Request for information no. 480/23.12.2013 sent by the Center for Legal Resources to the ANSPDCP).

¹⁰⁴ By means of two legal acts: Government Emergency Ordinance No. 13 of 24 April 2012 for the amendment and completion of Law no. 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector and Law no. 82 of 21 June 2012 on the retention of data generated or processed by providers of public electronic communication networks and by providers of publicly available electronic communication services and for the amendment and completion of Law 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector. The first Act was initiated in order the provisions of Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009¹⁰⁴ to be transposed into the national legislation. The second Act aimed at transposing into the national legislation the provisions of Directive 2006/24/EC on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC.

¹⁰⁵ Romania, Law no. 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector, amended and completed (*Legea nr. 506/2004 privind prelucrarea datelor cu caracter personal și protecția vieții private în sectorul comunicațiilor electronice, modificat și completat*), 17 November 2004, Art 3 (1),(5),(6),(7),(10),(11) and (12).

¹⁰⁶ Romania, Law no. 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector, amended and completed (*Legea nr. 506/2004 privind prelucrarea datelor cu caracter personal și protecția vieții private în sectorul comunicațiilor electronice, modificat și completat*), 17 November 2004, Art. 7.

call forwarding¹⁰⁷, which used to fall under the competence of the National Authority for Management and Regulation in Communications in Romania (*Autoritatea Națională pentru Administrare și Reglementare în Comunicații, ANCOM*)¹⁰⁸, were also transferred to the ANSPDCP and completed with additional related provisions. Other monitoring and controlling competencies the ANSPDCP obtained in 2012 concern retention of data generated or processed by providers of public electronic communications networks and providers of publicly available electronic communications services.¹⁰⁹

From the information collected from the ANSPDCP concerning the implementation in 2013 of the above-mentioned legislative reforms results that the ANSPDCP did not carry out monitoring activities regarding compliance of the providers with the new provisions. The ANSPDCP's activity of controlling the application of the new provisions only consisted of analyzing or, if necessary, investigating the complaints received. Such complaints were few in number: five complaints regarding security of data processing out of which two are being investigated¹¹⁰ as well as one petition regarding data retention, a case which did not meet the conditions for starting investigations.¹¹¹ This may be due the fact that the human and financial resources of the ANSPDCP were not also increased, in line with the new competencies. The annual budget of the Authority was actually reduced in the second semester of 2013 due to general state budget rectifications in July 2013.¹¹² In its 2012 Annual Report, the Authority was expecting that its lack of expertise in the field of electronic communications and technological security as well as the new powers it was invested with in recent years may result in blocking the activity of the Authority.¹¹³ The Association for Technology and Internet (*Asociația pentru Tehnologie și Internet, APTI*) also considered that the Authority does not

¹⁰⁷ Romania, Law no. 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector, amended and completed (*Legea nr. 506/2004 privind prelucrarea datelor cu caracter personal și protecția vieții private în sectorul comunicațiilor electronice, modificat și completat*), 17 November 2004, Art. 10.

¹⁰⁸ The ANCOM is an autonomous public authority whose role is the implementation of the national policy in the field of electronic communications, audiovisual communications and postal services, including market regulation and technical regulation in these fields. See Art. 2 (1) of the Government Emergency Ordinance No. 22/2009 regarding the setting up of the National Authority for Management and Regulation in Communications in Romania, amended and completed (*Ordonanța de Urgență nr. 22/2009 privind înființarea Autorității Naționale pentru Administrare și Reglementare în Comunicații, modificată și completată*).

¹⁰⁹ Romania, Law no. 82 of 21 June 2012 on the retention of data generated or processed by providers of public electronic communications networks and providers of publicly available electronic communications services and for the amendment and completion of Law 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector (*Legea nr. 82/2012 privind reținerea datelor generate sau prelucrate de furnizorii de rețele publice de comunicații electronice și de furnizorii de servicii de comunicații electronice destinate publicului, precum și pentru modificarea și completarea Legii nr. 506/2004 privind prelucrarea datelor cu caracter personal și protecția vieții private în sectorul comunicațiilor electronice*), 21 June 2012, Art. 20 and 21 (2).

¹¹⁰ As of the time of reporting by the ANSPDCP to the NFP on 9 January 2014.

¹¹¹ Romania, National Supervisory Authority for Personal Data Processing (*Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal*), Letter No. 203 of 9 January 2014 to the the Center for Legal Resources,, on file with the NFP.

¹¹² Romania, National Supervisory Authority for Personal Data Processing (*Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal*), Letter No. 21636 of 1 November 2013 to the Center for Legal Resources, on file with the NFP.

¹¹³ Romania, National Supervisory Authority for Personal Data Processing (*Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal*) (2012) Raport anual 2012 (*Annual Report 2012*), Bucharest, National Supervisory Authority for Personal Data Processing, pp. 8, 16, available at <http://www.dataprotection.ro/servlet/ViewDocument?id=870>.

have the technical capacity to carry out security audits of the measures taken by the providers for guaranteeing the security of personal data processing.¹¹⁴

After the 2012 reforms, the only controlling duty which remained in the competence of the ANCOM in the field of privacy protection concerns the right to private life of calling users and called subscribers which must be respected by providers of public electronic communication networks and services when issuing itemised bills.¹¹⁵

The ANCOM may also control and evaluate the measures taken by providers of public electronic communication networks and services for ensuring the security and integrity of networks and services,¹¹⁶ but this competence does not apply to the security of personal data processing. The competence of auditing the measures taken by the providers for guaranteeing the security of personal data processing was granted to the ANSPDCP in 2012.

Thus, as a consequence of providing controlling and monitoring competencies regarding security measures taken by providers to two different authorities (ANCOM and ANSPDCP), the providers have to implement two types of security measures: on the one hand measures ensuring the security of networks and services¹¹⁷, on the other hand measures ensuring the security of personal data processing.¹¹⁸ They also have to notify the breach of security to these two authorities separately: the breach of security of the networks and services to the ANCOM¹¹⁹, and the breach of security of the data processing to the ANSPDCP.¹²⁰ According to the APTI, a breach of security of networks and services may represent a breach of security of personal data, so the measures taken by providers for ensuring the security of networks and services may be correlated with the ones necessary for guaranteeing the security of personal data.

Information on the implementation in practice of these provisions in the course of 2013 is not available. According to the ANSPDCP, it received only one notification from providers regarding breach of security of data processing. However, it did not audit technical and

¹¹⁴ Romania, Association for Technology and Internet (*Asociația pentru Tehnologie și Internet*), (2012) *Observații la Proiectul de ordonanță de urgență privind modificarea și completarea Legii nr.506/2004 privind prelucrarea datelor cu caracter personal și protecția vieții private în sectorul comunicațiilor electronice* (Comments on the Draft Emergency Ordinance amending and completing Law no.506/2004 concerning the processing of personal data and the protection of privacy in the electronic communications sector), 1 November 2011, p. 5, available at <http://www.apti.ro/sites/default/files/Observatii%20ApTI%20cu%20privire%20la%20proiectul%20de%20OUG%20privind%20modificarea%20si%20completarea%20Legii%20nr.506.2004.pdf>

¹¹⁵ Romania, Law no. 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector, amended and completed (*Legea nr. 506/2004 privind prelucrarea datelor cu caracter personal și protecția vieții private în sectorul comunicațiilor electronice, modificat și completat*), 17 November 2004, Art. 6 and 13 (4).

¹¹⁶ Romania, Government Emergency Ordinance No. 111/2011 regarding electronic communications (*Ordonanța de Urgență nr. 111/2011 privind comunicațiile electronice*), 27 December 2011, Art. 49 (2).

¹¹⁷ Romania, Government Emergency Ordinance No. 111/2011 regarding electronic communications (*Ordonanța de Urgență nr. 111/2011 privind comunicațiile electronice*), 27 December 2011, Art. 46.

¹¹⁸ Romania, Law no. 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector, amended and completed (*Legea nr. 506/2004 privind prelucrarea datelor cu caracter personal și protecția vieții private în sectorul comunicațiilor electronice, modificat și completat*), 17 November 2004, Art. 3 (1), (2) and (3).

¹¹⁹ Romania, Government Emergency Ordinance No. 111/2011 regarding electronic communications (*Ordonanța de Urgență nr. 111/2011 privind comunicațiile electronice*), 27 December 2011, Art. 47.

¹²⁰ Romania, Law no. 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector, amended and completed (*Legea nr. 506/2004 privind prelucrarea datelor cu caracter personal și protecția vieții private în sectorul comunicațiilor electronice, modificat și completat*), 17 November 2004, Art. 3 (6).

organizational measures taken by providers and did not issue recommendations on best practices concerning the level of security which these measures should achieve. The Authority may carry out such activities according to the new powers it was invested with in 2012.¹²¹ The ANCOM has monitored the measures taken by providers for ensuring the security and integrity of networks and services, it also received notifications from the providers regarding breaches of security, but the information obtained is still being analyzed and their result will be made public in the second trimester of the year. However, the result will not show how the two types of security measures are implemented by the providers, because the ANCOM has no legal competence for collecting information on security of personal data processing.¹²²

In 2013, the president of ANCOM issued a decision¹²³ describing the technical and organisational measures which providers have to take in order to ensure an adequate level of security of the networks and services. These obligations became binding on January 1st, 2014. The decision also details the circumstances, format and procedures applicable in case of reporting to the ANCOM the incidents which may have significant impact on the security of networks and services of electronic communications. ‘Incident with significant impact’ was defined as the impact which affects more than 5000 connections for at least 60 minutes.

3.2 Promising practices

3.2.1 In 2010, FRA published a report on [Data Protection in the European: the role of National Data Protection Authorities](#) (DPA). Taking into account the Good practices outlined with respect to DPAs (Section 6.1, p. 47 of the DPA Report), could you confirm that practices referenced in this report from 2010, which relate to your country, can still be considered as promising practices in 2013; for example, they are still used and valid.

No promising practices were reported in Section 6.1, p. 47 of the DPA Report regarding Romania.

¹²¹ Romania, National Supervisory Authority for Personal Data Processing (*Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal*), Letters Nos. 21636 of 1 November 2013 and 203 of 9 January 2014 to the the Center for Legal Resources, on file with the NFP.

¹²² Romania, National Authority for Management and Regulation in Communications in Romania (*Autoritatea Națională pentru Administrare și Reglementare în Comunicații*), Email response of 14.01.2014 to the Center for Legal Resources, on file with the NFP.

¹²³ Romania, Decion No. 512/2013 of the National Authority for Management and Regulation in Communications in Romania regarding the establishment of minimum security measures which have to be taken by providers of public electronic communication networks or publicly available electronic communication services as well as the reporting of incidents with significant impact on the provision of electronic communication networks and services (*Decizia nr. 512/2013 al Autorității Naționale pentru Administrare și Reglementare în Comunicații privind stabilirea măsurilor minime de securitate ce trebuie luate de către furnizorii de rețele publice de comunicații electronice sau de servicii de comunicații electronice destinate publicului și raportarea incidentelor cu impact semnificativ asupra furnizării rețelelor și serviciilor de comunicații electronice*), 1 August 2013.

3.2.2 Follow-up on the promising practices reported in Chapter 3 of Annual Report 2012, if they refer to your country. Check any available evaluation results; sustainability – indicating if the promising practice still exists (and if not – why); concrete impacts.

No promising practices were reported in Chapter 3 of the Annual Report 2012 regarding Romania.

3.2.3 Provide a maximum of three new promising practices relating to information society, respect for private life and data protection, putting each one in a separate table

No promising practices were identified.¹²⁴

Title (original language)	
Title (EN)	
Organisation (original language)	
Organisation (EN)	
Government / Civil society	
Funding body	
Reference (incl. url, where available)	
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	
Type of initiative	
Main target group	
Indicate level of implementation: Local/Regional/National	
Brief description (max. 1000 chars)	
Highlight any element of the actions that is transferable (max. 500 chars)	

¹²⁴ In order to identify possible promising practices, the websites of the National Supervisory Authority for Personal Data Processing (ANSPDCP), the National Authority for Management and Regulation in Communications in Romania (ANCOM), the Ministry of Information Society (MSI) and the Association for Internet and Technology (APTI) were consulted as well as information requests were sent to these institutions/organization. The APTI's response is pending.

Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	
Give reasons why you consider the practice as having concrete measurable impact	
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	
Explain, if applicable, how the practice provides for review and assessment.	

3.3 Any other significant developments with implications for information society, respect for private life and data protection

In the field of protection of private life as well as confidentiality and security of data processing two draft bills have generated debates: one concerning the registration of users of prepaid electronic communication services, the other concerning the electronic identity cards.

The draft bill regarding the registration of PrePay electronic communication services' users was introduced on the agenda of the Parliament three times in the period 2011-2013 and it was rejected all the three times¹²⁵ mostly due to the fact that the drafts were likely to violate the right to private life of the natural persons. In 2011 the European Commission also expressed its opinion, stating that the efficiency of such national regulation was not proved and that the Commission was not convinced about the necessity of an EU level action in this regard at that moment.¹²⁶

Regarding the electronic identity cards, two important issues proposed by the civil society¹²⁷ were introduced in the Government Emergency Ordinance for the amendment and completion

¹²⁵ Romania, Association for Technology and Internet (*Asociația pentru Tehnologie și Internet*) *Inițiativă legislativă privind înregistrarea utilizatorilor serviciilor de comunicații electronice de tip Prepay* (Legislative initiative on the registration of PrePay electronic communication services' users), 15 September 2011, updated, available at <http://www.apti.ro/Ini%C5%A3iativ%C4%83-legislativ%C4%83-privind-%C3%AEenregistrarea-utilizatorilor-serviciilor-de-comunica%C5%A3ii-electronice-tip-Prepay>.

¹²⁶ European Commission (2011), *Report from the Commission to the Council and the European Parliament , Evaluation report on the Data Protection Directive (Directive 2006/24/EC)* , Brussels 18.4.2011 COM(2011) 225 final, p. 25, available at http://ec.europa.eu/commission_2010-2014/malmstrom/pdf/archives_2011/com2011_225_data_retention_evaluation_en.pdf.

¹²⁷ Romania, Association for Technology and Internet (*Asociația pentru Tehnologie și Internet*) (2013), *OUG nr. 82/2012 – Cartea electronică de indentitate (aprobată)* (GEO No. 82/2012 – Electronic identity card (approved)), 25 January 2013, updated, available at <http://www.apti.ro/sites/default/files/Pct-de-vedere-ApTI-OUG-82.2012->

of certain regulatory documents regarding the population record, identity documents of the Romanian citizens as well as residence acts of EU and EEA member states' citizens, residents in Romania. These were: the introduction of the possibility to choose between the ordinary identity card and the electronic one with a chip,¹²⁸ as well as the option not to permit the storage of fingerprints in the chip of the electronic identity card.¹²⁹ The Emergency Ordinance was adopted in December 2012 and approved by law in July 2013. Issuing electronic identity cards was initially scheduled to be started on 1 July 2013, but it was delayed until April 2014 due to the fact that more time is needed for setting up the informatics system for the electronic identity cards. These cards will also function as health insurance cards.¹³⁰ A Government Decision for further amendments of the Emergency Ordinance as well as for the approval of the technical conditions, the legal and procedural issues concerning the access to the personal data and the process of collecting and storage of biometrical data was initiated by the Ministry of Internal Affairs, but was not yet adopted.¹³¹

[Cartea-electronica-de-identitate.pdf](#). See also Mediafax (2010) 'Legislația privind cartea de identitate electronică încalcă drepturile omului' ('The legislation regarding electronic identity card violates human rights'), 20 August 2010, available at <http://www.mediafax.ro/social/legislatia-privind-cartea-de-identitate-electronica-incalca-drepturile-omului-6986870>.

¹²⁸ Romania, Law No. 235/2013 for approval of Government Emergency Ordinance No. 82/2012 for modification and completion of certain regulatory documents regarding population record, identity documents of the Romanian citizens as well as residence acts of EU and EEA member states' citizens residents in Romania (*Legea nr. 235/2013 pentru aprobarea Ordonanței de Urgență nr. 82/2012 pentru modificarea și completarea unor acte normative privind evidența persoanelor, actele de identitate ale cetățenilor români, precum și actele de rezidență ale cetățenilor statelor membre ale Uniunii Europene și Spațiului Economic European rezidenți în România*), 15 July 2013, Art. 12.

¹²⁹ Romania, Government Emergency Ordinance No. 82/2012 for modification and completion of certain regulatory documents regarding population record, identity documents of the Romanian citizens as well as residence acts of EU and EEA member states' citizens residents in Romania (*Ordonanța de Urgență nr. 82/2012 pentru modificarea și completarea unor acte normative privind evidența persoanelor, actele de identitate ale cetățenilor români, precum și actele de rezidență ale cetățenilor statelor membre ale Uniunii Europene și Spațiului Economic European rezidenți în România*), 4 December 2012, Art. 17[^]2.

¹³⁰ Romania, Romanian Parliament, Chambers of Deputy, Commission of Public Administration, Territory Organization and Ecological Balance and Commission for Information and Communication Technology (*Parlamentul României, Camera Deputaților, Comisia pentru Administrația Publică, Amenajarea Teritoriului și Echilibrul Ecologic și Comisia pentru tehnologia informației și a comunicațiilor*) (2013) *Joint supplementing report regarding the Draft law on the approval of Emergency Governance Ordinance for modification and completion of certain regulatory documents regarding population record, identity documents of the Romanian citizens as well as residence acts of EU and EEA member states' citizens residents in Romania (Raport Înlocuitor comun asupra proiectului de Lege privind aprobarea Ordonanței de urgență a Guvernului nr.82/2012 pentru modificarea și completarea unor acte normative privind evidența persoanelor, actele de identitate ale cetățenilor români, precum și actele de rezidență ale cetățenilor statelor membre ale Uniunii Europene și Spațiului Economic European rezidenți în România)*, 26 June 2013, p. 56, available at <http://www.cdep.ro/comisii/administratie/pdf/2013/rs062.pdf>

¹³¹ Romania, Ministry of Internal Affairs (*Ministerul Afacerilor Interne*), Draft Decision for the modification and completion of certain regulatory documents regarding population record, identity documents of the Romanian citizens as well as residence acts of EU and EEA member states' citizens residents in Romania, as well as for the approval of the procedure of collecting biometrical data for issuing electronic documents and also of the technical conditions and the legal and procedural issues concerning the access of the personal data controllers to the content of the chips of the electronic identity cards and electronic residence cards (*Proiect de Hotărâre pentru modificarea și completarea unor acte normative privind aplicarea dispozițiilor legale din domeniul evidenței persoanelor, actelor de identitate ale cetățenilor români, precum și actelor de rezidență ale cetățenilor statelor membre ale Uniunii Europene și Spațiului Economic European rezidenți în România, precum și pentru aprobarea procedurilor de preluare a datelor biometrice pentru emiterea documentelor electronice și a condițiilor tehnice și aspectelor procedurale și legale privind accesul operatorilor de date cu caracter personal la conținutul cip-ului cărții electronice de identitate și cărții electronice de rezidență*), data of publication not available. Document available at http://www.mai.gov.ro/Documente/Transparenta%20decizionala/HG%20proiect%20OUG%2082_2012.pdf.

According to the Data Protection Law, when legislative drafts regarding individual's rights and freedoms are initiated in the Parliament or are developed by other institutions, the ANSPDCP should be consulted regarding the drafts from the perspective of personal data processing¹³². In 2013, the ANSPDCP issued its opinion regarding several draft bills. In some cases its opinion was taken into consideration and provisions regarding personal data processing were adopted, provisions which underline the regulations of the Data Protection Law. In this respect, we mention the following:

- the provisions of the Government Emergency Ordinance on social protection measures for persons made redundant through collective dismissals. The ANSPDCP suggested to include into the Act the obligations of the Employment Agencies and of the Labour Inspection to process the personal data of the beneficiaries of additional income (a specific type of income granted to persons who refused jobs on account of health reasons) or the persons identified as working without a legal contract in accordance with the provisions of the data protection legislation¹³³. Such obligations were introduced for the Employment Agencies, but not also for the Labour Inspection¹³⁴.
- the provisions of the Framework contract regarding the conditions for providing medical assistance in the health insurance system for the years 2013-2014, approved by Government Decision. In its opinion, the ANSPDCP described in detail the obligations of the Health Insurance Houses and the healthcare providers as well as the providers of ambulatory therapy medicines and medical devices, according to the Data Protection Law. In this sense, an Article was introduced in the Act, specifying that the mentioned providers have to comply with the provisions of the Data Protection Law¹³⁵;
- the provisions of the Permanent Electoral Authority's decision on the preparation and approval of lists of people who can be appointed presidents of the electoral bureaus of the voting districts or their deputies. The opinion of the ANSPDCP underlined the necessity to introduce express provisions regarding the storage of information as well as deletion/destruction of the processed personal data, the obligations to inform the persons concerned and to process ID copies and personal codes according to the legislation. The opinion of the Authority was taken into consideration, thus the Act obliges the Permanent Electoral Authority to process the personal data in compliance with the Data Protection Law and not to use them for other purposes than the ones provided in the Act. It also obliges the mayors, prefects and presidents of courts, as appropriate, to inform the data

¹³² Romania, Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data, amended and completed (*Legea nr. 677/2001 pentru protecția persoanelor cu privire la prelucrarea datelor cu caracter personal și libera circulație a acestor date, modificată și completată*), (Data Protection Law), 21 November 2001, Art. 21 (3) h).

¹³³ Romania, National Supervisory Authority for Personal Data Processing (*Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal*), Letter No. 21636 of 1 November 2013 to the Center for Legal Resources, on file with the NFP.

¹³⁴ Romania, Government Emergency Ordinance No. 36/2013 regarding the application in the period 2013-2018 of social protection measures granted to persons made redundant through collective dismissals under redundancy plans, updated (*Ordonanță de Urgență nr. 36/2013 privind aplicarea în perioada 2013-2018 a unor măsuri de protecție socială acordată persoanelor disponibilizate prin concedieri colective efectuate în baza planurilor de disponibilizare, reactualizată*), 30 April 2013, Art. 18(4)

¹³⁵ Romania, Government Decision No. 117/2013 on the approval of the framework contract regarding the conditions for providing medical assistance in the health insurance system for the years 2013-2014, updated (*Hotărârea de Guvern nr. 117/2013 pentru aprobarea Contractului-cadru privind condițiile acordării asistenței medicale în cadrul sistemului de asigurări sociale de sănătate pentru anii 2013-2014, reactualizat*), 27 March 2013, Art. 135.

subjects of their rights, to take measures in order to ensure the confidentiality and security of the personal data and to delete them as it is provided in the Act.¹³⁶

In the 2012 contribution to the Annual report the NFP mentioned three actions of the ANSPDCP taking notice of non-compliance of different institutions with the provisions of the Data Protection Law¹³⁷. In the report, the NFP evaluated that measures taken by the institutions concerned for remedying the problems notified should lead to developments in the field of personal data processing within the judiciary. Below, a follow up of the measures taken by certain institutions after the ANSPDCP's notifications is made and the potential developments these measures led to are presented.

2. Through Address no. 150/2012 the ANSPDCP notified the Superior Council of Magistracy (*Consiliul Superior al Magistraturii - CSM*) that the transmission of court decisions, prosecutor's resolutions and subpoenas to the parties through an unsecure system violates the secrecy of correspondence and the right to privacy and private life according to Law no. 677/2001.¹³⁸ CSM decided to notify the Ministry of Justice asking for harmonization of the provision of the New Criminal Procedure Code with the provisions of the Data Protection Law.¹³⁹ Up to the present, the provisions of the New Criminal Procedure Code which will enter into force on 1 February 2014 were not amended in this regard. The New Civil Procedure Code which is binding since 15 February 2013 includes provisions which provide for ensuring the secure communication of subpoenas and other legal documents.¹⁴⁰

3. On 9 May 2012 the ANSPDCP issued a written warning to the CSM for unlawful processing of personal data. The data identifying the complainant was published on the CSM's website. The CSM issued a press release¹⁴¹ stating that it was sanctioned not for the

¹³⁶ Romania, Decision of the Permanent Electoral Authority No. 15/2013 on the preparation and approval of lists of people who can be appointed presidents of the electoral bureaus of the voting districts or their deputies (*Hotărârea Autorității Electorale Permanente nr. 15/2013 privind întocmirea și avizarea listelor cuprinzând persoanele care pot fi desemnate președinți ai birourilor electorale ale secțiilor de votare sau locuitori ai acestora*), 18 November 2013, Art. 11.

¹³⁷ Romania, Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data, amended and completed (*Legea nr. 677/2001 pentru protecția persoanelor cu privire la prelucrarea datelor cu caracter personal și libera circulație a acestor date, modificată și completată*), (Data Protection Law), 21 November 2001.

¹³⁸ Romania, Superior Council of Magistracy, Legislation and Documentation Directorate (*Consiliul Superior al Magistraturii, Direcția Legislație, Documentare și Contencios*) (2012), *Punct de vedere privind aspectele semnalate prin Adresa nr. 150/2012 a Autorității Naționale de Supraveghere a Prelucrării Datelor cu Caracter Personal* (Opinion on the issues raised by letter no. 150/2012 of the National Supervisory Authority for Personal Data Processing), 20.04.2012, available at <http://www.juridice.ro/wp-content/uploads/2012/04/2.pdf>

¹³⁹ Romania, Superior Council of Magistracy (*Consiliul Superior al Magistraturii*), *Ordinea de zi soluționată din data de 19 aprilie 2012 (Agenda of the issues solved on 19 April 2012)*, issue no. 9525/1154/2012, 20.04.2012, available at

http://www.csm1909.ro/csm/linkuri/20_04_2012_48583_ro.pdf

¹⁴⁰ Romania, Superior Council of Magistracy, Legislation and Documentation Directorate (*Consiliul Superior al Magistraturii, Direcția Legislație, Documentare și Contencios*) (2012), *Punct de vedere privind aspectele semnalate prin Adresa nr. 150/2012 a Autorității Naționale de Supraveghere a Prelucrării Datelor cu Caracter Personal* (Opinion on the issues raised by letter no. 150/2012 of the National Supervisory Authority for Personal Data Processing), 20.04.2012, available at <http://www.juridice.ro/wp-content/uploads/2012/04/2.pdf>. See also art. 154 of the New Civil Procedure Code (Law no. 134/2010, republished).

¹⁴¹ Romania, Superior Council of Magistracy (*Consiliul Superior al Magistraturii*), 'Precizări privind publicarea unor documente in Ordinea de zi a ședințelor Plenului Consiliului Superior al Magistraturii' ('Notes on the publication of documents in the meeting's agenda of the SCM's Plenum'), 21.06.2012, available at www.csm1909.ro/csm/linkuri/21_06_2012_49818_ro.doc.

violation of Article 32 of the Data Protection Law (processing the personal data of a complainant with the violation of a certain right stipulated in the Law), but for publishing personal data on its website which were anonymized before publication, but the information published allowed nonetheless for the identification of persons. It appealed in court the minute finding the contravention. The CSM also announced that it stops publishing on its website any kind of document related to issues on its agenda until the appeal is solved¹⁴², which, according to one of its members, can raise institutional transparency problems.¹⁴³ The court issued a decision in the case on 6 December 2013, admitting the CSM's appeal and disposed annulling the minute finding the contravention.¹⁴⁴ The entire decision and its reasoning are not yet drafted by the court¹⁴⁵, thus the grounds on which the appeal was admitted and whether it clarifies certain aspects regarding the processing of personal data by the CSM are not yet known.

4. On 24 July 2012, the ANSPDCP issued recommendations for the Ministry of Justice and Superior Council of Magistracy in what regards processing of personal data through the ECRIS application,¹⁴⁶ a system for electronic management of files in the courts. Information on files and sessions are automatically overtaken from the ECRIS CDMS database of the courts and made publicly available through the courts' portal and through infokiosks at the courts' premises.¹⁴⁷ The recommendations for the Ministry of Justice were:

- determination of the personal data which are strictly necessary to be processed for accomplishing the aim of the ECRIS application and the courts' portal. The ANSPDCP suggested publishing only the names and surnames of the individuals;
- working out uniform guidelines on processing personal data through the ECRIS in order to be applied by all the persons under the data controller as users of the application;
- training of the employees working under the data controller on the provisions of the Data Protection Law in general and on personal data processing within the ECRIS application in particular;
- reviewing the existing information introduced in the ECRIS and deleting the personal data of which processing is not legitimate;
- determination of a limited period for the storage of personal data within the ECRIS and the courts' portals according to the scope of the data processing and the applicable legislation;
- adequate protection of the processed personal data against accidental or unlawful destruction, loss, alteration, disclosure or unauthorized access to them.

After analysing the ANSPDCP's recommendations, the CSM decided that it is necessary to develop a procedure which allows deletion or censoring of personal data from the courts'

¹⁴² Romania, Superior Council of Magistracy (*Consiliul Superior al Magistraturii*), 'Precizări privind publicarea unor documente in Ordinea de zi a şedinţelor Plenului Consiliului Superior al Magistraturii' ('Notes on the publication of documents in the meeting's agenda of the SCM's Plenum), 21.06.2012, available at www.csm1909.ro/csm/linkuri/21_06_2012_49818_ro.doc.

¹⁴³ Romania, Juridice.ro, 'Restaurarea lipsei de transparenţă la CSM' (Restoration of the lack of transparency at CSM'), 25 iunie 2012, available at <http://www.juridice.ro/207434/restauratia-lipsei-de-transparenata-la-csm.html>.

¹⁴⁴ Romania, Web portal of the Bucharest Tribunal, File No 18959/3/2012, available at http://portal.just.ro/3/SitePages/Dosar.aspx?id_dosar=300000000479358&id_inst=3.

¹⁴⁵ Romania, Bucharest Tribunal (*Tribunalul Bucureşti*) Letter No. 1670L/BIRP/2013 to the Center for Legal Resources, on file with the NFP.

¹⁴⁶ Romania, National Supervisory Authority for Personal Data Processing, *Recommendation no. 69 of 24 July 2012*, Annex No. 1 of the Letter of the National Supervisory Authority for Personal Data Processing No. 21636 of 1 November 2013 to the Center for Legal Resources, on file with the NFP.

¹⁴⁷ Information available at the courts' portal at <http://portal.just.ro/SitePages/despre.aspx>

portals in case of archived files and decided to notify the Ministry of Justice, as the administrator of the courts' portals, regarding the issues raised.¹⁴⁸

The NFP requested information from the Ministry of Justice regarding the measures taken for implementing the ANSPDCP's and the CSM's recommendations.¹⁴⁹ The Ministry replied that, at present, files archived in the ECRIS system no longer appear on the courts' portal.¹⁵⁰ Moreover, the latest checkings of files on the portal showed that the only information available on recent files is the number of the file, the name of the parties, date of sessions and short description of the object and solutions. Other personal data are not published anymore.

Another breach of the Data Protection Law notified by the ANSPDCP in 2012 concerned the publications of press releases or other information materials which the Public Ministry has published on the Internet. On 31 August 2012 the ANSPDCP recommended for the Public Ministry adoption of necessary measures in order that the institution to ensure that all the prosecutors' offices it coordinates respect the national and international legislation regarding personal data protection, including the recommendations of the Council of Europe and the case-law in this field. The ANSPDCP considered that these measures are necessary for guaranteeing the confidentiality of individuals' personal data and for achieving a fair balance between the right to information and the right to intimate, family and private life, including the right to protection of personal data.¹⁵¹

According to the Public Ministry, it took note of the recommendation, whose content is in accordance with the provisions of the "Guide on the relationship between the judiciary in Romania and the media" drafted by the CSM in 2012. The guide aims at indicating the modalities in which the judiciary can ensure transparency in public communication in compliance with procedural rules and without affecting the rights of persons involved in this process (right to protection of private and family life, presumption of innocence, impartiality of justice, etc.).¹⁵² The Public Ministry also noted that it carries out its activity of public communication according to this guide, whose use became mandatory for all prosecutors' offices after the general prosecutor has issued an order in this sense in July 2012¹⁵³, before the ANSPDCP issued the recommendation. In its activity report, the general prosecutor evaluates that the order led to the unification of the way in which public communication is conducted at the level of all structures of the Public Ministry.¹⁵⁴ According to this Guide, communication of

¹⁴⁸ Romania, Superior Council of Magistracy (*Consiliul Superior al Magistraturii*), 'Comunicat de presă privind Hotărârea Plenului CSM de a sesiza Ministerul Justiției cu propunerea de ștergere sau cenzurare a datelor cu caracter personal de pe portalul instanțelor judecătorești în cazul dosarelor arhivate' ('Press Release regarding the decision of the plenary of SCM to notify the Ministry of Justice suggesting erase and censoring personal data from the courts' portal, in case of the archived files'), 17 Mai 2012, available at www.csm1909.ro/csm/linkuri/17_05_2012_49118_ro.doc

¹⁴⁹ Romania, Center for Legal Resources' Letter No. 357/24.10.2013 to the Ministry of Justice (*Ministerul Justiției*), on file with the NFP

¹⁵⁰ Romania, Ministry of Justice (*Ministerul Justiției*), Letter No. 94148/03.12.2013, on file with the NFP.

¹⁵¹ Romania, National Supervisory Authority for Personal Data Processing, *Recommendation no. 69 of 24 July 2012*, Annex No. 2 of the Letter of the National Supervisory Authority for Personal Data Processing No. 21636 of 1 November 2013 to the Center for Legal Resources, on file with the NFP.

¹⁵² Romania, Superior Council of Magistracy (*Consiliul Superior al Magistraturii*) (2012) *Ghid privind relația dintre sistemul judiciar din România și mass-media (Guide on the relationship between the judiciary in Romania and the media)*, Bucharest, Superior Council of Magistracy, p. 3, available at <http://www.csm1909.ro/csm/index.php?cmd=050302>.

¹⁵³ Romania, Order No. 117 of 11 July 2012 of the general prosecutor of the Prosecutor's Office attached to the High Court of Casation and Justice.

¹⁵⁴ Response of the National Supervisory Authority for Personal Data Processing No. 21636 of 1 November 2013, on file with the NFP. Romania, Public Ministry (*Ministerul Public*) (2012) *Raport privind activitatea desfășurată pe perioada exercitării mandatului de Procuror General 2006-2012* (Report on the general prosecutor's activity carried

information to the media on the status of the investigation can be made only after the criminal prosecution has started. It also specifies that the press releases and the answers to information requests may include information on the person against whom the measures were taken, the alleged offence, its legal framing and the reasons which led to the adoption of the solution or measures issued.¹⁵⁵ At present, the press releases published on the Public Ministry's website seem to consider these criteria.¹⁵⁶ The Guide also mentions that, at the request of the media, excerpts or copies of the prosecutor's resolution, solutions of non-indictment or other acts providing for procedural measures regarding the accused person/defendant may be communicated if the protection of personal data is guaranteed and the information whose disclosure violates the right to privacy or compromises criminal proceedings is deleted.¹⁵⁷ The guide also provides for rules regarding audio and video recordings as well as photographing by the media representatives during court sessions.

The CSM "Guide on the relationship between the judiciary in Romania and the media"¹⁵⁸ was adopted on 1 July 2012¹⁵⁹ and substitutes the 2006 Guide on best practices on cooperation between courts, prosecutor's offices and media as well as the 2008 Guide on best practices for cooperation between the CSM's spokesperson, the spokesperson of courts and attached prosecutor's offices and the media.¹⁶⁰ The guide provides for modalities of communication between the CSM, courts of justice as well as prosecutor's offices and media in order to ensure transparency in public communication without affecting the rights (including the right to protection of private and family life) of persons involved in criminal, civil and administrative cases (victims, witnesses, parties, accused persons/defendants, convicted persons, family members, etc.) No evaluation regarding the impact of the guide in 2013 could be identified.

out during its mandate 2006-2012), p.71, available at http://www.mpublic.ro/presa/2012/raport_incheiere_mandat_ro.pdf

¹⁵⁵ Romania, Superior Council of Magistracy (*Consiliul Superior al Magistraturii*) (2012), *Ghid privind relația dintre sistemul judiciar din România și mass-media (Guide on the relationship between the judiciary in Romania and the media)*, Bucharest, Superior Council of Magistracy, p. 9, available at <http://www.csm1909.ro/csm/index.php?cmd=050302>.

¹⁵⁶ Romania, Public Ministry (*Ministerul Public*), Press releases available at http://www.mpublic.ro/bir_pres.htm

¹⁵⁷ Romania, Superior Council of Magistracy (*Consiliul Superior al Magistraturii*) (2012), *Ghid privind relația dintre sistemul judiciar din România și mass-media (Guide on the relationship between the judiciary in Romania and the media)*, Bucharest, Superior Council of Magistracy, p. 10, available at <http://www.csm1909.ro/csm/index.php?cmd=050302>.

¹⁵⁸ Romania, Superior Council of Magistracy (*Consiliul Superior al Magistraturii*) (2012), *Ghid privind relația dintre sistemul judiciar din România și mass-media (Guide on the relationship between the judiciary in Romania and the media)*, Bucharest, Superior Council of Magistracy, available at <http://www.csm1909.ro/csm/index.php?cmd=050302>.

¹⁵⁹ Romania, Decision No. 482/01.06.2012 of the Superior Council of Magistracy's Plen. (*Hotărârea nr. 482/01.06.2012 a Plenului CSM*)

¹⁶⁰ Romania, Superior Council of Magistracy (*Consiliul Superior al Magistraturii*) (2012), *Ghid privind relația dintre sistemul judiciar din România și mass-media (Guide on the relationship between the judiciary in Romania and the media)*, Bucharest, Superior Council of Magistracy, p. 10, available at <http://www.csm1909.ro/csm/index.php?cmd=050302>.

4 RIGHTS OF THE CHILD

4.1 Child-friendly justice

- 4.1.1 Briefly describe key legal or policy reforms, and measures in practice, that have been implemented with the aim of improving children's experiences of the justice system (in the framework of 'access to justice') with respect to children as either offenders/suspects, victims, or witnesses/parties to proceedings. Areas of interest include: legal assistance; protection measures during court/administrative proceedings; taking evidence through audio-visual statements; length of proceedings; training for professionals involved (including professionals networks, working groups); innovative approaches, etc. To guide you in this process, consult the [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#).**

A New Civil Procedure Code is gradually coming into force in Romania, starting the 15th of February 2013.¹⁶¹ The new Code stipulates, in article 226, that children must be heard in chambers (*camera de consiliu*), regardless of the object of the proceedings, and that the court indicates if the parent, the child's guardian (*tutore*) or other people can attend the hearing.¹⁶² These provisions take a step further towards creating a framework for proceedings which are somewhat more child friendly. Article 144¹ of the former Civil Procedure Code¹⁶³ stated that only in family proceedings will the child be interviewed in the judge's chambers¹⁶⁴ and that the judge may prohibit the parents of the child or any other person from attending the interview¹⁶⁵, if he/she considers that the circumstances of the case require this measure.¹⁶⁶ This represents, thus, a welcome change, since recent field data suggested that while some judges preferred to always hear the child in chambers, others didn't, and considering that the exposure to a public hearing is likely to have a traumatic effect on the child. The fact that the fundamental procedural law expressly imposes such an obligation in any civil proceedings involving children is most likely to eliminate differences in practices of hearing children and create a somewhat friendlier environment.

Overall, however, the New Civil Procedure Code¹⁶⁷ contains very few specific provisions on proceedings which involve children. In addition to article 226, article 213 shows that if the content of the proceedings is likely to affect the interests of minors, the court may order that

¹⁶¹ Romania, Law no. 214/2013 for approving Government Emergency Ordinance no. 4/2013 amending Law no. 76/2012 for putting into force the Law no. 134/2010 regarding the Civil Procedure Code, and also for amending and completing certain related normative acts (*Legea nr. 214/2013 pentru aprobarea OUG 4/2013 privind modificarea Legii nr. 76/2012 pentru punerea in aplicare a Legii nr. 134/2010 privind Codul de procedura civila, precum si pentru modificarea si completarea unor acte normative conexe*), 28 June 2013.

¹⁶² Romania, New Civil Procedure Code (*Noul Cod de Procedură Civilă*), 01.07.2010, Article 226.

¹⁶³ Romania, The Civil Procedure Code (*Codul de procedură civilă*), 26.07.1993, Article 144¹ (1).

¹⁶⁴ Romania, The Civil Procedure Code (*Codul de procedură civilă*), 26.07.1993, Article 144¹ (1).

¹⁶⁵ Romania, The Civil Procedure Code (*Codul de procedură civilă*), 26.07.1993, Article 144¹ (2).

¹⁶⁶ Romania, The Civil Procedure Code (*Codul de procedură civilă*), 26.07.1993, Article 144¹ (2).

¹⁶⁷ Romania, New Civil Procedure Code (*Noul Cod de Procedură Civilă*), 01.07.2010.

the session be closed to the public.¹⁶⁸ In such cases, the court will allow the presence of the parties, their legal representatives, those who assist the minors, the lawyers, the witnesses, the experts, the translators, the interpreters, as well as other persons deemed relevant by the court.¹⁶⁹ The impact of these provisions cannot be assessed at this point.

Important amendments to Law no. 272/2004 on the protection and promotion of the rights of the child were approved by the Parliament in September. One of the amendments refers to the fact that the child who committed a criminal offence and who is not criminally responsible will be accompanied and supported, throughout all the stages of the criminal investigation, by a psychologist or a social worker appointed by the General Department for Social Work and Child Protection – GDSWCP (Direcția Generală de Asistență Socială și Protecția Copilului).¹⁷⁰

A two-day international training seminar on juvenile justice was scheduled in the 2013 training programme of the National Institute of Magistracy – NIM (Institutul Național al Magistraturii). Out of the 264 members of the Romanian judiciary who applied for this training, 23 were selected to participate; in addition, 10 places were allocated to legal specialists from other European countries.¹⁷¹ However, attendance was slightly lower than planned, given that 15 members of the Romanian judiciary, one representative of the Romanian National Administration of the Penitentiaries (Administrația Națională a Penitenciarelor), two judges from Spain and one prosecutor from Bulgaria attended the seminar.¹⁷² The National Institute of Magistracy also carried out a seminar on the role of national courts in relation to family law. The two-day event covered, inter-alia, parental responsibility matters in cross-border issues and maintenance obligations. 17 members of the national judiciary, one specialist from the Romanian Ministry of Justice (Ministerul Justiției) and three Bulgarian judges attended the event.¹⁷³ Another two-day seminar covering EU provisions on cross-border family matters was held in May 2013 and gathered 17 Romanian judges and 2 Spanish prosecutors. Four training sessions on adoption matters were organised by NIM, in partnership with the Romanian Office for Adoptions (Oficiul Român pentru Adopții) and UNICEF Romania, allowing the participation of 68 specialists in total. 18 Romanian legal specialists and one Polish expert took part in a two-day seminar on international child abduction, carried out by NIM. A five-day training summer camp was organised, in Romania, by NIM, in order to support the training of recent and future graduates (judges, prosecutors, court-clerks, lawyers and other experts) from Romania, Spain and the Netherlands; the subjects covered during the summer-camp were related to the instruments developed by the EU and the Council of Europe,

¹⁶⁸ Romania, New Civil Procedure Code (*Noul Cod de Procedură Civilă*), 01.07.2010, Article 213 (2).

¹⁶⁹ Romania, New Civil Procedure Code (*Noul Cod de Procedură Civilă*), 01.07.2010, Article 213 (3).

¹⁷⁰ Romania, Law no. 257/2013 for amending and completing Law 272/2004 on the protection and promotion of the rights of the child (*Legea Nr.257/2013 pentru modificarea și completarea Legii nr. 272/2004 privind protecția și promovarea drepturilor copilului*), 30 September 2013, Art. 41.

¹⁷¹ Romania, the National Institute of Magistracy (*Institutul Național al Magistraturii*), ‘Ongoing Training Programme 2013, the activity schedule and the list of selected members of the judiciary’ (*Programul de formare continuă 2013, calendarul activităților și lista magistraților selectați*). Available in Romanian, online at <http://www.inm-lex.ro/displaypage.php?p=131&d=178>.

¹⁷² See Letter no. 5872/29 November 2013 of the National Institute of Magistracy (*Institutul Național al Magistraturii*) to the Centre for Legal Resources, on file with the FRANET national expert.

¹⁷³ Programul de formare continuă 2013, calendarul activităților și lista magistraților selectați, Romania, the National Institute of Magistracy (*Institutul Național al Magistraturii*), ‘Ongoing Training Programme 2013, the Role of national courts in interpreting and applying the family law Seminar’ (*Programul de formare continuă 2013, Seminarul Rolul instanțelor naționale în interpretarea și aplicarea dreptului familiei, București, 11-12 noiembrie 2013*). Available in Romanian, online at <http://www.inm-lex.ro/displaypage.php?p=131&d=342>. Also see Letter no. 5872/29 November 2013 of the National Institute of Magistracy (*Institutul Național al Magistraturii*) to the Centre for Legal Resources, on file with the FRANET national expert.

relevant to the protection of the rights of victims in the context of criminal proceedings (including topics such as human trafficking, protection of child's rights, protection of child witnesses, domestic violence etc.). In addition, in the area of family law, NIM carried out 13 local seminars (attended by 303 judges) and one national conference (attended by 111 legal professionals) since the beginning of the year, and has scheduled two other local seminars and two international conferences for November and December.¹⁷⁴

At the end of 2012, the Romanian Government decided to close down the Re-education Centre in Găești (*Centrul de Reeducare Găești*). The former re-education centre was reorganised as a penitentiary for adults, keeping the personnel.¹⁷⁵ The measure reduces to only two the number of re-education centres (which accommodate children who committed a criminal offense, for whom an educative measure was decided, instead of a punishment) and leaves the southern part of the country not covered. Children who were accommodated in this unit were reallocated to the other re-education centres, in most cases further away from their homes. This fact might be detrimental to the contact between the children and their families, especially in the case of children from disadvantaged families who cannot afford to travel longer distances.

4.2 Violence against children

Briefly describe key legal, policy and institutional legislative developments, including parliamentary debates, covering the following areas, taking relevant EU measures into account:¹⁷⁶

4.2.1 Physical, psychological and sexual violence against children – with a particular focus on bullying – including within the family, in the community, in institutional settings and through the use of information and communication technologies (ICTs).

While Law no. 272/2004 on the protection and promotion of the rights of the child prohibited the corporal punishment in the educational process, the new piece of legislation which amends this Law adds that degrading treatments are also prohibited and that the administrative and auxiliary personnel of the schools, not only the teachers, have to treat children with respect.¹⁷⁷ Previously, the law stated that children have “the right to be protected against any forms of violence, abuse, maltreatment or neglect”.¹⁷⁸ The new piece of legislation expands further and mentions several other forms of exploitation and violence against children, such as internet pornography, trafficking, illegal migration and kidnapping, and states that this right should

¹⁷⁴ See Letter no. 5872/29 November 2013 of the National Institute of Magistracy (*Institutul Național al Magistraturii*) to the Centre for Legal Resources, on file with the FRANET national expert.

¹⁷⁵ Romania, Government Decision no. 1155 from 27 November 2012 on establishing the Găești Penitentiary through reorganizing the Găești Re-education Centre (*Hotărâre nr. 1155 din 27 noiembrie 2012 privind înființarea Penitenciarului Găești prin reorganizarea Centrului de Reeducare Găești*), published in the Official Gazette 819/6.12.2012.

¹⁷⁶ Directive on combating sexual abuse, sexual exploitation of children and child pornography (2011/92/EU); Directive on preventing and combating trafficking in human beings and protecting victims (2011/36/EU); Communication on a safer internet for children (COM(2012) 196 final); Proposal for a Directive establishing minimum standards on the rights, support and protection of victims of crime (COM 2011/275).

¹⁷⁷ Romania, Law no. 257/2013 for amending and completing Law 272/2004 on the protection and promotion of the rights of the child (*Legea Nr.257/2013 pentru modificarea și completarea Legii nr. 272/2004 privind protecția și promovarea drepturilor copilului*), 30 September 2013, Art. 1.25.

¹⁷⁸ Romania, Law no. 272/2004 on the protection and promotion of the rights of the child (*Legea nr. 272/2004 privind protecția și promovarea drepturilor copilului*), 23 June 2014, Art. 85 (1).

apply in any settings – “in the family, educational, medical, protection institutions, locations for criminal investigation and rehabilitation/detention, internet, mass-media, working places, sport environments, community etc.”.¹⁷⁹ We mention that the protection against trafficking, including that of children, has been regulated since 2001, by a specialised piece of legislation.¹⁸⁰

The amendments to Law 272/2004 also introduced a classification of child abuse, which includes: physical abuse, emotional abuse, psychological abuse, sexual abuse and economic abuse. In relation to child neglect, the amendments distinguish the following forms: “food, clothing, hygiene neglect, medical neglect, educational neglect, emotional neglect or child/family abandonment which represents the worst form of neglect”.¹⁸¹

The institutions and actors with responsibilities in fighting against child violence and protecting children are now clearly identified in the content of the law. Thus, the General Departments for Social Work and Child Protection are the ones that should be notified in order to protect the child against any forms of violence.¹⁸² Teachers have the obligation to notify the Centres for Resources and Educational Assistance (*Centre de Resurse și Asistență Educațională*) at county level or from Bucharest Municipality, and also the Public Services for Social Work – PSSW (*Serviciul Public de Asistență Socială, SPAS*) or the General Departments for Social Work and Child Protection, regarding cases of child abuse, neglect, exploitation or any forms of violence against children.¹⁸³

Violence against children is also mentioned in relation to child custody. Thus, the new legislative provisions state that there are good reasons for the court to give custody of a child to only one of the parents the following: “the alcoholism, mental disorder, drugs addiction of the other parent, violence against the child or against the other parent, sentences for human trafficking, drug trafficking, crimes related to sexual life, violent crimes, and any other reason related to risks for the child which may derive from the exercise of parental authority of the other parent”. In cases of joint custody, when parents disagree on child’s residency, the court should take into account, among other things, parents’ history of violence against the child or against others.¹⁸⁴

The new provisions state several factors that should be taken into account in determining the best interest of the child, among these, the child history of abuse, neglect, exploitation or any

¹⁷⁹ Romania, Law no. 257/2013 for amending and completing Law 272/2004 on the protection and promotion of the rights of the child (*Legea Nr.257/2013 pentru modificarea și completarea Legii nr. 272/2004 privind protecția și promovarea drepturilor copilului*), 30 September 2013, Art. I.43.

¹⁸⁰ Romania, Law no. 678/2001 on preventing and combating trafficking in human beings, with its amendments (*Legea nr. 678/2001 privind prevenirea și combaterea traficului de ființe umane, cu modificările și completările ulterioare*), 11 December 2001.

¹⁸¹ Romania, Law no. 257/2013 for amending and completing Law 272/2004 on the protection and promotion of the rights of the child (*Legea Nr.257/2013 pentru modificarea și completarea Legii nr. 272/2004 privind protecția și promovarea drepturilor copilului*), 30 September 2013, Art. I.46.

¹⁸² Romania, Law no. 257/2013 for amending and completing Law 272/2004 on the protection and promotion of the rights of the child (*Legea Nr.257/2013 pentru modificarea și completarea Legii nr. 272/2004 privind protecția și promovarea drepturilor copilului*), 30 September 2013, Art. I.43.

¹⁸³ Romania, Law no. 257/2013 for amending and completing Law 272/2004 on the protection and promotion of the rights of the child (*Legea Nr.257/2013 pentru modificarea și completarea Legii nr. 272/2004 privind protecția și promovarea drepturilor copilului*), 30 September 2013, Art. I.25.

¹⁸⁴ Romania, Law no. 257/2013 for amending and completing Law 272/2004 on the protection and promotion of the rights of the child (*Legea Nr.257/2013 pentru modificarea și completarea Legii nr. 272/2004 privind protecția și promovarea drepturilor copilului*), 30 September 2013, Art. I.20 and I.13.

other forms of violence as well as any potential situations of risk that may appear in the future.¹⁸⁵

The provisions of Law 272/2004 in relation to the emergency placement of a child (measure taken for a child who has been abused, neglected or subjected to any other form of violence, or for a child who was found or abandoned in health care institutions) were also amended. The new provisions state that, in cases concerning the emergency placement of a child, the court should also rule in relation to parents' obligation to participate to counselling sessions.¹⁸⁶

The above mentioned amendments are just a few of those introduced by the new piece of legislation. Other amendments include: the changes of terms for submitting a case concerning the emergency placement of a child to court (2 days in the previous legislation, 5 days according to the new provisions), the transfer of responsibilities in relation to the administration of child's goods during a special protection measure, the extension of the monitoring period in cases when the special protection measure ceases due to child's (re)integration in his/her family (minimum 3 months in the previous legislation, minimum 6 months according to the new provisions), new provisions regarding child's participation in artistic, sport, cultural, advertising, modelling activities for which the child is paid and so on and so forth.¹⁸⁷

Caritas Bucharest Association (*Asociația Caritas București*), in partnership with the National Agency against Trafficking in Persons (*Agenția Națională Împotriva Traficului de Ființe Umane*), has launched a three month awareness raising campaign, targeting teenagers, teachers, parents, authorities, NGOs and the general public. Informative materials have been produced and disseminated at national level, with a focus on three counties from Romania with a high incidence of trafficking in human beings. The campaign is part of the project "Combating trafficking and sex tourism" which aims to raise awareness of human rights abuses caused by trafficking for sexual exploitation and sex tourism, one of its three objectives being fighting against trafficking in children. The project is co-financed by the European Commission and is implemented in Italy, Romania, Spain and Brazil, under the coordination of Municipality of Genoa.¹⁸⁸

A four month awareness raising campaign on the consequences of domestic violence, implemented by the Ministry of Labour, Family, Social Protection and Elderly (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice*),¹⁸⁹ was concluded in January

¹⁸⁵ Romania, Law no. 257/2013 for amending and completing Law 272/2004 on the protection and promotion of the rights of the child (*Legea Nr.257/2013 pentru modificarea și completarea Legii nr. 272/2004 privind protecția și promovarea drepturilor copilului*), 30 September 2013, Art. I.2.

¹⁸⁶ Romania, Law no. 257/2013 for amending and completing Law 272/2004 on the protection and promotion of the rights of the child (*Legea Nr.257/2013 pentru modificarea și completarea Legii nr. 272/2004 privind protecția și promovarea drepturilor copilului*), 30 September 2013, Art. I.50.

¹⁸⁷ Romania, Law no. 257/2013 for amending and completing Law 272/2004 on the protection and promotion of the rights of the child (*Legea Nr.257/2013 pentru modificarea și completarea Legii nr. 272/2004 privind protecția și promovarea drepturilor copilului*), 30 September 2013, Art. I.35, I.33, I.39, I.44.

¹⁸⁸ Romania, the National Agency against Trafficking in Persons, 'Press-release. The launching of the National Campaign for preventing trafficking in persons for sexual exploitation and sex tourism' (Comunicat. Lansarea Campaniei naționale de prevenire a traficului de persoane prin exploatare sexuală și a turismului sexual. Nepăsarea ne face complici), 03 October 2013. Available in Romanian, online at http://anitp.mai.gov.ro/ro/docs/massmedia/comunicat_03.10.2013.pdf. Information in English available online at http://www.mais.to.it/en/layout1/41/Contro_la_tratta.html

¹⁸⁹ Romania, the Ministry of Labour, Family, Social Protection and Elderly (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice*), 'The closing conference of the awareness raising campaign, among the general public, on preventing and combating domestic violence. Press-release' (*Conferința de închidere a campaniei de conștientizare și sensibilizare a opiniei publice privind prevenirea și combaterea violenței în familie. Comunicat de*

2013. Overall, five street events were carried out in Bucharest and other localities in Romania, during which people were informed about the consequences of domestic violence, but also about the victim's rights and the institutions and services that can be contacted in relation to domestic violence. A national seminar and seven local work-shops with relevant actors, active in the field, were held. Under the slogan "Domestic violence shouldn't leave you cold", the campaign was implemented with the financial support of the International Bank for Reconstruction and Development.

With the view of supporting the first monitoring round of the implementation of the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention), the Romanian Ministry of Justice invited all the nongovernmental organisations interested in providing input to fill-in the monitoring questionnaires adopted by the Lanzarote Committee and to submit them directly to the Committee, until 31st of January 2014.¹⁹⁰

In March, Save the Children Romania launched the results of a quantitative national study on child abuse and neglect, conducted on a sample of 1,120 children and 1,436 parents, from 58 localities in Romania. According to the results, 63% of the children who took part in the research said that they were beaten by their parents (almost 62% of the children said that they were beaten with the hand, almost 18% of the children said that they were beaten at home with a stick, over 13% with the belt and almost 9% with a wooden table spoon). On the other hand, only 38% of the parents admitted they were physically abusive towards their children. Moreover, 20% of the parents considered that 'beating' is a positive means of educating children. Corrections like 'slapping the child over the hand' or 'ear pulling' were not perceived by most of parents and, to a certain extent, by children either, as a behavior of physical abuse.¹⁹¹

In February, the NGO that has been coordinating the 'Safernet' hotline, Focus – the Romanian Centre for Missing and Sexually Exploited Children (*Centrul Român pentru Copii Dispăruți și Exploatați Sexual – FOCUS*), announced that 2,640 complaints were registered since the launching of the hotline, in 2010, until December 2012. Most of these complaints (83%) were related to illegal content (62% about child pornography and 21% about adult pornography accessible to children), while 4% were related to cyber-bullying and 13% to nudity, spamming and other negative content. From the total number of complaints, 22.7% were redirected to Romanian Police (*Poliția Română*) and almost 1.5% to the National Authority for Management and Regulation in Communications (*Autoritatea Națională pentru Administrare și Reglementare în Comunicații*). The 'Safernet' hotline has been developed in the framework of Sigur.Info project (implemented by a consortium composed of Save the Children Romania,

presa), 28 January 2013, available in Romanian, online at <http://www.mmuncii.ro/j3/index.php/ro/presa/2616:2013-01-28-comunicat-de-presa-2/>. The campaign's spot and informative materials are available in Romanian, online at http://www.copii.ro/campanie_violenta.html

¹⁹⁰ Romania, the Ministry of Justice, 'Organising the first evaluation round of State Parties to the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse' (*Organizarea primei runde de evaluare a statelor semnatare ale Convenției Consiliului Europei pentru protecția copiilor împotriva exploatarei sexuale și a abuzurilor sexuale*), 04 November 2013. Available in Romanian, online at <http://www.just.ro/Actualitate/tabid/690/Default.aspx> All hyperlinks were accessed on 20 November 2013.

¹⁹¹ Save the Children Romania (*Organizația Salvați Copiii*), 'Child abuse and neglect in the family: sociological study at national level' (*Abuzul și neglijarea copiilor în familie: studiu sociologic la nivel național*), 2013, Bucharest. Available in Romanian, online at <http://www.salvaticopiii.ro/?id2=0002000100000002>

Focus – the Romanian Centre for Missing and Sexually Exploited Children – and Positive Media).¹⁹²

4.2.2 Children who face specific/multiple disadvantages, with a particular focus on bullying (for example, children with a migrant or ethnic minority background; children with special needs or disabilities, children in alternative care, street children – excluding Roma children, who are covered in Section 7 of these guidelines – children of imprisoned parents, children within households at particular risk of poverty, such as single parent or large families, etc.).

Save the Children Romania carried out a study on child behaviour in relation to the Internet, in all the 15 public special schools for children with hearing impediments, on a representative sample of 400 children (out of approximately 1500 students with hearing impediments enrolled in Romanian public schools). The study was presented at the beginning of this year and revealed the following:

Almost half (48%) of the children with hearing impediments consulted said that they were using the internet on a daily basis and 39% said that they go online at least once per week. Approximately 44% of the participating children declared that their profiles on social networks are public, thus accessible to anyone.

70% of the children who took part in the study said that they searched new friends on the internet over the last year, and 22% that they met face to face with unknown people they met online.

44% of the students with hearing impediments, who participated in the study, said that they were insulted via the Internet.

Out of the students who declared that they were insulted online, 48% identified cyber-bullying as the main means (the online chat and the game websites were the most frequent environments used for cyber-bullying) and 51% did not complain to anyone about what had happened (thus they did not alert the authorities or the close family/friends).¹⁹³

4.3 Child poverty – excluding Roma children, who are covered in Section 7 of these guidelines

4.3.1 Briefly describe key legal or policy developments addressing child poverty and social exclusion, highlighting developments

¹⁹² Focus – the Romanian Centre for Missing and Sexually Exploited Children (*Centrul Român pentru Copii Disparați și Exploatați Sexual – FOCUS*), ‘Safernet: the number of valid complaints regarding negative content for children has tripled in 2012’ (*Safernet: numărul de sesizări valide referitoare la conținut online dăunător copiilor s-a triplat în 2012*), Bucharest, 5 februarie 2013. Available in Romanian, online at <http://www.safernet.ro/noutati.html>

¹⁹³ Save the Children Romania (Organizația Salvați Copiii), ‘National Study on the Usage of the Internet by Students with Hearing Impediments’ (*Studiu național privind utilizarea Internetului în rândul elevilor cu deficiențe de auz*), 2013, Bucharest. Available in Romanian, online at http://sigur.info/docs/studiu_national.pdf

that address children who face specific/multiple disadvantages, as described above.

Starting from the 1st of July, the Romanian Government increased by approximately 30% the monthly ‘allowance for family support’ (special allowance for families with low incomes, therefore a benefit based on means-testing). Thus, for families with incomes lower than 200 lei per family member (including children), the financial support was increased from 30 lei to 40 lei if they have one child, from 60 lei to 80 lei for two children, from 90 lei to 120 lei for three children and from 120 lei to 160 lei for four or more children.

Financial support for families with a total income ranging between 201 lei and 530 lei per family member was increased: from 25 lei to 33 lei if they have one child, from 50 lei to 66 lei for two children, from 75 lei to 99 lei for three children and from 100 lei to 132 lei for children with four or more children.

The financial support for single parent families was also increased by approximately 30%.¹⁹⁴

4.3.2 Briefly describe key legal or policy reforms promoting children’s wellbeing, highlighting developments that address children who face specific/multiple disadvantages, as described above.

Three legislative proposals aimed at increasing the state ‘child allowance’ (universal allowance for all children; this is a different type of allowance than the one mentioned in section 4.3.1, it is for all children, irrespective of family income; however, there are differences in the amount paid as ‘child allowance’, which are based on the age of the child and the presence/absence of disabilities) have been analysed by the Romanian Parliament in 2013.

The first proposal was presented to the Senate in March, submitted by just one member of the Parliament. It envisaged increasing the child allowance from 42 lei to 50 lei for children aged 2-18 (and for young people older than 18 who are continuing their secondary education), and from 84 lei to 100 lei for children with disabilities older than 3 years. The proposal was not approved by the Senate (based on a vote in March) and the probability of it being approved by the Chamber of Deputies (which is the decision making chamber in this case) is very low, given the negative reports submitted by the Romanian Government and by three Commissions within the Chamber of Deputies.¹⁹⁵

The second legislative proposal was submitted in May, this time by 61 members of the Parliament. It envisaged the increase of the child allowance from 42 lei to 200 lei. The Romanian Government submitted a negative report and, in October, the Senate voted against the draft bill. In this case also, the Chamber of Deputies is the decision making body and the

¹⁹⁴ Romania, Law no. 286/2013 for approving the Government Emergency Ordinance no. 42/2013 for amending and completing the Law no. 416/2001 on the guaranteed minimum income, and for amending the Law no. 277/2010 regarding the allowance for supporting the family (*Legea nr. 286/2013 privind aprobarea Ordonanței de urgență a Guvernului nr. 42/2013 pentru modificarea și completarea Legii nr. 416/2001 privind venitul minim garantat, precum și pentru modificarea Legii nr. 277/2010 privind alocația pentru susținerea familiei*), 07 November 2013. Available in Romanian, online at http://www.cdep.ro/pls/proiecte/upl_pck.proiect?cam=2&idp=13465

¹⁹⁵ Romania, Draft Bill to amend art. 3(1) of Law no. 61/1993 regarding the state allowance for children (*Propunere legislativă pentru modificarea alin.(1) al art.3 din Legea nr.61/1993 privind alocația de stat pentru copii*), Pl-x 279/2013. All the documents regarding the proposal are available in Romanian, online at http://www.cdep.ro/pls/proiecte/upl_pck.proiect?cam=2&idp=13098

Commission for Work and Social Protection within the Chamber recommended, on 21st of November, the rejection of the proposal. The date of the final vote is expected to be announced.¹⁹⁶

In September, the Senate received another proposal to increase the child allowance: from 200 lei to 300 for children younger than 2 years of age or, in cases of children with disabilities, younger than 3 years of age; from 42 lei to 75 lei for children between 2-18 years old (and for students older than 18 enrolled in secondary education); from 84 lei to 150 lei for children with disabilities between 3-18 years old. The initiative was submitted by 16 members of the Parliament. This draft bill was also rejected by the Senate and received a negative report from the Government. In December, the Commission for Work and Social Protection from the Chamber of Deputies gave a negative report. The final vote is expected at the beginning of 2014.¹⁹⁷

4.3.3 Briefly describe key monitoring mechanisms in place at local, regional and national level to identify children at risk of poverty. Provide examples of implemented programmes/projects and their source of funding (for example, EU funds).

The new legislative act which amends Law no. 272/2004 on the protection and promotion of the rights of the child clarifies which are the public institutions responsible to intervene in cases of abandoned or found children who lack identity papers, and further clarifies these responsibilities. These new provisions are welcome, given the fact that having identity papers is an important requirement that allows children to access social support and basic services, such as health, education etc.¹⁹⁸

A new section on the protection of children left behind by parents who migrate for work was also introduced. According to the new provisions, if both parents, or the parent or guardian who ensures alone the parental responsibility, intend to move abroad for work, then they are obliged to notify the Public Services for Social Work – PSSW (*Serviciul Public de Asistență Socială*) from local level, with 40 days prior to their leaving of the country. The parents have to indicate a person who will be responsible for caring for the child during his/her absence and the court has to decide, in three days, if it confirms the notification. In addition, the new provisions mention that a monitoring methodology of these cases will be put in place.¹⁹⁹

4.3.4 Are children in your country recognised as a vulnerable group in the specific context of the economic crisis? If so, briefly describe

¹⁹⁶ Romania, Draft Bill to amend art. 3(1) b) of Law no. 61/1993 regarding the state allowance for children, republished (*Propunere legislativă pentru modificarea art.3 alin.(1) lit.b) din Legea nr.61/1993 privind alocația de stat pentru copii, republicată*), Pl-x 388/2013. All the documents regarding the proposal are available in Romanian, online at http://www.cdep.ro/pls/proiecte/upl_pck.proiect?cam=2&idp=13652

¹⁹⁷ Romania, Draft Bill to amend art. 3(1) of Law no. 61/1993 regarding the state allowance for children (*Propunere legislativă pentru modificarea alin.(1) al art.3 din Legea nr.61/1993 privind alocația de stat pentru copii*), Pl-x 490/2013. All the documents regarding the proposal are available in Romanian, online at http://www.cdep.ro/pls/proiecte/upl_pck.proiect?cam=2&idp=13331

¹⁹⁸ Romania, Law no. 257/2013 for amending and completing Law 272/2004 on the protection and promotion of the rights of the child (*Legea Nr.257/2013 pentru modificarea și completarea Legii nr. 272/2004 privind protecția și promovarea drepturilor copilului*), 30 September 2013, Art. 5-10.

¹⁹⁹ Romania, Law no. 257/2013 for amending and completing Law 272/2004 on the protection and promotion of the rights of the child (*Legea Nr.257/2013 pentru modificarea și completarea Legii nr. 272/2004 privind protecția și promovarea drepturilor copilului*), 30 September 2013, Art. 51.

policies or measures that have been put in place to address this vulnerability.

Currently, Romania doesn't have a national action plan or a national strategy to tackle child poverty. However, the Romanian Government plans to develop a "National Strategy for social inclusion and poverty reduction 2014-2020" which will also include an action plan consisting of sectoral measures and responsibilities for all public institutions that are responsible for social inclusion, and to conduct the "Identification of the disadvantaged areas and designing the poverty maps and the social integration strategies for the disadvantaged communities, including Roma people".²⁰⁰

4.3.5 Briefly describe key measures put in place to address inequality and challenges faced by children at risk of poverty and their families in the following areas:

- 4.3.5.1 access to education (measures to measures to avoid segregation in schooling, to support parents, to reduce early school leaving, to address barriers that hinder children from accessing education, to prepare teachers for social diversity etc.);

In March, the Prime Minister announced the intention to stop the "Bread-roll and Milk" Programme and to reallocate its budget to the development of after-school programmes²⁰¹. However, the only actual measure taken by the Government and adapted, in October, by the Senate, in relation to the Programme, was to diversify the type of milk products that could be offered to children²⁰². The Bread-roll and Milk Programme started in 2002 as one of the measures generated by the "National Plan against Poverty and for Promoting Social Inclusion" which had as objectives, among others, to reduce the school abandonment and to increase the school participation among vulnerable children, also by introducing free meals. Thus, at its beginnings, the programme was seen as a way to support children's nutrition and school participation.²⁰³

²⁰⁰ Romania, Ministry of Foreign Affairs (*Ministerul Afacerilor Externe*), 'Main commitments for the national reform programme 2013'; April 2013. Available in English, online at http://ec.europa.eu/europe2020/pdf/nd/annex12013_romania_en.pdf

²⁰¹ Mediafax news agency, 'Ponta: We will stop the Bread-roll and Milk Programme and redirect the money to after-schools' (*Ponta: Vom renunța la programul "Cornul și Laptele" și direcționăm banii către after-school*), Bucharest, 19 March 2013. Available in Romanian, online at <http://www.mediafax.ro/social/ponta-vom-renunta-la-programul-cornul-si-laptele-si-directionam-banii-catre-after-school-10677765>

²⁰² Romania, Draft Bill to approve the Government Emergency Ordinance no. 67/2013 for amending the Government Emergency Ordinance no. 96/2002 on ensuring milk and bread products to students in public and private primary and lower-secondary education and to children in public and private kindergartens with normal 4 hours program (*Proiect de Lege privind aprobarea Ordonanței de urgență a Guvernului nr.67/2013 pentru modificarea Ordonanței de urgență a Guvernului nr.96/2002 privind acordarea de produse lactate și de panificație pentru elevii din învățământul primar și gimnazial de stat și privat, precum și pentru copii preșcolari din grădinițele de stat și private cu program normal de 4 ore*) PL nr. L288/2013. All the documents regarding the proposal are available in Romanian, online at http://www.cdep.ro/pls/proiecte/upl_pck.proiect?cam=1&idp=17472

²⁰³ Arpinte D., Cace S., Preotesi M., Tomescu C. (2009) 'Bread-roll and milk – perceptions, attitudes and efficiency' (*Cornul si Laptele – Perceptii, Atitudini si Eficienta*), Bucharest, Editura Expert, p.13.

4.3.5.2 access to health services (measures aiming to overcome obstacles in accessing healthcare, to tackle unhealthy lifestyles etc.);

In March 2013, the Romanian Government approved the continuation of the National Health Programme for Woman and Child for 2013 and 2014. The programme aims to: increase access to and the quality of health services focused on reproductive health, preventing unwanted pregnancies, preventing maternal mortality; enhance the nutrition of pregnant women and children; ensure screening at birth in order to detect health complications that could lead to disability and to prevent disability; early diagnose and prevent complications in cases of chronic diseases; regionalise perinatal health care in cases of children with low weight at birth or any other severe pathologies during the perinatal period.²⁰⁴

According to data centralised by the National Health Insurance House (*Casa Națională de Asigurări de Sănătate*), family practitioners reported that 890,255 medical check-ups (excluding the immunisation sessions) were performed in 2012 in order to monitor the physical and psycho-motoric evolution of children. The number of check-ups is considerably higher than reported in 2011 (564,067)²⁰⁵, but remains worryingly small in comparison with the total number of Romanian children (3.880.832 children, in January 2012²⁰⁶).

4.3.5.3 access to social services (provide examples of services provided to families at risk in order to prevent the separation from the family and placement in foster care);

According to Law no. 272/2004 on the protection and promotion of the rights of the child, in order to prevent child separation from the family, the Public Services for Social Work – PSSW from local level and the General Departments for Social Work and Child Protection – GDSWCP from county level and from the sectors in Bucharest are responsible for organising different services such as: day centres, centres for mothers, counselling services, services for children with disabilities, services for monitoring and supporting pregnant women at risk of abandoning their children etc. The private bodies which provide such services have to register with GDSWCP²⁰⁷.

The latest available statistics from June 2013 show that 46,205 children were receiving prevention services (43% of these children received the services offered by GDSWCPs, 36.2% of the children by PSSWs and 20.8% by private bodies). This is the highest number of children in the last 3 years who received prevention services (in December 2012 there were 45,790 children, while in December 2011 there were 43,114 children). This increasing trend in the

²⁰⁴ Romania, Government Decision no. 124 from 27 March 2013 on approving the national health programmes for the years 2013 and 2014 (*Hotărâre nr. 124 din 27 martie 2013 privind aprobarea programelor naționale de sănătate pentru anii 2013 și 2014*), 27 March 2013. Available in Romanian, online at <http://www.dspcovasna.ro/sites/default/files/legis/hotarare124din2013.html>

²⁰⁵ Romania, the National Health Insurance House (*Casa Națională de Asigurări de Sănătate*), 'Annual Activity Report 2012' (*Raport de Activitate Anul 2012*), page 116. Available in Romanian, online at <http://www.cnas.ro/informatii-publice/rapoarte-de-activitate>

²⁰⁶ Romania, the National Institute of Statistics (*Institutul Național de Statistică*), 'TEMPO - Online time series, POP101C - Stable (de facto) population, by age group, ages, sex and urban and rural areas, at January 1st, 01 January 2012. Available in English and Romanian online at <https://statistici.insse.ro/shop/index.jsp?page=tempo3&lang=en&ind=POP101C>

²⁰⁷ Romania, Law 272/2004 on the protection and promotion of the rights of the child (*Legea nr.272/2004 privind protecția și promovarea drepturilor copilului*), 21 June 2004. Art. 34, 35, 106, 111, 113.

number of children supported by prevention services brings a slight decrease in the number of children receiving special protection measures (placement in a residential centre, to a guardian, a foster parent).²⁰⁸

4.3.5.4 housing (measures to avoid ghettoization, overcrowding etc.).

The Ministry of Regional Development and Public Administration (*Ministerul Ministerul Dezvoltării Regionale și Administrației Publice*) announced, in November 2012, the finalisation of 177 social apartments for people evicted from houses given back to their former owners.²⁰⁹

4.4 Protection of children

Complete the table below.

	Number of complaints submitted by or on behalf of children in 2013	Briefly describe the nature of the complaints (max. 500 characters)
Equality Body	No centralised data for 2013 was obtained. ²¹⁰ However, the press-releases from 2013 and the decisions received from the National Council for Combating Discrimination – NCCD (Consiliului Național pentru Combaterea	NCCD found indirect discrimination and sanctioned a school for organising a contest to separate students based on their performance (and forming an ‘elite’ class). ²¹² NCCD considered the fact that a student was not allowed to wear a hair-band in the colours of the national flag represented discrimination, based on violating the right to dignity. ²¹³

²⁰⁸ Romania, the Ministry of Labour, Family, Social Protection and Elderly – the Child Protection Directorate (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Varstnice – Direcția Protecția Copilului*), ‘Situation of child’s rights protection’ (*Situație protecția drepturilor copilului*), 30.06.2013, 31.12.2012, 31.12.2011. Available in Romanian, online at http://www.copii.ro/alte_categorii.html

²⁰⁹ Romania, The Ministry of Regional Development and Public Administration (*Ministerul Ministerul Dezvoltării Regionale și Administrației Publice*), ‘The Programme for the Construction of Social Housing for the Tenants Evicted based on Government Emergency Ordinance 74/2007; The list of investment objectives finalized until 30.11.2012’ (*Programul construcțiilor de locuințe sociale destinate chiriașilor evacuați conform OUG nr. 74/2007; Lista obiectivelor finalizate până 30.11.2012*). Available in Romanian, online at www.mdr.ro/userfiles/locuinte_OG_74_obiective_finalizate.xls

²¹⁰ See Letter no. 6771/01.11.2013 of the National Council for Combating Discrimination (*Consiliului Național pentru Combaterea Discriminării*) to the Centre for Legal Resources, on file with the FRANET national expert.

²¹² Romania, the National Council for Combating Discrimination (*Consiliului Național pentru Combaterea Discriminării*), ‘Press-release regarding the decisions adopted by the NCCD’s Directing Council in the meeting from 20.11.2013’ (*Comunicat de presa referitor la hotărârile adoptate de Colegiul director al CNCD in sedinta din data de 20.11.2013*), 20 November 2013. Available in Romanian, online at <http://cncd.org.ro/noutati/Comunicate-de-presa/Comunicat-de-presa-referitor-la-hotararile-adoptate-de-Colegiul-director-al-CNCD-in-sedinta-din-data-de-20-11-2013-182/>

²¹³ Romania, the National Council for Combating Discrimination (*Consiliului Național pentru Combaterea Discriminării*), ‘Press-release regarding the decisions adopted by the NCCD’s Directing Council in the meeting from 16.10.2013’ (*Comunicat de presa referitor la hotărârile adoptate de Colegiul director al CNCD in sedinta din data de 16.10.2013*), 16 October 2013. Available in Romanian, online at <http://cncd.org.ro/noutati/Comunicate-de->

	<p>Discriminării) for the first ten months of 2013, as well as other sources described at least seven cases in which NCCD found harassment or/and discrimination against children (except for the cases of Roma children). In addition, at least nine other cases related to children were investigated by NCCD: in three cases no discrimination or harassment was found, while six cases were closed because the charges were dropped, or the matter was not part of NCCD's mandate, or the complainants lacked standing to bring proceedings.²¹¹</p>	<p>NCCD considered discrimination and a violation of the right to education the refusal of a sports high-school to accept the transfer of two students unless the two would have joined the sport club of the school.²¹⁴</p> <p>In three cases, NCCD sanctioned two schools and a school director for discriminating against children with ADHD, Asperger Syndrome or epilepsy by limiting their access to educational and leisure activities.²¹⁵</p> <p>One school was fined by NCCD because it failed to display bilingual (Romanian and Hungarian) signs, although a previous NCCD's decision in this regard should have been implemented.²¹⁶</p>
<p>National Human Rights Institutions (Indicate whether or not the Equality Body and the National Human Rights Institution</p>	<p>The Romanian Institute for Human Rights (Institutul Român pentru Drepturile Omului) has no mandate to receive complaints.²¹⁷</p>	

[presa/Comunicat-de-presa-referitor-la-deciziile-Colegiului-director-adoptate-in-sedinta-din-data-de-16-octombrie-2013-178/](http://www.cedcd.ro/media/comunicate/157.o-noua-victorie-pentru-drepturile-copiilor-cu-dizabilitati/)

²¹¹ See Letter no. 6771/01.11.2013 (and annexes) of the National Council for Combating Discrimination (*Consiliului Național pentru Combaterea Discriminării*) to the Centre for Legal Resources, on file with the FRANET national expert.

²¹⁴ Romania, the National Council for Combating Discrimination (*Consiliului Național pentru Combaterea Discriminării*), 'Press-release' (Comunicat de presa), 22 May 2013. Available in Romanian, online at <http://cncd.org.ro/noutati/Angajari/Comunicat-de-presa-referitor-la-deciziile-Colegiului-director-din-data-de-22-mai-2013-164/>

²¹⁵ European Centre for the Rights of Children with Disabilities (*Centrul European pentru Drepturile Copiilor cu Dizabilități*), 'A new victory for the right of children with disabilities, Press-release' (*O noua victorie pentru drepturile copiilor cu dizabilitati, Comunicat*), Bucharest, 12 November 2013. Available in Romanian, online at <http://www.cedcd.ro/media/comunicate/157.o-noua-victorie-pentru-drepturile-copiilor-cu-dizabilitati/>. Also see Letter no. 6771/01.11.2013 (and annexes) of the National Council for Combating Discrimination (*Consiliului Național pentru Combaterea Discriminării*) to the Centre for Legal Resources, on file with the FRANET national expert.

²¹⁶ See Letter no. 6771/01.11.2013 (and annexes) of the National Council for Combating Discrimination (*Consiliului Național pentru Combaterea Discriminării*) to the Centre for Legal Resources, on file with the FRANET national expert.

²¹⁷ Romania, Law no. 9/1991 on establishing the Romanian Institute for Human Rights (*Legea nr. 9/1991 privind înființarea Institutului Român pentru Drepturile Omului*), 29 January 1991, Art. 2- 3.

are the same)		
Ombudspersons	<p>28 complaints related to child issues were registered by the Romanian Ombudsman (<i>Avocatul Poporului</i>), by the 30th of September 2013. From the total number, only one complaint was directly submitted by a child. For the remaining 27 cases, the Ombudsman actioned ex-officio or based on submissions on behalf of children.</p> <p>The number represents only 0.4% of the total number of complaints (7,060) received by the Ombudsman, in the first 9 months of 2013.²¹⁸</p>	<ul style="list-style-type: none"> • Requests for information on topics such as child custody, maintenance, identity papers for children born outside Romania etc.; the Ombudsman offered the requested information. • Complaints regarding insufficient support offered by public authorities to families with children facing financial difficulties; they were redirected to the appropriate public authorities; when there was proof that the authority failed to react, the Ombudsman directly intervened. • Complaints on child rights violations (abuse, neglect, violations of the right to health or education etc.); the Ombudsman conducted investigations and formulated recommendations.

4.5 Promising practices

4.5.1 Follow-up on the promising practices reported in Chapter 4 of Annual Report 2012, if they refer to your country. Check any available evaluation results; sustainability – indicating if the promising practice still exists (and if not – why); concrete impacts.

N.A.

4.5.2 Present examples of initiatives implemented to ensure that the children can participate in play, recreational, sport and cultural activities. Indicate whether the authorities engage in dialogue with children when planning and developing such initiatives.

Children placed in residential care take part in summer or winter camps and in different sport, recreational and cultural activities organised by the General Departments for Social Work and Child Protection at county level and from Bucharest's sectors. Children under state care might attend theatre-plays, visit museums, botanical or zoological gardens, participate in sport competitions, depending on the opportunities created at local level developed by DGASPC. However, the information on the matter is brief, there is no centralised data at national level

²¹⁸ See Letter no. 9124/30 October 2013 of the Romanian Ombudsman (*Avocatul Poporului*) to the Centre for Legal Resources, on file with the FRANET national expert.

and therefore no further information is available on the number of children participating in these activities in Romania, nor on how the planning process takes place²¹⁹.

During 1st of July and 10th of August, ‘Dimitrie Gusti’ National Village Museum (*Muzeul National al Satului Dimitrie Gusti*) in Bucharest organised the XXI annual edition of the creative camp “Summer on a village lane” (*Vara pe uliță*), a cultural and educational programme aiming to offer children leisure and cultural opportunities by recreating the atmosphere of traditional Romanian villages. Over 300 children and young people took part in different workshops, where they learnt traditional Romanian crafts such as: pottery, wood-sculpturing, wood and glass painting, egg-painting, creating traditional masks, toys and jewellery or sewing and weaving. The participation of children was based on registration for different workshops.²²⁰

4.5.3 Provide a maximum of three new promising practices relating to the rights of the child, putting each one in a separate table

Title (original language)	E-sign – Safer Internet for hearing impaired children
Title (EN)	E-sign – Safer Internet for hearing impaired children
Organisation (original language)	Organizația Salvați Copiii
Organisation (EN)	Save the Children Romania
Government / Civil society	Civil Society
Funding body	Orange and European Commission
Reference (incl. url, where available)	www.esign.sigur.info
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	05.06.2012 – 01.06.2013
Type of initiative	Educational/Protection (protection against Internet threats)
Main target group	Students enrolled in special schools for children with hearing impediments
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	Starting from the fact that children with hearing impediments are more vulnerable to cyber-bullying and violence on the internet, the project began with a national research in order

²¹⁹ Annual reports for the previous years, press-releases and media appearances or websites of several Departments for Social Work and Child Protection were consulted. See for example: www.dasib.ro/doc/informareactivitate2012.doc

²²⁰ Romania, Dimitrie Gusti’ National Village Museum (*Muzeul National al Satului Dimitrie Gusti*), ‘Summer on a village lane’ (*Vara pe uliță*). Available in Romanian, online at http://www.muzeul-satului.ro/20130701_tvpv.php

	to better understand the needs of the children going to special schools. All special schools for children with hearing impediments have been involved. Afterwards, 10 video tutorials on different topics were designed, in which a sign language professor was explaining the dangers and means of protection. These tutorials were later integrated into a 'safety-kit' which was used as the base for a training course for the 40 trainers which later on carried out activities in all of the schools for children with hearing impediments. Almost 1,500 students were involved in the later stage of the dissemination and informative activities. The last stage of the project was based on child participation, the children having to develop pantomime plays in which to illustrate the main concepts of the course as best as they could. Five teams were selected in the final and showcased their plays on stage, in a theatre in Bucharest, in the presence of mass-media, bloggers and public.
Highlight any element of the actions that is transferable (max. 500 chars)	The video tutorials can be easily replicated and transferred to other sign languages, as well as the concept of theatrical expression of safer internet issues.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The video tutorials can be embedded, shared, projected on any video hosting site or event.
Give reasons why you consider the practice as having concrete measurable impact	The views of the online video tutorials can be measured. The number of teams choosing to enter the theatre competition can be measured and allows for comparison. The last stage of the project involved a final research on the same subjects as in the first stage, showing that the risk behaviour had dropped, and that activities in the class rooms had been effective.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The practice is transferable to other countries given the accessible activities that were adapted for children with hearing impediments.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Sign-language professors were involved in designing the training course in sign language, giving a three day-course in Bucharest for the volunteers who afterwards acted as educators in all the schools for the hearing impaired. The planning and evaluation are based on the input of the teachers and directors of those schools, and the implementation involves the beneficiaries at each stage: training courses, acting in the plays, filming themselves.
Explain, if applicable, how the practice provides for review and assessment.	Review of plays and number of children participating, compared to total number

	enrolled in schools for the hearing impaired. Assessment based on trainers' feedback, local teacher feedback, and concrete measurable involvement of children in plays and the number of times the online videos were viewed.
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4.6 Any other significant developments with implications for the rights of the child

Among the commitments contained within the National Reform Programme, undertaken by the Romanian Government in front of the European Commission in April 2013, in the context of Europe 2020, there are several important policy developments concerning children that should be drafted by 2014, such as the "National Strategy for protecting the child's rights 2014-2020", the "National Strategy on reducing early school Leaving", the "National Strategy on Developing/Modernizing the Education Infrastructure" or the "National Health Strategy 2014-2020".²²¹

On the 22nd of January, during the 15th session of the Universal Periodic Review, Romania received 49 child-focus recommendations, in areas such as: right to identity and birth registration, prevention of violence against children including corporal punishment, right to education and health, combating discrimination against children from specific groups, children deprived of appropriate care etc. Three of the recommendations are related to the necessity of establishing an Ombudsman for Children.²²²

In July, 41 members of Parliament submitted a legislative proposal to the Chamber of Deputies regarding the establishment of an Ombudsman for Children, as a specialised Deputy of the General Ombudsman (currently there is a semi-specialised department for child rights matters within the Ombudsman, but this department deals with the rights of the child, family, youth, pensioners and people with disabilities). On the 7th of October, the legislative proposal passed through the Chamber of Deputies without being voted upon, and since then it has been under the review of the Senate and is expected to receive its final vote by the end of 2013.²²³

²²¹ Romania, Ministry of Foreign Affairs (*Ministerul Afacerilor Externe*), 'Main commitments for the national reform programme 2013'; April 2013. Available in English, online at http://ec.europa.eu/europe2020/pdf/nd/annex12013_romania_en.pdf

²²² United Nation, Human Rights Council, Report of the Working Group on the Universal Periodic Review Romania, 21 March 2013, A/HRC/23/5, pp. 14-24. Available in English, online at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/124/42/PDF/G1312442.pdf?OpenElement>

²²³ Romania, Draft Bill to amend and complete Law no. 35/1997 regarding the establishment and functioning of the Ombudsman (*Proiect de Lege pentru modificarea și completarea Legii nr.35/1997 privind organizarea și funcționarea instituției Avocatului Poporului*), PL nr. L524/2013. All the documents regarding the proposal are available in Romanian, online at http://www.cdep.ro/pls/proiecte/upl_pck.proiect?idp=17685&cam=1

5 EQUALITY AND NON-DISCRIMINATION

5.1 Briefly describe key legal and policy developments relating to combating discrimination on any of the grounds (or combination of the grounds) listed in Article 21 of the Charter of Fundamental Rights of the European Union, with the exception of Roma, who are covered in Section 7 of these guidelines. These developments should at least relate to:

5.1.1 the implementation of the Employment Equality Directive (2000/78/EC);

In 2013, the Anti-discrimination Law²²⁴ has been amended three times. The first amendment originated in a legal proposal initiated by members of the Parliament in April 2010 when the National Council for Combating Discrimination (*Consiliul Național pentru Combaterea Discriminării (CNCD)*) experienced an institutional blockage because of lack of quorum. The mandate of many members of the Steering Committee expired and political parties delayed in the Parliament the vote of new candidates. The newly adopted provision will prevent future blockages; it stated that all candidatures for the Steering Committee must enter the election process in the Parliament 60 days before the expiry of the mandate of the existing members.²²⁵

The rest of the amendments were made at external pressure, in the context of the monitoring carried out by the European Commission regarding the transpositions of Directives in the field and a preliminary ruling that was pending at the time before the Court of Justice of the European Union regarding the transposition of Directive 2000/78/EC.²²⁶ In particular, three important changes strengthened the anti-discrimination mechanism in Romania. First, the new definition of the concept of the burden of proof adopted is finally in compliance with the Directives, thereby preventing the opening of an infringement procedure against Romania.²²⁷ Second, another important change is the increase in the levels of administrative fines that may be imposed by the CNCD; they now range from EUR 230 (RON 1 000) to EUR 23 000 (RON

²²⁴Romania, Government Ordinance No. 137/2000 regarding the prevention and sanctioning of all forms of discrimination (*Ordonanța Guvernului nr.137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), 31 August 2000. (Please note that all updated legislation in Romania is not available online, this is why we are not able to provide official and valid links to all laws, decrees, judgments, etc.)

²²⁵ Romania, Law No.61/2013 for the amendment of the Government Ordinance No. 137/2000 regarding the prevention and sanctioning of all forms of discrimination (*Legea nr.61 din 21 martie 2013 pentru modificarea Ordonanței Guvernului nr.137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), 21 March 2013, Art.1.(2).

²²⁶ Court of Justice of the European Union (CJEU), C-81/12, *ACCEPT v. Consiliul Național pentru Combaterea Discriminării*, 25 April 2013.

²²⁷ Romania, Law No.61/2013 for the amendment of the Government Ordinance No. 137/2000 regarding the prevention and sanctioning of all forms of discrimination (*Legea nr.61 din 21 martie 2013 pentru modificarea Ordonanței Guvernului nr.137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), 21 March 2013, Art.1.(2).

100 000), compared to EUR 90 (RON 400) to EUR 1 860 (RON 8 000) in the past.²²⁸ Third, the six month time limit for issuing an administrative fine will be calculated from the time the CNCD issued a decision,²²⁹ in order to ensure effective enforcement of the remedy in accordance with the preliminary ruling of the Court, mentioned above.

In 2013, the CNCD reported solving 450 cases in the field of employment and occupation, almost half of the cases solved that year. Out of these, only 157 cases have been decided on the merits – in 47 cases the CNCD found discrimination and in 110 cases it found there was no discrimination. The rest of the cases were dealt under procedural grounds: 248 cases were declared inadmissible for lack of competence, 3 cases were declared inadmissible for being prematurely introduced or being inadmissible *rationae personae*, 41 cases have been closed for other procedural reasons and 1 case concerned a material error.²³⁰

However, not all the cases mentioned above refer to the grounds of discrimination stipulated in the Employment Equality Directive. The CNCD did not communicate for this report its statistics in the field of employment and occupation disaggregated on the grounds of discrimination. The disaggregated data for 2013 shows that the number of complaints introduced to the CNCD on the grounds protected under the Employment Equality Directive is small – 98 out of 858 complaints introduced in 2013 (13 complaints on sexual orientation, 14 complaints on belief, 11 complaints on religion, 18 complaints on age, 42 complaints on handicap).²³¹

5.1.1.1 in addition, briefly describe any exceptions from employment protection for younger and older people, and briefly describe any preferential treatment of younger workers against dismissal and of preferential treatment of older workers in redundancy/dismissal situations.

The 2011 amendment of the Labour Code²³² introduced a general guarantee against arbitrary dismissal in case of collective dismissal. Specifically, it stipulates that the application of social criteria for deciding which employees will be dismissed comes second after the individual evaluation of the employee based on the performance indicators for each position.

The Labour Code does not include any exceptions from employment protection for younger and older people or any preferential treatment of younger workers against dismissal and of preferential treatment of older workers in redundancy/dismissal situations. Nevertheless, the collective agreements in force at the level of certain branches of the economy explicitly stipulate that employees who are three years away from retirement should be protected against collective dismissal, at their request. Specifically, they should be considered last for collective

²²⁸ Romania, Emergency Government Ordinance No. 19/2013 for the amendment of Government Ordinance No. 137/2000 (*Ordonanța de Urgență nr.19 din 27 martie 2013 pentru modificarea și completarea Ordonanței Guvernului nr. 137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), 27 March 2013, Art.I.(5).

²²⁹ Romania, Law No.189/2013 regarding the approval of Emergency Government Ordinance No. 19/2013 (*Legea nr.189 din 25 iunie 2013 privind aprobarea Ordonanței de urgență a Guvernului nr.19/2013 pentru modificarea și completarea Ordonanței Guvernului nr.137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), of 25 June 2013, Art.I.(2).

²³⁰ CNCD, Response No.18844/05.02.2014, on file with the NFP.

²³¹ CNCD, Response No.18844/05.02.2014, on file with the NFP.

²³² Romania, Law No.40/2011 on the amendment of the Law 53/2003 – the Labour Code (*Legea nr. 40 din 31 martie 2011 pentru modificarea și completarea Legii nr. 53/2003 - Codul muncii*), 31 March 2011, Art.69.(3).

dismissal, along with single parents, the only breadwinners in a family, and persons who have children and other persons in their care.²³³

5.1.1.2 in addition, briefly describe developments relating to mandatory retirement age(s) and measures facilitating employer-compelled retirement and loss of protection against dismissal and other employment protection.

In Romania the mandatory retirement age is 65 years old for men and 63 years old for women, with two exceptions. First, the military personnel, police forces, penitentiary public officers and other public officers from the public order and national security retire at 60 years old, irrespective of sex.²³⁴ Second, university and research personnel retire at 65 years old, irrespective of sex.²³⁵

According to the Labour Code, the employment contract is terminated by law when the employee reaches the retirement age if the mandatory contribution period is fulfilled.²³⁶ Specifically, the employer must terminate the contract when the employee reaches the retirement age if the mandatory contribution period is also fulfilled by the respective employee. Nevertheless, if the two parties wish, they may conclude a new employment contract, with the exception of public law employers. Education is an area where new employment contracts may be concluded with retired education professionals under limited conditions – annual renewal (up to three years for school teachers), with the approval of the school/university board, payment per hour, no right to tenure.²³⁷

5.1.1.3 in addition, briefly describe developments in relation to ‘genuine occupational requirements’, including in relation to age.

In 2013, a new provision in relation to ‘genuine occupational requirements’ was included in the Government Ordinance No. 137/2000 regarding the prevention and sanctioning of all forms of discrimination (*Ordonanța Guvernului nr.137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*) and the previous provision relating to this issue

²³³ Romania, Collective Agreement No.59.395/2012 at the level of the group units of the Ministry of Administration and Internal Affairs (*Contract colectiv de munca nr. 59.395 din 26 noiembrie 2012 la nivel de grup de unitati din Ministerul Administratiei si Internelor*), 26 November 2012, Art.34.(1).(c). Romania, Collective Agreement No.59.419/2012 at the level of public services in the field of sanitation for the years 2013-2014 (*Contract colectiv de munca unic nr. 59.419 din 4 decembrie 2012 la nivelul Sectorului de activitate "Servicii comunitare de utilitati publice. Gestionarea deseurilor, activitati de decontaminare si de protectie a mediului" pe anii 2013-2014*), 4 December 2012, Art.97.(2).(j). Romania, Collective Agreement No. 59.495/2012 at the level of higher education and research (*Contract colectiv de munca unic nr. 59.495 din 19 decembrie 2012 la Nivel de Sector de Activitate Invatamant Superior si Cercetare*), 19 December 2012, Art.69.(4).(c). Romania, Collective Agreement No. 59.493/2012 at the level of heavy industry (*Contract colectiv de munca nr. 59.493 din 20 decembrie 2012 la nivelul grupului de unitati din sectorul de activitate constructii de masini pe anii 2013-2014*), 20 December 2012, Art.175.(2).(c).

²³⁴ Romania, Law No.263/2010 on the unitary system of public pensions (*Lege nr. 263 din 16 decembrie 2010 privind sistemul unitar de pensii publice*), 16 December 2010, Art.54.

²³⁵ Romania, Law No. 1/2011 on national education (*Lege nr. 1 din 5 ianuarie 2011 educației naționale*), 5 January 2011, Art.289.(1).

²³⁶ Law No.53/2003 on the Labour Code, 24 January 2003, Art.56.(1).(c).

²³⁷ Romania, Constitutional Court, Decision No. 397 of 1 October 2013, regarding the exception of non-compliance with the Constitution stipulated in Art.284.(7) and Art.289.(7) of the Law No. 1/2011.

was abolished.²³⁸ The newly adopted Art.4¹ is in accordance with the Employment Equality Directive (2000/78/EC). It covers all grounds of discrimination stipulated by the Government Ordinance No.137/2000, including age.

5.1.2 the implementation of the Racial Equality Directive (2000/43/EC);

A very small number of cases have been reported in CNCD statistics for 2013 under the ground “race” – 3 complaints registered in 2013 and 2 cases solved in 2013 (one declared inadmissible for lack of competence and one closed for procedural reasons). However, there are other cases that fall under the Racial Equality Directive registered in the CNCD statistics on other grounds: language, nationality, and ethnicity. Therefore, the CNCD reports 168 complaints under the abovementioned grounds, out of 858 complaints received in 2013.²³⁹

In 2013, the CNCD reported solving 182 complaints under the grounds of race (2), language (53), nationality (66) and ethnicity (61). Out of these, 105 complaints have been decided on the merits – the CNCD found discrimination in 65 cases and in 40 cases it found no discrimination. The rest of the cases were dealt under procedural grounds: 25 cases were declared inadmissible for lack of competence, 8 cases were declared inadmissible for being prematurely introduced or being inadmissible *rationae personae*, 41 cases have been closed for other procedural reasons and 2 cases concerned a material error.²⁴⁰

5.1.3 legislative proposals and/or action plans and other policy measures relating to awareness-raising in the area of equality and non-discrimination;

Legislative and institutional measures adopted in the last four years contributed to further weakening of the institutional framework mandated with awareness-raising in the area of gender equality. The National Agency for Equal Opportunities (NAEO) (*Agenția Națională pentru Egalitate de Șanse (ANES)*), the institution dealing with equal opportunities for women and men, was downgraded from the statute of agency to department and since September 2013 to Division on Equal Opportunities between Women and Men of the Department on Occupation and Equal Opportunities within the Ministry of Labour, Family, Social Protection and the Elderly (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice (MMFPSPV)*).²⁴¹ This institutional downgrade implied serious regress in the budget, personnel, powers and autonomy of the assigned actor to deal with equal opportunities on the ground of sex in Romania.

In 2013, the MMFPSPV reported only one activity in the field of awareness raising on gender equality – the publication of a guide for parents or future parents on how to reconcile family and professional life “*Roluri de părinte și concilierea vieții de familie cu viața profesională. Ghid pentru actualii și viitorii părinți*” (*Parent role and the reconciling of family and*

²³⁸ Romania, Emergency Government Ordinance No. 19/2013 on amending Government Ordinance No.137/2000 (*Ordonanța de Urgență nr.19 din 27 martie 2013 pentru modificarea și completarea Ordonanței Guvernului nr. 137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), 27 March 2013, Art.I.(1).

²³⁹ CNCD, Response No.18844/05.02.2014, on file with the NFP.

²⁴⁰ CNCD, Response No.18844/05.02.2014, on file with the NFP.

²⁴¹ Romania, Government Decision No.517/2013 regarding the amendment of certain laws in the field of labour, family, social protection and the elderly (*Hotărârea Guvernului nr.517/2013 pentru modificarea unor acte normative în domeniul muncii, familiei, protecției sociale și persoanelor vârstnice*), 24 July 2013.

professional life. Guide for parents and future parents).²⁴² Nevertheless, the guide does not address the employers and the decision makers regarding the measures they should take to make the reconciling possible in practice for the employees who are parents.

In addition, the MMFPSPV reported that they are working on the draft of the “Strategia națională privind egalitatea de șanse între femei și bărbați 2014-2015” (*National Strategy in the field of equal opportunities for women and men for the period 2014-2015*) and the General Action plan for the implementation of this strategy.²⁴³

The CNCD stated that it is implementing the “Strategia națională de implementare a măsurilor de prevenire și de combatere a discriminării (2007-2013)” (*National Strategy for the Implementation of Measures to Prevent and Combat Discrimination (2007-2013)*). The Council considers that the document is “in itself an instrument of awareness raising of the principle of equality”.²⁴⁴ CNCD pointed out two activities carried out in 2013, aimed at raising awareness of the principle of equality. The first activity was in partnership with an NGO for the organization of a film festival focusing on human rights: The “International Human Rights Documentary Festival – One World Romania 2013”, organized during 11-17 March 2013, in Bucharest.²⁴⁵ The second activity is scheduled for the end of the year 2013. Specifically, CNCD, in partnership with Hyperion University of Bucharest, will organize an international conference called “Multiculturalism and non-discrimination”.

In May 2013, the Ministry of Internal Affairs (*Ministerul Afacerilor Interne (MAI)*) set up a green telephone line where employees may report directly any cases of sexual harassment or discrimination occurring at the workplace; hierarchical reporting is no longer needed in such cases.²⁴⁶ This measure was taken after a public case of alleged harassment within the police was reported in the media in December 2012²⁴⁷ and the MAI carried out in January 2013 an internal assessment of sexual harassment affecting female employees within the structures of the ministry.²⁴⁸ According to the MAI, the internal assessment concluded that sexual harassment ‘is not a phenomenon’ within the structures of the MAI, meaning that although some cases have been reported within the assessment, they ‘do not affect a large number of persons, do not cause malfunctions and do not affect the working climate’ at the level of the

²⁴² Romania, MMFPSPV, “Roluri de părinte și concilierea vieții de familie cu viața profesională. Ghid pentru actualii și viitorii părinți” (*Parental roles and work-life balance. Guide for parents and future parents*), available at <http://www.mmuncii.ro/j3/index.php/ro/familie/familie/egalitate-de-sanse-intre-femei-si-barbati/1850-studii-nationale>. All hyperlinks were accessed on 4 November 2013.

²⁴³ MMFPSPV, Response No.361/01.11.2013.

²⁴⁴ CNCD, Response No.6771/01.11.2013.

²⁴⁵ Information about the *One World Romania* festival is available at <http://oneworld.ro/blog/>.

²⁴⁶ MAI, Order No.60/2013 regarding the setting up of the telephone number and e-mail address for the reporting of acts/facts of discrimination, harassment behaviour or similar treatments against the personnel of the Ministry of Internal Affairs, as well as introducing certain organisational measures (*ORDIN nr. 60 din 9 mai 2013 privind înființarea liniei telefonice și a adresei de posta electronică pentru sesizarea actelor/faptelor de discriminare, a comportamentelor de hartuire sau a tratamentelor similare îndreptate împotriva personalului Ministerului Afacerilor Interne, precum și pentru stabilirea unor măsuri organizatorice*), 9 May 2013.

²⁴⁷ MAI, Press release, 30 December 2012, available at http://www.comunicare.mai.gov.ro/stiri.php?misc=search&subaction=showfull&id=1356864223&archive=1358407657&cnsow=news&start_from=ucat=10. See also Evenimentul Zilei, “Scandalul sexual de la IPJ Olt. Polițista violată, Melania Renghea, trimisă în Judecată” (*Sexual scandal at IPJ Olt. The raped police woman, Melania Renghea, was prosecuted*), available at <http://www.evz.ro/detalii/stiri/scandalul-sexual-de-la-ipj-olt-politista-violata-melania-renghea-trimisa-in-judecata-1045937.html>.

²⁴⁸ MAI, Revista pentru patrie (official publication of the MAI), “Hărțuirea sexuală nu este un fenomen în MAI” (*Sexual harassment is not a phenomenon in MAI*), available at http://www.revistapentrapatrie.ro/index.php?option=com_content&id=687%3Ahruirea-sexual-nu-este-un-fenomen-in-mai&Itemid=2.

ministry's structures.²⁴⁹ The MAI did not make public the assessment and it did not reply to our public information request about the assessment.²⁵⁰

In order for the complaint mechanism to become effective other measures recommended by the internal assessment also need to be implemented.²⁵¹ This includes carrying out an information campaign on discrimination at the workplace, introducing explicit provisions in the internal regulations sanctioning discrimination and sexual harassment and introducing an internal conflict resolution procedure. It is equally important that the persons in charge with handling the green line are trained specifically to address such cases.

In July 2013, the National Agency of Public Officials (*Agencia Națională a Funcționarilor Publici (ANFP)*) within the Ministry of Regional Development and Public Administration (*Ministerul Dezvoltării Regionale și Administrației Publice (MDRAP)*) finalized the process of drafting and consulting regarding a public policy on „Dezvoltarea standardelor etice in sistemul administrației publice” (*Developing ethical standards in the public administration system*).²⁵² The proposed public policy is waiting to be adopted by the MDRAP. One of the main directions of the policy is ensuring equal opportunities and non-discrimination in correlation with the CNCD's National Strategy for the Implementation of Measures to Prevent and Combat Discrimination (2007-2013). Among the objectives of the abovementioned public policy are: to update the norms of conduct in order to be in compliance with the principle of equal opportunities and non-discrimination, to introduce the topics of equal opportunities and non-discrimination in the continuous training of the public officials.

5.1.4 the consumption and use of structural funds to finance developments fostering equality and non-discrimination in your country.

There is nothing to report.²⁵³

5.1.5 Key developments regarding the legal position of LGBT persons in your country since the publication of FRA's report Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity - 2010 Update, with a

²⁴⁹ MAI, Revista pentru patrie (official publication of the MAI), “Hărțuirea sexuală nu este un fenomen în MAI” (*Sexual harassment is not a phenomenon in MAI*), available at http://www.revistapentrapatrie.ro/index.php?option=com_content&id=687%3Ahruirea-sexual-nu-este-un-fenomen-in-mai&Itemid=2.

²⁵⁰ CRJ, Request to MAI No.375 of 28.10.2013, on file with the NFP.

²⁵¹ MAI, Revista pentru patrie (official publication of the MAI), “Hărțuirea sexuală nu este un fenomen în MAI” (*Sexual harassment is not a phenomenon in MAI*), available at http://www.revistapentrapatrie.ro/index.php?option=com_content&id=687%3Ahruirea-sexual-nu-este-un-fenomen-in-mai&Itemid=2.

²⁵² MDRAP, Public policy proposal “Dezvoltarea standardelor etice in sistemul administrației publice” (*Developing ethical standards in the public administration system*), available at <http://www.mdrp.ro/proiect-de-politica-publica-dezvoltarea-standardelor-etice-in-sistemul-administratiei-publice>.

²⁵³ There is no information available on the website of the Ministry of European Funds () regarding the consumption and use of structural funds to finance developments fostering equality and non-discrimination in Romania (<http://www.fonduri-ue.ro/>). The Ministry of European Funds informed us that it does not have information specifically on the financing developments fostering equality and non-discrimination, including specific indicators or a data-base with specific projects, because gender equality and non-discrimination is a crosscutting principle that applies to all projects. See Ministerul Fondurilor Europene, Response No.63/23.12.2013, on file with the NFP.

particular focus on access to and legal recognition of gender reassignment (chapter 1) and chapter 4 (free movement, family reunification and asylum).

This year there had been public consultations for the revision of the Romanian Constitution. A controversy occurred around the proposal to extend the list of grounds of discrimination stipulated by the Constitution to include ‘sexual orientation’ among other new grounds that are actually protected by the Anti-discrimination Law (e.g. disability, age, HIV status). The proposed list corresponded to the list stipulated in Article 21 of the Charter of Fundamental Rights of the European Union. The text adopted by the parliamentary special commission²⁵⁴ excludes ‘sexual orientation’.²⁵⁵ The process of revision of the Constitution is currently stalled for political reasons.

As to the transposition of Article 2.h of the Directive 2004/83/EC, the Romanian law does not recognize the unmarried partner in a stable relationship as ‘family member,’ irrespective whether the couple is heterosexual or homosexual.²⁵⁶

A person that belongs to a persecuted social group on the ground of sexual orientation or gender identity is protected under the Romanian asylum legislation.²⁵⁷ The General Inspectorate for Immigration (*Inspectoratul General pentru Imigrări (IGI)*) declares that they do not have statistics with regards to the number of cases assessed under the grounds mentioned above.²⁵⁸

According to the IGI, the Romanian legislation regarding the freedom of movement of EU citizens transposing the Directive 2004/38/EC does not include provisions about the residence in the case of same-sex partners, irrespective of their legal recognition as a couple in another Member State (marriage or civil partnership). Therefore, the same-sex partner’s residence cannot be registered in Romania based on the freedom of movement legislation.²⁵⁹

There is no legal provision or regulation regarding the access to gender reassignment medical procedures. As to the legal recognition of gender reassignment, there are no special legal provisions addressing this issue, only scarce and confusing stipulations in two laws regulating civil status, as shown below.

The first provision is Article 43.(i) of the Law 119/1996 regarding the civil status acts (*Lege nr.119 din 16 octombrie 1996 cu privire la actele de stare civilă*).²⁶⁰ It stipulates that a person may change his/her sex in the civil status acts if he/she obtains “a court decision allowing the sex change”. The law does not detail the procedure that needs to be followed by the person,

²⁵⁴Joint Commission of the Chamber of Representatives and the Senat for the drafting of the legislative proposal to revise the Romanian Constitution (*Comisia comună a Camerei Deputaților și Senatului pentru elaborarea propunerii legislative de revizuire a Constituției României*), available at <http://www.cdep.ro/pls/parlam/structura.co?cam=0&idc=114>.

²⁵⁵Mediafax (2013), ‘Proiectul de revizuire a Constituției, adoptat de Comisia de resort’ (*The draft of the Constitution’s revision was adopted by the special commission*), 19 June 2013, available at <http://www.mediafax.ro/politic/proiectul-de-revizuire-a-constitutiei-adoptat-de-comisia-de-resort-cum-arata-noua-constitutie-vezi-documentul-10984439>.

²⁵⁶Romania, Law No. 122/2006 regarding asylum in Romania (*Lege nr. 122 din 4 mai 2006 privind azilul in Romania*), 4 May 2006, Art.2.j. See also IGI, Response No.2594592/01.10.2013, on file with the NFP.

²⁵⁷Romania, Law No. 122/2006 regarding asylum in Romania (*Lege nr. 122 din 4 mai 2006 privind azilul in Romania*), 4 May 2006, Art.23.(1). Government Decision No.1251/2006, Arts.9, 10, 11.

²⁵⁸IGI, Response No.2594592/01.10.2013, on file with the NFP.

²⁵⁹IGI, Response No.2594592/01.10.2013, on file with the NFP.

²⁶⁰Law 119/1996 regarding the civil status acts (*Lege nr.119 din 16 octombrie 1996 cu privire la actele de stare civilă*), 16 October 1996.

criteria for obtaining the court decision, what is understood by “sex change”, etc. This implies that the transgender persons are unclear about many practical aspects related to this legal procedure. First question is related to which jurisdiction to address – the level, and place of jurisdiction (the place of birth or the present residence). The second question is related to the type of claim to file – a contradictory procedure or a non-contradictory procedure. The third question, if the procedure is dealt with as a contradictory one, is related to the person to call in court. The fourth question refers to the content of the legal claim – the change of all civil status markers (first name, sex, identity number) or only sex. The fifth question is about what evidence to bring in court and if the forensic-medical expert report of the specialized forensic institution is mandatory or not to proof transgender identity. The sixth question is whether gender reassignment surgery is mandatory or optional for legal recognition of trans persons and if such legal recognition may occur also during the transition process. Courts give different solutions to the requests of legal recognition of gender reassignment when the gender reassignment surgeries are not completed.²⁶¹

This last shortcoming is related to the second provision in the field, stipulated in Article 4(2)(1) of the OG 41/2003 regarding the name change by administrative means (*Ordonanța nr. 41 din 30 ianuarie 2003 privind dobandirea și schimbarea pe cale administrativă a numelor persoanelor fizice*). It stipulates that a person may change his/her surname on the conditions that she/he has a final court decision allowing for the sex change and a forensic-medical act stating the sex. The requirement to present a forensic-medical act stating the sex of the person raises concerns when the forensic medical institute does not want to acknowledge the new sex for example when the surgical change of genitalia was not carried out, but secondary sex characteristics of the new sex are present. Such a situation is contradictory to Article 43(i) of the Law 119/1996 that requires only a final court decision recognizing the new sex, which is self-executing. Specifically, the power of the judiciary cannot be placed under the condition of an executive body such as a specialized forensic institution, a body that is not independent and belongs to the executive power.

5.2 Briefly describe key legal and policy developments aiming at guaranteeing a fuller participation in society, only in relation to the points below:

5.2.1 the legal situation as concerns practical barriers/limitations/special measures that would prevent or facilitate persons with disabilities to vote independently of the disability in question, with a particular focus on persons with physical or sensory impairments. Briefly outline specific measures taken to facilitate the right to vote of persons with disabilities in view of the European Parliament elections 2014 or municipal elections in 2013.

The Permanent Electoral Authority (*Autoritatea Electorală Permanentă (AEP)*) did not take specific measures to facilitate the right to vote of persons with disabilities in view of the European Parliament elections 2014.

²⁶¹ E.g. Romania, Judecătoria Sector 1 București, Civil Judgment No.14136/2011, 18 August 2011 (surgery is not a condition). Romania, Tribunalul București, Civil Decision No.491A, 10.05.2012 (the forensic medical act for assessing the new sex is a condition).

Nevertheless, the AEP declared²⁶² that it drafted a Proposal of Electoral Code that is currently open to public consultation on its website; it contains proposed regulations applicable in the case of persons with disabilities. First, Art.71.(5) stipulates that special platforms will be built for the access of persons with physical disability into the buildings where the vote takes place. Art.101.(8) stipulates that a special ballot box will be available in every local electoral jurisdiction to attend the needs of persons who are hospitalized or placed into institutions, such as persons with disabilities.

5.2.2 Based on the FRA report on the right to political participation of persons with mental health problems and persons with intellectual disabilities (pp. 15-19) and the FRA Annual Report 2012 (pp.192-195), briefly describe key developments that occurred in 2013 enabling these two distinct groups of individuals to participate in elections as candidates or voters.

No key developments occurred in 2013 enabling the persons with mental health problems and persons with intellectual disabilities to participate in elections as candidates or voters.

5.2.3 Update the table below, with appropriate referencing, which relates to the right to political participation of persons with mental health problems and persons with intellectual disabilities.

EU Member State	Exclusion	Limited Participation	Full Participation
AT			X
BE	X		
BG	X		
CY		X	
CZ	X	X	
DE	X		
DK	X	X	
EE	X	X	
EL	X		
ES		X	X
FI		X	X
FR		X	X
HU		X	

²⁶²AEP, Response No.12325/01.11.2013, on file with the NFP.

IE	X		X
IT			X
LT	X		
LU	X		
LV	X		
MT	X	X	
NL			X
PL	X		
PT	X		
RO	X ²⁶³		
SE			X
SI		X	
SK	X		
UK			X
HR	X		

Note: An EU Member State can be represented in more than one column, as persons with mental health problems and persons with intellectual disabilities may be treated differently according to the national law of the respective Member State.

5.2.4 developments in relation to increasing the participation of women in political decision making, including provisions in national legislation to promote the gender balance in political decision-making.

After the general elections of 9 December 2012, the representation of women in Parliament and the Government still remains lower than the average level in the European Union. In the 2008-2012 Parliament, women only represented 9.65 % (11.2 % in the Chamber of Representatives and 5.9 in the Senate) and there were only 4 female ministers, out of 21. The new Parliament elected in December 2012 has 11 % women (65 women out of 588 Members of Parliament), while the new Government has 6 female ministers, out of 28.²⁶⁴ In Parliament, 5 out of 37 presidents of parliamentary commissions are women, 8 out of 56 vice-presidents and 6 out of 56 secretaries. However, the positions occupied by women are in areas considered

²⁶³ Please note that it does not apply to all persons with mental health or intellectual disabilities, only the ones that have been declared incapable by the court, based on Art.164 of the Civil Code. See also the Romanian Constitution, Art.36.(2).

²⁶⁴ Information available at www.femeileinpolitica.ro/ (*Women in politics*), http://www.gov.ro/cabinet_c711p1.html (*Government*), and <http://www.ziare.com/alegeri/rezultate-alegeri-parlamentare-2012/cine-sunt-femeile-din-viitorul-parlament-1207528> (*Who are the women in the future Parliament*).

less significant in the state mechanism, such as the environment, labour, tourism, social dialogue, health, education, European affairs, human rights, and equal opportunities.

At the same time, a 2010 draft law introducing a quota in legislative elections (of 40 % women) was rejected by the Parliament in March 2013, due to lack of political support.²⁶⁵ Although aimed to obtain all-party support, the bill, introduced by a single initiator, has been rejected by several parliamentary commissions,²⁶⁶ and criticised by civil society.²⁶⁷ On 5 March 2013, it was rejected by the plenary of the Chamber of Representatives.

5.2.5 Policies or measures of special assistance adopted to enable younger and older workers to be better integrated in the job market, including protective measures (for example, health and safety; protection against dismissal, etc.), or incentives for employers to recruit/retain younger and older workers.

On 19 July 2013, the Parliament adopted legal provisions aimed at stimulating employers to recruit certain categories of unemployed persons – young graduates, ‘young persons at risk of social marginalization’, persons who are over 45 years old, and single parents who are the breadwinners of the family.²⁶⁸ By ‘young persons at risk of social marginalization’ the law understands unemployed youth, between 16 and 26 years old, who fall under one of the following situations: are or used to be in the child protection system, have a disability, do not have a family to support them financially, have children in care, have served a prison sentence, are a victim of human trafficking.

According to the legal measures mentioned above, the incentive for employers for hiring young graduates varies from a monthly amount of 500 lei (EUR113) to 750 lei (EUR170) per employee hired, covered for a period of 12 months, depending on the level of education of the graduate; the condition is to keep the working relation for a period of minimum 18 months.²⁶⁹ The incentive in case of unemployed persons who are over 45 years old and single parents is 500 lei (EUR113).²⁷⁰ The same incentive is paid by the State to employers who hire unemployed persons who have five years left before the retirement age; the difference is that

²⁶⁵ Draft Law No.333/2011 regarding the introduction of a mandatory quota for political representation of women in the Romanian Parliament (*PL-x nr. 333/2011, Proiect de Lege privind introducerea cotei obligatorii de reprezentare politică a femeilor în Parlamentul României*), available at: http://www.cdep.ro/pls/proiecte/upl_pck.proiect?cam=2&idp=12039.

²⁶⁶ Romania, Comisia pentru Drepturile Omului, Culte și Problemele Minorităților Naționale, Advice of 7 June 2011, available at: www.cdep.ro/comisii/drepturile_omului/pdf/2011/av333.pdf; Romania, Comisia pentru Administrație Publică, Amenajarea Teritoriului și Echilibru Ecologic, Advice No. 26/222 of 1 June 2011, available at: www.cdep.ro/comisii/administratie_publica/pdf/2011/av333.pdf.

²⁶⁷ Tudorina Mihai, “Cotele de gen în politică și aplicarea lor în România” (*Gender quota in politics and their application in Romania*), pp. 43-50, 2011, available at: http://media1.webgarden.ro/files/media1:4f869b1f10e27.pdf.upl/Tudorina_Mihai_Cotele_de_gen_si_aplicarea_lor_in_Romania.pdf.

²⁶⁸ Romania, Law No.250/2013 amending Law No.76/2002 regarding the unemployment protection system and the stimulations for employment (*Lege nr. 250 din 19 iulie 2013 pentru modificarea și completarea Legii nr. 76/2002 privind sistemul asigurarilor pentru somaj și stimularea ocupării forței de muncă și pentru modificarea Legii nr. 116/2002 privind prevenirea și combaterea marginalizării sociale*), 19 July 2013.

²⁶⁹ Romania, Law No.76/2002 regarding the unemployment protection system and the stimulations for employment (*Lege nr.76 din 16 ianuarie 2002 privind sistemul asigurarilor pentru somaj și stimularea ocupării forței de muncă*), 16 January 2002, Art.80.

²⁷⁰ Romania, Law No.76/2002 regarding the unemployment protection system and the stimulations for employment (*Lege nr.76 din 16 ianuarie 2002 privind sistemul asigurarilor pentru somaj și stimularea ocupării forței de muncă*), 16 January 2002, Art.85.

the stimulus is paid until the employee fulfils the conditions of minimum time of social security contribution.²⁷¹

5.3 Briefly describe key developments and studies (or absence thereof) relating to affirmative action, reasonable accommodation, accessibility, public sector equality and discrimination testing in relation to each of the grounds listed in Article 21 of the Charter of Fundamental Rights of the European Union, with the exception of Roma, who are covered in Section 7 of these guidelines. These developments should focus particularly on:

5.3.1 affirmative action policies, specifying the main driver (for example, is affirmative action envisaged in legislation or is it an initiative of a company, for instance), their nature (for example, quota, target setting measures), the sector (employment, goods and services, etc.) and the relevant equality ground. Clarify if your country's national legislation prohibits or restricts the opportunity for public, private or voluntary organisations to introduce affirmative actions. Outline specific measures to combat multiple discrimination. See p. 13 of FRA's report on Inequalities and multiple discrimination in access to and quality of healthcare for how multiple discrimination should be understood here.

Affirmative measures are allowed by law in case of both public and private entities.²⁷² The CNCD reported that in 2013, it did not take any affirmative measures or draft any study regarding affirmative measures. The MMFPSPV pointed out to a project implemented with structural funds, which the ministry supported as partner, where 20 women had been trained to be building administrators.²⁷³ The General Inspectorate of the Romanian Police (*Inspectoratul General al Poliției Române (IGPR)*) reported that in 2013 it continued to recruit in the police schools candidates of Roma ethnic origin and candidates belonging to other national minorities – 5 out of 12 places for Roma have been filled and 10 out of 18 places for other minorities

²⁷¹ Romania, Law No.76/2002 regarding the unemployment protection system and the stimulations for employment (*Lege nr.76 din 16 ianuarie 2002 privind sistemul asigurarilor pentru somaj si stimularea ocuparii fortei de munca*), 16 January 2002, Art.85.(5).

²⁷² Romania, Government Ordinance No. 137/2000 regarding the prevention and sanctioning of all forms of discrimination (*Ordonanța Guvernului nr.137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), 31 August 2000, Art.2.(8).

²⁷³ POS DRU, “Campanie națională de conștientizare publică privind egalitatea de gen și de șanse pe piața muncii și sprijin instituțional pentru dezvoltarea activității factorilor interesați în problematica egalității de șansă și gen – Ș.A.N.S.A (ȘANSA/ACCEPTARE/NEVOIE/SIGURANȚA/ACCES LA MUNCA)”(*National campaign to raise public awareness on gender equality and equal opportunities regarding the labour market and the institutional support for entities interested in the field of equal opportunities and gender equality C.A.N.S.A (Chance/Acceptance/Need/Security/Access to employment)*)).

have been filled.²⁷⁴ In 2013, fewer persons belonging to national minorities have been hired in the police forces (4 persons hired, no Roma) compared to 2012 (80 persons hired, 62 Roma).²⁷⁵

There are no specific measures to combat multiple discrimination, except for a legal provision in the Antidiscrimination Law stipulating that discrimination on multiple protected grounds represents an aggravating circumstance.²⁷⁶

5.3.2 legal reforms that extend the duty to provide reasonable accommodation beyond the field of employment (for example, in access to goods and services). Specify for which discrimination grounds the principle of ‘reasonable accommodation’ is applied and in what manner.

The principle of ‘reasonable accommodation’ is not stipulated in the Antidiscrimination law.²⁷⁷ It is only prescribed in the Law 448/2006 regarding the protection and promotion of the rights of persons with handicap (*Legea 448/2006 privind protectia si promovarea drepturilor persoanelor cu handicap*).²⁷⁸ Therefore, it applies only to persons with disabilities that are registered with a handicap according to the legislation. Besides the definition of ‘reasonable accommodation at the workplace’, the law also stipulates the definition of ‘accommodation’, understood to be the ‘process of transforming the physical and information environment, products or systems, to make them available for persons with handicap’.

Nevertheless, the law does not contain a general duty to ensure reasonable accommodation at the workplace or reasonable accommodation. It only contains explicit duties in specific areas with deadlines for fulfilment (the last deadline expired on 31 December 2010) – for examples in the field of public transportation services, access to public buildings, access to public information, etc.²⁷⁹ There are no reporting requirements. There is no information made public by the MMFPSPV regarding the level of implementation achieved. The MMFPSPV replied to our public information request for this report that every year the Social Inspection is monitoring the level of fulfillment of the accessibility legal requirements mentioned above. In 2013, the Social Inspection reported focusing on physical accessibility in education institutions and public transportation (including taxi services) – 4,990 entities out of which 4,306 education institutions, 190 public transportation companies and 494 taxi companies. The results of the inspection showed serious delays in the implementation of the law. For example, out of the 4,306 education institutions reviewed, 27.33% do not have an access ramp, 44.33% do not have handrail and 85.90% do not have accessible toilets for persons who use

²⁷⁴IGPR, Response No.2921386/04.11.2013, on file with the NFP.

²⁷⁵IGPR, Response No.2921386/04.11.2013, on file with the NFP.

²⁷⁶ Romania, Government Ordinance No. 137/2000 regarding the prevention and sanctioning of all forms of discrimination (*Ordonanța Guvernului nr.137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), 31 August 2000, Art.2.(6).

²⁷⁷Romania, Government Ordinance No. 137/2000 regarding the prevention and sanctioning of all forms of discrimination (*Ordonanța Guvernului nr.137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), 31 August 2000.

²⁷⁸ Romania, Law No.448/2006 regarding the protection and promotion of the rights of persons with handicap (*Legea 448/2006 privind protectia si promovarea drepturilor persoanelor cu handicap*), 6 December 2006, Art.5 points 3 and 4.

²⁷⁹Romania, Law No.448/2006 regarding the protection and promotion of the rights of persons with handicap (*Legea 448/2006 privind protectia si promovarea drepturilor persoanelor cu handicap*), 6 December 2006.

wheelchairs; out of the 3,279 public buses reviewed, 28.06% do not have adapted doors, 35.57% do not have ramps or other accessibility system for persons who use wheelchairs and the situation is worse for trolleybuses and trams; only 2.63% of taxi companies have at least one car adapted for persons who use the wheelchair. The Social Inspection ordered 9,050 measures to remedy these violations – some of them were implemented, other are in the process of being implemented, according to the MMFPSPV.²⁸⁰ The social inspectors who work in the structures of the MMFPSPV have the power to apply administrative fines between 6,000 lei (aprox. EUR 1,400) and 12,000 lei (aprox. EUR 2,800) for violations of the Law 448/2006, including violations of the legal obligations related to accessibility.²⁸¹ In 2013, the MMFPSPV reported to have issued only 10 administrative fines in the total amount of 55.000 lei and 353 written warnings.²⁸²

5.3.3 policies and measures adopted or discussed in relation to promoting accessibility to goods and services, with a particular focus on the European Accessibility Act, but not limited to disability.

On 12 February 2013, the 2001 standards for the accessibility of buildings and the urban space to the needs of persons with disabilities have been amended in response to the notification of the European Commission.²⁸³ The new standards entered into force starting 4 April 2013.²⁸⁴ These standards are intended to add to the old standards and re-structure them so that they are in compliance with a list of standards at the European level such as ISO TR 9527, ISO TC 159, ISO TC 22, CEN/TC178, ISO 4190 1/1999, ISO 4190 -5/2006, EN 81 – 40, EN 81 – 41, CEN/TC293, ISO/CD/21542. According to the Standards, other documents were used as a reference in the drafting of the new standards, for example *The Build for All Reference Manual, 2010 – A Europe Accessible for All* and *The Disabilities action plan 2004-2010*. There is no evaluation available of these new standards or a comparison with the old ones. Some general remarks are that the new standards focus more on the functionality of space for the persons with disabilities rather than setting theoretical technical standards on how to build-up the environment. For example, the new standards have a section of definitions where concepts like ‘accessibility’, ‘ability’, ‘autonomy’, ‘free circulation’, etc are included. They also have a section on human abilities and principles related to the design of buildings. They contain graphics and pictures explaining the rules and their practical use.

5.3.4 policies and measures adopted or discussed in relation to accommodation of religious practices (for example: use of religious symbols and/or clothing in employment and education,

²⁸⁰MMFPSPV, Response No.459/27.01.2014, on file with the NFP.

²⁸¹Romania, Law No.448/2006 regarding the protection and promotion of the rights of persons with handicap (*Legea 448/2006 privind protectia si promovarea drepturilor persoanelor cu handicap*), 6 December 2006, Article 100.

²⁸²MMFPSPV, Response No.459/27.01.2014, on file with the NFP.

²⁸³MMFPSPV, Response No.361/01.11.2013, on file with the NFP.

²⁸⁴MDRAP, Order No.189/2013 for the approval of technical standards for the accessibility of public buildings and the urban space to the needs of persons with handicap (*Ordinul nr.189/2013 pentru aprobarea reglementarii tehnice "Normativ privind adaptarea cladirilor civile si spatiului urban la nevoile individuale ale persoanelor cu handicap, indicativ NP 051-2012 - Revizuire NP 051/2000"*), 12 February 2013, available at <http://www.anph.ro/admin/doc/upload/serviciu/Ordin%20Normativ%20189-2013.pdf>.

right to object to duties as an employee or official based on religious convictions, etc.).

There is nothing to report.²⁸⁵

5.3.5 policies and measures adopted or discussed in relation to discrimination testing in healthcare, housing, education and employment. Where relevant, highlight any studies or surveys relating to discrimination testing.

There is nothing to report.²⁸⁶

5.4 Equality and the media

5.4.1 Non-2013 specific question: identify regulatory safeguards for ensuring the representation of social diversity in the media: for example, through the representation of various cultural and social groups in professional, management and board functions in private (commercial and/or non-profit) media; in media councils and/or other advisory bodies in the media sector; in professional, management and board functions in Public Service Media.

The law regulating the activity of the Romanian Broadcasting Company (*Societatea Română de Radiodifuziune (SRR)*) and Romanian Television Company (*Societatea Română de Televiziune (SRT)*) stipulates two ways of ensuring social diversity in the media. First, the national minorities' group from the Parliament is entitled to propose candidates for one member in each of the two Boards of the companies mentioned above (in comparison to the other political groups that are allocated eight places).²⁸⁷ Second, at the local level, where the local studios broadcast programs in the language of the national minorities, the local boards of the studios will include representatives of these programs.²⁸⁸

5.4.2 Non-2013 specific question: State whether or not discriminatory behaviour in the media is monitored. If so, by which body?

There are two institutions competent to monitor, investigate and sanction (with administrative sanctions) discriminatory behaviour in the media: the National Council of Audio-Visual

²⁸⁵The institutions having powers in the field responded that they did not adopt or discussed policies and measures in relation to accommodation of religious practices. CNCD, No.6771/01.11.2013 and MMFPSPV, Response No.361/01.11.2013, on file with NFP.

²⁸⁶ The institutions having powers in the field responded that they did not adopt or discussed policies and measures in relation to accommodation of religious practices. CNCD, Response No.6771/01.11.2013 and MMFPSPV, Response No.361/01.11.2013, on file with NFP.

²⁸⁷ Romania, Law No.41/1994 regarding the organization and functioning of the Romania Broadcasting Company and the Romanian Television Company (*Lege nr. 41 din 17 ianuarie 1994 privind organizarea si functionarea Societatii Romane de Radiodifuziune si Societatii Romane de Televiziune*), 17 January 1994, Art.19.(2).(e).

²⁸⁸ Romania, Law No.41/1994 regarding the organization and functioning of the Romania Broadcasting Company and the Romanian Television Company (*Lege nr. 41 din 17 ianuarie 1994 privind organizarea si functionarea Societatii Romane de Radiodifuziune si Societatii Romane de Televiziune*), 17 January 1994, Art.35.

(*Consiliul Național al Audiovizualului (CNA)*) and the CNCD. Specifically, the CNA is handling cases occurring in the audio-visual services.²⁸⁹ The rest of the discriminatory behaviour in the media falls within the competence of the CNCD.²⁹⁰ Both institutions are independent bodies under the control of the Parliament.

5.4.3 Briefly describe complaints registered with higher courts or equality bodies concerning cases lodged or decided in 2013 where the media were including or promoting any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation or were otherwise criticised for prejudicing respect for human dignity. Specify if the instance referred to is about audio-visual commercial communication (see Art. 9/1/lit.c. Dir. 2010/13/EU).

On 19 February 2013, the High Court of Cassation and Justice (*Înalta Curte de Casație și Justiție (ICCJ)*) decided in a case regarding an alleged discriminatory program aired by a news television in Romania. The decision reflects the limitations of the application of the non-discrimination legislation in the field of audio-visual and the lack of coordination between the activity of CNA and CNCD.

The case originates in a statement given by a forensic psychologist in an interview for a news TV station. While commenting on an incident where a man was attacking women on the street with a blade, the expert declared that there are women (which he identified by using derogatory terms) who have a behaviour that provokes men to exercise acts of violence against them (for example women that walk at night in the park, enter into an elevator with a stranger or enter into relationships with certain men).

The expert was sanctioned by CNCD for discriminatory statements on the ground of sex.²⁹¹ In the same time, an NGO promoting women's rights asked the TV station for the right to reply to the discriminatory and inaccurate statements. The TV station refused motivating that such women behaviours exist and the opinions of experts in the field should be heard by the public. The NGO introduced a request for review to the CNA, which was rejected on the ground that the statements represent value judgments of the expert and they are in accordance with the audio-visual legislation. The Court of Appeal of Bucharest and the ICCJ upheld the CNA decision. Among other grounds, their reasoning is stating that the CNCD decision regarding the discriminatory nature of the statements is not applicable to CNA because the two institutions are independent,²⁹² they apply different laws and their area of activity is different.²⁹³ Moreover, the ICCJ stated that the CNCD did not find discrimination, but a behaviour on the ground of gender that can lead to an intimidating environment.²⁹⁴ Such an assessment is not in compliance with the CNCD decision and the anti-discrimination

²⁸⁹ Romania, Law 504/2002 regarding the audio-visual (Lege nr. 504 din 11 iulie 2002 *Legea audiovizualului*), 11 July 2002, Arts.10, 40. CNA Decision No.220/2011 regarding the regulating code of audio-visual content, 24 February 2011, Art.47.(2).

²⁹⁰ Romania, Government Ordinance No. 137/2000 regarding the prevention and sanctioning of all forms of discrimination (*Ordonanța Guvernului nr.137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), 31 August 2000, Arts.15, 16-20.

²⁹¹ CNCD, Decision No.281, 20 October 2010.

²⁹² Romania, Curtea de Apel București, Civil Judgment No.4179, 14 June 2011, p.3.

²⁹³ ICCJ, Civil Decision No.939, 19 February 2013, pp.5-6.

²⁹⁴ ICCJ, Civil Decision No.939, 19 February 2013, p.5.

legislation which also sanctions the harassment on the ground of sex as a form of discrimination.²⁹⁵

The CNA replied that it did not find any case of discrimination in 2013.²⁹⁶ Nevertheless, there are two cases issued recently that are relevant for the issues of discrimination in audio-visual media.

First, on 29 October 2013, the CNA found discrimination on the ground of sex as to the statements made by a journalist during a show for a news TV station. On 2 September 2013, he used derogatory words referring to two women politicians (in Romanian “muieri”, possible translation into English “jades”); he added that such women, which he identified by the colour of their hair, are “sinister alternatives” to the current Government because they “lack the force and the capacity to adopt certain strategies” and they “should rather do anything else than criticize the Government in a manner that is vapid and superficial.”²⁹⁷ The TV station was fined RON 10.000 (approx. EUR 2272). The CNA decision is not yet available.

Second, on 11 October 2013, the CNA issued a public statement in reply to a large number of complaints regarding a lifestyle reality show called “Four weddings and a challenge” aired in September 2013. The show presented among heterosexual couples a same-sex couple that is having a religious engagement ceremony in Romania.²⁹⁸ The show was criticized by a number of self-identified Christian organizations as representing what they call “gay propaganda”; they allege filing 2000 individual complaints to the CNA and two legal actions in court to stop the TV show from being aired.²⁹⁹ The CNA stated that the TV show is in compliance with the audio-visual legislation and its role is to ensure that no discriminatory behaviours including on the ground of sexual orientation take place in audio-visual activities. Therefore, it rejected the complaints and held that the TV show is in accordance with the law.³⁰⁰ The show is currently not being aired anymore by the TV station.

²⁹⁵ Romania, Government Ordinance No. 137/2000 regarding the prevention and sanctioning of all forms of discrimination (*Ordonanța Guvernului nr.137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), 31 August 2000, Arts.2.(5), 15.

²⁹⁶ CNA, Response No.11601RF, 30 October 2013.

²⁹⁷ Gândul (2013), ‘Realitatea TV, amendată de CNA pentru discriminare pe considerente de sex’ (*Realitatea TV fined by CNA for discrimination on the ground of sex*), 31 October 2013, available at <http://www.gandul.info/stiri/realitatea-tv-amendata-de-cna-pentru-discriminare-pe-considerente-de-sex-11596839>.

²⁹⁸ CNA, Public Reply No. 10762 RF, 11 October 2013, available at <http://www.cna.ro/article6435.6435.html>.

²⁹⁹ Ziare.com (2013), ‘Nunta gay televizata de Pro TV s-a lasat cu doua mii de plangeri la CNA’ (*The gay wedding on TV aired by PRO TV lead to two thousand complaints to CNA*), 30 September 2013, available at <http://www.ziare.com/media/pro-tv/nunta-gay-televizata-de-pro-tv-s-a-lasat-cu-doua-mii-de-plangeri-la-cna-1259843>.

³⁰⁰ CNA, Public Reply No. 10762 RF, 11 October 2013, available at <http://www.cna.ro/article6435.6435.html>.

5.4.4 Non-2013 specific question on print media addressing especially minority populations: provide a list of daily newspapers published in a non-official language of your country, that is, a language not holding official status at the national level of your Member State.

The Department for Inter-ethnic Relations (*Departamentul pentru Relații Interetnice (DRI)*) published a list with the publications available in the languages of the national minorities living in Romania.³⁰¹ According to this list, we identified the following titles representing daily newspapers published at the national level and at the county level.

At the national level:

- Romániai Magyar Szó – (published only online in Hungarian language)
- Krónika – (published in Cluj and distributed in the entire country, in Hungarian language)
- Allgemeine Deutsche Zeitung – (published in Bucharest, in German language)

At the county level, in Hungarian language:

- Szabadság – published in Cluj-Napoca, Cluj County
- Népszó – published in Târgu Mureș, Mures County
- Hargita Népe – published in Miercurea Ciuc, Harghita County
- Háromszék – published in Sfântu Gheorghe, Covasna County
- Friss Újság – published in Satu Mare, Satu Mare County
- Bihari Napló – published in Oradea, Bihor County
- Nyugati Jelen – published in Arad (for Arad, Alba, Timiș, Caraș-Severin, Hunedoara counties)

5.5 Promising practices

There is nothing to report.

5.5.1 Follow-up on the promising practices reported in Chapter 5 of Annual Report 2012, if they refer to your country. Check any available evaluation results; sustainability – indicating if the promising practice still exists (and if not – why); concrete impacts.

5.5.2 Provide a maximum of three new promising practices relating to non-discrimination and equality, putting each one in a separate table³⁰²

³⁰¹ The list is available on DRI's website: http://www.dri.gov.ro/index.html?page=cultura_publicatii.

³⁰² Out of the replies from the following public institutions and upon consulting the public information available on their websites we did not find any initiative that can be qualified as good practice. See CNCD, Response No. No.6771, 01.11.2013, MMFPSPV, Response No.361/01.11.2013, CNA, Response No.11601RF, 30 October 2013, IGPR, Response No.921115, 14.03.2013 (all on file with the NFP).

Title (original language)	
Title (EN)	
Organisation (original language)	
Organisation (EN)	
Government / Civil society	
Funding body	
Reference (incl. url, where available)	
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	
Type of initiative	
Main target group	
Indicate level of implementation: Local/Regional/National	
Brief description (max. 1000 chars)	
Highlight any element of the actions that is transferable (max. 500 chars)	
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	
Give reasons why you consider the practice as having concrete measurable impact	
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	
Explain, if applicable, how the practice provides for review and assessment.	

5.6 Case law

Reference landmark 2013 case law falling under the scope of Article 21 of the Charter of Fundamental Rights of the European Union, using the table below. Put each case in a separate table.

Below we present several decisions of the equality body. Since they can be contested in court, we do not know if the cases presented below are final decisions or not.

Case title	Case of <i>R.S.I. v. S.C. CDI Oilfield Service SRL and S.C. Adecco Resurse Umane SRL</i> ; Hotărârea Nr.348/29.05.2013
Decision date	29.05.2013
Reference details (type and title of court/body; in original language and English [official translation, if available])	National equality body, Consiliului Național pentru Combaterea Discriminării (National Council for Combating Discrimination)
Key facts of the case (max. 500 chars)	The claimant is a mechanic with a hearing disability. He was dismissed for failing at an evaluation carried out by a human resources company hired by his employer. He complains that his employer did not inform the human resources company about his hearing impairment. Moreover, the employee was not informed in time that he will be subjected to a test so that he could have brought an interpreter. Therefore, the complainant failed the first test. Nevertheless, he got a very good score to the second test when a colleague assisted him to process it.
Main reasoning/argumentation (max. 500 chars)	The NCCD established the prima facie discrimination because the employer did not accommodate the first evaluation test to the disability of the complainant, while there was a very significant difference between the complainant's scores to the first test and the second test (where he had an interpreter).
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	When a person with a hearing disability is subjected to an evaluation test that does not take into account the person's disability, he/she needs an interpreter to be able to complete the test. The persons with disabilities have the right to reasonable accommodation according to the Law 448/2006 on the protection of persons with handicap. Article 5 point 4 of the Law 448/2006 understands by reasonable accommodation at the workplace "all adjustments made by the employer to facilitate the right to work of the person with handicap; it presupposes adjusting the working program, buying new equipment, tools and technologies and other similar measures."
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The CNCD found direct discrimination on the ground of disability with regards to dismissal. The sanction was a warning addressed to the employer. Because the concept of reasonable accommodation is not stipulated in the Antidiscrimination Law (OG 137/2000), the CNCD invoked and applied the definition of reasonable accommodation from another law - Law 448/2006 on the protection of persons with handicap.

Case title	Case of <i>Asociația Nevăzătorilor din România v. Autoritatea Națională pentru Calificări</i> (The Association of Visually Impaired Persons v. The National Authority for Professional Qualifications); Hotărârea Nr.320/22.05.2013
Decision date	22.05.2013
Reference details (type and title of court/body; in original language and English [official translation, if available])	National equality body, Consiliului Național pentru Combaterea Discriminării (National Council for Combating Discrimination)

in original language and English [official translation, if available])	
Key facts of the case (max. 500 chars)	The occupational standard does not allow masseurs with visual impairments to obtain the competences required for therapeutic massage and/or lymphatic massage. The Association of Blind Persons from Romania complained that this conditionality represents discrimination on the ground of disability.
Main reasoning/argumentation (max. 500 chars)	The CNCD found that there was a different treatment of masseurs who have visual impairments compared to the other masseurs in respect to their right to access the massage specialties – for therapeutic massage and/or lymphatic massage. There was no evidence brought to show that visual acuity is important for the specialties mentioned above.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Discrimination on the ground of disability in access to professional specialties.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The CNCD found that the abovementioned occupational standard represents discrimination on the ground of disability in accessing to profession. The National Authority for Qualifications was fined with 4000 lei (900 EUR).

Case title	Case of <i>M.M.D. v Liceul Marin Preda</i> (M.M.D. v. Marin Preda High School) Hotărârea Nr. 422/03.07.2013
Decision date	03.07.2013
Reference details (type and title of court/body; in original language and English [official translation, if available])	National equality body, Consiliului Național pentru Combaterea Discriminării (National Council for Combating Discrimination)
Key facts of the case (max. 500 chars)	A high school did not draft and apply a curriculum adapted to the needs of a pupil with ADHD disability, did not provide him with the continuous assistance of an assistant professor and continued to stigmatize the pupil, publicly reprimand him and sanction him.
Main reasoning/argumentation (max. 500 chars)	The CNCD found that given that the high school did not provide evidence of the adapted curriculum as required by the Child Protection Commission and did not establish that the assistant professor helped the pupil in a continuous manner, the very low grades of the pupil prove prima facie discrimination. The CNCD found direct discrimination because the pupil was treated differently based on his disability, meaning that he was not given the required attention. The CNCD considered the pupil to be in a comparable situation with the other high school colleagues because they all have the right to education.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Lack of the implementation of required measures needed to respond to the education need of a pupil with disabilities represents direct discrimination in access to education on the ground of disability. It is direct discrimination and not indirect

	discrimination because the CNCD considered that all children have the right to education and, from this point of view, they are in a comparable situation. When the school responds to the needs of a group of students and does not respond to the needs of another student only because he has a disability, this amounts to direct discrimination.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The CNCD found direct discrimination and sanctioned the school with 1000 lei (220 EUR). The case is important for similar cases where the child protection authorities recommend certain measures to address the educational needs of students with disabilities and the schools do not conform. In principle, the objective justification, even if possible, will be interpreted in a narrow manner.

Case title	Case of <i>B.I.C. v SC Mareea Hotels SRL</i> ; Hotărârea Nr. 442/10.07.2013
Decision date	10.07.2013
Reference details (type and title of court/body; in original language and English [official translation, if available])	National equality body, Consiliul Național pentru Combaterea Discriminării (National Council for Combating Discrimination)
Key facts of the case (max. 500 chars)	The complainant wanted to buy a stay at a hotel at the seaside in Romania for him and other Romanian citizens from a tourism agency from Hungary. The agency informed him that the hotel is refusing to sell the tickets for him and the other Romanian citizens because of the offer is available only for Polish and German citizens. The complainant alleges that he could not access the same cheap price from other agency.
Main reasoning/argumentation (max. 500 chars)	The CNCD stated that the right of the companies to establish their own marketing strategies must be balanced with the right of EU citizens to freedom of movement and freedom of services. In the case of the complainant there was no objective justification to refuse his buying tickets for the stay at the hotel, the only criterium for the refusal was his citizenship, which represents a direct discrimination on the ground of citizenship.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Discrimination on the ground of citizenship is guaranteed in Romania according to the existing legislation. Discrimination in the exercise of the freedom of movement and discrimination in the exercise of freedom of goods and services is at stake when a person is refused to buy tickets for a stay at the seaside because of his citizenship.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The CNCD found direct discrimination on the ground of citizenship and sanctioned the hotel with a fine of 6000 lei (1360 EUR).

Case title	Case of <i>Filiala Sindicală „Hidroelectrica”- Hidrosina v. B R-Euro Insol SPRL</i> (‘Hidrosina’ Branch of ‘Hidroelectrica’ Trade Union v. B R Euro Insol SPRL); Hotărârea Nr. 562/18.09.2013
Decision date	18.09.2013
Reference details (type and title of court/body; in original language and English [official translation, if available])	National equality body, Consiliului Național pentru Combaterea Discriminării (National Council for Combating Discrimination)
Key facts of the case (max. 500 chars)	Mr R.A.B. made public declarations in the context of discussing the firing 12 women who were in child care leave and maternity leave. He justified his decision by criticizing their decisions to have children and their choices who to have intimate relations with. He declared that they are not “a company of women who have just gave birth.”
Main reasoning/argumentation (max. 500 chars)	The CNCD found that the defendant affected human dignity by the way he expressed his opinions regarding maternity. The CNCD stated that the statements are humiliating and offensive towards women who are pregnant or have just gave birth. In spite of the fact that the statements were not followed by the actual actions of firing the women belonging to the respective category, they created an environment that is intimidating, hostile, degrading and offensive against a social category that is in a special situation (in maternity leave and child care leave)
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Maternity leave and child care leave are associated by the defendant with women. Therefore, the CNCD found discrimination on the ground of sex in this case. The protection against dismissal of women during maternity leave and parents during child care leave is stipulated in detail in the Law 202/2002 on equal opportunities for women and men. Therefore, the CNCD invoked and applied those explicit provisions of the Law 202/2002 in this case.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The CNCD found discrimination on the ground of sex and sanctioned the person who made the statement with a fine of 10000 lei (2270 EUR). This is The CNCD is invoking and applying the Law 202/2002 on equal opportunities for women and men, not only OG 137/2000.

Case title	Case of <i>V.C.G. v. Centrul European de Studii în Probleme Etnice al Academiei Române</i> (Romanian Academy European Center of Studies in the field of Ethnic Issues); Hotărârea Nr. 706/04.12.2013
Decision date	04.12.2013
Reference details (type and title of court/body; in original language and English [official translation, if available])	National equality body, Consiliului Național pentru Combaterea Discriminării (National Council for Combating Discrimination)

Key facts of the case (max. 500 chars)	Mr V.C.G. was an employee of the Romanian Academy European Center of Studies in the field of Ethnic Issues. After filing a complaint of alleged discrimination to the CNCD in January 2013 against his employer, Mr V.C.G. was fired. Because the employer did not prove an objective reason for firing the complainant, the CNCD found the Romanian Academy European Center of Studies in the field of Ethnic Issues accountable for victimization.
Main reasoning/argumentation (max. 500 chars)	The CNCD found that the defendant was accountable for victimization against its employee. The CNCD looked into chronological succession of events – complaint filed to the CNCD and decision of dismissal. The CNCD considered this evidence to be prima facie proof of victimization and shifted the burden of proof to the employer who was not able to show it had objective reasons to dismiss the employee, not connected with the complaint of discrimination.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	By victimization is understood an adverse treatment inflicted in reaction to a complaint regarding discrimination. The shift of the burden of proof is applied also in a case of alleged victimization, not only in cases of alleged discrimination.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The CNCD found victimization. The CNCD is applying the shift of the burden of proof in cases of victimization, too. The CNCD sanctioned the Center with a fine of 8000 lei (EUR1800).

Case title	Case of <i>V.I. v OTP Bank-Agenția P-ța Trandafirilor-Tg.Mures, Banca Națională a României, CEC Bank-Sucursala Tg. Mures</i> ; Hotărârea Nr. 672/20.11.2013
Decision date	20.11.2013
Reference details (type and title of court/body; in original language and English [official translation, if available])	National equality body, Consiliului Național pentru Combaterea Discriminării (National Council for Combating Discrimination)
Key facts of the case (max. 500 chars)	Ms V.I. is a person with disability. V.I and her husband who is also a person with disability have a very small income – a total of approximately 1400 lei (EUR 300). V.I. asked for a loan from two banks in her town. She invoked a special right for persons with disabilities stipulated in the Law 448/2006. Article 27 of the

	<p>Law 448/2006 stipulates that persons with disabilities who want to buy their first autovehicle or to renovate their home to make it accessible may benefit from a loan in special conditions – the interest rate is paid by the National Authority of Persons with Handicap, under the condition that the entire loan is paid by the respective person at the end of the contract.</p> <p>Both banks refused the complainant motivating that she is not eligible for a loan under the special condition of the law due to her income.</p>
Main reasoning/argumentation (max. 500 chars)	<p>The CNCD found indirect discrimination on the ground of disability. It found that both banks did not fulfil the burden of proof, meaning that they did not prove that compared to existing regulations in force regarding the application of Article 27 of the Law 448/2006, the complainants do not fulfil the required conditions related to income – their income is below a certain level. Therefore, the defendants did not prove objective criteria for refusing to provide a loan to the complainant (a person with disabilities) which amounts to indirect discrimination.</p>
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	<p>The definition of indirect discrimination in relation to a special right stipulated in the law for the protection of persons with disabilities is applied by the CNCD in the case. It supposes that the person who applies the law should take into account the existence of the special right and treat differently a person that is in a different situation than the majority of the population.</p> <p>The burden of proof in a case of indirect discrimination supposes that the defendant shows evidence that it had objective reasons for refusing the special right stipulated in the law in favour of the person with disabilities.</p>
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	<p>The CNCD found indirect discrimination. Banks should adopt explicit criteria in internal regulation for the enforcement of the special right stipulated in Article 27 of the Law 448/2006.</p> <p>The CNCD sanctioned each bank with a fine of 4000 lei (EUR900).</p>

Case title	<p>Case of <i>A.I.T. v. City Insurance S.A., S.C. Carpatica ASIG S.A., EUROINS, Romania Asigurare-Reasigurare, A.C. Asigurarea Românească – ASIROM, Vienna Insurance Group S.A., UNIQUA Asigurări, OMNIASIG Vienna InsuranceGroup S.A., Societatea Comercială de Asigurare-Reasigurare ASTRA S.A., Groupama Asigurări S.A.</i>; Hotărârea Nr. 708/04.12.2013</p>
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Decision date	04.12.2013
Reference details (type and title of court/body; in original language and English [official translation, if available])	National equality body, Consiliului Național pentru Combaterea Discriminării (National Council for Combating Discrimination)
Key facts of the case (max. 500 chars)	A.I.T. complains of discrimination on the ground of age in the calculation of the mandatory car insurance. A.I.T claims that younger people pay higher premiums for purchasing mandatory car insurance compared to older people.
Main reasoning/argumentation (max. 500 chars)	The CNCD rejected the complaint and found that there was no discrimination on the ground of age. CNCD stated that the age is not a criterium for establishing the premiums, but for establishing the risk of the insurance. Therefore, the complainant is not in a comparable situation with older clients because the risk is calculated based on various criteria, including age, the number of car accidents, fines, etc. The CNCD concluded that there is no different treatment involved in the case.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Actuarial factors in the calculation of premiums and benefits based on age are admissible under the non-discrimination legislation.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	Insurance companies may continue to differentiate premiums based on age for mandatory car insurance.

5.7 Any other significant developments in relation to Article 21 of the Charter of Fundamental Rights of the European Union, including studies and surveys relating to discrimination.

There is nothing to report.

6 RACISM XENOPHOBIA AND RELATED INTOLERANCE

6.1 Briefly describe key developments in relation to anti-racism legislation and policies.

There are no key developments to report.

The CNCD replied to us that they have not carried out any specific projects on anti-racism in 2013.³⁰³

6.2 Briefly describe key developments in relation to Article 9.2.b of Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.

There are no key developments to report.

6.3 Briefly describe key developments in legislation and policies relating to crimes motivated by hatred and prejudice. Where possible, break down developments into the following categories: racism/xenophobia; religiously-motivated; antisemitism; anti-Muslim/Islamophobia; sexual orientation; gender identity; disability; and any others that are relevant to the national context of your country, with the exception of Roma, who are covered in Section 7 of these guidelines.

In a previous written exchange with the General Inspectorate of the Romanian Police (*Inspectoratul General al Poliției Române (IGPR)*) within FRANET in 2013, the IGPR mentioned for the first time the existence of “a procedure for organizing and carrying out police activities in the field of preventing and combating racism, xenophobia, extremism and other forms of violence”. The IGPR refused to provide a copy of this procedure, stating very clearly that it is “strictly secret”.³⁰⁴ Therefore, the introduction of a procedure regarding the prevention and combat of racism, xenophobia and extremism being in itself a positive development, unfortunately, we are not able to consult the content of the procedure or assess its impact.

³⁰³ CNCD, Response No.6771, 01.11.2013, on file with the NFP.

³⁰⁴ IGPR, Response No.921115, 14.03.2013, on file with the NFP.

6.4 If not covered by the above, briefly describe key developments in legislation and policies relating to hate speech. Where possible, break down developments into the following categories: racism/xenophobia; religiously-motivated; antisemitism; anti-Muslim/Islamophobia; sexual orientation; gender identity; disability; and any others that are relevant to the national context of your country with the exception of Roma, who are covered in Section 7 of these guidelines.

There are no key developments to report.

In spite of having a legal mandate to adopt policies regarding non-discrimination in the content of audio-visual materials,³⁰⁵ the National Council of Audio-Visual (*Consiliul Național al Audiovizualului* (CNA)) replied to the NFP that it does not fall within its competences to address issues such as hate speech and referred us to the National Council for Combating Discrimination (*Consiliul Național pentru Combaterea Discriminării* (CNCD)).³⁰⁶

6.5 Trends in officially recorded crimes motivated by hatred and prejudice: complete and update the tables in Annex 6.1 in the Excel sheet. ONLY consult reports PUBLISHED by the relevant authorities.

There are no official publications with data on crimes motivated by bias and prejudice available in Romania. The only data we have obtained was upon requests to the public institutions collecting such data (General Prosecutor's Office, Superior Council of Magistracy and Ministry of Justice).

Based on the data communicated by the three public institutions mentioned above especially for this project, in 2013, there is only one conviction under the Government Emergency Ordinance No.31/2002 regarding fascist and xenophobe symbols and one conviction under Article 247 of the Criminal Code (Abuse in service),³⁰⁷ compared to 4 cases of Incitement to hatred being convicted in 2012, but only to a penal fine (the incitement was against persons belonging to nationality – understood as national minority).³⁰⁸

In 2013, there are no prosecutions for the main criminal offences that fall under the category of crimes motivated by hatred and prejudice – 32 cases under Incitement to hatred (Article 317 of the Criminal Code) and 13 cases under the criminal offences under the Government Emergency Ordinance No.31/2002 regarding fascist and xenophobe symbols have been closed by the prosecutors in 2013–.³⁰⁹ The situation is similar to the previous year when the General

³⁰⁵Romania, Law 504/2002 regarding the audio-visual (Lege nr. 504 din 11 iulie 2002 Legea audiovizualului), 11 July 2002, Art.17.d.7.

³⁰⁶CNA, Response No.11601RF, 30.10.2013, on file with the NFP.

³⁰⁷Ministry of Justice, Response No.112176/31.01.2014, Annex 1, on file with the NFP.

³⁰⁸Superior Council of Magistracy, Response No.3/25392/1154/26.11.2013, on file with the NFP.

³⁰⁹General Prosecutor's Office, Response No.2062/VIII-3/2013, on file with the NFP. The Superior Council of Magistracy has also communicated the number of cases falling under the category of crimes motivated by hatred

Prosecutor's Office reported solving 30 out of 66 cases investigated under Incitement to hatred and 11 out of 26 cases investigated under the Government Emergency Ordinance No.31/2002 regarding fascist and xenophobe symbols. None of these cases have been prosecuted.³¹⁰ Nevertheless, the General Prosecutor's Office reports 4 out of 4 cases of criminal offences against the property motivated by hatred and discrimination (Article 75.c¹ of the Criminal Code) being solved and 11 persons being prosecuted in 2013 in these 4 cases.

There are two situations when the General Prosecutor's Office and the Ministry of Justice do not have comparable data because one institution is recording a certain indicator and the other one is not recording it and vice versa. First, only the General Prosecutor's Office is recording the number of cases where the aggravating circumstance of committing the crime out of hatred and discrimination (Article 75.c¹ of the Criminal Code) is considered. Nevertheless it is limited to criminal offences against the property and to the number of cases finalized by prosecutors and not the number of cases investigated under this legal provision. Thus, in 2013, there were 4 cases solved by prosecutors, in all 4 cases there were prosecutions of a total of 11 persons.³¹¹ Second, only the the Ministry of Justice is recording data on the criminal offence of Abuse in service (Article 247 of the Criminal Code): in 2012, 5 cases of convictions were registered, consisting in penal fine (2 cases) and suspended imprisonment (3 cases)³¹²; in 2013 one case was registered, consisting in suspended imprisonment (2 persons).³¹³ This year CSM provided the specifically collected data mentioned for both the prosecutors' offices and courts.³¹⁴

6.6 Briefly describe key developments and trends in legislation and policies relating to extremism, including as regards prevention and exit strategies, that is, schemes and measures designed to help individuals leave the extremist scene.

There are no key developments and trends to report.

6.7 Briefly describe key developments regarding organisations, associations and groups (incl. political parties) with anti-immigrant, anti-Muslim, extremist, xenophobic, neo-Nazi, anti-Roma, anti-LGBT or nationalist agendas that occurred in your country.

and prejudice solved by the prosecutors' offices (Response No. 3/30340/1154/17.02.2014 to the Center for Legal Resources, on file with the NFP), but these numbers differ from the ones communicated by the General Prosecutor's Office. Specifically, the Superior Council of Magistracy reported 12 cases under Incitement to hatred (Article 317 of the Criminal Code) closed by the prosecutors in 2013 and no cases registered under the criminal offences under the Government Emergency Ordinance No.31/2002 regarding fascist and xenophobe symbols.

³¹⁰ General Prosecutor's Office, Response No.7460/1727/C/2012, 31 October 2013.

³¹¹ General Prosecutor's Office, Response No.2062/VIII-3/2013, on file with the NFP.

³¹² Ministry of Justice, Response No.94148/03.12.2013, on file with the NFP.

³¹³ Ministry of Justice, Response No.112176/31.01.2014, Annex 1, on file with the NFP.

³¹⁴ Superior Council of Magistracy, Response No. 3/30340/1154/17.02.2014 to the Center for Legal Resources, on file with the NFP

Highlight any international cooperation between these groups, where relevant.

No parties which expressly assume such an agenda, through their statutes, could be identified. Yet, certain parties have been qualified as extremist in the course of time by the US Department of State³¹⁵: Greater Romania (PRM) Party (Partidul România Mare) and the New Generation – Christian Democrat Party. Both parties are relatively small sized compared to the main political parties; their impact in the public sphere was very much connected to the publicity of the one person who was the party's leader. The PRM was previously run by Corneliu Vadim Tudor who was excluded from the party at the end of July 2013.³¹⁶ The New Generation – Christian Democrat Party was previously run by George Becali who had joined for a short while the mainstream Liberal Party (Partidul Național Liberal) until February 2013 when he resigned.³¹⁷ None of the two parties are represented in the Parliament in the current legislature and once their leader left the party, they are no longer active in the public sphere. According to their statutes, the ideology of both parties is a nationalist ideology.³¹⁸ Specifically, the PRM's Statute affirms that the party is "central-left, of national orientation" and it is "aiming to fulfil the ideals of national unity, territorial integrity, sovereignty and independence", including "the peaceful realisation of the Great Romania, within its historical borders"; nevertheless, the Statute stipulates that the PRM is against hatred on the ground of nationality, race, social class, religion, against violence and obscene behaviour or behaviours that are immoral.³¹⁹ The PNG's Statute affirms that the party is "promoting the Christian-democratic values and the national interests", it aims at "respecting and defending the national sovereignty, independence and unity of the state, as well as its territorial integrity"; nevertheless it declares that it promotes "the supreme interests of the Romanian people, including the ones of ethnic minorities, in the spirit of moral traditional values."³²⁰

In 2012, the General Prosecutor's Office opened a case against 'Totul pentru tara' Party asking the court to dissolve the party because it represents a successor of Miscarea Legionară, a group that the General Prosecutor's Office argued being a fascist group which acted in the pre-World War II era in Romania. The action of the General Prosecutor was activated by the party's changing name into 'Totul pentru tara', which is the same name used by the party of Miscarea Legionară. The Bucharest Tribunal rejected the case in first instance. The appeal introduced by the General Prosecutor's Office is pending before the Court of Appeal Bucharest.³²¹ In 2013,

³¹⁵ US Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2011, 2012, Romania, available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, http://romania.usembassy.gov/2012_hrr_en.html.

³¹⁶ Mediafax, 'Corneliu Vadim Tudor, EXCLUS din PRM. Gheorghe Funar a fost ales președinte al partidului' (Corneliu Vadim Tudor excluded from PRM. Gheorghe Funar was elected the president of the party), 27 July 2013, available at <http://www.mediafax.ro/politic/corneliu-vadim-tudor-exclus-din-prm-gheorghe-funar-a-fost-ales-presedinte-al-partidului-11165243>.

³¹⁷ Hotnews.ro, 'Crim Antonescu: Domnul Becali a demisionat din PNL si este deputat independent' (Crim Antonescu: Mr Becali resigned from PNL and he is an independent member of the Chamber of Representatives), 11 February 2013, available at <http://www.hotnews.ro/stiri-politic-14203509-crim-antonescu-domnul-becali-demisionat-din-pnl-este-deputat-independent.htm>.

³¹⁸ PRM, Statute, available at <http://prmsatutare.ro/wp-content/uploads/statutul-partidului-romania-mare.pdf> and PNG, Statute, available at www.png.ro/dmdocuments/statut_PNG_RO.doc.

³¹⁹ PRM, Statute, Articles 3-5, available at <http://prmsatutare.ro/wp-content/uploads/statutul-partidului-romania-mare.pdf>.

³²⁰ PNG, Statute, Article 3 points b, c, f, available at www.png.ro/dmdocuments/statut_PNG_RO.doc.

³²¹ Information about the status of the case is available at http://portal.iust.ro/3/SitePages/Dosar.aspx?id_dosar=300000000488900&id_inst=3 (the case is pending in appeal).

another case was opened by the General Prosecutor's Office against 'Totul pentru tara' Party asking the court to dissolve it essentially because it was not active as a party and its leaders are involved in fascist and anti-Semitic propaganda. Specifically, the Prosecutor argued that the party did not hold general assemblies in the last five years and it is not participate in elections at the last two elections. According to Article 46.1.e and f and Article 47 of the Law 14/2003 regarding political parties these are grounds to dissolve a party in court. Nevertheless, the party filed a request for a preliminary ruling by the Constitutional Court whether the abovementioned provisions are in compliance with Article 37 (Right to participate in elections) and Article 40 (Freedom of assembly) of the Romanian Constitution. The Bucharest Tribunal accepted to send these preliminary questions to the Constitutional Court and the case is currently pending in first instance before the Bucharest Tribunal and before the Constitutional Court.³²²

Organizations which promote the leaders of the pre-World War II have been reported by the US Department of State, which qualified them as "extremist organizations": Noua Dreapta (New Right), Professor George Manu Foundation, Autonomous Nationalists.³²³ Specifically, they are reported to sponsor events, including religious services, symposia, and marches, commemorating leaders of the pre-World War II era Legionnaire Movement, which "attracted small numbers of persons", to publish anti-Semitic articles or to promote the ideas of the Iron Guard (an extreme nationalist, Anti-Semitic, pro-Nazi group that existed in the Country in the inter-War period) in the media and on the Internet.³²⁴ According to the information published on its website the New Right aims "to save the Romanian State and People from extinction ordered by the 'managers' of globalisation" and the organization is "permanently fighting for raising awareness and warning on the dangers that threaten the Romanian People."³²⁵ Although the Gheorghe Manu Foundation did not publish its statute, on its website the foundation affirms its embracing legionarism as ideology.³²⁶ The Autonomous Nationalists also did not publish a statute on their website, but published instead their objectives, among which there are "solving the gypsy problem", "preserving the racial genotype of our ancestors as a part of out identity", denying the Holocaust taking place in Transnistria, abolishing the free market and nationalization of the industry, including banks.³²⁷ Among these organizations, the New Right organization was also noted for "violent demonstrations aimed at ethnic Hungarians, homosexuals, Gypsies."³²⁸ It reports for itself having cooperation with groups from Germany (NPD³²⁹, young people adepts of the 'Freie Kameradschaften' system³³⁰), Italy (Forza Nuova³³¹) and Greece (Hrisi Avgi³³²) and opening branches in the Republic of Moldova, Germany and Italy.

³²² Information about the status of the case is available at http://portal.just.ro/3/SitePages/Dosar.aspx?id_dosar=300000000533214&id_inst=3 (the case is pending in first instance and before the Constitutional Court).

³²³ US Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2010, 2011, 2012, Romania, available at: <http://romania.usembassy.gov/policy/reports.html>.

³²⁴ US Department of State, Bureau of Democracy, Human Rights and labor, *Country Reports on Human Rights Practices, Romania, 2010*, Section 6, available at: http://romania.usembassy.gov/2010_rhr_en.html.

³²⁵ New Right, Objectives, available at <http://www.nouadrepata.org/objective.php>.

³²⁶ The Gheorghe Manu Foundation, Doctrine, available at <http://www.fgmanu.ro/Doctrina>.

³²⁷ The Autonomous Nationalists Timișoara, Objectives, available at <http://www.lupta-ns.org/p/programul-politic-al-nationalistilor.html>.

³²⁸ Dr. Harold Brackman, *European Extremist Movements: Who's Who and What's What*, a Simon Wiesenthal Center Report, June 2012, p. 14, available at: http://www.wiesenthal.com/atf/cf/%7B54d385e6-f1b9-4e9f-8e94-890c3e6dd277%7D/FINAL_REPORT_619_12.PDF

³²⁹ NPD website is available at <http://www.npd.de/html/3182>.

³³⁰ Noua Dreapta, Reuniune nationalist româno-germană la Timișoara (Nationalist Romanian-German Reunion in Timisoara), available at http://www.nouadrepata.org/actiuni_prezentare.php?id=439.

³³¹ Forza Nuova website is available at <http://www.forzanuova.org/>.

Another group that was more visible in 2013 was the group called the Autonomous Nationalists from Timișoara, apparently linked with similar movements in Europe (primarily Germany - „Schwarze Fahne”).³³³ In January 2013, they published on their blog an offer to “reward” with a payment of 300 RON (65 EUR) every Roma woman who can prove that she “voluntarily submitted to a sterilization surgery in 2013”. A criminal complaint was filed against this advertisement of the group. The case is pending before Timișoara Prosecutor’s Office.³³⁴

6.8 Promising practices

6.8.1 Follow-up on the promising practices reported in Chapter 6 of Annual Report 2012, if they refer to your country. Check any available evaluation results; sustainability – indicating if the promising practice still exists (and if not – why); concrete impacts.

There is nothing to report.

6.8.2 Provide a maximum of three new promising practices relating to racism, xenophobia and related intolerance, putting each one in a separate table

There is nothing to report.

Title (original language)	
Title (EN)	
Organisation (original language)	
Organisation (EN)	
Government / Civil society	
Funding body	
Reference (incl. url, where available)	
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	
Type of initiative	

³³² Hrisi Avgi website is available at <http://www.xryshaygh.com/>.

³³³ William Totok, “Cine sunt naționalistii autonomi din Timișoara?” [“Who are the autonomous nationalists from Timișoara?”], in *RFI Romania*, 14.01.2013, available at: <http://www.rfi.ro/articol/stiri/politica/cine-sunt-nationalistii-autonomi-timisoara>

³³⁴ Liliana Iedu, “Percheziții în cazul naționalistilor ce au anunțat recompensă pentru femeile rome ce se sterilizează” (“Searches in the case of the nationalists who have announced a reward for the Roma women who get sterilized”), in *Mediafax*, 14.01.2013, available at: <http://www.mediafax.ro/social/perchezitii-in-cazul-nationalistilor-ce-au-anuntat-recompensa-pentru-femeile-rome-ce-se-sterilizeaza-10460811>.

Main target group	
Indicate level of implementation: Local/Regional/National	
Brief description (max. 1000 chars)	
Highlight any element of the actions that is transferable (max. 500 chars)	
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	
Give reasons why you consider the practice as having concrete measurable impact	
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	
Explain, if applicable, how the practice provides for review and assessment.	

6.9 Case Law

There is no data available regarding the judgments made in criminal courts where racist and xenophobic motivations were considered, because there is no public data base where we can consult judgments issued by court. Moreover, the Superior Council for Magistracy declared that it does not collect data on cases where the aggravating circumstance of bias motivation was considered (Article 75.c¹ of the Criminal Code).³³⁵

Case title	
Decision date	
Reference details (type and title of court/body; in original language and English [official translation, if available])	
Key facts of the case (max. 500 chars)	
Did the bias motivation lead to aggravated circumstances or enhanced penalty? Specify.	

³³⁵Superior Council of Magistracy, Response No.3/25392/1154/26.11.2013.

Is the bias motivation highlighted in the judgment? If so, provide the exact quote in the original language as well as in English	
Main reasoning/argumentation (max. 500 chars)	
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	

List all judgements made in criminal courts in 2013 that highlight racist and xenophobic bias motivations (Article 4 of Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law), using the table below.

Put each case in a separate table.

6.10 Any other significant developments in relation to racism, xenophobia and related intolerances

There is nothing to report.

7 ROMA INTEGRATION

7.1 Implementation of action plans, policies, and measures aimed at Roma integration

The European Commission's country specific recommendations linked with 2020 targets as regards the Roma have not been implemented. A number of recommendations were directly linked with Roma inclusion: to ensure concrete delivery of the National Roma Integration Strategy, to have better coordination among stakeholders, the allocation of financing, as well as the implementation of a national strategy on early school leaving, focusing on quality education, including for Roma children.³³⁶ The civil society Roma Decade report for Romania³³⁷ evaluated the implementation of the NRIS along the following lines: "Almost two years since the official adoption of the NRIS (December 2011) there is no clear financial commitment from the Romanian Government for the sustainable implementation of its strategy"³³⁸ or "the Romanian Government has not actually succeeded in revising the NRIS in line with EC recommendations and, furthermore, the NRIS implementation mechanism has proven to be either inefficient or actually not functioning properly"³³⁹ pointing in essence to the lack of cooperation mechanism since this mechanism is primarily based on institutional cooperation. As far as we are aware, Romania does not have a national strategy for early school leaving. Activities aimed at a better inclusion of Roma children in early education have been mainly financed through EU structural funding (see below), and have not continued at the same level in 2013 (see below).

In a reply to a request for information sent by the NFP General Secretariat of the Government (GSG) (*Secretariatul General al Guvernului, SGG*) asking about data on the implementation of the NRIS,³⁴⁰ the PM Chancellery answered in place of the SGG that the request was forwarded to the National Agency for the Roma (NAR). (*Agenția Națională pentru Romi, ANR*)³⁴¹. It is also worth noting that the Roma Contact Point (part of the working apparatus of the PM and honorary counsellor of the PM) is adviser to the Prime Minister, and therefore the

³³⁶ European Commission, *Recommendation for a Council Recommendation on Romania's 2013 national reform programme and delivering a Council opinion on Romania's convergence programme for 2012-2016*, Brussels, 29.05.2013, COM (2013) 373 final, available at: http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm.

³³⁷ Resource Center for Roma Communities Foundation (leader organization), Soros Foundation Romania, Civil Society Development Foundation, Roma Center for Health Policies-SASTIPEN (Florin Moisă, Iulius Albert Rostaș, Daniela Tarnovschi, Iulian Stoian, Daniel Rădulescu, Tania-Ștefania Andersen) (2013) *Updated Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 and 2013 in Romania*, available at: <http://romadecade.org/civilsocietymonitoring>.

³³⁸ Resource Center for Roma Communities Foundation (leader organization), Soros Foundation Romania, Civil Society Development Foundation, Roma Center for Health Policies-SASTIPEN (Florin Moisă, Iulius Albert Rostaș, Daniela Tarnovschi, Iulian Stoian, Daniel Rădulescu, Tania-Ștefania Andersen) (2013) *Updated Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 and 2013 in Romania*, p. 41, available at: <http://romadecade.org/civilsocietymonitoring>.

³³⁹ Resource Center for Roma Communities Foundation (leader organization), Soros Foundation Romania, Civil Society Development Foundation, Roma Center for Health Policies-SASTIPEN (Florin Moisă, Iulius Albert Rostaș, Daniela Tarnovschi, Iulian Stoian, Daniel Rădulescu, Tania-Ștefania Andersen) (2013) *Updated Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 and 2013 in Romania*, p. 47, available at: <http://romadecade.org/civilsocietymonitoring>.

³⁴⁰ Centre for Legal Resources Letter No. 370/25.10.2013 to the Romania, General Secretariat of the Government (*Secretariatul General al Guvernului*), on file with the NFP.

³⁴¹ Romania, Chancellery of the Prime Minister, Public Relations Directorate, Department of Communication and Relations with the Citizens (*Cancelaria Primului Ministru, Direcția Relații Publice, Serviciul Comunicare și Relația cu Cetățenii*) Letter No. 15C/206/rp 31.10.2013 to the Centre for Legal Resources, on file with the NFP.

PM Chancellery, could and should be in possession of such data. The ANR, finally replying after a second request sent by the NFP, did not provide the NFP data on the NRIS implementation, stating that it was the role of the Central Monitoring and Evaluation Compartment, also designated as national contact point to do the evaluation.³⁴² In effect, the replies of both institutions (ANR and SGG) point to a game of passing responsibility from one another. Also according to the Ministry of Health (MH) (*Ministerul Sănătății, MS*) the body responsible to implement, coordinate and evaluate the NRIS would be the ANR, despite the MS being the body responsible for the measures in the NRIS action plan on Health.³⁴³ In any case, one can note a chronic institutional refusal to assume responsibility for Roma inclusion in Romania. The civil society monitoring report of the Decade for Roma inclusion and the NRIS in 2012 noted multiple changes in the Central Monitoring and Evaluation Compartment when the Government kept on changing the NRIS contact point, also the person heading this compartment. This report also mentioned the following: “These changes and related insecurity regarding what is widely perceived as a political game to control public bodies proves a preoccupation with nominal rather than substantive policy-making and policy implementation aimed at Roma inclusion. This situation has resulted in the disorganization of public institutions’ agendas responsible for implementing the NRIS, while the National Contact Point, supposed to coordinate the monitoring and evaluation of NRIS implementation, is unable to offer information on the status of NRIS activities. Not least, the NRIS has no baseline data that could enable rigorous monitoring and evaluation”.³⁴⁴

7.2 National Roma integration Strategies

Complete the table below.

ROMANIA
<p><u>EDUCATION</u></p> <p>Briefly describe and reference key specific measures implementing the National Roma Integration Strategy (NRIS) with respect to education.</p> <p>A request for information including the questions below was sent to the Ministry of National Education (MNE) (<i>Ministerul Educației Naționale, MEN</i>),³⁴⁵ and to the ANR.³⁴⁶</p>

³⁴² Romania, National Agency for the Roma (*Agenția Națională pentru Romi*), Letter 3377/10.01.2014 to the Centre for legal Resources, on file with the NFP

³⁴³ Romania, Ministry of Health, Directorate for Medical Assistance and Public Policies (*Ministerul Sănătății, Direcția Asistență Medicală și Politici Publice*), Letter No. 65773/04.12.2013 to the Centre for Legal Resources, on file with the NFP

³⁴⁴ Resource Center for Roma Communities Foundation (leader organization), Soros Foundation Romania, Civil Society Development Foundation, Roma Center for Health Policies-SASTIPEN (Florin Moisă, Iulius Albert Rostaș, Daniela Tarnovschi, Iulian Stoian, Daniel Rădulescu, Tania-Ștefania Andersen) (2013) *Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in Romania*, p. 9, available at: <http://romadecade.org/civilsocietymonitoring>

³⁴⁵ Centre for Legal Resources Letter No. 259/24.10.2013 to the Romania, Ministry of National Education (*Ministerul Educației Naționale*).

³⁴⁶ Centre for Legal Resources Letter No. 331/15.10.2013 to the Romania, National Agency for the Roma (*Agenția Națională pentru Romi*).

<p>The ANR did not reply to questions on the implementation of educational measures³⁴⁷, while the MEN offered only limited information regarding effective measures and results for Roma children.³⁴⁸</p> <p>In a reply to a second request for information from the NFP whereby questions left unanswered in the first reply from the MEN were asked again, the MEN replied, in this second reply, that it has not adopted and/or implemented in 2013 national plans or any other measures or public policies on the topic of increasing awareness on equality and non-discrimination in 2013.³⁴⁹</p>	
<p>What measures have been implemented to improve access to early childhood education and care?</p>	<p>The MEN mentioned that, in partnership with county school inspectorates, mayor's offices and schools it continued the summer kindergartens for Roma children who did not go to kindergarten and then the MEN goes on to describe the programme and its history.³⁵⁰ The main objective of the initiative, financed in 2009-2011 through the structural funds funded programme "All in kindergarten!, All in first grade!" and implemented with Ruhama Foundation was to: prevent and correct early school drop-out among children aged 5-8 in 420 disadvantaged communities (an average of 10 localities/county, with a high number of Roma in rural and small urban localities).³⁵¹</p> <p>Asked to clarify whether this programme continued to be financed in 2013, the MEN clarified that the programme could no longer be financed from EU funds since 2011 and therefore could not be continued. It went on however to mention that a number of NGOs such as Save the Children, Ruhama and Ovid.ro continued such educational interventions with own financing. The MEN also gave examples of counties where the initiative was continued (3 counties out of 41) with own funding. Only Bihor county was reported to have steadily had activities in 10 or more localities each year since 2011 (10 in</p>

³⁴⁷ Romania, National Agency for the Roma (*Agenția Națională pentru Romi*), Letter No. 3377/10.01.2014 to the Centre for Legal Resources, on file with the NFP.

³⁴⁸ Romania, Ministry of National Education, Press Office (*Ministerul Educației Naționale, Biroul de Presă*), Letter No. 170/BP/18.11.2013 and Letter No. 185/BP/13.01.2013 sent through e-mail to the Centre for Legal Resources, on file with the NFP.

³⁴⁹ Romania, Ministry of National Education, Press Office (*Ministerul Educației Naționale, Biroul de Presă*), Letter No. 185/BP/13.01.2013 sent through e-mail to the Centre for Legal Resources, on file with the NFP.

³⁵⁰ Romania, Ministry of National Education, Press Office (*Ministerul Educației Naționale, Biroul de Presă*), Letter No. 170/BP/18.11.2013 and Letter No. 185/BP/13.01.2013 sent through e-mail to the Centre for Legal Resources, on file with the NFP.

³⁵¹ Romania, Ministry of National Education, Press Office (*Ministerul Educației Naționale, Biroul de Presă*), Letter No. 170/BP/18.11.2013 sent through e-mail to the Centre for Legal Resources, on file with the NFP.

	<p>2013). The MEN also mentioned that since the MEN is not a partner/organizer, it tries to monitor such interventions but does not always manage to.³⁵² It remains to be seen how the MEN intends to implement the NRIS in its field if it only knows the state of affairs on what has been done if it finances or is a partner to the initiatives.</p> <p>Ruhama Foundation, reporting on the project “All in kindergarten!, All in first grade!” reported positively on MEN’s contribution and involvement, stating that the Ministry’s contribution was decisive for the nation-wide implementation of the programme. It also mentioned that the Ministry took over the best practices developed by the organization and extended them nation-wide through this project. Furthermore, according to Ruhama Foundation, the Ministry used the experience of the project to develop the methodology for the “School after school” programme (see below) and grade 0 (a preschool grade newly introduced, also aimed at reducing the gaps between children who did not go to kindergarten and those who did).³⁵³</p>
<p>What measures have been implemented to ensure Roma children complete at least primary school education?</p>	<p>The MEN enumerated two programmes directed at the Roma of the type School after school and “Second chance”, but did not give further details or figures on their implementation. The purpose of the Second chance programme, existing within the Romanian educational system since 2005³⁵⁴ is to offer persons who have not graduated from primary or secondary school and have a certain age, to graduate from these educational levels in separate classes. Depending on the number of requests, schools can organize such classes on the basis of a MEN Order regulating how second chance education is to be organized.³⁵⁵</p> <p>Regarding the School after school type of programmes, in 2013, Roma Education Fund</p>

³⁵² Romania, Ministry of National Education, Press Office (*Ministerul Educației Naționale, Biroul de Presă*), Letter No. 185/BP/13.01.2013 sent through e-mail to the Centre for Legal Resources, on file with the NFP

³⁵³ Fundația Ruhama, Letter 19/07.01.2014 to the Centre for Legal Resources, on file with the NFP.

³⁵⁴ Romania, Ministry of National Education (Ministerul Educației Naționale), *Programul “A Doua Șansă” (Second Chance Programme)* available at: www.edu.ro/index.php?module=articles&func=&catid=492.

³⁵⁵ Romania, Ministry of National Education (Ministerul Educației Naționale) Order No. 5248/31.08.2011 on the implementation of the “Second chance” Programme, available at: <http://administrare.site.edu.ro/index.php/articles/16179>.

	<p>(an NGO) finalized the implementation of such a programme, with EU funds funding and having MEN as partner, as well as three other NGOs (Resource Centre for Roma Communities, “O Del Amenca” Cultural Centre and Roma Association “Amare Rromentza”).³⁵⁶ The project aimed at decreasing early school drop-out and at improving school attainment among Roma children. The project offered this programme to 2,275 children in primary school of which 1141 girls, established 50 active partnerships with schools and local administrations, 50 centres for school after school, furnished and equipped also with teaching materials, 50 active local support groups, involved 250 teachers, school counselled 5374 parents/tutors and students and informed 14214 persons within an awareness raising campaign on the importance of school.³⁵⁷</p> <p>The MEN also mentioned general programmes regarding all children, mainly economically disadvantaged children, without being able to say how many of them were Roma: Milk and Bun (1,663,150 children in pre-school, primary and secondary school received daily a bun and milk in the 2011/2012 school year), Money for high-school (121,145 students received this aid in the 2011/2012 school year), school stationery (777,826 students benefitted in the 2011/2012 school year, not clear at which school level), Euro 200 for buying a computer – the computer needs to be new, and the amount granted, based on socio-economic needs to families with children in school or university of up to 26 years old, is of 200 euro³⁵⁸ - (21,508 students benefitted in the 2011/2012 school year, not clear from the MEN reply at what school level).³⁵⁹ In 2013, 21,077 people benefitted from the Euro 200 programme with a maximum gross monthly income per family member of 76.40 RON (approx. 17 euro).³⁶⁰</p>
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³⁵⁶ Romania, Roma Education Fund, *School after School – the first step to school and professional success*, available at: <http://romaeducationfund.ro/en/projects/school-after-school/>.

³⁵⁷ Roma Education Fund, Letter No. 10/10.01.2014 to the Centre for Legal Resources, on file with the NFP.

³⁵⁸ Romania, Law 269/2004 on granting financial aid to stimulate the acquisition of computers (*Lege 269/2004 privind acordarea unui ajutor financiar în vederea stimulării achiziţionării de calculatoare*), Articles 3 and 4.

³⁵⁹ Romania, Ministry of National Education, Press Office (*Ministerul Educaţiei Naţionale, Biroul de Presă*), Letter No. 170/BP/18.11.2013 sent through e-mail to the Centre for Legal Resources, on file with the NFP.

³⁶⁰ Romania, *Euro 200 portal webpage*, available at: www.euro200.edu.ro/.

<p>What measures have been implemented to reduce secondary school leaving?</p>	<p>The MEN mentioned a programme implemented in the 2010/2011, 2011/2012 and 2012/2013 school years in partnership with UNICEF and ISE - the Institute of Educational Sciences (IES) (<i>Institutul de Științe ale Educației, ISE</i>), a structure under the MEN – whereby 300 school directors confronted with absenteeism and drop-out were trained in teaching methods and the rights of the child.³⁶¹ Upon a second request, the MEN sent additional information regarding this programme.³⁶² The programme is called: “Come to school!” and is implemented by UNICEF in partnership with the MEN, the ISE and five NGOs (Impreuna Agency for Community Development, CRIPS – Centre for Resources and Information for Social Professions, Centre Education 2000+, HOLT Iași and Amare Rromentza). The project intervenes in communities with a high school drop-out rate in an integrated approach. It targets the educational system through the training of school mediators, of school principals (to promote intercultural and inclusive education) and Romani language teachers, the families by approaching them in various ways, including through parental education, the community, by identifying and, among others, training professionals at community level who are supposed to work together to prevent school drop-out or by making and showing a documentary with Roma who have become successful due to education. The campaign was implemented in 38 communities from 16 counties in the 2010/2011 school year and extended with another 105 schools with the approval of the MEN in the 2011/2012 school year according to the UNICEF website³⁶³ and apparently reached 300 in 2013 (since 300 school directors were trained according to the MEN). The MEN provided information on its activities within this campaign, which included for 2013 a Romani language summer school with 50-55 participants (financed by UNICEF</p>
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³⁶¹ Romania, Ministry of National Education, Press Office (*Ministerul Educației Naționale, Biroul de Presă*), Letter No. 170/BP/18.11.2013 sent through e-mail to the Centre for Legal Resources, on file with the NFP.

³⁶² Romania, Ministry of National Education, Press Office (*Ministerul Educației Naționale, Biroul de Presă*), Letter No. 185/BP/13.01.2013 sent through e-mail to the Centre for Legal Resources, on file with the NFP

³⁶³ UNICEF, *Hai la școală! (Come to school!)*, 2011/2012 school year, available at: www.unicef.ro/ce-facem/initiative/hai-la-scoala/despre-campanie/anul-scolar-2011-2012/.

	<p>and organized in partnership with the NGO Divers from Târgu Mureş), it trained Romani language and history teachers, edited a number of Romani language text-books (Arithmetic – grade I in 2012, Mathematics grade II-IV, in 2013), trained 60 Roma school mediators (financing from UNICEF and in partnership with Divers), trained 300 school directors (in the 2011-2013 period) in inter-cultural issues focused on Roma culture and traditions. In 2013, the training was restructured, also including Roma school inspectors from each county school inspectorate directors of teacher training centres at county level and focusing on the evaluation of the school mediator's work. The MEN also elaborated within the campaign a guide for the Roma school mediators. In its second reply to the NFP, the MEN also mentioned that only 45%-65% of the mediators trained were also hired also mentioning that the decisions of local authorities led to an instability of the mediators with around 30-40 no longer being in the educational system. In the 2012/2013 school year there were 401 Roma school mediators within the educational system.³⁶⁴</p>
<p>What measures have been implemented to increase tertiary education and/or to promote vocational training?</p>	<p>The MEN mentioned in reply to this question the initiative to grant special places for Roma children in high-schools. The number for 2013 was not mentioned but only that between 2,700-3,200 children have been admitted annually on such places.³⁶⁵</p>
<p>What measures have been implemented aimed at preventing segregation in education?</p>	<p>In 2007, the MEN adopted Order 1540/09.07.2007 on the prohibition of school segregation of Roma children and the approval of the Methodology for the prevention and elimination of school segregation of Roma children (<i>Ordinul 1540/09.07.2007 privind interzicerea segregării școlare a copiilor rromi și aprobarea metodologiei pentru prevenirea și eliminarea segregării școlare a copiilor rromi</i>) – hereafter the Order.</p> <p>In its reply to the NFP to a question on the topic of school segregation, the MEN once again enumerated a number of notifications or letters sent yearly to the county school</p>

³⁶⁴ Romania, Ministry of National Education, Press Office (*Ministerul Educației Naționale, Biroul de Presă*), Letter No. 185/BP/13.01.2013 sent through e-mail to the Centre for Legal Resources, on file with the NFP

³⁶⁵ Romania, Ministry of National Education, Press Office (*Ministerul Educației Naționale, Biroul de Presă*), Letter No. 170/BP/18.11.2013 sent through e-mail to the Centre for Legal Resources, on file with the NFP.

	<p>inspectores talking about the Order. The last one, send in 2013, is described by the MEN in its Letter to the NFP in terms which speak for themselves: “In April 2013, the General Directorate for teaching in minority languages has sent the address no 41684/17.04.2013, through which ISJs [county school inspectorates] were reminded of the necessity to respect the MEN regulations regarding the non-segregation of Roma children from the rest, on the occasion of the structuring of preschool and first grade classes for the 2013/2014 school year and for the future Vth and IXth grades respectively.”³⁶⁶ It seems that the MEN limited itself to remind school inspectorates if the Order instead of actively monitoring its implementation.</p> <p>The only concrete results of a monitoring report mentioned were from a 2009 report on the situation of segregation and desegregation. The MEN informed the NFP with regards to this report that: “from the materials received (120 pages), one could note the willingness of school units and of the ISJs to stop segregation and to take de-segregation measures in the case of classes/school units already segregated.”³⁶⁷</p> <p>No information on where Romania stands in terms of segregation, what progress has been made, etc... was provided by the MEN. The Order mentions in article 16, that the breach of the established desegregation methodology will lead to holding the person responsible through disciplinary measures, or other types of legal measures, according to the law.</p> <p>The MEN did not provide an answer to an NFP question regarding sanctions for the non-implementation of the Order.³⁶⁸</p> <p>Therefore, given the MEN’s approach to the implementation of the Order, no enforcement mechanism is in place.</p>
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³⁶⁶ Romania, Ministry of National Education, Press Office (*Ministerul Educației Naționale, Biroul de Presă*), Letter No. 170/BP/18.11.2013 sent through e-mail to the Centre for Legal Resources, on file with the NFP.

³⁶⁷ Romania, Ministry of National Education, Press Office (*Ministerul Educației Naționale, Biroul de Presă*), Letter No. 170/BP/18.11.2013 sent through e-mail to the Centre for Legal Resources, on file with the NFP.

³⁶⁸ Romania, Ministry of National Education, Press Office (*Ministerul Educației Naționale, Biroul de Presă*), Letter No. 170/BP/18.11.2013 sent through e-mail to the Centre for Legal Resources, on file with the NFP.

<p>What examples are there of additional support measures for Roma in education (for example, teaching, and learning programmes in the Romani, language, mediation, after-school learning, parental education, second-chance classes, awareness raising, etc.)?</p>	<p>Other examples of programmes aimed at Roma educational participation mentioned by the MEN in a reply to the NFP request for information were: special places for Roma within state universities; summer training in Romani language and teaching methodology for potential Roma language and history professors; teaching Romani language as maternal language three-four classes/week for grades I-XII and one class/week of Roma history and traditions in grades VI and VII; supporting, where requested, full maternal language teaching in preschool, actually with a bilingual approach (Romanian-Romani, Hungarian-Romani); supporting, where requested, full maternal language teaching for primary education (with four compulsory classes of Romanian language and literature) – 500 children are in this type of schooling at primary level; ensuring the positions and financing for Roma history and language professors and primary school teachers who teach Romani language; maintaining and financing the positions of inspectors for the educational problems of Roma at county level (42 inspectors) and two positions at central level within the MEN; maintaining a network for specialists in the methodology of Romani language, history traditions and schooling, with presence in each county; continuing to train Roma school mediators.³⁶⁹ Related to this last aspect, the NGO Roma Centre for Social Intervention and Studies announced recently that the NGO has trained, with the support of the MEN Directorate for Minority Language Teaching over 100 school mediators as part of a project financed by the EU Commission. The project is called <i>DARE-NET – Desegregation and Action for Roma in Education Network</i>, implemented in six EU countries. Its objective is to develop an international network of Roma civil society to disseminate good practices in education and de-segregation and encourage a strong commitment from public institutions for Roma inclusion through desegregation and quality education.³⁷⁰</p>
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³⁶⁹ Romania, Ministry of National Education, Press Office (*Ministerul Educației Naționale, Biroul de Presă*), Letter No. 170/BP/18.11.2013 sent through e-mail to the Centre for Legal Resources, on file with the NFP.

³⁷⁰ Romani CRISS (2013) *Peste 100 de mediatori formați de Romani CRISS în cadrul cursurilor „Transfer de expertiză privind desegregarea școlară”* (Over 100 mediators trained by Romani CRISS within the courses

EMPLOYMENT

Briefly describe and reference key specific measures implementing the NRIS with respect to employment.

What measures have been implemented under the principle of equal treatment to reduce the employment gap between Roma and non-Roma?	Regarding this aspect, the Ministry of Labour, Family, Social Protection and the Elderly (MLFSPE) (<i>Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice, MMFPSPV</i>) replied to a request from the NFP by describing the activity of the National Employment Agency (<i>Agenția Națională pentru Ocuparea Forței de Muncă, ANOFM</i>) which implements employment strategies and professional training, ensuring equality of chances, particularly, as stated by the MMFPSPV, in what regards those with particular difficulties, and here it enumerates persons with a disability, women, Roma persons. The MMFPSPV did not detail however how this is done concretely, but went on to cite the general non-discrimination clause inserted in the legislation regarding the professional training provision (i.e. professional training should be granted without discrimination on various grounds). ³⁷¹
What measures have been implemented to encourage Roma integration into the workplace (for example, mediation, tailored activation measures, access to open labour markets, social enterprises, etc.)	Regarding this question, the MMFPSPV simply enumerated the general labour employment measures and services, which do not specifically target the Roma. ³⁷² The ANOFM is mentioned within the NRIS under one of the two priorities under Employment in the following terms: “Adapt the professional training courses offered by the training centres under ANOFM to the needs of the labour market”. It is also mentioned as supposed to be part of an inter-ministerial group which would define and promote the professional status of the trainer in the field of inclusive education. ³⁷³ However, being under

„Expertise transfer regarding school desegregation”), 03.12.2013, available at: <http://www.romaniciiss.org/comunicat%20de%20presa%20cursuri%20mediatori%20scolari.pdf>.

³⁷¹ Romania, Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department of Communication, Public Relations and the Press, (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații publice și Presă*), Letter No. 361/01.11.2013 to the Centre for Legal Resources, on file with the NFP.

³⁷² Romania, Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department of Communication, Public Relations and the Press, (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații publice și Presă*), Letter No. 361/01.11.2013 to the Centre for Legal Resources, on file with the NFP.

³⁷³ Romania, Hotărârea de Guvern Nr. 1.221/2011 pentru aprobarea Strategiei Guvernului României de incluziune a cetățenilor români aparținând minorității romilor pentru perioada 2012-2020 (Government Decision 1.221/2011 for

	the MMFPSPV, which is mentioned on most measures to be taken under employment, it cannot be concluded that this institution would only have a mandate for those activities where it is specifically mentioned as such, but for all activities which would fall under its institutional mandate as the national employment agency.
What measures have been implemented to provide/promote financial inclusion of Roma through for example, micro-credit loans, and particularly for Roma entrepreneurs?	On this matter, the MMFPSPV replied that the ANOFM “does not have a budgetary allocation specifically for Roma ethnics, but for all beneficiaries, thus ensuring the non-discriminatory access to active measures for all interested persons”. ³⁷⁴
What measures have been implemented to encourage employment of more qualified Roma civil servants in the public sector (public work)?	Here the MMFPSPV replied that the ANOFM cannot control exclusively this aspect, but that, through the measures it implements “it aims to stimulate employment in all sectors without discrimination”. ³⁷⁵
What measures have been implemented to provide personalised employment services for Roma (for example, job search assistance, on-the-job training and life-long learning of Roma)?	<p>The MMFPSPV, referring to ANOFM measures enumerated the types of employment services the Roma who were in their records benefitted from. Thus, of 53,820 Roma who benefitted from the ANOFM measures/services until 30.09.2013, 3,583 persons had been employed (some benefitted from more than one measure/service):</p> <ul style="list-style-type: none"> • 3,188 mediation services (1326 on a permanent basis, 1.326 on a fixed term period) • 409 information and counselling • 72 professional training • 27 through the granting of financial aid for the unemployed who get a job before the period of unemployment entitlement ends • 25 through subventions granted to employees who hire unemployed persons over 45 or sole parents • 2 stimulation of workforce mobility • 15 through the granting of financial benefits to employers of insertion,

the approval of the Romanian Government Strategy for the inclusion of the Romanian citizens belonging to the Roma minority for the period 2012-2020)

³⁷⁴ Romania, Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department of Communication, Public Relations and the Press, (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârștnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații publice și Presă*), Letter No. 361/01.11.2013 to the Centre for Legal Resources, on file with the NFP.

³⁷⁵ Romania, Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department of Communication, Public Relations and the Press, (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârștnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații publice și Presă*), Letter No. 361/01.11.2013 to the Centre for Legal Resources, on file with the NFP.

	<p>based on solidarity contracts in agreement with Law 116/2002</p> <ul style="list-style-type: none"> • 56 persons through other measures.³⁷⁶ <p>Roma employment fairs were also organized in two counties (Dâmbovița and Prahova), resulting in 244 employers contacted, 22 employers participating and offering 199 jobs, 235 Roma persons participating and 33 Roma persons selected for employment.³⁷⁷</p> <p>Another programme mentioned by the MMFPSPV is <i>Programme 140, especially for communities with a big number of Roma</i>, through which ANOFM proposes to reach the employment of 2,100 Roma persons, approx. 32% of the total target of Roma employed through ANOFM measures in 2013. As a result, until 30.09.2013, 1,922 Roma persons had been employed through various services (similar to the enumeration above).³⁷⁸ Upon request, the MMFPSPV also clarified that the indicators under <i>Programme 140</i> are included in the indicators under the <i>General employment programme</i>.³⁷⁹</p> <p>Also, the ANOFM target for free training of Roma in 2013 is of 889 persons of which 284 women. Until 30.09.2013, 593 Roma persons had participated in professional training courses out of a total of unemployed who participated of 26,662.³⁸⁰</p>
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³⁷⁶ Romania, Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department of Communication, Public Relations and the Press, (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârștnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații publice și Presă*), Letter No. 361/01.11.2013 to the Centre for Legal Resources, on file with the NFP.

³⁷⁷ Romania, Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department of Communication, Public Relations and the Press, (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârștnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații publice și Presă*), Letter No. 361/01.11.2013 to the Centre for Legal Resources, on file with the NFP.

³⁷⁸ Romania, Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department of Communication, Public Relations and the Press, (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârștnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații publice și Presă*), Letter No. 361/01.11.2013 to the Centre for Legal Resources, on file with the NFP.

³⁷⁹ Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department for Communication, Public Relations and the Press (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârștnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații Publice și Presă*) Letter No. DPP-CCRPP Nr. 459/27.01.2014, on file with the NFP

³⁸⁰ Romania, Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department of Communication, Public Relations and the Press, (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârștnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații publice și Presă*), Letter No. 361/01.11.2013 to the Centre for Legal Resources, on file with the NFP.

	<p>It is not clear how the ANOFM establishes its targets for the Roma. Following a specific request for clarification made to the MMFPSPV in this sense (on the basis of what does the ANOFM establish its yearly indicators regarding the Roma³⁸¹), the institution replied that the indicators are established based on the proposals coming from local employment agencies. The answer evidently does not provide the needed clarification.³⁸² Furthermore, we miss information on any follow-up measures regarding the employment of the Roma (whether those employed, especially those with a fixed contract continue to be employed in the long run), or on how the targets and activities of the ANOFM fit within the larger picture of Roma inclusion, such as, for example: how does the ANOFM contribute to reduce the various gaps between the Roma and non-Roma, as their targets do not seem to be correlated with any such generally established targets (such targets would also have to be based on concrete data). Specifically asked to clarify these matters³⁸³, the MMFPSPV clarified some. Therefore, asked whether the ANOFM monitors what happens with the persons employed through the measures the ANOFM implements, the MMFPSPV replied that it monitors those measures which imply financial incentives for the unemployed or employers under certain circumstances (in essence, they monitor that the circumstances which entitle those in question to the financial incentives are maintained for the required duration)³⁸⁴.</p>
<p>What measures have been implemented to eliminate the barriers, including discrimination, to re-enter the labour market, especially for Roma women?</p>	<p>On this matter, the MMFPSPV mentions that the results of the active measures implemented are far from what is expected, and identifies as a cause for this the fact that Roma give up on</p>

³⁸¹ Centre for Legal Resources Letter No. 455/20.12.2013 to the Ministry of Labour, Family, Social Protection and the Elderly (Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vîrstnice), on file with the NFP.

³⁸² Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department for Communication, Public Relations and the Press (Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vîrstnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații Publice și Presă) Letter No. DPP-CCRPP Nr. 459/27.01.2014, on file with the NFP.

³⁸³ Centre for Legal Resources Letter No. 455/20.12.2013 to the Ministry of Labour, Family, Social Protection and the Elderly (Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vîrstnice), on file with the NFP.

³⁸⁴ Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department for Communication, Public Relations and the Press (Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vîrstnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații Publice și Presă) Letter No. DPP-CCRPP Nr. 459/27.01.2014, on file with the NFP.

	<p>the measures for various reasons, such as:</p> <ul style="list-style-type: none"> • Precarious educational level, lack of identification documents, in some cases, which would not allow them to attend professional training courses; • Lack of income which does not allow them to use public transport to come to the localities where professional training is taking place; • They would rather work in agriculture or other activities for which they receive informal payment; • Many are beneficiaries of the minimum income guarantee.³⁸⁵ <p>The MMFPSPV also has a number of solutions which it transmitted to the NFP, as follows:</p> <ul style="list-style-type: none"> • Orienting the Roma to finish schooling through “Second chance” type of programmes followed by labour mediation • Including Roma who have graduated from “Second chance” programmes into professional qualification programmes of first level • Accelerate the process of registering the Roma since the lack of ID is an obstacle in accessing the active measures foreseen; • Develop/consolidate relations with NGOs belonging to the Roma, in order to find common solutions; • Sensitization campaigns among the Roma communities as well as economic operators in order to employ the Roma; • Improve the personal assistance and individual approach services.³⁸⁶ <p>In outlining both the problems and the solutions, the MMFPSPV does not mention how the institution came to these conclusions (eg. own inquiries, statistics, research, etc...) but simply outlines them. A specific question to clarify this aspect was sent to the MMFPSPV,³⁸⁷ but no clarification was made by the MMFPSPV in relation to these aspects</p>
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³⁸⁵ Romania, Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department of Communication, Public Relations and the Press, (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârștnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații publice și Presă*), Letter No. 361/01.11.2013 to the Centre for Legal Resources, on file with the NFP.

³⁸⁶ Romania, Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department of Communication, Public Relations and the Press, (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârștnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații publice și Presă*), Letter No. 361/01.11.2013 to the Centre for Legal Resources, on file with the NFP.

³⁸⁷ Centre for Legal Resources Letter No. 455/20.12.2013 to the Ministry of Labour, Family, Social Protection and the Elderly (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârștnice*), on file with the NFP.

	<p>(specifically how they reached these conclusions and recommendations)³⁸⁸.</p> <p>Furthermore, the measures proposed do not seem to respond to what might be the causes of the problems identified. Firstly, we are not aware of any national programme to proactively register Roma who do not have IDs, which would thus have to be accelerated. There is only a measure foreseen within the NRIS under the chapter on Administration and community development which provides for the continuation of the process of identification of the persons without civil status and ID papers in view of their issuance. However, We could not identify any official data clarifying how extended the phenomenon is and where. Nor do we have any centralized data as to how many such papers have been issued so far as part of the NRIS. The NFP sent another question of clarification on this aspect to the MMFPSPV,³⁸⁹ asking specifically to clarify where the registration process is at present and the concrete data on which the recommendation is based but no clarification was made.³⁹⁰ Secondly, there is no solution mentioned for lack of financial means to cover transport to the training venue, such as allocating the necessary budget to cover transport from the localities of the county to the municipality of the country or the city where the courses would be taking place. Thirdly, the problem of why the Roma would rather work informally or prefer the MIG does not seem to be tackled from a rational choice, economic perspective, but rather from a personal choice perspective.</p> <p>The MMFPSPV did not reply to a specific question from the NFP³⁹¹ on measures implemented as part of the NRIS aimed at</p>
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³⁸⁸ Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department for Communication, Public Relations and the Press (Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vîrstnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații Publice și Presă) Letter No. DPP-CCRPP Nr. 459/27.01.2014, on file with the NFP.

³⁸⁹ Centre for Legal Resources Letter No. 455/20.12.2013 to the Ministry of Labour, Family, Social Protection and the Elderly (Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vîrstnice), on file with the NFP.

³⁹⁰ Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department for Communication, Public Relations and the Press (Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vîrstnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații Publice și Presă) Letter No. DPP-CCRPP Nr. 459/27.01.2014, on file with the NFP

³⁹¹ Centre for Legal Resources Letter No. 358/24.10.2013 to the Ministry of Labour, Family, Social Protection and the Elderly (Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vîrstnice), on file with the NFP.

	<p>reducing barriers, including discrimination, regarding Roma women. The question was repeated in a subsequent request³⁹² and the MMFPSPV replied by referring to women in general and mentioning that employment fares for women were organized in 2013 in all counties.³⁹³</p> <p>The civil society NRIS updated evaluation report from 2013 maintained that: “No particular progress in addressing the discrimination of Romani women was visible in Romania during the reporting period, with a few exceptions represented by singular projects of Roma civil society”.³⁹⁴</p>
<p>HEALTH</p> <p>Briefly describe and reference key specific measures implementing the NRIS with respect to health and healthcare.</p> <p>A request for information was sent to the Romanian MS has been sent at the beginning of the year for another FRA report related to the Roma minority. The MS offered information related to the health mediators. However, as regards the Roma, the MS stated that: “The Ministry of Health runs national health programmes destined to all Romanian citizens, regardless of ethnicity ... (...) The Ministry of Health collects data on the health status through the National Centre for Statistics and Informatics in Public Health (CNSISP) but less on ethnic grounds since the legislation does not allow for such discrimination”.³⁹⁵</p> <p>In its reply to a request sent for the purposes of the current report (including the aspects enumerated below), the MS offered a reply³⁹⁶ in extremely general terms, offering no concrete data: “According to the Romanian Government Strategy for the inclusion of Romanian citizens belonging to the Roma minority for the period 2012/2020 the measures and directions of action are those presented in GD 1.221&2011 and have been accomplished according to the plan of measures”.³⁹⁷</p> <p>The measures mentioned in the NRIS only include campaigns targeted at the Roma, and are generally stated as: “Vaccination campaigns of the unvaccinated children from the</p>	

³⁹² Centre for Legal Resources Letter No. 455/20.12.2013 to the Ministry of Labour, Family, Social Protection and the Elderly (Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vîrstnice), on file with the NFP.

³⁹³ Ministry of Labour, Family, Social Protection and the Elderly, Directorate for Public policies and Communication, Department for Communication, Public Relations and the Press (Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vîrstnice, Direcția Politici Publice și Comunicare, Compartiment Comunicare, Relații Publice și Presă) Letter No. DPP-CCRPP Nr. 459/27.01.2014, on file with the NFP

³⁹⁴ Resource Center for Roma Communities Foundation (leader organization), Soros Foundation Romania, Civil Society Development Foundation, Roma Center for Health Policies-SASTIPEN (Florin Moisă, Iulius Albert Rostaș, Daniela Tarnovschi, Iulian Stoian, Daniel Rădulescu, Tania-Ștefania Andersen) (2013) *Updated Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 and 2013 in Romania*, p. 39, available at: <http://romadecade.org/civilsocietymonitoring>

³⁹⁵ Romania, Ministry of Health, Directorate for Medical Assistance and Public Policies (Ministerul Sănătății, Direcția Asistență Medicală și Politici Publice) Letter No- EN2410/AP358/19.03.2013 to the Centre for Legal Resources, on file with the NFP.

³⁹⁶ Romania, Ministry of Health, Directorate for Medical Assistance and Public Policies (Ministerul Sănătății, Direcția Asistență Medicală și Politici Publice), Letter No. 65773/04.12.2013 to the Centre for Legal Resources, on file with the NFP.

³⁹⁷ Romania, Ministry of Health, Directorate for Medical Assistance and Public Policies (Ministerul Sănătății, Direcția Asistență Medicală și Politici Publice), Letter No. 65773/04.12.2013 to the Centre for Legal Resources, on file with the NFP.

communities of Romanian citizens of Roma ethnicity” or “Campaigns to evaluate the health status of Romanian citizens of Roma ethnicity” or “Campaigns of health education regarding primary hygiene within the communities of Romanian citizens of Roma ethnicity” (no comment on the premises from which the drafters of the NRIS left when they included such a measure specifically for the Roma in the NRIS). The measures do not mention anything about quality in healthcare, training of the medical staff, increasing the number of Roma registered with a family doctor, or preventing discrimination, all questions to which the MS did not reply. Furthermore, the measures in the NRIS are generally mentioned, as spelled out above, have a time-frame of two years, 2012-2013, are generally supposed to be implemented biannually, and have no costs attached to them, or any concrete targets or indicators, while the budgetary source is generally mentioned as: “state budget, other sources”. Therefore, answering that they have been implemented “according to plan” is equivalent to not providing a useful answer the NFP question.

What measures have been implemented to increase access to quality healthcare, especially for Roma women and children (for example, training health professionals to work with people from different socio-cultural backgrounds)?

With funding from Open Society Institute the NGO ADIS (Association for Development and Social Inclusion), in partnership with the Romanian equality body, European Roma Rights Centre and the Association of resident doctors together with a number of Medical Universities in Romania (the one from Iași being the first one) started in 2009 a series of activities mainly aimed at introducing within the curricula training of medical professionals in ethics and non-discrimination. A text book called: *The Ethics and non-discrimination of vulnerable groups within the health system*³⁹⁸ was drafted and used for an optional course taught in the second semester of the 2011-2012 school year at the Iași medical university. In 2012/2013, the initiative extended to include two more medical and pharmacy universities and another two in the 2013/2014 academic year. Five state Universities are now included (from Iași, Bucharest, Cluj-Napoca, Târgu-Mureș and Sibiu).³⁹⁹ ADIS also aims for an advocacy campaign to convince the Ministry of Education to adopt the legal instruments necessary to recognize the need for such a course and recommend it to medical universities in Romania.⁴⁰⁰

This is not an initiative connected to the NRIS – it is financed by OSI. It represents however yet another opportunity for the Romanian state to take over a practice developed with private

³⁹⁸ Astărăstoae V., Gavrilovici C., Vicol M., Gergely D., Ion S. (2011), *Etică și non-discriminarea grupurilor vulnerabile în sistemul de sănătate (Ethics and the non-discrimination of vulnerable groups within the health system)*, Iași, „Gr. T. Popa” U.M.F.

³⁹⁹ Asociația pentru Dezvoltare și Incluziune Socială (Association for Development and Social Inclusion) *Letter No. 13/13.01.2013 to the Centre for Legal Resources*, on file with the NFP.

⁴⁰⁰ See webpage of ADIS association at: <http://adis.org.ro/en/>.

	donor support. Ethics and non-discrimination in medical universities is an essential component in tackling structural discrimination, a component already late in coming in Romania. In order for this practice not to represent a one-off initiative, it should be institutionalized and become part of the compulsory curricula in medical teaching in Romania.
What measures have been implemented to extend health and basic social security coverage and services (for example, via registration with LAs)?	Nothing to report
What measures have been implemented to improve the access of Roma to basic emergency and specialised services?	Nothing to report
What measures have been implemented to increase awareness among Roma of the importance of regular medical check-ups, pre- and post-natal care, family planning, and immunisation?	The MS, through the letter mentioned in the introduction to the section on Health, mentions in general terms: "The implementation of the community medical assistance activity through the identification of the socio-medical problems of the community, education for health, prevention of illness and through the promotion of a healthy life-style and environment, as well as for the mobilization of the population in order to participate in the vaccination programmes and preventive medical check-ups, etc...was continued. Also, reproductive health and family planning activities have been promoted, as well as home care, healing and recovery assistance, in view of social reinsertion". ⁴⁰¹
What measures have been implemented to ensure that preventive healthcare measures reach out to Roma?	Nothing new to report (see information on the Health mediation programme reported within the Roma in the EU thematic study for Romania). Regarding the health mediation programme, Romani CRIS, has drafted a comprehensive overview of the programme in the past ten years, a research material commissioned by the World Health Organization in view of the Millennium Development Goals 4 and 5, and which was released in 2013. ⁴⁰²

⁴⁰¹ Romania, Ministry of Health, Directorate for Medical Assistance and Public Policies (*Ministerul Sănătății, Direcția Asistență Medicală și Politici Publice*), Letter No. 65773/04.12.2013 to the Centre for Legal Resources, on file with the NFP.

⁴⁰² WHO Regional Office for Europe (2013) *Roma health mediation in Romania: case study (Roma Health Case Study Series, No. 1)*, Copenhagen, available at: http://www.euro.who.int/_data/assets/pdf_file/0016/235141/e96931.pdf.

What measures have been implemented to prevent prejudiced behaviour of health professionals towards Roma?	Nothing to report.
HOUSING Briefly describe and reference key specific measures implementing the NRIS with respect to housing.	
What measures have been implemented to promote non-discriminatory access to housing for Roma, including social housing?	<p>Asked about this issue, the Ministry of Regional Development and Public Administration (MRDPA) (<i>Ministerul Dezvoltării Regionale și Administrației Publice, MDRAP</i>), in reply to this question posed by the NFP, enumerated the general legislation concerning social housing and how it is allocated (based on nationally established priority categories, which do not include belonging to the Roma community, and locally established grounds), also stating that: „the legislation in place on social housing and on the way these are allocated does not discriminate”. No information on actual implementation was provided by the MDRAP.</p> <p>The MDRAP also reported on the pilot programme Social houses for the Roma, a programme approved through Government Decision 1237/2008, whereby 300 houses were supposed to be built for Roma. Access to utilities is to be covered by local authorities. Such houses are to be built in 11 localities. For four of them the technical projects and the execution details have been elaborated while for the other seven the approval of the Technical-Economic Council has been obtained according to the MDRAP. According to the MDRAP, due to budgetary restrictions, no budget was allocated for this programme in 2013.⁴⁰³ In essence, no house has yet been built within this programme.</p>
What measures have been implemented to promote non-discriminatory access to housing for Roma, including social housing?	<p>See above.</p> <p>The municipality of Cluj-Napoca, one of the largest cities in Romania, has a large Roma community (around 1500 persons) next to the garbage collection site of the city, who live in slum conditions, facing severe deprivations in all areas of life – the Pata Rât area. According</p>

⁴⁰³ Romania, Ministry of Regional Development and Public Administration (*Ministerul Dezvoltării Regionale și Administrației Publice*) Letter No. 83059/05.11.2013 to the Centre for Legal Resources, on file with the NFP.

	<p>to an analysis done at local level by a foundation (foundation also part of a structure called the Working Group of Civic Organizations initiated by academics and activists to advocate for the Roma in this community), around 42 per cent of the Roma in this area have been placed here through administrative measures (of the local authorities).⁴⁰⁴ The last one was in December 2010 when a community living in the city centre was evicted and relocated here in improper living conditions.⁴⁰⁵</p> <p>Regarding this eviction and relocation, the community, supported by the ERRC, contested the eviction decision of the Cluj-Napoca mayoralty in court.⁴⁰⁶ On December 30, 2013, the Cluj Tribunal decided that the eviction and relocation decision of the mayoralty was illegal, ordered the mayoralty to pay 2,000 euro moral damages for each complainant and to provide them with adequate housing according to the Romanian housing law.⁴⁰⁷ The decision is not final and the mayoralty announced it will contest it.⁴⁰⁸</p> <p>Regarding the criteria based on which social housing is granted, an analysis drafted within an academic context looked at the grounds for obtaining social housing in five big localities in Romania, Cluj-Napoca being one of them. The grounds are quantified through points and the final highest score receives the house. The analysis included a micro-simulation. It described four cases of families requesting social housing in the five localities, and found</p>
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⁴⁰⁴ Desire Foundation (2013) *Letter to the Cluj- Napoca Mayor's Office and Local Council: Proposals on the budgeting of local inclusion and social and territorial cohesion policies, the case of the disfavoured living area Pata Rât*, 14.03.2013, available at: <http://gloc2011.files.wordpress.com/2013/03/prop-buget-incluz-prim-cl-desiremart2013.pdf>.

⁴⁰⁵ See Amnesty International (2012) *Unsafe foundations. Secure the right to housing in Romania*, 8 May 2012, available at: www.amnesty.org/en/library/info/EUR39/002/2012.

⁴⁰⁶ ERRC (2014) *Romanian Court Victory –Forced Eviction to Pata Rat was illegal*, 7 January 2014, available at: www.errc.org/article/romanian-court-victory-%E2%80%93forced-eviction-of-roma-to-pata-r%C3%A2t-was-illegal/4239.

⁴⁰⁷ Romania, Cluj Tribunal, *Decision 16903/2013*, case file at: http://portal.just.ro/117/SitePages/Dosar.aspx?id_dosar=11700000000059027&id_inst=117

⁴⁰⁸ Gabriela Dragotă (2014) “Ce spune Emil Boc despre evacuarea romilor de pe strada Coastei” (“What is Emil Boc saying about the eviction of the Roma from Coastei Street”) in *Monitorul.ro*, available at: www.monitorul.ro/actualitate/31818-ce-spune-emil-boc-despre-evacuarea-romilor-de-pe-strada-coastei#sthash.EhmZ16VO.dpbs.

	<p>that the family who had three children and lived on social aid got the lowest score according to regulations in Cluj-Napoca, while it got the highest scores in three of the other four localities.⁴⁰⁹</p> <p>This analysis was used to advocate for a number of measures at local level. Through a memoir sent to the local council, a request was made by members of the Working Group of Civic Organizations (gLOC) to change the grounds according to which social housing is allocated for the year 2014, since the grounds in place actually disadvantage the most disfavoured categories. The particular requests made to the Cluj-Napoca administration were: establish higher scores for applicants with lower income/family member; grant higher scores to those who have children in their care, proportionally with the number of children; grant higher scores to those who are in search of a workplace and are within the employment agency records in this sense; not take into account the educational level of the families, since access to high-school and to university is particularly difficult precisely for those whom the measure should target – also showing that in three other localities the educational level does not represent a ground in the allocation of these houses - ; grant higher scores to single parent families, especially those victims of domestic violence.⁴¹⁰</p> <p>The grounds adopted for 2014 by the Cluj-Napoca Local Council, among other aspects scored (housing situation, how long ago the request was lodged, number of years worked, other specific situations), grant 10 points for single families (no mention of domestic violence), and 2 points for each extra child. The educational status is maintained, with as high as 45 points for doctoral studies, 40 points for university studies, 5 points for primary school or no school and 20 points for</p>
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⁴⁰⁹ Raț C. (2013) *Inegalități în accesul la locuințe sociale: Comparatie între cinci municipalități: Cluj-Napoca, Călărași, Târgu-Mureș, Miercurea Ciuc și Ploiești – Microsimulare sces la locuințe sociale (Inequalities in acces to social housing: Comparison among five municipalities Cluj-Napoca, Călărași, Târgu-Mureș, Miercurea Ciuc și Ploiești - Microsimulation on access to social housing)*, SPAREX project, available at: <http://gloc2011.files.wordpress.com/2013/03/analiza-comparativa-acces-locuinte-sociale.pdf>.

⁴¹⁰ Working Group of Civic Organizations (2013), *Memoir sent to the Local Council*, 15.03.2013, available at: <http://gloc2011.files.wordpress.com/2013/03/solicitare-amanare-decizie-criterii-locuinte-sociale-2014.pdf>

	<p>general studies (presumably 8 grades). If the income/family member is less than the minimum income/economy 20 points are granted. If it is between the minimum and the medium income/economy, 10 points are granted.⁴¹¹ Coupling the stark differences in points between having children (2 points for each child) and having a PhD (45 points), it becomes quite clear that the most disadvantaged are actually not targeted by the social housing allocation in Cluj-Napoca. Roma also disproportionately fit in the category of those who have many children and lower educational levels.</p> <p>The minutes and additional documentation of the Cluj-Napoca Local Council meetings provide details as to how the decision was made. According an the analysis drafted by the Cluj-Napoca Mix Committee for the Allocation of Social Housing from the State Housing Reserve, following the requests made by the gLOC both in writing and by being present at the Local Council meeting, this Committee, which drafted the draft proposals for the Local Council Decisions on the social housing allocation grounds, decided to look at the educational status ground. It did not consider removing it altogether, but decreased the number of points from 40 for postgraduate degree⁴¹² to 20 for university studies in general, and decreasing to 5 points for someone with no studies.⁴¹³</p> <p>During the following Local Council meeting, the local counsellors, looking at the educational status ground, did not discuss whether it should be removed, and did not agree that it should be decreased, without much of a debate. They voted on a proposal for points made by a local counsellor and decided</p>
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⁴¹¹ Romania, Cluj Napoca Local Council Decision 150/09.04.2013, available at: <http://www.primariaclujnapoca.ro/userfiles/files/150%281%29.PDF>

⁴¹² Romania, Cluj-Napoca, Directorate for the City Patrimony and the Evidence of Property, Department of Spaces and Lands Administration, Mix Committee for the Allocation of Social Housing from the State Housing Reserve (Direcția Patrimoniul Municipiului și Evidența Proprietății Serviciul Administrare Spații, Terenuri, Comisia Mixtă de Repartizare a Locuințelor Sociale și din Fondul Locativ de Stat) *Referat Nr. 78425/451/06.03.2013*, available at: www.primariaclujnapoca.ro/userfiles/files/15%288%29.PDF.

⁴¹³ Romania, Cluj-Napoca, Directorate for the City Patrimony and the Evidence of Property, Department of Spaces and Lands Administration, Mix Committee for the Allocation of Social Housing from the State Housing Reserve (Direcția Patrimoniul Municipiului și Evidența Proprietății Serviciul Administrare Spații, Terenuri, Comisia Mixtă de Repartizare a Locuințelor Sociale și din Fondul Locativ de Stat) *Referat Nr. 105119/451/27.03.2013*, available at: www.primariaclujnapoca.ro/userfiles/files/13%2810%29.PDF

	<p>to maintain the high number points for educational status (22 votes and 3 abstentions). It furthermore turned out that in the modified decision, someone who has a PhD can actually get 45 points instead of 40, as initially proposed, before the gLOC intervention. During the debates there was another proposal to increase the number of points for each additional child from 1 to 2 points. The proposal obtained 15 votes, and managed to pass.⁴¹⁴</p> <p>Regarding the community in Pata Rât, at the end of August 2013, the mayoralty, with the approval of the local council, approved the technical and economic indicators to place three containers with four toilets and shower facilities each, and a mobile emergency intervention unit (including bathroom facilities, beds, tables and chairs as well as heating facilities) in the area and to link them to water and electricity.⁴¹⁵ The decision stirred debates in the Local Council, many counsellors asking who is going to pay for the use of the facilities. It was finally concluded that the mayor's office can sustain the costs but the hope that foundations and other structural funding may also contribute.⁴¹⁶ It is worth noting that the need for this decision was grounding on the following: "In this location live in extreme poverty living conditions and social and spatial marginalization, next to the city waste collection site, approximately 300 families, who in their majority do not benefit from the social services established by law."⁴¹⁷</p> <p>During the same meeting, the local council approved the co-financing of two projects in application stage to the EEA Grants NGO Fund⁴¹⁸ having Foundation Desire (part of gLOC) as main applicant and the mayoralty as partner, together with other NGOs and the</p>
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⁴¹⁴ Minute of the Cluj-Napoca Local Council meeting from 9 of April, 2013, available at: www.primariaclužnapoca.ro/userfiles/files/Proces-verbal%2009_04_2013.pdf.

⁴¹⁵ Cluj-Napoca Local Council Decision 404/2013, available at: www.primariaclužnapoca.ro/userfiles/files/404%282%29.PDF

⁴¹⁶ Minute of the Cluj-Napoca Council meeting from 29 of August 2013, available at: http://www.primariaclužnapoca.ro/userfiles/files/Proces-verbal%2029_08_2013.pdf.

⁴¹⁷ Romania, Cluj-Napoca, Technical Directorate, Department of Investments (Direcția Tehnică, Serviciul Investiții), *Referat* Nr. 257673/445/7.08.2013, available at: <http://www.primariaclužnapoca.ro/userfiles/files/38%2811%29.PDF>

⁴¹⁸ Information available at Civil Society Development Foundation here: <http://fondong.fdsc.ro/>.

	<p>University Babes-Bolyai in Cluj-Napoca as potential partners. The projects aim at the socio-economical inclusion in education of children and at developing a think-tank and civic network for Roma policies development.⁴¹⁹</p> <p>Despite the fact that the conditions in which the people at Pata Rat live are intolerable, the approach in place which local authorities have does not seem to be one which would recognize the need for immediate removal of the people and their re-integration into the city.</p>
What measures have been implemented that promote desegregation of the housing situation of Roma communities?	Nothing to report
What measures have been implemented to facilitate local integrated housing approaches with special attention to public utility and social service?	Nothing to report
What measures have been implemented to improve the availability, affordability, and quality of social housing and halting sites (where applicable)?	Not applicable
FUNDAMENTAL RIGHTS & NON-DISCRIMINATION Briefly describe and reference key specific measures implementing the NRIS to promote fundamental rights and non-discrimination, combating anti-Roma crime.	
What measures have been implemented to step up the fight against discrimination and racism affecting Roma people?	Nothing to report
What measures have been implemented to step up the fight concerning anti-Gypsyism and/or hate crime against Roma?	Nothing to report
What measures have been implemented to raise awareness of the societal interest of Roma integration, for example opportunities for intercultural encounters that may support such awareness and facilitate de-stigmatisation?	Nothing to report

⁴¹⁹ Minute of the Cluj-Napoca Council meeting from 29 of August 2013, available at: http://www.primariaclujnapoca.ro/userfiles/files/Proces-verbal%2029_08_2013.pdf

7.3 Involvement of local authorities and civil society in the development, implementation, and monitoring of NRIS

In the request for information sent to the SGG, the NFP also asked about the involvement of and consultations with local authorities.⁴²⁰ To the request sent to the SGG, the NFP received a reply from the Prime Minister's Chancellery stating that the information enters under the areas of activity of the ANR and it therefore sent our request to the ANR.⁴²¹ The ANR only replied to the NFP's request for information after a second request was sent (also having the first request attached and asking for a reply to it), and only provided information related to the NRIS, mainly to the questions included in the second request (2 issues tackled) and not to the ones included in the first (20 questions related to the implementation of the NRIS, but also the ANR activity in general). The ANR stated that the evaluation of the NRIS is the attribute of the Central Monitoring and Evaluation Compartment (of which the ANR president is also part) which is headed by a state counsellor from the Government working apparatus.

Mentioning political changes in 2012 which have hindered the establishment of this Compartment, and that although, according to the ANR, it would have been this Compartment's attribute, the ANR reported that it however sent each semester requests for a report to the County prefectures on the Strategy Implementation, and then mentioned that the ANR is in the process of collecting and analysing the data.⁴²² Despite semestrial requests for reports, no report for 2012 is publicly available.

The NFP sent requests for information on the NRIS implementation to the County Roma Offices, under the Prefect's Institutions of eight counties out of 41 (+Bucharest) which had the biggest number of Roma (over 5%) according to the 2011 census: Bihor, Călărași, Dâmbovița, Giurgiu, Ialomița, Sălaj, Satu-Mare and Mureș). All replied.⁴²³ Three mentioned specifically having been consulted on the Strategy. It seems that the consultation was done through the Regional offices of the ANR (the ANR has eight regional offices). Foundation Ruhama (Bihor county) also mentioned having been consulted through the regional office.⁴²⁴ The Prefect's institution of Sălaj clearly specified that no feed-back was received. The same institution, in their 2012 report on the Strategy implementation made some very concrete proposals shedding light on the problems of implementation. Concretely, they asked that job positions of local Roma experts be unblocked to allow for the hiring of such experts trained through a specific programme for them (and supported throughout the duration of the programme „National Network of Roma Experts” implemented by the ANR with structural fundig in 2010 and 2011⁴²⁵), diminish the number of persons threshold necessary to hire a Roma health

⁴²⁰ Centre for Legal Resources Letter No. 370/25.10.2013 to the Romania, General Secretariat of the Government (*Secretariatul General al Guvernului*), on file with the NFP.

⁴²¹ Romania, Chancellery of the Prime Minister, Public Relations Directorate, Department of Communication and Relations with the Citizens (*Cancelaria Primului Ministru, Direcția Relații Publice, Serviciul Comunicare și Relația cu Cetățenii*) Letter No. 15C/206/rp 31.10.2013 to the Centre for Legal Resources, on file with the NFP.

⁴²² Romania, National Agency for the Roma (*Agenția Națională pentru Romi*), Letter 3377/10.01.2014 to the Centre for legal Resources, on file with the NFP.

⁴²³ Romania, Prefect's Institution Călărași (*Instituția Prefectului Călărași*) Letter No 1/INF, Călărași/07.01.2014, Prefect's Institution Giurgiu (*Instituția Prefectului Giurgiu*) Letter No. 55/06.01.2014, Prefect's Institution Dâmbovița (*Instituția Prefectului Dâmbovița*) Letter No. 8876/07.01.2014, Prefect's Institution Satu Mare (*Instituția Prefectului Satu-Mare*) Letter registered at the Centre for Legal Resources with No. 35/15.01.2014, , Prefect's Institution Sălaj (*Instituția Prefectului Sălaj*) Letter No. 251/13.01.2014, Prefect's Institution Ialomița (*Instituția Prefectului Ialomița*) Letter No. 51/06.01.2014, Prefect's Institution Bihor (*Instituția Prefectului Bihor*), Letter No. 17/i/07.01.2014, Prefect's Institution Mureș (*Instituția Prefectului Mureș*), E-mail of 06.02.2013 to the request for Information of the Centre for Legal Resources registered at the Prefect's Institution Mureș; with No. 15133/23.12.2013, on file with the NFP.

⁴²⁴ Fundația Ruhama, Letter 19/07.01.2014 to the Centre for Legal Resources, on file with the NFP.

⁴²⁵ Information on the project can be found on the Portalul Național de Administrație Publică (National portal of Public Administration) here: www.administratie.ro/articol.php?id=29212

mediator from 700 to 500, find concrete ways to finance the NRIS, either through the budgets of the ministries or through a direct financing line within structural funding, draft norms of implementation at county and local level for the NRIS.⁴²⁶ The counties have established mix working groups made of relevant institutional and other relevant stakeholders at county level and have adopted yearly action plans which detail the Strategy. Some of the action plans include very concrete indicators in the sense that they provide numbers on indicators to be achieved (Dâmbovița, Giurgiu, Satu Mare, Sălaj), others do not (Ialomița, Bihor, Călărași, Mureș). None of the action includes a clear budgetary allocation or baseline data that they are leaving from. Also the Prefectures sent the NFP the implementation reports which they sent to the ANR in 2012 and 2013, most of them being quite detailed in the sense that they gather all information in the county related to Roma inclusion (including projects implemented by NGOs or indicators on the Roma children in school) or on the status of implementation of the NRIS from the point of view of the human resources available and the local working or initiative groups or plans of action.⁴²⁷ However, in spite of the existence of these local level reports as mentioned, no centralized report is available. It is also evident that the ANR provided no format or clear guidance as to how the reports should be drafted since they differ from one another, only following the general outline of the Strategy in terms of the fields of life covered and stating whether the infrastructure arrangements are in place, probably making comparison more difficult, and showing that the ANR itself has no inclusion indicators it proposes to measure.

The ANR initiated in March 2014 a series of consultations with NGOs, the results of which were 10 specialty committees (5 of Roma NGOs and 5 of non-Roma NGOs, apparently made of NGOs which participated upon invitation) formed of representatives of 20 NGOs, 21 working meetings, and a number of recommendations coming from the civil society which were presented by the ANR to the central institutions to be later on discussed within common meetings having in view their inclusion in the action plans for the Strategy elaborated by these central institutions. The ANR also mentioned 21 central level institutions involved. The Strategy is however not yet finalized.⁴²⁸

The civil society organizations contacted by the NFP which also replied⁴²⁹ reported having been consulted by the ANR at some phase of the process starting with March 2013. They all made recommendations, but none of them was aware on whether their recommendations had been included or not in the revised version of the Strategy, as no revised document is available. No positive examples of consultation can be provided. The ANR also provided the NFP a number of annexes with proposals made by the civil society. Some of these proposals are very complex and also include an analysis of existing data (particularly in the field of education).⁴³⁰

⁴²⁶ Romania, Prefect's Institution Sălaj (*Instituția Prefectului Sălaj*) Letter No. 251/13.01.2013 to the Centre for Legal Resources.

⁴²⁷ Prefect's Institution Mureș (*Instituția Prefectului Mureș*), E-mail of 06.02.2013 to the request for Information of the Centre for Legal Resources registered at the Prefect's Institution Mureș; with No. 15133/23.12.2013, on file with the NFP

⁴²⁸ Romania, National Agency for the Roma (*Agenția Națională pentru Romi*), Letter 3377/10.01.2014 to the Centre for legal Resources, on file with the NFP.

⁴²⁹ ADIS Association (Letter No. 13/13.02.2014), Roma Education Fund Romania (Letter No. 10/10.01.2014), Ruhama Foundation (Letter No. 19/07.01.2014), Soros Foundation Romania (e-mail received on: 08.01.2014) SASTIPEN (e-mail received on 07.01.2014).

⁴³⁰ Romania, National Agency for the Roma (*Agenția Națională pentru Romi*), Letter 3377/10.01.2014 to the Centre for legal Resources, on file with the NFP.

7.4 Funding for Roma integration

The Ministry of European Funds (MEF) (*Ministerul Fondurilor Europene, MFE*) provided information in a reply to a request for public information. It mentioned the operational programmes where Roma can be included as target groups: human resource development and the regional programme, and a number of programmes, financed or proposed for financing also including Roma among beneficiaries. It however provided little data particularly on Roma. The only data specifically on Roma showed that, through the human resource development operational programme (ESF) there are 607 projects which registered Roma beneficiaries, of which 70 target Roma exclusively, with a total value of 755,700,456 RON (approx. 168 million euro). The 70 projects included a maximum foreseen value of 47,192 persons, of which 45,264 have been validated.⁴³¹

Under financing for urban development, the MFE also mentioned a number of projects targeting the Roma inhabited area of Pata Rât from Cluj-Napoca municipality – see above data on Cluj-Napoca. These projects are mentioned as: „proposed for financing”, thus not yet financed.

We could not identify any evaluation of the impact of structural funding on Roma, and no institution provided such data.

7.5 Discrimination, anti-Gypsyism, hate crime and the protection of fundamental rights

In September 2013, a state secretary within the MEN, in charge with minorities, declared, according to media accounts that: “We must also understand the fact that parents want school units where there is order, where there is discipline and where one may also do some learning. It is a general problem, and in relation to those schools where the number of Roma is significant, if there is indifference, if there is disarray, of course I would not allow my child to attend that school”.⁴³² NGOs protested arguing that: “Mr Király’s statement rationalizes segregation in education and strengthens negative stereotypes against Roma”.⁴³³ The CNCD did not find the declarations discriminatory but considered that they fall within the official’s freedom of expression. CNCD argued, that the statements were taken out of context and their analysis took the whole interview into consideration.⁴³⁴ The decision itself, presents a transcript of the conversation with the journalist for whom the statement was made. It comes out of the transcript that, after arguing that the Roma segregationary phenomenon does not actually exist as such although it manifests itself in Romania apparently as a consequence of the parent’s choice for better schools, in essence also denying that there would be discrimination within the educational system, the official admitted that there is a general duty to demonstrate that “the Roma are also citizens” to the parents who do not take their children to schools where there are Roma children in the class, but also identified a need for the “will of

⁴³¹ Romania, Ministry of European Funds (MEF) (*Ministerul Fondurilor Europene, MFE*) Letter to the Centre for Legal Resources No. 35/L544/11.11.2013, on file with the NFP.

⁴³² European Roma Rights Centre (2013) *Public Officials in Romania should cease anti-Roma statements*, 30.09.2013, available at: www.errc.org/article/public-officials-in-romania-should-cease-anti-roma-statements/4196.

⁴³³ European Roma Rights Centre (2013) *Public Officials in Romania should cease anti-Roma statements*, 30.09.2013, available at: www.errc.org/article/public-officials-in-romania-should-cease-anti-roma-statements/4196.

⁴³⁴ Romania, National Council for Combating Discrimination (*Consiliul Național pentru Combaterea Discriminării*) (2013) *Comunicat de presă referitor la deciziile colegiului director adoptate în ședința din data de 16 octombrie 2013 (Press statement on the decisions of the Steering committee adopted at the meeting of October 16, 2013)*, 16.10.2013, point 6, available at: www.cncd.org.ro/noutati/Comunicate-de-presa/Comunicat-de-presa-referitor-la-deciziile-Colegiului-director-adoptate-in-sedinta-din-data-de-16-octombrie-2013-178/.

the Roma community to change its attitude towards certain social problems”. The statement considered problematic by the NGOs came after the official argued that it is parents who have the option to choose the school and tend to go towards the best schools, which “poses problems not only to those units where there are Roma but in general to those schools which do not have good results”, along the following lines: “So we must also understand the wish of the parents that they want school units where there is order, where there is discipline and where there is also learning. This is a general problem, and regarding those units where the share of Roma is higher, they can also not demonstrate only through activity at the respective unit, if there is indifference if there is disarray, of course that neither you, nor I would leave my child there” According to the CNCD: “the newspaper took out of context the statement ‘they can also not demonstrate only through activity at the respective unit’, a statement from which does not stem the point of view that Roma students are indifferent, but moreover that Roma students actually make effort and if this is not visible at the respective unit, it is a problem of the unit.” Despite the analysis on the content of the statements and the conclusion of the CNCD that the official meant something else than he was interpreted to have said, the CNCD continued to argue that it is a question of freedom of expression, particularly important for a politician who is in a state dignity position (the CNCD equates elected positions with appointed ones – see also below in case-law) and that: “there is no element of incitement against the persons belonging to the Roma ethnicity, in general, and of Roma students, in particular, and we are not in the presence of a ‘clear and present danger’, the statements of the defendant having been taken out of context”⁴³⁵.

On June 18, 2013, at a meeting with the representatives of the Women’s Business Club, the Romanian President, Mr. Traian Băsescu declared: „How on Earth can the Roma woman support five-six children, and the Romanian one cannot? It is true, she is not a manager, the Roma woman (...) We must also go to the other side. Perhaps maternity is one of the fundamental missions of the woman, this is how I see it.”⁴³⁶ In the same interview, the President also said: „So, ummm, the problem of the population, you should know, of our evolution, is very much connected to birth rate and I have told you a thing, which I do not declare worrying: the fact that the Roma minority has a very strong birth rate, and the structure of the Romanian people will change by 2030 if we remain in the same wait-and-see state towards birth rate. So, I believe it is a mission women in Romania must also assume. Excuse me for putting it so bluntly.”⁴³⁷

The CNCD looked at the case, but found no discrimination. The equality body issued a comprehensive press statement related to this decision, stating the following: “The Steering Committee notes that the declaration includes negative stereotypes regarding the role of the woman in society and the birth rate, and the evolution of the birth rate when it comes to the Roma and disapproves of the content of the declaration analysed”. However, the Steering Committee, noting that the statements do not incite, considered that such statements should not be sanctioned since, as long as they stir public debate, they are good for the development of society, and enter the realm of free speech. Using concepts from US Supreme Court free speech case law, the CNCD maintained that “We are not in the presence of a **‘clear and**

⁴³⁵ Romania, National Council for Combating Discrimination (*Consiliul Național pentru Combaterea Discriminării*), *Decision No. 611/16.10.2013*, on file with the NFP.

⁴³⁶ Romania, National Council for Combating Discrimination (*Consiliul Național pentru Combaterea Discriminării*) (2013) *Comunicat de presă (Press statement)*, 03.07.2013, available at: <http://www.cncd.org.ro/noutati/Comunicate-de-presa/Comunicat-de-presa-171/>.

⁴³⁷ Necula F. (2013) “Băsescu: Cum Dumnezeu femeia romă poate ține 5-6 copii, iar româncă nu?” (“How on earth can the Roma woman support 5-6 children and the Romanian one cannot?”) in *Ziare.com*, 18.06.2013, includes video recording from B1TV, available at: www.ziare.com/basescu/presedinte/basescu-cum-dumnezeu-femeia-romana-poate-tine-5-6-copii-iar-romanca-nu-poate-video-1241784.

present danger', as there is the possibility for a public reaction to the statements of the defendant, and the public debate generated was one able to counter the public positions of the defendant". It went on to argue: "The free expression of opinions and beliefs, even of those unpopular or atypical, represent the fundamental condition for the existence of a society which is alive and able to progress."⁴³⁸

The CNCD adopted a similar reasoning in a case concerning statements related to the Roma made by the Romanian PM, but not in some other cases concerning statements regarding the Roma, such as, for example, discriminatory statements of a mayor, which the CNCD considered that they did not contribute to public debate able to lead to progress⁴³⁹ (see annex for cases). It is not clear what the CNCD considers to be statements which are acceptable and which are not.

Nonetheless, such a reasoning apparently based on US doctrine concepts related to free speech in general, a recent development in CNCD case law, seems inadequate in the Romanian and European context where there is ample legislation for protecting persons against discrimination, including through restrictions of free speech, restrictions also deemed adequate by the European Court of Human Rights through its interpretation of Article 10 (eg. European Court of Human Rights, *Féret v. Belgium*, No. 15615/06, 16.07.2009). Establishing the threshold for infringement at "clear and present danger" would most probably only make discriminatory statements sanctionable when they fall in the criminal area, which would be very problematic in a country where Roma continue to face racism and discrimination to very high levels. Moreover, such decisions and reasonings, applied when highest level dignitaries are concerned, have the potential to delegitimise the idea of equal justice for discrimination.

At the end of September 2013, over 100 Roma, half of them children, were forcefully evicted and their houses demolished by local authorities in Eforie Sud (a town in South-East Romania), after having been served a 7 day notice. According to Amnesty International, the persons had been living there for more than 20 years. Although the houses lacked construction authorization, some persons had IDs with the address there and were connected to utilities, showing recognition on the part of authorities that they had some form of tenure. The houses were demolished in less than an hour and no alternative accommodation was offered.⁴⁴⁰ The people spent four days outdoors in makeshift shelters, in particularly cold weather.⁴⁴¹ Finally, some of them were offered shelter in an abandoned school building, with no heating or cooking or washing facilities, where over 20 people share one toilet and one tap of water, the

⁴³⁸ Romania, National Council for Combating Discrimination (*Consiliul Național pentru Combaterea Discriminării*) (2013) *Comunicat de presă (Press statement)*, 03.07.2013, available at: www.cncd.org.ro/noutati/Comunicate-de-presa/Comunicat-de-presa-171/.

⁴³⁹ Mitran L. (2013) "Primarul din Târgu Mureș, amendat de CNCD după declarații discriminatorii la adresa romilor: 'Și pe mine m-ar deranja să-mi apară o șatră în fața casei'" ("The mayor from Târgu Mureș, fined by the NCCD after discriminatory statements regarding the Roma: 'I would also be bothered if a caravan showed up at my front door'"), in *Mediafax*, 22.05.2013, available at: www.mediafax.ro/social/primarul-din-targu-mures-amendat-de-cncd-dupa-declaratii-discriminatorii-la-adresa-romilor-si-pe-mine-m-ar-deranja-sa-mi-apara-o-satra-in-fata-casei-10894911.

⁴⁴⁰ Amnesty International (2013) *Public Statement: Romanian Government is failing homeless Roma in Eforie Sud*, EUR 39/021/2013, 22.10.2013, available at: www.amnesty.org/en/library/asset/EUR39/021/2013/en/80d861bb-d3e3-40fc-adcf-db4c5b6f8cb4/eur390212013en.html.

⁴⁴¹ European Roma Rights Centre (2013) *Romanian Eviction Leaves 100 People Homeless in Dangerous Conditions – Authorities Must Act Urgently*, 02.10.2013, available at: www.errc.org/article/romania-eviction-leaves-100-people-homeless-in-dangerous-conditions-%E2%80%93-authorities-must-act-urgently/4204.

ceiling is leaking and falling apart.⁴⁴² Furthermore, according to Amnesty International, the parents told them that the stay awake at night to defend their children from rat bites.⁴⁴³ European Roma Rights Centre, Romani CRISS and “Șanse Egale” Association were calling on the local authorities on October 2nd to provide for adequate shelter, while also supporting the community with legal action. The community had asked the court for a suspension of the demolition, but, by the time their request got a solution, the houses had been demolished (the hearing was scheduled for October 17th).⁴⁴⁴ The families who continued to live on the premises in improvised shelters were again evicted and these shelters demolished on October 11th according to Amnesty International.⁴⁴⁵

Questioned by the media on the matter, the Mayor Ovidiu Brăiloiu stated the following: “**O.B.:** We do what we must do. We’re sanitizing the area, we’re cleaning up. **R:** What are you going to do with them in the winter? **O.B.:** Those sitting on the garbage ... Those staying at the garbage ramps, what do they do? When the butcher’s shop closes, the dog lingers for a few days. But in the end, the butcher’s shop is closed and decommissioned, it must go elsewhere.”⁴⁴⁶

The Ombudsperson initiated an ex-officio investigation. It found that the local authorities “had respected the legal norms in what regards discipline in constructions (Law 50/1991, republished) and of the Law on local public administration (Law 215/2011)”, as well as the fact that “local public authorities did not respect the provisions of articles 47 and 49 of the Romanian Constitution, regarding the right to decent living conditions and the protection of children and youth. They did not ensure an adequate living space for the Roma families prior to their demolition and eviction from the improvised dwellings, and neither did they take into account that there are 33 children within the evicted families and that 11 children (coming from four families) stayed in the demolished area and needed special protection. The bad weather conditions were also not taken into account, or the fact that there were many children, women, ill persons who effectively did not have where to live.” It therefore went on to recommend the mayor to: “enforce the legal measures to ensure the respect for the right to a decent living standard for the Roma families, the protection of the children and youth from these families and to find durable solutions for the integration of the Roma ethnic inhabitants into community”.⁴⁴⁷

⁴⁴² Amnesty International (2013) *Public Statement: Romanian Government is failing homeless Roma in Eforie Sud*, EUR 39/021/2013, 22.10.2013, available at: www.amnesty.org/en/library/asset/EUR39/021/2013/en/80d861bb-d3e3-40fc-adcf-db4c5b6f8cb4/eur390212013en.html.

⁴⁴³ Amnesty International (2013) *Public Statement: Romanian Government is failing homeless Roma in Eforie Sud*, EUR 39/021/2013, 22.10.2013, available at: www.amnesty.org/en/library/asset/EUR39/021/2013/en/80d861bb-d3e3-40fc-adcf-db4c5b6f8cb4/eur390212013en.html.

⁴⁴⁴ European Roma Rights Centre (2013) *Romanian Eviction Leaves 100 People Homeless in Dangerous Conditions – Authorities Must Act Urgently*, 02.10.2013, available at: www.errc.org/article/romania-eviction-leaves-100-people-homeless-in-dangerous-conditions-%E2%80%93-authorities-must-act-urgently/4204.

⁴⁴⁵ Amnesty International (2013) *Public Statement: Romanian Government is failing homeless Roma in Eforie Sud*, EUR 39/021/2013, 22.10.2013, available at: www.amnesty.org/en/library/asset/EUR39/021/2013/en/80d861bb-d3e3-40fc-adcf-db4c5b6f8cb4/eur390212013en.html.

⁴⁴⁶ ProTV (2013), *Explicația plină de cinism a primarului din Eforie despre cei 50 de copii care au ajuns în stradă* (The explanation full of cynicism of the Mayor from Eforie about the 50 children who ended up in the street), 02.10.2013, available at: <http://stirileprotv.ro/video/explicatia-plina-de-cinism-a-primarului-din-eforie-despre-cei-50-de-copii-care-au-ajuns-in-strada/61393623>.

⁴⁴⁷ Romania, Ombudsman (Avocatul Poporului), *Recomandarea Nr. 13/23.10.2013 referitoare la respectarea dispozițiilor constituționale privind dreptul la un nivel de trai decent și protecția copiilor și tinerilor prevăzute la art. 47 și 49 din Constituția României* (Recommendation No. 13/ 23.10.2013 on the respect of the constitutional provisions on the right to a decent living standard and the protection of children and youth provided for in articles 47 and 49 of the Romanian Constitution), available at: www.avp.ro/recomandari2013/recomandare13-2013.pdf

The case at Eforie Sud is yet another episode in the practice of local authorities to forcefully evict the most vulnerable Roma, a practice that the NFP has reported on yearly.

A European Roma Rights Centre Report on health inequalities and the need for publicly collected disaggregated data presented information from a comprehensive survey implemented in Romania. The survey, undertaken by Gallup, included a sample of 1119 Roma households and 800 non-Roma households from Romania. The main findings revealed that:

- there is a 16 years difference between Roma and non-Roma at death;
- Roma register 47 deaths per 1000 persons as compared to 14 among the non-Roma;
- the average time elapsing between the moment when a condition is diagnosed and death is 3.9 years for Roma and 6.8 years for non-Roma;
- 32 per cent of the Roma women never had a gynaecological examination compared to 16 per cent of the general population;
- 62 per cent of the Roma women had never heard of a mammography as opposed to 20 per cent of the non-Roma women;
- 6.4 per cent of the Roma children had never been vaccinated as compared to 1.7 per cent of the non-Roma children
- the rate of TB diagnosis for Roma is more than double that of the non-Roma and four times higher in the 55-64 age group.⁴⁴⁸

Within a structural funds financed project targeting 1250 Roma children grades V-VIII at drop-out risk from three development regions in Romania (Centre, North-West, South-Muntenia), Roma Education Fund Romania undertook a research in two waves 2011 and 2013, comparing results. The conclusions include:

- school drop-out is explained by: reduced family support, unfriendly school environment, low grades in the first grade, passing from one educational cycle to the other, belonging to a vulnerable group;
- of the non-Roma students interviewed in both stages of the research, approximately one in fourteen dropped-out, whereas approximately one in three Roma students dropped-out in the two years that elapsed;
- 61.1 per cent of the students who declared that school is a place where they do not like to go dropped-out, as opposed to 12.3 per cent of those who saw the school environment as a friendly one, making this indicator the strongest one in explaining why children drop-out.⁴⁴⁹

7.6 Promising practices

There is nothing to report on promising practices (defined by the FRA guidelines as policies, actions or measures implemented by public institutions of publicly funded bodies) initiated by Romanian authorities in 2013. A number of the NGOs consulted provided examples of projects they are implementing some in partnership or with the support of national authorities, financed through EU structural funding or directly by the European Commission, and which they considered best practices, which they probably are. We do not consider these however to

⁴⁴⁸ European Roma Rights Centre (2013) *Hidden Health Crisis, Health Inequalities and Disaggregated Data*, Budapest, ERRC, pp. 5-6.

⁴⁴⁹ Roma Education Fund Romania Letter No.10&10.01.2013 to the Centre for Legal Resources, on file with the NFP.

be the kinds of practices requested in the context of this report, as they are mainly NGO driven. As one NGO mentioned: “In what regards partnerships with public institutions, we must mention the fact that their role is very reduced in the process of allocating financial resources as contribution within certain projects or total financing”.⁴⁵⁰ Another NGO stated the methodologies and practices elaborated by them have not been adopted by the public institutions or other bodies financed through public money.⁴⁵¹ As the programme “All in Kindergarten! All in first grade!” experience showed, even where line ministries such as the MEN have the capacity and experience to have a decisive and important contribution to their implementation, and also use the knowledge extensively, lack of financial commitment from the Government makes progress, or even a consistent implementation impossible.

Title (original language)	
Title (EN)	
Organisation (original language)	
Organisation (EN)	
Government / Civil society	
Funding body	
Reference (incl. url, where available)	
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	
Type of initiative	
Main target group	
Indicate level of implementation: Local/Regional/National	
Brief description (max. 1000 chars)	
Highlight any element of the actions that is transferable (max. 500 chars)	
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	
Give reasons why you consider the practice as having concrete measurable impact	
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	
Explain, if applicable, how the practice involves beneficiaries and stakeholders	

⁴⁵⁰ SASTIPEN e-mail of 7 January 2014 to the Centre for Legal Resources, on file with the NFP.

⁴⁵¹ Roma Education Fund Letter No. 10/10.01.2013 to the Centre for Legal Resources, on file with the NFP.

in the design, planning, evaluation, review assessment and implementation of the practice.	
Explain, if applicable, how the practice provides for review and assessment.	

7.7 Case law

The cases presented below have been obtained from the Romanian Equality Body, the CNCD following a request for public information. The CNCD still does not publish its case law. The NFP asked for decisions based on the relevant grounds and for statistical data. The CNCD replied by sending the NFP what we assume are all the decisions of the equality body this year (over 600). After selection work, the NFP has identified a number of relevant decisions, presented below. The CNCD also has the practice of making the decisions anonymous, both plaintiffs and defendants. In the cases below, we identified the parties (particularly the defendants/perpetrators) because the cases also appeared in the media.

However, since the decisions of the equality body can be contested in court, we do not know if the cases presented below are final decisions or not.

Case title	Decision No. 170/09.04.2013
Decision date	09.04.2013
Reference details (type and title of court/body; in original language and English [official translation, if available])	Consiliul Național pentru Combaterea Discriminării - CNCD [National Council for Combating Discrimination - NCCD]
Key facts of the case (max. 500 chars)	<p>In an interview run on March 20th 2013, at the BBC programme “Hard Talk”, the Romanian Prime Minister, Mr. Victor Viorel Ponta, made a number of statements regarding the Roma community. Six human rights NGOs filed a petition with the equality body, considering that the statements were discriminatory. The CNCD analysed the following statements (we reproduced the main statements analysed based on the English recording of the interview available here: www.youtube.com/watch?v=Id7-8vQDazc):</p> <p>“V.P.:What the British Government could do, and here, I totally agree, is to take all the legal measures in order to refrain, just the migration for benefitting of your social rules and benefits....</p> <p>R: Are you saying that, sorry to interrupt you there ... Are you saying that there are some Romanians who come specifically to countries like the UK and Germany - both of these countries have raised concerns - that there is „benefit tourism” as it’s put.</p> <p>V.P.: It is a specific situation of the Roma community and here I agree that this is, this is a real concern, for all the countries - France for example, Germany, even United, United Kingdom. And for the Roma communities we have to have a Strategy and we’ve tried to implement a Strategy with the European</p>

	<p>Commission in order to re-integrate the Roma community people back in Romania. (...) But if we speak about the common Romanian people, it's not migration just for benefitting, it's a normal migration in the European Union."</p> <p>Being confronted with the Scotland Yard London statistics of crimes (begging and theft) which put Romanian citizens at high scores, the Romanian PM replied:</p> <p>"V.P.: This is a serious issue. And, I'm not going to say that this is not true because of course, every, every week, I have on my desk, even the statistics of the Scotland Yard. We are still on the third position of citizens committing crimes. But what is making people angry, it's this small criminality, beggings,... and I'm telling you once again that this is an important issue because most of the people arrested, they come from the minority, from, from the Roma minority and we haven't been effective in creating successful strategies to re-integrate them back home in Romania and here we need, we need the help from the European Community."</p>
<p>Main reasoning/argumentation (max. 500 chars)</p>	<p>The CNCD firstly determined that the statements were of a political nature, and then included the PM in the category of elected officials: "5.5. (...) From the perspective of the analysis of the limits of freedom of expression this quality [PM] can be seen as similar to that of political persons or public officials. Freedom of expression is precious for any person but it has an indispensable character particularly for persons elected in public offices, for political parties and their members, as they represent those who vote for them, they respond to their concerns and defend their interests. (...) " Secondly, on the statements themselves, the CNCD concluded that the PM did not generalize referring to all of the Roma community but only to the Roma in France, Germany and the UK who find themselves in socially difficult circumstances and are object of an ample public debate in these countries, and that the comparison with the common Romanian people was based on social and not on ethnic grounds. The CNCD admits that the PM was wrong to generalize when association Roma with petty crimes considering in his statements the public perception from the UK failing to stress that ethnicity has nothing to do with criminality, but the CNCD did not consider such statements to affect the whole Roma community Romanian citizens.</p> <p>Thirdly, the CNCD considered that there was no incitement in the statements of the PM against the Roma community, and that there was the possibility to react publicly to the statements. In this line of</p>

	<p>argument, the CNCD invokes a concept typical of US Supreme Court free speech doctrine, that is, the fact that there was no “clear and present danger” in the statements of the PM (5.10.).</p> <p>Finally, the CNCD decided that there was no discrimination in the case, and made some final considerations:</p> <p>“5.11. We consider that the lack of rigor of the speech of persons holding public offices, when they express themselves on important public matters, cannot be corrected through the limiting of their free speech and through the issuing of an administrative sanction. Democracy feeds itself from freedom of expression, the limits of communication may be surpassed, step by step, precisely through argumentation and dialogue. (...)”</p> <p>A dissenting opinion was also expressed by one of the nine members of the CNCD Steering Committee. Some aspects from this opinion are of particular interest from the perspective of the functioning of the Romanian equality body and of the signals it draws regarding dysfunctions rooted in the appointment process of the CNCD members:</p> <p>“O.S. 5.18. I consider that indeed there are problems particularly in what regards the predictability of the norm. In the situation where the National Council for Combating Discrimination (hereafter NCCD) lacks adequate offices, a budget which may ensure the normal functioning (including the implementation of projects aimed at preventing discrimination) it is possible that the members of the Steering Committee abstain from making important decisions regarding politicians who decide on the financing of the institution. Similarly, if the appointment of the members of the Steering Committee are political appointments, without taking into account the legal condition (article 3, par. 3 of GO no. 137/2000: <i>Any Romanian citizen who cumulatively fulfils the following conditions: [...] has a recognized activity in the field of protection of human rights and combating discrimination may be appointed member of the Steering Committee</i>) it is extremely difficult for this institution to have a uniform case law, and it thus happens that in certain cases the CNCD finds discrimination when the colour of the hair of a woman politician is mentioned, and in other cases it does not find the discriminatory character of statements which attribute criminal deeds to whole Roma communities. The norm may become predictable if political factors, the defendant included, would want this to happen. (...)”</p>
Results (sanctions) and key consequences or implications of the case	<p>The CNCD did not find discrimination in this case, deciding that the statements are within the PM’s freedom of expression. It however recommended that</p>

(max. 500 chars)	<p>in the future the PM adopt the most adequate “expression formulations, so that through his public statements he may contribute to the increase in and promotion of diversity”.</p> <p>Given that the person in question was the PM, the lack of sanction sent a powerful message as to what is acceptable in society. The dissenting opinion also expresses a worrying message.</p> <p>Treating the PM as an elected official in the democratic competition of political parties operates a very problematic extension of the protection granted to elected politicians and their political opinions (which, in any case, do not cover discriminatory statements) and undermines the duty of increased responsibility which the function of PM carries.</p>
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Case title	Decision 319/22.05.2013
Decision date	22.05.2013
Reference details (type and title of court/body; in original language and English [official translation, if available])	Consiliul Național pentru Combaterea Discriminării - CNCD [National Council for Combating Discrimination - NCCD]
Key facts of the case (max. 500 chars)	<p>The Mayor of Târgu Mureș, Dorin Florea, made the following statements in relation to the Romanian citizens in the UK: [the British PM] “should understand and make a list with the Romanians who work in England and are correct, taking care of the elderly, of those in need” [...] “But when a primitive Gabor [Roma sub-group] like this appears or a man out of his mind who smashed the head of an Italian woman, then it appears as if the whole Romanian people is rapist, is Gypsy, is a beggar and so on. Of course one gets upset”, “What has raised many concerns has been the primitive manner in which certain of our citizens behaved, most of them gypsies, who took their gypsy habits from here to other places. I would also be bothered if a caravan showed up at my door step. We must admit this: we must discipline them at home through clear policies.”</p> <p>A private citizen seized the CNCD which also initiated an ex officio investigation through one of the members of the Steering Committee</p>
Main reasoning/argumentation (max. 500 chars)	<p>The CNCD established the clear difference between the Roma who are placed in a negative context and Romanians who are placed in a positive one. It then went on to present an ample discussion of ECtHR jurisprudence in the field of free speech and concluded that:</p> <p>“5.26. assertions which gratuitously offend others, without contributing to a public debate able to lead to</p>

	<p>a progress of human relations must necessarily be avoided (...)</p> <p>one may invoke the necessity to restrict freedom of expression in the situation where there is an urgent public need (...) we consider that the marginalization of Roma within the Romanian society from Romania, the daily discrimination to which the members of this community are being submitted, due to stereotypes of the kind which are under analysis, demonstrate the urgent public need ”</p>
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	<p>The mayor was sanctioned by 4,000 RON (approx. 900 eur) given also that he had been fined before the CNCD with lower fines – the CNCD considered this to be a larger fine</p>

Case title	Decisions No. 69/19.02.2013 and 643/23.10.2013
Decision date	19.02.2013 and 23.10.2013
Reference details (type and title of court/body; in original language and English [official translation, if available])	<p>Consiliul Național pentru Combaterea Discriminării - CNCD [National Council for Combating Discrimination - NCCD]</p>
Key facts of the case (max. 500 chars)	<p>Both decisions regard the same Facebook statements posted by a local counsellor from Alba-Iulia municipality, Rareș Buglea, who put on his Facebook page the following: “We have introduced water to the Gypsy area... (by the way, when you ask someone from there where it is that they live, they no longer say in the Gypsy area, they say next to dedeman...). Well my dears, water was introduced there and a thin layer of pavement (for the sake of the vote, like that), but it is totally insufficient! Instead of water, it will be enormously difficult to introduce mentality and education there, and particularly, I say, sexual education... I know that the false humanists will criticize me harshly, but I continue to support the sterilization of the Roma woman, if after the first birth if after the social investigation reveals that she has neither the conditions nor the intent to raise the first baby in conditions humane conditions as far as possible. Why do we let her give birth to the second and the fifth...so that the state pays for social aid and we place ten locks on our gates???? I love the human being regardless of his colour, religion, origin, but what we are now doing , that is Romanian families who have one child maximum two, and Gypsy families and I speak here of the most uneducated and unintegrated ... five children upwards Is proof for our thoughtlessness and irresponsibility towards the future of this country and I believe that we are</p>

	<p>ensuring a very ‘safe’ future for our children, when they are grownups and the ratio is 5 to 1”.</p> <p>The case was initiated by the CNCD (ex officio) and the Roma Party. The NGO Romani CRISS asked to be introduced in the case and raised the exception of the lack of material competence in the case for the CNCD, considering that the deeds were of a criminal nature (the CNCD does not have competence on criminal matters), also mentioning that a complaint against Mr. Buglea had been lodged with a prosecutor.</p>
<p>Main reasoning/argumentation (max. 500 chars)</p>	<p>In the first decision, analysing the exception raised by Romani CRISS, the CNCD admitted the exception considering that the deeds would fall under Art 317 of the Romanian Criminal Code, that is, instigation to discrimination. The CNCD sent a copy of their decision to the Prosecutor’s Office attached to the Tribunal Alba (where the complaint against Mr. Buglea had been lodged by NGOs). The Prosecutor’s Office decided not to begin the criminal investigation. The CNCD decided to reopen the case and decided on merits two days after receiving the letter from the Prosecutor’s Office (Letter 6713/21.10.2013), apparently without waiting to see if the decision was final (decisions of prosecutors can be contested in a court of law).</p> <p>The CNCD discussed the public character of the Facebook posts and decided that this character is a public one. The CNCD also considered that, although the posts are only available to friends, these friends can also spread the message. (point 5.4)</p> <p>The CNCD found that the message was racist, noting in particular that the phrase: “I know that the false humanists will criticize me harshly, but I continue to support the sterilization of the Roma woman” was of a nature “to incite to racial hatred having in view infringements on human dignity, that is, they create an intimidating, hostile, degrading and offensive atmosphere directed against Roma women.”</p> <p>The CNCD also considered the context. The statements were made after a nationalist group had proposed on a website to pay Roma women who agree to be sterilized, also leading to a public petition supporting the sterilization of Roma women. (point 5.9.)</p> <p>The CNCD considered that freedom of expression could not be invoked in this case (it also invoked European Court of Human Rights, <i>Garaudy v. France</i>, No. 65831/01, 7 August 2003) and the CNCD appeared to also consider his public dignity and politician qualities as aggravating circumstances in this case.</p>
<p>Results (sanctions) and key consequences or implications of</p>	<p>The CNCD sanctioned Mr. Buglea by 8,000 RON (approx. 1,800 euro).</p>

the case (max. 500 chars)	The CNCD decision apparently exerted no influence on the Prosecutor's Office.

Case title	Decision 572/02.10.2013
Decision date	02.10.2013
Reference details (type and title of court/body; in original language and English [official translation, if available])	Consiliul Național pentru Combaterea Discriminării - CNCD [National Council for Combating Discrimination - NCCD]
Key facts of the case (max. 500 chars)	A Roma person claimed that the judge treated him in a discriminatory manner (making discriminatory comments) connected to his ethnicity in a case where he was being heard as witness.
Main reasoning/argumentation (max. 500 chars)	The CNCD raised the exception of its lack of material competence, considering whether it can judge on the implementation of the act of justice, invoking the separation of powers and the independence of judges, also based on a decision of the Constitutional Court (322/2001) which stated that: "In order to guarantee independence ... the Constitution established, as a third component of the judicial authority, the Superior Council of Magistrates, exclusively made of magistrates ... whose main function is to ensure inamovibility, independence and impartiality of judges ... through its decision making power in what regards promotion and transfer of judges, as well as the role of disciplinary council for judges...". It decided that it cannot address instructions to the judges in what regards the exercise of their functions and that the jurisdiction over the deeds in question lies with the Superior Council of Magistrates. "5.7. (...)... the institution of the National Council for Combating Discrimination, as a state authority, autonomous, cannot analyse the measures disposed by the prosecutor or the decisions of courts, cannot pronounce itself <i>sine qua non</i> on correlative aspects of the act of justice or deeds of criminal investigation, and attribute exclusively belonging to the prosecutor hierarchically superior, courts of law respectively. The CNCD cannot address instructions to the courts of law and their members respectively in what regards the exercise of their functions."
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The decision admitted the lack of material competence of the CNCD, but it also stated that deeds falling under discrimination cannot be found in the case (without any reasoning on this latter point). The Decision stated, in essence, that judges and prosecutors cannot be party to procedures before the CNCD in what regards their professional conduct,

	and that the body who would have the competence to decide on such matters would be the Superior Council of Magistrates.
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7.8 Any other significant developments in relation to Roma integration.

In December 2013, the Parliament passed a law initiated by the Government in May 2013, establishing by exception from the general law on foundations and associations (Government Ordinance 26/2000) “Foundation ‘Project Ferentari’ of the General Secretariate of the Government”, a public utility foundation (Ferentari is a very poor neighbourhood in Bucharest, inhabited by many Roma, also referred to as a ghetto). The foundation’s purpose would be to: permanently improve the living conditions of Romanian Roma ethnic citizens in the communities where they live and to identify and administer financing with speed and transparency, of the investment objectives in Roma communities whether in rural or urban area. It is supposed to facilitate dialogue with implementers selected within framework contracts or even implement the grant schemes comprised within the Romanian-Swiss cooperation programme and EEA Grants (the Roma inclusion component); implement activities in the Ferentari/Rahova area from Bucharest and in areas it subsequently identifies in the country, through annual investment programmes approved at the beginning of each year; establish investment priorities for Roma communities in Romania together with the Romanian Social Development Fund; propose to every County Council the development plans for Roma and assist local councils, upon request, to elaborate their own plans; assist the National Contact point in doing the NRIS implementation monitoring; offer technical assistance to the ANR and Roma NGOs, upon request; promote Roma culture. The foundation is supposed to be led by a Steering committee made of two members proposed by the Parliament, two by the Government, two by the local administration and one member of the civil society designated by the SGG.⁴⁵²

A number of Roma and non-Roma NGOs and persons protested the establishment of the Foundation in an open letter sent to the President asking him not to pass the law, arguing, among others, that state institutions with a mandate on Roma inclusion, the ANR primarily, are left without their object, pointing to the fact that, unlike for Romanian citizens for whose welfare it is state institutions that are responsible, when it comes to the Roma, the responsibility falls on a Foundation. The NGOs also stated that the Foundation would also monopolize funds destined to NGOs.⁴⁵³

The President sent the law back for re-examination showing, among others, that it lacks the basic organizational principles, that the relationship between the Foundation and the SGG is unclear, that the Foundation doubles the mandate of the ANR, that the lack of grounds upon which the representative of the civil society is to be appointed shows that the Foundation does not have a real capacity to be outside political decision or that its name creates confusion as to who it is that it targets: the community in Ferentari, or all Roma communities as it states within its text.⁴⁵⁴

⁴⁵² Romania, Pl-x 238/2013 Proiect de lege pentru înființarea Fundației Proiect Ferentari” (Draft Law on the establishment of the Foundation “Project Ferentari”) available at: http://www.cdep.ro/pls/proiecte/upl_pck.proiect?idp=13421.

⁴⁵³ Romania, Scrisoare deschisă Fundația Ferentari (Open letter Foundation Ferentari), available at: http://www.petitiononline.com/scrisoare_deschisa_fundatia_ferentari.

⁴⁵⁴ Romania, Romanian Presidency Public Communication Department (Președinția României, Departamentul de Comunicare Publică), Comunicat de presă Ref: Cerere de reexaminare asupra Legii privind înființarea Fundației „Proiect Ferentari” (Press release. Ref: Request for re-examination on the Law for the establishment of the

8 ACCESS TO JUSTICE AND JUDICIAL COOPERATION

8.1 General Developments – Briefly describe other key developments that impact upon access to justice, such as in relation to court fees, legal aid rules, budget/staff cuts, etc., providing an explanation as to what has been the impact of these developments on access to justice.

Rule of law: Some of the concerns raised on the constitutional crisis in 2012⁴⁵⁵ have been dealt with satisfactorily (for example, reestablishing the Constitutional order), while in some areas there is still a need for better supervision and enhancement of rule of law provisions. External criticism is still present, with voices such as Viviane Reding's referring to Romania as a country where rule of law is still under threat⁴⁵⁶.

On the 10th of December, Romanian MPs have passed two legislative proposals likely to undermine the rule of law, which have attracted a new series of criticisms in the EU and globally. The vote has taken the public by surprise, given that the two proposals have not been previously referred to public consultation, and that they had not been included in the official agenda of the meeting, but their vote has been requested ad-hoc. The first legislative proposal⁴⁵⁷ reduces the scope of the definition of "conflict of interest" only to persons who carry their duties on the basis of a contract and a job description; this automatically excludes magistrates, members of the Parliament and of the Government and some local authorities (mayors, prefects, local and county councillors).⁴⁵⁸ Another draft bill⁴⁵⁹ amending the penal code has been passed by the Chamber of Deputies, through which the definition of "public servant" has been modified, specifically excluding from its scope the President of the country, members of the Parliament and of the Government and all persons engaged in liberal professions. The Superior Council of Magistracy,⁴⁶⁰ the National Anticorruption Department

Foundation „Project Ferentari”), 23.12.2013, available at: <http://www.presidency.ro/index.php?RID=det&tb=date&id=14739&PRID=search>.

⁴⁵⁵FRA (European Union Agency for Fundamental Rights) (2012), *Fundamental Rights: Challenges and Achievements in 2012*, Luxembourg, Publications Office of the European Union (Publications Office), p. 234.

⁴⁵⁶*Hotnews.ro* (2013) "Vicepreședintele Comisiei Europene, Viviane Reding: România, printre țările în care statul de drept este pus în pericol sau de-a dreptul încălcat" (European Commission's Vice-president: Romania, amongst the states where rule of law is threatened or even breached), 4 November 2013, available at: www.hotnews.ro/stiri-esential-15949869-vicepresedintele-comisiei-europene-viviane-reding-romania-printre-tarile-care-statul-drept-este-pus-pericol-sau-dreptul-incalcat.htm.

⁴⁵⁷Romanian Chamber of Deputies, Legislative proposal amending and completing the Penal Code of Romania from 21 June 1986, republished, with its subsequent amendments and additions (*Propunere legislativă privind modificarea și completarea Codului Penal al României din 21 iunie 1986, republicat, cu modificările și completările ulterioare*), registered with number Pl-x nr. 467/2012, 10 December 2013, information available at: www.cdep.ro/pls/proiecte/upl_pck.proiect?idp=12604.

⁴⁵⁸Cristi Danileț (Judge of the Superior Council of Magistracy) (2013) "Parlamentarul va raspunde sau nu ca functionar? Despre supra-imunitatea votata" (Will the MP be accountable or not as a public servant? About the voted supra-immunity), 12 December 2013, available at: www.cristidanilet.wordpress.com/2013/12/12/parlamentarul-va-raspunde-sau-nu-ca-functionar-despre-supra-imunitatea-votata/.

⁴⁵⁹Romanian Chamber of Deputies, Draft bill deleting Article 74¹ from the Penal Code (*Proiect de Lege pentru abrogarea art.74¹ din Codul penal*), registered with number Pl-x nr. 680/2011, 10 December 2013, information available at: www.cdep.ro/pls/proiecte/upl_pck.proiect?cam=2&idp=12400.

⁴⁶⁰Superior Council of Magistracy, *Comunicat de presă referitor la poziția Plenului CSM privind recente propuneri de modificare a legislației penale în vigoare și a Noului Cod penal, inclusiv în privința amnistiei unor pedepse, de către Parlamentul României*, Press release, 10 December 2013.

(DNA)⁴⁶¹ and the Supreme Court⁴⁶² have voiced their concerns over these proposals and have expressed their willingness to tackle them. According to DNA, as a result of these changes, MPs sent to court for corruption or actions assimilated to this crime could be acquitted, while those currently in jail as a result of final sentencing could be released. The Governments of USA and The Netherlands have publicly⁴⁶³ criticized the proposals, notably the lack of transparency and of public consultation in their adoption process. Transparency International Romania called the amendments adopted on December 10th an “unprecedented action” which “defies elementary common sense norms, democratic values and the Rule of Law”.⁴⁶⁴ President Traian Băsescu has announced that he will not pass the bills, but send them back to the Parliament for revision and attack them at the Constitutional Court.⁴⁶⁵ In January 2014, the Constitutional Court declared these changes unconstitutional.⁴⁶⁶ References to these changes in the anti-corruption framework have been included in the 2014 report on Mechanism for Cooperation and Verification (MCV), which notes how surprising it is to have been possible to pass into law such provisions breaching the principle of equality before the law.⁴⁶⁷

New Civil Procedure Code: On 15 February 2013, Romania’s postponed New Civil Procedure Code (NCPC)⁴⁶⁸ has become effective,⁴⁶⁹ having as its main aim to reduce the inconsistencies of the Romanian civil judicial system, as they were previously mentioned in European Commission’s monitoring reports,⁴⁷⁰ or have resulted from ECtHR’s case law concerning Romania: courts’ overload, excessive length of proceedings, uneven practice.

The most important changes brought by the NCPC are:

- Restructuring civil proceedings, dividing them in three stages: the written stage, the examination and the debates on the merits of the case. The written stage (*etapa scrisă*) is a speedy procedure preceding the first hearing and is mainly meant for the judge to verify that all procedural requirements have been fulfilled by the parties. The examination (*etapa cercetării procesului*) starts at the first hearing and lasts for as long as the evidence is being administered. This stage is envisaged to take place *in camera*, however courts do not have

⁴⁶¹National Anticorruption Department, *Comunicat*, Press release, 10 December 2013, available at: www.pna.ro/comunicat.xhtml?id=4506&jftfdi=&jffi=comunicat.

⁴⁶² Supreme Court, *Comunicat*, Press release, 10 December 2013, available at: www.scj.ro/comunicate2013/comunicat%2012%2012%202013.htm.

⁴⁶³*Realitatea.ro* (2013) "SUA critică superimunitatea aleșilor" (USA criticizes the superimmunity of the elected), 11 December 2013.

⁴⁶⁴ Transparency International Romania (2013) "*Deputații României care au votat pe 10 decembrie sfîdează o națiune și o lume întreagă!*", Press release, 12 December 2013.

⁴⁶⁵*Agerpres.ro* (2013) "Băsescu spune că va retrimite Parlamentului legea privind scoaterea parlamentarilor din categoria funcționarilor publici" (Băsescu says it will send back to the Parliament the law excluding MPs from public servants category), 10 December 2013.

⁴⁶⁶ Curtea Constituțională (Constitutional Court), *Comunicat de presă*, Press release, 15 January 2014, available at: www.ccr.ro/comunicate/COMUNICAT-DE-PRES-325.

⁴⁶⁷ European Commission, Report from the Commission to the European Parliament and the Council on Progress in Romania under the Co-operation and Verification Mechanism, January 2014, page 11, available at: http://ec.europa.eu/cvm/docs/com_2014_37_en.pdf.

⁴⁶⁸Romania, Law no. 134/2010 on the Civil Procedure Code (*Legea nr. 134/2010 privind Codul de procedură civilă*), republished on 3 August 2012.

⁴⁶⁹ Romania, Government Emergency Ordinance no. 4/2013 amending and supplementing Law no. 76/2012 for implementing Law no. 134/2010 on the Civil Procedure Code, and amending and supplementing some related laws (*OUG nr. 4/2013 privind modificarea Legii nr. 76/2012 pentru punerea în aplicare a Legii nr. 134/2010 privind Codul de procedura civilă, precum și pentru modificarea și completarea unor acte normative conexe*), 31 January 2013.

⁴⁷⁰European Commission (2013) *Report from the Commission to the European Parliament and the Council on Progress in Romania under the Cooperation and Verification Mechanism*, 30.01.2013.

the room capacity to accommodate this requirement therefore the hearings in this stage will remain public until 2016. This measure aims to reach speedier proceedings and a higher degree of responsibility for all participants in civil proceedings. During the debates on the merits of the case (*etapa dezbaterilor asupra fondului cauzei*) the parties may orally plead their claims. This stage refers to the last hearing which reassumes the proceedings, in which the court deliberates and renders a judgment;

- Tribunals become first instance courts,⁴⁷¹ while district courts (*judecătoria*) maintain jurisdiction over matters related to family law, neighbourhood relationships, building administration etc.,⁴⁷²
- The appeal becomes the common mean of contesting a judgment.⁴⁷³ The deadlines for submitting an appeal are increased from 15 to 30 days,⁴⁷⁴ which gives parties more time to prepare, therefore increasing the quality of access to justice;
- Setting strict deadlines for hearings: judges must fix the date of the first hearing within 60 days from issuing their decision fixing the hearing.⁴⁷⁵ These measures contribute to enhancing the certainty of judicial procedures;
- A new procedure of appealing to the High Court of Cassation and Justice (*Înalta Curte de Casație și Justiție*) (ÎCCJ) has been introduced, for settling a legal matter that has not been addressed before;⁴⁷⁶
- Establishing new subpoena and notification rules: the NCPC allows the parties to deliver subpoenas through a judicial bailiff or by using fast courier services, at their own expenses.⁴⁷⁷ This measure contributes to a more rapid initiation of proceedings, and wider access to justice;
- Parties resorting to submitting final appeals (*recurs*) will be obliged to be assisted by a lawyer or legal adviser in all pecuniary matters.⁴⁷⁸ This requirement of mandatory judicial assistance in order to benefit from a means of appeal has the potential to restrict the free access to justice, as it has been expressed by practitioners.⁴⁷⁹

⁴⁷¹Romania, Law no. 134/2010 on the Civil Procedure Code (*Legea nr. 134/2010 privind Codul de procedură civilă*), republished 3 August 2012, Art. 95.

⁴⁷²Romania, Law no. 134/2010 on the Civil Procedure Code (*Legea nr. 134/2010 privind Codul de procedură civilă*), republished 3 August 2012, Art. 94.

⁴⁷³Romania, Law no. 134/2010 on the Civil Procedure Code (*Legea nr. 134/2010 privind Codul de procedură civilă*), republished 3 August 2012, Art. 456.

⁴⁷⁴Romania, Law no. 134/2010 on the Civil Procedure Code (*Legea nr. 134/2010 privind Codul de procedură civilă*), republished 3 August 2012, Art. 468.

⁴⁷⁵Romania, Law no. 134/2010 on the Civil Procedure Code (*Legea nr. 134/2010 privind Codul de procedură civilă*), republished 3 August 2012, Art.201 (3).

⁴⁷⁶Romania, Law no. 134/2010 on the Civil Procedure Code (*Legea nr. 134/2010 privind Codul de procedură civilă*), republished 3 August 2012, Art. 519.

⁴⁷⁷Romania, Law no. 134/2010 on the Civil Procedure Code (*Legea nr. 134/2010 privind Codul de procedură civilă*), republished 3 August 2012, Art.154 (5).

⁴⁷⁸Romania, Law no. 134/2010 on the Civil Procedure Code (*Legea nr. 134/2010 privind Codul de procedură civilă*), republished 3 August 2012, Art. 13.

⁴⁷⁹Juridice.ro (2012) "Dacă (n)-ai avocat (n)-ai parte", (*If you have no lawyer, you have no gain*), 5 November 2012.

Court fees: Judicial stamp duty has been increased⁴⁸⁰ on average with almost 4.5 times,⁴⁸¹ in order to be aligned with the inflation rate. More instances of returning stamp duty were established (i.e. in cases concerning social insurances, unemployment benefits, consumers' rights, adoption and all criminal cases)⁴⁸² and in some cases the stamp duty was introduced to certain categories of applications that until now have been exempt from payment (i.e. legal actions on establishing and providing compensation for moral damage brought to the honour, dignity or reputation of a natural person,⁴⁸³ complaints against the record of ascertaining and sanctioning the contravention, as well as appeals against the respective decision⁴⁸⁴).

Legal aid: The budget allocation for legal assistance has increased with 2.4%, from 35,905 RON in 2012 to 36,769 RON in 2013.⁴⁸⁵

In 2013, 5682 persons have received legal assistance (out of which 2484 in civil cases, 1721 in administrative and fiscal law cases, 658 in child and family law-related cases, 253 in labour law cases). In criminal cases, 102.633 persons have received legal assistance in district courts cases, 37.933 persons have been assisted in cases judged by Tribunals and 27.169 persons in cases judged by Courts of Appeal.⁴⁸⁶ The individual amounts of these compensations could not be determined, as the ECRIS application does not include such data⁴⁸⁷.

The total amount of financial compensations granted to victims of criminal acts in 2013 was 76,051 RON.

Staff cuts: Small staff cuts affected the Ministry of Justice and the institutions operating under its authority,⁴⁸⁸ In the Ministry itself, the number of positions has been reduced from 330 to 323. On average, the decrease in the number of available positions was around 6% as compared to 2012.

Budget: In June, the Government has voted on raising the budgets of some central institutions: the Ministry of Justice, the Supreme Court, *the Public Ministry and the Superior Council of Magistracy*.⁴⁸⁹

⁴⁸⁰Romania, Government Emergency Ordinance no. 80/2013 on judicial stamp duties (*OUG nr. 80/2013 privind taxele judiciare de timbru*), 29 June 2013.

⁴⁸¹*Legestart.ro* (2013) "Taxa judiciară de timbru s-a majorat în medie de 4,5 ori. Ce declară Ministerul Justiției?" (Judicial stamp duty has been increased on average by almost 4.5 times. What does the Ministry of Justice declare?), 28 June 2013, available at: www.legestart.ro/taxa-judiciara-de-timbru-s-a-majorat-in-medie-de-45-ori-ce-declara-ministerul-justitiei/.

⁴⁸²Romania, Government Emergency Ordinance no. 80/2013 on judicial stamp duties (*OUG nr. 80/2013 privind taxele judiciare de timbru*), 29 June 2013, Art. 29.

⁴⁸³Romania, Government Emergency Ordinance no. 80/2013 on judicial stamp duties (*OUG nr. 80/2013 privind taxele judiciare de timbru*), 29 June 2013, Art. 7.

⁴⁸⁴Romania, Government Emergency Ordinance no. 80/2013 on judicial stamp duties (*OUG nr. 80/2013 privind taxele judiciare de timbru*), 29 June 2013, Art. 19.

⁴⁸⁵Ministry of Justice (2013) Summary of allocated funds by sources and expenditure titles for 2013-2016 (*Sinteza fondurilor alocate pe surse și pe titluri de cheltuieli pe anii 2013-2016*).

⁴⁸⁶Annex 3A to letter no. 112176 of 31.01.2014 of the Ministry of Justice, on file with the NFP.

⁴⁸⁷Letter no. 94148 of 03.12.2013 of the Ministry of Justice, on file with the NFP, p. 4.

⁴⁸⁸Romania, Government Decision no. 574/2013 amending and supplementing Government Decision no. 652/2013 regarding the organisation and functioning of the Ministry of Justice (*Hotărârea Guvernului nr. 574/2013 pentru modificarea și completarea Hotărârii Guvernului nr. 652/2009 privind organizarea și funcționarea Ministerului Justiției*), 8 August 2013.

⁴⁸⁹Romania, Government Decision no. 355/2013 on supplementing the budgets of the Ministry of Justice, the Supreme Court, the Public Ministry and the Superior Council of Magistracy for payment of enforcement orders (*Hotărârea Guvernului nr. 355/2013 privind suplimentarea bugetelor Ministerului Justiției, Înaltei Curți de Casație și Justiție, Ministerului Public și Consiliului Superior al Magistraturii pentru plata titlurilor executorii*), 18 June 2013.

8.2 Length of proceedings

8.2.1 Briefly describe key developments relating to length of proceedings that affect courts and tribunals of any type (for example, civil, criminal or administrative) and the proceedings before them. Explain the impact of such developments on the length of proceedings and access to justice (for example, removing obstacles of a procedural, technical, or substantive nature; changes in relation to jurisdictional aspects, etc.).

One of the aims of the NCPC is to shorten the length of proceedings. For this purpose, courts are required to estimate a calendar of the duration of the legal proceedings (which can be revised later for justified reasons). In case the calendar's dates are not observed, any party to the trial can submit an appeal (*contestație la tergiversarea procesului*) to the superior court⁴⁹⁰, which will be settled simultaneously with the main cause, within a short term (five days). This measure has been introduced pursuant to the constant ECtHR case law⁴⁹¹ on the necessity of an internal appeal mechanism against exceeding a reasonable trial time in legal proceedings.

Although introduced to shorten the proceedings, the estimation of the length of proceedings may prove to be a challenging task and one that will lead to many discussions in practice, given the difficulty to properly estimate the length of proceedings just by having a mere "touch" upon the substance of the trial, and the impossibility to predict certain external factors that may appear during the analysis of the trial, which could not have been anticipated.⁴⁹²

The forced execution procedure has also been revised and accelerated.⁴⁹³ The NCPC eliminates the procedure of investment with an executive formula (*procedura investiții cu formulă executorie*) which caused longer delays to the execution of legal decisions. The NCPC allows for the forced execution to take place quicker, on the basis of an executive title only. This measure speeds things up and saves time for all stakeholders.

Parties to a civil trial are required to attend a free of charge information session on the benefits of mediation, which has become a fundamental principle of legal proceedings. This new provision relieves courts from the burden of a huge number of cases and it directly influences the length of judicial procedures, which is consequently reduced. This obligation is not applicable in criminal cases.⁴⁹⁴

Length of Court of Appeals' proceedings for the first 6 months of 2013:⁴⁹⁵

⁴⁹⁰Romania, Law no. 134/2010 on the Civil Procedure Code (*Legea nr. 134/2010 privind Codul de procedură civilă*), republished 3 August 2012, Art. 522.

⁴⁹¹ See European Court of Human Rights (ECtHR), *Abramiuc v. Romania*, No. 37411/02, 24 February 2009.

⁴⁹² *HotNews.ro* (2012) "Modificări de procedură civilă cu impact asupra duratei de soluționare a cauzelor" (Civil Procedure changes with impact upon the length of proceedings), 22 April 2012.

⁴⁹³ Romania, Law no. 134/2010 on the Civil Procedure Code (*Legea nr. 134/2010 privind Codul de procedură civilă*), republished 3 August 2012, Art. 622.

⁴⁹⁴ Romania, Law no. 255/2013 implementing the New Criminal Procedure Code (*Legea nr. 255/2013 pentru punerea în aplicare a Noului Cod de Procedură Penală*), 14 August 2013, Art.84 (5).

⁴⁹⁵ Superior Council of Magistracy (2013) Report on courts' activity in the first semester of 2013 (Raport privind activitatea instanțelor de judecată în primul semestru al anului 2013), 9 October 2013.

Matter	Merits of the case (days)	Appeal	Final appeal (recurs)
Criminal law	73.46	123.58	74.05
Civil law	48.32	212.89	156.1
Administrative and fiscal law	180.4	56.36	168.57
Minors and family law	76.87	103.9	133.08
Labour law	68.01	52.33	113.41
Social insurance law	32.78	-	130.69
Insolvency law	24.78	55.24	116.31
Intellectual property law	84	289.88	249.85
Maritime law	60	141	140.33

Length of tribunals' proceedings for the first 6 months of 2013:⁴⁹⁶

Matter	Merits of the case (days)	Appeal	Final appeal (recurs)
Criminal law	76.87	238.37	47.58
Civil law	273.8	248.39	200.31
Administrative and fiscal law	197.46	126.53	206.85
Minors and family law	91.81	186.65	157.32
Labour law	182.46	79.14	150.58
Social insurance law	300.16	-	65
Insolvency law	231.57	-	231
Intellectual property law	252.74	425.76	246
Maritime law	314.92	-	346.94

There are no aggregate data available on the average length of proceedings in district courts. By processing data referring to the number of cases solved by the Supreme Court in 2013⁴⁹⁷, it follows that the average time spent for adjudging a civil case in 2013 was 20,4 months, and 14,3 months for a criminal case. This shows a trend to reduce the length of proceedings, as compared to last years' figures.

The president of one district court declared that the length of proceedings in 2013 is at the same level as they were in 2004, but the work volume has doubled since. In her opinion, the

⁴⁹⁶Superior Council of Magistracy (2013) Report on courts' activity in the first semester of 2013 (Raport privind activitatea instanțelor de judecată în primul semestru al anului 2013), 9 October 2013.

⁴⁹⁷See www.scj.ro/cautare_decizii.asp.

legislative proceedings have improved both from a qualitative and quantitative point of view.⁴⁹⁸

In 2013, the ECtHR has found Romania in breach of Art. 6 (1) ECHR for unreasonable length of proceedings in five cases,⁴⁹⁹ but these ECtHR judgments referred to Romanian cases submitted before 2008.

8.2.2 Identify and describe possible trends relating to the length of proceedings in your country, using FRA's Annual report 2012 as a reference point).

Given the provisions of the NCPC as well as the principles guiding it, it is hoped that trials will take place in a more rapid manner and efforts to delay the proceedings will be sanctioned and discouraged. There will probably be fewer unjustifiable delays at all instances, given that the NCPC has laid down internal mechanisms to sanction them. The abuse of appeals, repeatedly framed as a concern of the length of legal proceedings in general, may also be reduced.

8.3 E-Justice

8.3.1 Briefly describe key developments relating to technical (IT/ICT) tools aimed at facilitating access to justice through innovative solutions. For example: online tools for submitting a complaint with courts or other complaints mechanisms, explanatory or educational visualisation of processes of different ways of fundamental rights realisation (rights awareness implications and fundamental rights training), electronic courts and video technology to make procedures accessible at long distance, and other forms of 'e-justice'.

The Ministry of Justice has launched for public debate the 2013-2017 Strategy for computerisation of the legal system⁵⁰⁰, which aims to enhance transparency of legal proceedings, to reduce the time needed to access relevant information concerning proceedings, to enhance the security of data in legal proceedings, to better manage human, financial and material resources⁵⁰¹. Its objectives are⁵⁰²:

- to develop electronic procedures associated to judicial proceedings (such as electronic subpoenaing, electronic transmission of procedural acts etc.);

⁴⁹⁸ *Avocatura.com* (2013) "Președintele Judecătorei Sibiu: Durata medie a proceselor a rămas aproximativ aceeași ca în 2004" (The President of Sibiu district court: The average length of proceedings has remained approximately the same as in 2004), 22 March 2013.

⁴⁹⁹ European Court of Human Rights (ECtHR), *Borobar and others v. Romania*, No. 5663/04, 29 January 2013; ECtHR, *Niculescu-Dellakeza v. Romania*, No. 5393/04, 26 March 2013; ECtHR, *Sereny v. Romania*, No. 13071/06, 18 June 2013; ECtHR, *Association of the victims of S.C. Rompetrol S.A. and Geomin S.A. System and others v. Romania*, No. 24133/03, 25 June 2013; ECtHR, *Vlad and others v. Romania*, Application Nos. 40756/06, 41508/07 and 50806/07, 26 November 2013.

⁵⁰⁰ Ministry of Justice (*Ministerul Justiției*) (2013) 'Comunicat de presă referitor la întâlnirea de lucru privind strategia de informatizare a sistemului judiciar', Press release, 11 October 2013.

⁵⁰¹ Ministry of Justice (*Ministerul Justiției*) (2012) The 2013-2017 Strategy for computerisation of the legal system (*Strategia de informatizare a sistemului judiciar pentru perioada 2013-2017*), October 2012.

⁵⁰² Ministry of Justice (*Ministerul Justiției*) (2013) Background note to the Proposal for a Government Decision approving the 2013-2017 Strategy for computerisation of the legal system (*Notă de fundamentare la Propunerea de Hotărâre a Guvernului pentru aprobarea Strategiei de informatizare a sistemului judiciar pentru perioada 2013-2017*), October 2013.

- to render decision-drafting more effective by implementing automatic writing systems using Speech Recognition;
- to improve ECRIS's performance and its friendliness to the public;
- to develop e-learning applications supporting the use of ECRIS;
- to enhance the number and quality of legal decisions available online, and to provide better access to them;
- to develop a videoconference system for courts.

However, in contrast to this Strategy's aims, the Chamber of Deputies has rejected in April a legislative proposal giving free access to the public to the database of the Official Journal.⁵⁰³ Following this, Romanian legislation remains accessible to the public only by paid subscription to legislation software designed by private actors.

In July, the Superior Council of Magistracy has decided to invest the Romanian Legal Information Institute ROLII (*Institutul Român pentru Informații Juridice*) with the task of putting together a free online resource containing all legal decisions, in order to enhance transparency of the legal proceedings. A call for tenders has been launched for this purpose, inviting those interested to submit proposals and IT solutions for the implementation of this project.⁵⁰⁴

8.3.2 Provide an answer to the following questions:

8.3.2.1 Initiation of court proceedings via online tools:

8.3.2.1.1 Is it possible for an individual to initiate court proceedings remotely via online tools?

The New Criminal Procedure Code⁵⁰⁵ (foreseen to enter into force in 2014⁵⁰⁶) provides for the possibility to initiate court proceedings via electronic means of communication such as e-mail, or any other means that provide for the transmission of text and confirmation of its receipt.

In civil proceedings, trials cannot be initiated via remotely online tools as a rule.⁵⁰⁷ However, the legislator has provided for an exception to this rule for low value claims; in these cases, the application can be sent via electronic means of communication.⁵⁰⁸

8.3.2.1.2 In case it is possible for an individual to initiate court proceedings remotely via online tools, are there any

⁵⁰³Ministry of Justice (Ministerul Justiției) (2013) "Precizare față de articolul „Ministerul Justiției vrea să cheltuiască 4,4 milioane de euro pentru un portal online care să ofere acces liber la legislație(...)", publicat de site-ul Hotnews.ro", Press release, 6 August 2013.

⁵⁰⁴More info at www.rolii.ro.

⁵⁰⁵Romania, Law no. 135/2010 on the Criminal Procedure Code (*Legea nr. 135/2010 privind Codul de procedură penală*), 14 August 2013, Art.289 (5).

⁵⁰⁶ Romania, Law no. 255/2013 for implementing Law no. 135/2010 on the Criminal Procedure Code and amending and supplementing some related criminal laws (*Legea nr. 255/2013 pentru punerea în aplicare a Legii nr. 135/2010 privind Codul de procedură penală și pentru modificarea și completarea unor acte normative care cuprind dispoziții procesual penale*), 14 August 2013.

⁵⁰⁷Letter no. 94148 of 03.12.2013 of the Ministry of Justice, on file with the NFP.

⁵⁰⁸Romania, Law no. 134/2010 on the Civil Procedure Code (*Legea nr. 134/2010 privind Codul de procedură civilă*), republished 3 August 2012, Art. 1028.

limitations in term of types of proceedings that can be initiated in this way, etc. (specify and explain)

There are no other formal limitations.

- 8.3.2.1.3 In case it is possible for an individual to initiate court proceedings remotely via online tools, is this system a genuine e-alternative (including possibly e-Signature, etc.) to the situation when an individual has to send his/her complaint via (registered) mail or submit it physically to a court?

When an application is sent to a court via electronic means of communication, it is registered by the court's registrar. However, the law does not specify the moment when the electronic application is considered to be registered – at the date and time when the email has been sent, or when it has been opened and processed by the registrar. This issue can be solved in practice, or by the future 2013-2017 Strategy for computerisation of the legal system. As of now, it seems to be a genuine e-alternative to the in-person registration system, however this will stay true only if courts will also render effective this e-alternative.

The New Criminal Procedure Code expressly states that a complaint sent by electronic means is only valid if it bears an e-Signature⁵⁰⁹. There are no such requirements for the low value civil claims.

- 8.3.2.2 Lodging a complaint or providing testimony about fundamental rights or human rights violations remotely via video-link or other technologies: Is it possible for an individual to lodge his or her complaint about human rights violations (for example, incidences of discrimination, etc.) or provide his or her testimony in this respect, with police, court or other complaint body, remotely via video or similar technology? If yes, briefly describe the system(s).

The NCPC allows as a novelty the use of audio and video evidence.⁵¹⁰ The interested party may request the transcription of all audio/video testimonies.

In criminal proceedings, victims may testify through an audio-video system in cases where their or their family members' life, body integrity or freedom may be threatened.⁵¹¹ The victims, their close relatives or the prosecutor may request approval for testimony "from a distance". If approval is granted, victims have the right to be assisted by a victims' protection counsellor during their testimony. If needed, witnesses or victims can have their voice and images distorted in order to avoid their recognition.⁵¹² During the testimony, parties and their defenders may ask direct questions to the victim, and the judge may refuse questions which are not relevant or useful to the cause. The testimony is transcribed and signed by the judge, by the

⁵⁰⁹Romania, Law no. 135/2010 on the Criminal Procedure Code (*Legea nr. 135/2010 privind Codul de procedură penală*), 14 August 2013, Art.289 (5).

⁵¹⁰Romania, Law no. 134/2010 on the Civil Procedure Code (*Legea nr. 134/2010 privind Codul de procedură civilă*), republished 3 August 2012, Art. 136.

⁵¹¹ Romania, Criminal Procedure Code (*Codul de Procedură Penală*), 28 March 2008, Art. 77¹.

⁵¹² Romania, Criminal Procedure Code (*Codul de Procedură Penală*), 28 March 2008, Art. 86².

victim and the victims' protection counsellor, where relevant. The recorded testimony is sealed and kept safely on the court's premises.

8.4 Judicial independence

8.4.1 Are there criteria and conditions for the appointment of judges? If so, list them.

One can be appointed judge after having passed an exam which is based on and takes into consideration criteria such as professional competence, personal skills and good reputation.⁵¹³ In order to be able to hold the exam, one has to be a citizen of and reside in Romania, to have full legal capacity, to have graduated a law school, to have a clean criminal record, to have a good reputation, to speak Romanian and to be medically fit for the job.⁵¹⁴

The initial professional training takes place within the National Institute of Magistracy (INM), where the future judges and prosecutors spend two years in order to qualify for their future professions. After graduating the INM, judges are appointed as probationary judges for three years at the first level court only. At the end of these three years, they must pass a capacity exam in order to be appointed full, irremovable judges by the president of Romania, at the proposal of the Superior Council of Magistracy.⁵¹⁵

8.4.2 Is there a general rule allocating the responsibility concerning incoming cases to specific judges (or, for example, does the president of the given court have discretion on the allocation of cases)? If so, provide a brief description of this rule.

After registration with the court's registrar, files are randomly assigned by a judge or registrar of the court using ECRIS, a specialised random distribution program which has been introduced in 2004.⁵¹⁶ There are many voices saying that, given the flaws of procedural rules concerning the use and functioning of ECRIS, the program can be influenced if so wished by the person who inputs the data.⁵¹⁷ The panel of judges can be anticipated by introducing more complex variables than available in order to direct the case to a certain panel, or by introducing files in a different order than the one in which they have been received by the court.⁵¹⁸

It has been proved that this can happen in practice, even at the highest levels. In March 2013, two Supreme Court judges have been arrested and accused of receiving bribe in order to

⁵¹³Romania, Law no. 303/2004 on magistrates' statute (*Legea nr. 303/2004 privind statutul magistraților*), 28 June 2004, Art.12.

⁵¹⁴Romania, Law no. 303/2004 on magistrates' statute (*Legea nr. 303/2004 privind statutul magistraților*), 28 June 2004, Art.14 (2).

⁵¹⁵Romania, Law no. 303/2004 on magistrates' statute (*Legea nr. 303/2004 privind statutul magistraților*), 28 June 2004, Art.31 (1).

⁵¹⁶Romania, Law no. 304/2004 on legal organization (*Legea nr. 304/2004 privind organizarea judiciară*), republished 26 October 2010, Art.53 (1).

⁵¹⁷Romanian Academic Society (*Societatea Academică din România*) (2009) "Inițiativa pentru o justiție curată – Vulnerabilități ale sistemului juridic" (*Initiative for a Clean Justice – Vulnerabilities of the legal system*), 12 October 2009, available at: www.sar.org.ro/files/Raport_Vulnerabilitati_ale_sistemului_juridic.pdf.

⁵¹⁸Romanian Academic Society (*Societatea Academică din România*) (2009) "Inițiativa pentru o justiție curată – Vulnerabilități ale sistemului juridic" (*Initiative for a Clean Justice – Vulnerabilities of the legal system*), 12 October 2009, available at: www.sar.org.ro/files/Raport_Vulnerabilitati_ale_sistemului_juridic.pdf.

arrange the distribution of an appeal. They have been accused of having manipulated ECRIS in order to have the respective file sent to a certain panel of judges.⁵¹⁹

8.4.3 Specify whether judges can be removed from office through any of these procedures:

8.4.3.1 only by judicial procedure;

8.4.3.2 by decision of one or more members of the executive;

8.4.3.3 by decision of parliament;

8.4.3.4 by joint decision of one or more members of the executive and of parliament

8.4.3.5 other: specify.

Judges and prosecutors can be removed from office by a presidential decree, at the proposal of the Superior Council of Magistracy,⁵²⁰ in the following instances:⁵²¹ retirement; transfer to another function; professional incapacity; as a disciplinary sanction; as a consequence of a final conviction for a criminal offense; when they are found to be working for or cooperating with an intelligence service; loss of Romanian citizenship or of full legal capacity; holding of a criminal or tax record; and in case of occurrence of a medical incapacity to perform their function.

Probationary judges and prosecutors can be removed from office directly by the Superior Council of Magistracy.⁵²²

The Superior Council of Magistracy (CSM) is the institution in charge with guaranteeing the independence of the judiciary system, as enshrined in the Constitution.⁵²³ The Council is the only body competent with regard to the career of judges and prosecutors (appointment, professional evaluation, promotion, disciplinary sanctioning and release from office). It is formed of 19 members (9 judges, 5 prosecutors, 2 representatives of the civil society and 3 members de jure – the President of the Supreme Court, the Minister of Justice and the General Prosecutor of the Prosecutors' Office attached to the Supreme Court) and has two sections (one for judges and one for prosecutors) which function as courts for judges and prosecutors for trying disciplinary breaches of duty.

8.5 Non-judicial institutions

8.5.1 Complete and update information relevant to your country in the table included in Annex 8.1.

No new non-judicial institutions have been created in 2013, and there have not been significant changes to their status and functions. This conclusion is based on desk research and replies

⁵¹⁹ National Anticorruption Direction (*Direcția Națională Anticorupție*) (2013) "Comunicat", Press release, 14 March 2013.

⁵²⁰ Romania, Law no. 303/2004 on magistrates' statute (*Legea nr. 303/2004 privind statutul magistraților*), 28 June 2004, Art.65 (2).

⁵²¹ Romania, Law no. 303/2004 on magistrates' statute (*Legea nr. 303/2004 privind statutul magistraților*), 28 June 2004, Art.65 (1).

⁵²² Romania, Law no. 303/2004 on magistrates' statute (*Legea nr. 303/2004 privind statutul magistraților*), 28 June 2004, Art.65 (4).

⁵²³ Romanian Constitution, Article 133 (1).

from the concerned existing non-judicial institutions as regards developments in their functions and procedures.⁵²⁴

8.5.2 Where relevant, specify where there have been significant legal changes relating to the bodies listed in the table included in Annex 8.1.

Not applicable, for the same reasons as in section 8.5.1.

8.5.3 Where relevant, specify where there have been changes in the budget (decrease or increase) of any of the non-judicial bodies listed in the table included in Annex 8.1 relevant to your country, detailing the amount in Euro and in the local currency, as well as the percentage of the increase or decrease in budget.

a) Romanian Institute for Human Rights (IRDO)

In 2013, IRDO's budget was 1.610.000 RON⁵²⁵, an increase of 10.7% from 1.454.000 RON in 2012⁵²⁶.

b) National Council for Combating Discrimination (NCCD)

The final budget for 2012 was 4,286,000 RON (approx. 952,000 euro) while the 2013 budget was 4,539,000 RON (approx. 1 million euro)⁵²⁷, which represents an increase of 5.9% from 2012.

c) The National Supervisory Authority for Personal Data Processing

The 2013, the budget allocated to the National Supervisory Authority for Personal Data Processing was 3,367,000 RON, but it was modified in July 2013 and decreased.⁵²⁸ At the end of 2012, the budget allocated to the Authority was 3,320,000 RON and the budgetary execution was of 99,28%.⁵²⁹ We do not have the final budgetary execution for 2013.

⁵²⁴Letter no. 11456 of 07.01.2014 of the Ombudsman, letter no. 18844 of 07.01.2014 of the NCCD, both on file with the NFP.

⁵²⁵Romania, Chamber of Deputies, Decision no. 3/2013 on the budget of the Chamber of Deputies in 2013 (*Hotărârea nr. 1/2013 privind bugetul Camerei Deputaţilor pe anul 2013*), 22 January 2013.

⁵²⁶Romania, Chamber of Deputies, Decision no. 27/2011 on the budget of the Chamber of Deputies in 2012 (*Hotărârea nr. 27/2011 privind bugetul Camerei Deputaţilor pe anul 2012*), 10 November 2011.

⁵²⁷Romania, National Council for Combating Discrimination (NCCD) (*Consiliul Naţional pentru Combaterea Discriminării, CNCD*), Letter 6771/01.11.2013 to the Centre for Legal Resources, on file with the NFP.

⁵²⁸Letter no. 0021636 of 01.11.2013 of the National Supervisory Authority for Personal Data Processing, on file with the NFP.

⁵²⁹Romania, National Supervisory Authority for Personal Data Processing (*Autoritatea Naţională de Supraveghere a Prelucrării Datelor cu Caracter Personal*) (2012) Raport anual 2012 (*Annual Report 2012*), Bucharest, National Supervisory Authority for Personal Data Processing, p. 55 available at www.dataprotection.ro/servlet/ViewDocument?id=870.

d)The Ombudsperson's budget has been increased by 5.7% from 5,129,000 RON (approx. 1,153,900 EUR) in 2012 to 5,510,000 RON (approx. 1,239,610) in 2013.⁵³⁰

8.5.4 Where relevant, and in addition to data provided in Annex 8.1, briefly describe key developments concerning changes in, reforms of or the establishment of complaint or support structures, such as National Human Rights Institutions (NHRIs), National Equality Bodies (NEBs) and Ombudsperson institutions in your country. In addition, briefly describe the reasons behind, the objectives and aims, and the impacts of such developments or changes on access to justice. Relevant developments include, among others, changes in mandate or powers, ICC accreditation requests submitted, institutional (structural) changes, budget/staffing cuts, etc. Non-judicial institutions to be covered here should, at a minimum, be those included in the table in Annex 8.1.

In January 2013, the interim Ombudsperson appointed in 2012 has been replaced by Anastasiu Crişu,⁵³¹ law professor at the Law Faculty of the University of Bucharest, proposed and supported by the Social Liberal Union. Mr. Atanasiu has resigned however after only 11 months, in December 2013, citing personal reasons.⁵³² His resignation comes amidst negative reactions towards a disputed amnesty law and controversial amendments brought to the Criminal Code which could be passed by an emergency decree by the Government, bypassing the Parliament, which would have transferred all the pressure on the Ombudsman's shoulders, since the Ombudsman is the only one who can contest Government's emergency decrees at the Constitutional Court. The deputy Ombudsman, Ms. Ecaterina-Gica Teodorescu, has been appointed interim Ombudsman on the 20th of December.⁵³³

8.5.5 Briefly describe major developments that are relevant to access to justice when it comes to bodies 'under international agreements', that is [OP-CAT](#) (as National Preventive Mechanism, NPM) or the Convention on the Rights of Persons with Disabilities (as Article 33 (2) monitoring framework).

Information on this is included under Chapter 10.

⁵³⁰Letter no. 9124 of 30.10.2013 of the Romanian Ombudsperson, on file with the NFP.

⁵³¹*Jurnalul.ro* (2013) "Crişu Anastasiu este noul Avocat al Poporului" (Crişu Anastasiu is the new Ombudsperson), 22 January 2013.

⁵³²*Juridice.ro* (2013) "Avocatul Poporului, prof. univ. dr. Anastasiu Crişu, a demisionat" (The Ombudsman, Prof. Dr. Anastasiu Crişu, has resigned), 19 December 2013.

⁵³³Romanian Parliament, Decision no. 75/2013 on termination of the mandate of the Ombudsman and taking over of this role by a deputy Ombudsman (*Hotărârea nr. 75/2013 privind constatarea încetării mandatului Avocatului Poporului şi preluarea atribuţiilor acestei funcţii de către un adjunct al Avocatului Poporului*), 20 December 2013.

8.5.6 Provide the following information in relation to each one of the non-judicial institutions in your country listed in the Table in Annex 8.1:

8.5.6.1 Who decides on the budget of the given non-judicial institution (that is, who is the budgetary authority): parliament and/or government or any other body?

For all four non-judicial institutions concerned, the budgetary authority is the Parliament, since their budget is included in the state budget which is approved by the Parliament.

8.5.6.2 Briefly describe the different stages of the budget approval procedure – from the initial proposal to the final budget – highlighting which actors are involved and how so. Also specify the extent to which, if at all, the non-judicial institution itself is involved in the process.

a) IRDO

IRDO's budget is established by the same decision setting out the budget for the Chamber of Deputies. After drafting the proposal for their budget, the Chamber of Deputies sends it to the Government, which includes it in the state budget draft to be approved by the Parliament.⁵³⁴

We have asked IRDO to specify all the stages of the budget approval procedure, as well as their involvement in the procedure, however their reply was vague, mentioning that the answer to this question can be found in national and international provisions.⁵³⁵ However, national provisions regulating the approval procedure for public budgets does not provide for the participation of subordinated institutions, such as IRDO, to the budget adoption procedure.

b) NCCD

The budget proposal is prepared by NCCD, with the Ministry of Public Finances' consultative opinion.⁵³⁶

c) The National Supervisory Authority for Personal Data Processing

After consulting the Government, the Authority drafts and approves its budget, which is then submitted to the Government in order to be included in the state budget.⁵³⁷

d) The Ombudsperson

The initial budget proposal is drafted and approved by the institution itself, with the Ministry of Public Finances' consultative opinion. The proposal is submitted to the Government in order to be included in the state budget.⁵³⁸

8.5.6.3 What are the criteria for appointment (for example: minimum work experience, qualifications, citizenship, age limitation, conflict of interest

⁵³⁴Romania, Chamber of Deputies rules (*Regulamentul Camerei Deputaților*), art. 226.

⁵³⁵Letter no. 732/2013 of 26.11.2013, of the Romanian Institute for Human Rights, on file with the NFP.

⁵³⁶ Romania, Government Ordinance No.137/2000 regarding the prevention and sanctioning of all forms of discrimination (*Ordonanța Guvernului Nr.137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), republished 8 February 2007, Art. 30 (1).

⁵³⁷ Romania, Law no. 102/2005 on the creation, organisation and functioning of the National Supervisory Authority for Personal Data Processing (*Legea nr. 102/2005 privind înființarea, organizarea și funcționarea Autorității Naționale de Supraveghere a Prelucrării Datelor cu Caracter Personal*), 3 May 2005, Art. 17 (2).

⁵³⁸Romania, Law no. 35/1997 on the organisation and functioning of the Ombudsperson (*Legea nr. 35/1997 privind organizarea și funcționarea instituției Avocatul Poporului*), Art.36 (2).

limitation, etc.) of the head (for example, director, president, ombudsman, etc.) of the given non-judicial institution?

In order to be appointed President of the **National Supervisory Authority for Personal Data Processing**, one has to hold the Romanian citizenship, to have graduated a legal higher education institution, to have high professional competence and at least ten years of experience in legal activities, as well as a good reputation and high civic integrity.⁵³⁹

In order to be appointed as **Ombudsperson**, one has to meet the same criteria needed for appointment as a Constitutional Court judge:⁵⁴⁰ to have a degree in law, to have high professional competence and at least eighteen years of experience in legal or academic activities.⁵⁴¹

The criteria for appointing the Executive Director of **IRDO** are not set out in its founding statutes, and have not been provided by the institution following our request.⁵⁴²

8.5.6.4 Briefly describe the process through which the head of the given non-judicial institution is appointed (for example, who is the appointing/nominating authority, etc.).

a) **IRDO**

The Executive Director is appointed by the General Council and is part of a Steering Committee which ensures IRDO's management.⁵⁴³

b) **NCCD**

The Steering Committee elects one of its members as the President of NCCD, for a period of 5 years. The Vice-president of NCCD is elected following the same procedure, for 2 years and a half.⁵⁴⁴

c) **The National Supervisory Authority for Personal Data Processing**

The Permanent Bureau of the Senate, at the recommendation of political parties in both chambers of the Parliament, forwards proposals for the functions of President of the National Supervisory Authority for Personal Data Processing. Following nomination, candidates submit their eligibility-proving documents to the Appointments, Discipline, Immunities and Validations Legal Committee of the Senate, which hears the candidates. The Senate votes on their appointment after the plenary hearing, with a simple majority. If in the first round majority is not reached, a second round is organised where only the first two candidates with

⁵³⁹ Romania, Law no. 102/2005 on the creation, organisation and functioning of the National Supervisory Authority for Personal Data Processing (*Legea nr. 102/2005 privind înfiinţarea, organizarea şi funcţionarea Autorităţii Naţionale de Supraveghere a Prelucrării Datelor cu Caracter Personal*), 3 May 2005, Art. 6 (2).

⁵⁴⁰ Romania, Law no. 35/1997 on the organisation and functioning of the Ombudsperson (*Legea nr. 35/1997 privind organizarea şi funcţionarea instituţiei Avocatul Poporului*), Art.6 (2).

⁵⁴¹ Constitution of Romania (2003), Art. 143.

⁵⁴² Letter no. 732/2013 of 26.11.2013, of the Romanian Institute for Human Rights, on file with the NFP.

⁵⁴³ Romania, Law no. 9/1991 on the establishment of the Romanian Institute for Human Rights (*Legea nr. 9/1991 privind înfiinţarea Institutului Român pentru Drepturile Omului*), 29 January 1991, Art. 5 third and fourth paragraphs.

⁵⁴⁴ Romania, Government Ordinance no. 137/2000 (*republished*) on the prevention and sanctioning of all forms of discrimination (*O.G. nr. 137/2000 (*republicată*) privind prevenirea şi sancţionarea tuturor formelor de discriminare*), 8 February 2007, Art. 22 (1).

the higher percentage of votes obtained participate.⁵⁴⁵ The candidate who secures most votes is appointed President.

d) The Ombudsperson

The Ombudsperson is appointed for a period of five years, jointly by the two Chambers of the Parliament. His mandate may be renewed once.⁵⁴⁶

Candidates are recommended by political parties of the two legislative Chambers, and proposed by their respective permanent bureaus. Following nomination, candidates submit their eligibility-proving documents to the Legal Committees of the Chamber of Deputies and the Senate, which hears the candidates. The candidate who wins most votes of the present deputies and senators is appointed as Ombudsperson.⁵⁴⁷

8.5.6.5 Is the head of the given non-judicial institution supported by another governing body, such as a management board, committee, commission, etc.?

a) **IRDO** has two supporting bodies. The first and larger one is the General Council, comprising of parliamentary groups' representatives, members of the Senate's Committee for Human and Citizens' Rights and the Chamber of Deputies' Committee for Human Rights, Cults and National Minorities Issues, as well as scientists and representatives of human rights NGOs, who are designated and validated by the two chambers of the Parliament.⁵⁴⁸ Once formed, the General Council appoints seven of its members to form a Steering Committee, which is IRDO's second, smaller supporting body.

b) **NCCD** is not supported by any other body. However, decisions on discrimination are made by a Steering Committee formed by nine members proposed and appointed in a joint meeting by the two chambers of the Parliament.⁵⁴⁹ Members of the Steering Committee are appointed and revoked by decision of the Prime Minister.⁵⁵⁰ One of the members of the Steering Committee is also the head of the institution.

c) **The National Supervisory Authority for Personal Data Processing** is not supported by any governing body.

d) **The Ombudsperson** is not supported by any governing body.

8.5.6.6 Where such a governing body exists, provide information on existing criteria, if any, for appointment of member(s) of this body (for example, minimum

⁵⁴⁵ Romania, Law no. 102/2005 on the creation, organisation and functioning of the National Supervisory Authority for Personal Data Processing (*Legea nr. 102/2005 privind înființarea, organizarea și funcționarea Autorității Naționale de Supraveghere a Prelucrării Datelor cu Caracter Personal*), 3 May 2005, Art. 7.

⁵⁴⁶ Romania, Law no. 35/1997 on the organisation and functioning of the Ombudsperson (*Legea nr. 35/1997 privind organizarea și funcționarea instituției Avocatul Poporului*), Art.6 (1).

⁵⁴⁷ Romania, Law no. 35/1997 on the organisation and functioning of the Ombudsperson (*Legea nr. 35/1997 privind organizarea și funcționarea instituției Avocatul Poporului*), Art.7.

⁵⁴⁸ Romania, Law no. 9/1991 on the establishment of the Romanian Institute for Human Rights (*Legea nr. 9/1991 privind înființarea Institutului Român pentru Drepturile Omului*), 29 January 1991, Art. 5 first and second paragraphs.

⁵⁴⁹ Romania, Government Ordinance no. 137/2000 (*republished*) on the prevention and sanctioning of all forms of discrimination (O.G. nr. 137/2000 (*republicată*) privind prevenirea și sancționarea tuturor formelor de discriminare), 8 February 2007, Art. 23 (1) and (2).

⁵⁵⁰ Romania, Government Decision no. 1194/2001 on the organisation and functioning of the National Council for Combating Discrimination (H.G. nr. 1194/2001 privind organizarea și funcționarea Consiliului Național pentru Combaterea Discriminării), 12 December 2001, Art. 5 (1).

experience, qualifications, citizenship, age limitation, conflict of interest limitation, etc.).

a) The criteria for appointing the members of the **IRDO**'s Steering Committee and General Council are not set out in its founding statutes, and have not been provided by the institution following our request.⁵⁵¹

b) In order to be appointed as a member of **NCCD**'s Steering Committee, one must meet these conditions cumulatively: having a good reputation and a renowned activity in the areas of human rights protection and combating discrimination; having not been an agent or collaborator of the Communist political police (*Securitate*), nor having cooperated with or belonged to its organs.

At least two thirds of **NCCD**'s Steering Committee's members must have a Bachelor's degree in legal sciences.⁵⁵²

8.5.6.7 Where such a governing body exists, briefly describe the process through which member(s) of this body is/are appointed, for example, who is the appointing/nominating authority, etc..

a) The process through which members of **IRDO**'s Steering Committee and General Council are appointed is not set out in its founding statutes, and has not been provided by the institution following our request.⁵⁵³

b) **NCCD**

The permanent bureaus of the Parliament's two Chambers make the proposals and the supporting documents available online. If no objections are received within 15 days, the candidates are being heard individually and their appointment is submitted to vote. Candidates are elected with simple majority of the present deputies and senators.⁵⁵⁴

8.5.6.8 Is the relevant non-judicial institution in any way attached to the executive branch (for example, is part of a Ministry), including as regards its premises?

All four of the analysed institutions are independent, autonomous structures and their activity cannot in any way be influenced or restricted by any other institution or public authority.

However, they depend on the executive power to ensure their headquarters. The Government is responsible for offering space for **NCCD**'s premises.⁵⁵⁵ Moreover, one of the territorial offices of **NCCD** (in Buzău) is located on the premises of the county's Prefecture. The same is the case for the Ombudsperson, as the premises of its territorial offices are offered by the local

⁵⁵¹ Letter no. 732/2013 of 26.11.2013, of the Romanian Institute for Human Rights, on file with the NFP.

⁵⁵² Romania, Government Ordinance no. 137/2000 (*republished*) on the prevention and sanctioning of all forms of discrimination (O.G. nr. 137/2000 (*republicată*) privind prevenirea și sancționarea tuturor formelor de discriminare), 8 February 2007, Art. 23 (3) and (4).

⁵⁵³ Letter no. 732/2013 of 26.11.2013, of the Romanian Institute for Human Rights, on file with the NFP.

⁵⁵⁴ Romania, Government Ordinance no. 137/2000 (*republished*) on the prevention and sanctioning of all forms of discrimination (O.G. nr. 137/2000 (*republicată*) privind prevenirea și sancționarea tuturor formelor de discriminare), 8 February 2007, Art. 24.

⁵⁵⁵ Romania, Government Decision no. 1194/2001 on the organisation and functioning of the National Council for Combating Discrimination (H.G. nr. 1194/2001 privind organizarea și funcționarea Consiliului Național pentru Combaterea Discriminării), 12 December 2001, Art. 11.

Prefectures.⁵⁵⁶ IRDO too functions in a government-owned building, where the Probationary Service of Bucharest's Tribunal is also located.

8.6 Promising practices

8.6.1 Follow-up on the promising practices reported in Chapter 8 of Annual Report 2012, if they refer to your country. Check any available evaluation results; sustainability – indicating if the promising practice still exists (and if not – why); concrete impacts.

Not applicable.

8.6.2 Provide a maximum of three new promising practices relating to access to justice and judicial cooperation, putting each one in a separate table.

1. Free online jurisprudence resource

Title (original language)	Investirea ROLII cu sarcina de a organiza o resursă online gratuită care să conțină toate hotărârile instanțelor din România
Title (EN)	Investing ROLII with the task of putting together a free online resource containing all jurisprudence from Romanian courts
Organisation (original language)	Institutul Român pentru Informații Juridice
Organisation (EN)	Romanian Legal Information Institute
Government / Civil society	Foundation founded jointly by the Superior Council of Magistracy, The National Institute of Magistracy, the National Union of Bars from Romania, the National Institute for Lawyers' Professional Training, the National Union of Public Notaries from Romania, the Romanian Public Notary Institute and Mr. Adrian Neacșu, a member of the Supreme Council of Magistracy (who has subsequently quit the Council in December 2013).
Funding body	The founding institutions.
Reference (incl. url, where available)	www.rolii.ro/
Indicate the start date of the promising practice and the finishing date if it has	Start date: 11 July 2013, when ROLII was invested ⁵⁵⁷ by its founding members to start its

⁵⁵⁶Romania, Law no. 35/1997 on the organisation and functioning of the Ombudsperson (Legea nr. 35/1997 privind organizarea si funcționarea instituției Avocatul Poporului), Art. 29.

⁵⁵⁷ Superior Council of Magistracy, Minutes of the 11.07.2013 meeting of the Commission on Justice independence and accountability, 11.07.2013, available at: www.csm1909.ro/csm/linkuri/15_07_2013_59758_ro.pdf.

ceased to exist	activities. In September 2013, following a call for tenders, ROLII has infomed ⁵⁵⁸ the Superior Council of Magistracy of having received three offers that it will proceed to analyse in the following months, in order to select the software designer who will create the online database.
Type of initiative	Public
Main target group	Everyone interested to access Romanian jurisprudence
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	Courts' judgements will be transmitted to ROLII for electronic publishing Personal data in the judgments will be rendered anonymous by ROLII ROLII will develop a software to allow judgments to be accessed electronically, without affecting the already used system ECRIS ROLII will become an operator of personal data
Highlight any element of the actions that is transferable (max. 500 chars)	
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	There is clearly a need for a longterm sustained such practice, however its sustainability is still questionable and details have not been established yet as to its longterm sustainability.
Give reasons why you consider the practice as having concrete measurable impact	The number of times the website has been accessed can be quantified, as well as the number of times each decision has been accessed, therefore it is possible to have clear statistics on usage and impact. This practice may become the first comprehensive electronic resource for Romanian jurisprudence, helping the public to stay informed with the latest legal developments in the country, as well as contributing to a harmonization of the jurisprudence at a national level.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	It can be fully replicated in other Member States, since the need for better access to jurisprudence exists in all Member States.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Beneficiaries could contribute to the functionalities of the software by leaving comments and suggestions for improvement, once the database is functioning.

⁵⁵⁸ Superior Council of Magistracy, Minutes of the 30.09.2013 meeting of the Commission on Justice independence and accountability, 30.09.2013, available at: http://www.csm1909.ro/csm/linkuri/01_10_2013_60784_ro.pdf.

Explain, if applicable, how the practice provides for review and assessment.	These details have not been established yet.
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2. Online portal giving free access to national legislation and interconnecting with the N-LEX European portal

Title (original language)	Implementarea unui portal online care să permită accesul liber la legislația națională și interconectarea cu portalul european N-LEX
Title (EN)	Implementation of an online portal giving free access to national legislation and interconnecting with the N-LEX European portal
Organisation (original language)	Ministerul Justiției
Organisation (EN)	Ministry of Justice
Government / Civil society	Government
Funding body	European Commission
Reference (incl. url, where available)	www.economie.hotnews.ro/stiri-telecom-15328131-ministerul-justitiei-vrea-cheltuiasca-4-4-milioane-euro-pentru-portal-online-care-ofere-acces-liber-legislatie-juristul-bogdan-manolea-atentioneaza-statul-plati-ceea-are-deja.htm
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Start date (estimated): October 2014
Type of initiative	Public
Main target group	Everyone interested to access Romanian legislation
Indicate level of implementation: Local/Regional/National	National and European
Brief description (max. 1000 chars)	The Ministry of Justice has published a public auction to acquire a national legislative database which contains updated legal acts and updated normative documents. They envision developing of an electronic application to allow unrestricted access to the national legislative database.
Highlight any element of the actions that is transferable (max. 500 chars)	The software itself, after acquired and becoming fully operative, may be transferable to any other state who may wish to implement a similar legislative database.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	It could be sustainable mainly because of pressure and financial support from the European Union. The practice fulfills a condition that has been repeatedly brought up in the MCV reports over the years, namely to connect Romania to the European legislative portal N-LEX, as Romania is now the only EU country which does not yet have such a database. Given that the project is started with and sustained by European funds, it will

	probably succeed to secure its continuation and funding on a longterm basis.
Give reasons why you consider the practice as having concrete measurable impact	Given its electronic content and interactivity, the software will allow for measuring the number of users, the number of times it has been accessed and the impact of using the database.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	It can be fully replicated in other states who do not yet have a national legislative database, given its electronic format and purposes. However, it is not the case for EU Member States, as they already have such a database.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Beneficiaries could contribute to the functionalities of the software by leaving comments and suggestions for improvement, once the database is functioning.
Explain, if applicable, how the practice provides for review and assessment.	These details have not been established yet.

8.7 Case law

Reference landmark 2013 case law relating to the bodies listed the table included in Annex 8.1. Put each case in a separate table.

a) The Pata-Rât Case

Case title Cluj-Napoca municipality v. National Council for Combating Discrimination	
Decision date 28 May 2013	
Reference details (type and title of court/body; in original language and English [official translation, if available]) Supreme Court, Civil Decision 5443/28.05.2013 (<i>Înalta Curte de Casație și Justiție, Decizia Civilă nr. 5443/28.05.2013</i>)	
Key facts of the case (max. 500 chars) The Supreme Court has rejected ⁵⁵⁹ the final appeal submitted by the Municipality of Cluj-Napoca (a city in the North-West of Romania) in which it was requested to reverse the Civil Sentence no. 145/27.02.2012 issued by the Cluj-Napoca Court of Appeal, holding that the National Council for Combating Discrimination was right to rule that the 2010 act of evicting the Roma community next to a rubbish dump (at Pata-Rât) constitutes an act of discrimination.	
Main reasoning/argumentation (max. 500 chars) The municipality's act of evacuating an entire Roma Community next to an unhealthy place where they are completely segregated from the rest of the city falls under Articles 2 (1), 10 point (h), 13 (1) and 15 of Government Ordinance No.137/2000 regarding the prevention and sanctioning of all forms of discrimination (<i>Ordonanța Guvernului Nr.137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare</i>).	
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	

⁵⁵⁹National Council for Combating Discrimination (Consiliul Național pentru Combaterea Discriminării) (2013) "Înalta Curte de Casație și Justiție a menținut hotărârea CNCD în cazul Pata Rât" (The Supreme Court has maintained NCCD's decision in the Pata Rât case), 29 May 2013.

Results (sanctions) and key consequences or implications of the case (max. 500 chars)	
The Municipality has been fined 8,000 RON (aprox. 1,800 EUR) and asked to find an alternative solution to the discriminatory evacuation.	

b) The Baia Mare wall case⁵⁶⁰

Case title Baia Mare municipality v. National Council for Combating Discrimination	
Decision date 30 September 2013	
Reference details (type and title of court/body; in original language and English [official translation, if available]) Supreme Court, Civil Decision of 30.09.2013 (<i>Înalta Curte de Casație și Justiție, Decizia Civilă din 30.09.2013</i>)	
Key facts of the case (max. 500 chars) The Supreme Court has rejected the final appeal submitted by the Municipality of Baia Mare (a city in the North of Romania) in which it was requested to reverse a 2011 NCCD decision ruling that the act of building a 1.80 m wall on a street in Baia Mare to demarcate Romanian residents from the Roma community living on the same street, constitutes an act of discrimination.	
Main reasoning/argumentation (max. 500 chars) The municipality's act humiliates the Roma community, exposing them to a degradable treatment, opposed to provisions of Government Ordinance No.137/2000 regarding the prevention and sanctioning of all forms of discrimination (<i>Ordonanța Guvernului Nr.137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare</i>).	
Key issues (concepts, interpretations) clarified by the case (max. 500 chars) A wall built for the sole purpose of demarcating different communities constitutes a discriminatory practice.	
Results (sanctions) and key consequences or implications of the case (max. 500 chars) The Supreme Court confirmed NCCD's decision to fine BaiaMare Municipality with 6,000 RON (aprox. 1,350 EUR) and to demolish the wall, as well as to take measures for improving living conditions of the Roma community in Baia Mare.	

8.8 Any other significant developments in relation to access to justice and judicial cooperation

The Minister of Justice has announced the implementation of a new project, in which judges and prosecutors will participate in civic education classes in schools and explain to the students what their professions imply, the role of justice in a State and also the consequences for breaking the laws.⁵⁶¹

The Parliament has passed a draft law to amend the "referendum law",⁵⁶² reducing the presence required in order for a referendum to be valid from 50% + 1 to 30% of the population with a right to vote. Also, the draft law introduces a condition of at least 25% valid votes in order for

⁵⁶⁰National Council for Combating Discrimination (*Consiliul Național pentru Combaterea Discriminării*) (2013) "CNCD a câștigat procesul intentat de primarul municipiului Baia Mare" (NCCD has won the trial filed by the mayor of Baia Mare municipality), 30 September 2013.

⁵⁶¹ Ministry of Justice, Press release on the participation of the Minister of Justice at the opening of the new academic year (*Comunicat de presă referitor la participarea ministrului justiției la deschiderea noului an școlar*), 16 September 2013.

⁵⁶²Romania, Law no. 3/2000 on organising and conducting the referendum (*Legea nr. 3/2000 privind organizarea și desfășurarea referendumului*), 24 February 2000.

the referendum to be valid.⁵⁶³ A number of 83 deputies have objected the constitutionality of the draft and have called on the Constitutional Court to give its opinion on the matter. The Court has decided that the law does not breach any provisions of the Constitution, however it has stated that it cannot be applicable to any referendum for which the preparations have already started at the time the law was passed.⁵⁶⁴ This includes the referendum for the amendment of the Constitution, for which preparations have been ongoing since 2012. Three of the nine judges (including the President of the Court) have dissented, holding that according to the Constitution, governance is "by the people and for the people". In their opinion, this means that a majority of the people need to decide on important issues that call for a referendum, and not just 30% of them.

In September, Romania's president submitted a new objection of unconstitutionality to the Constitutional Court on the same grounds, pointing out that "the people" refers to a majority of 50%+1, and not less.⁵⁶⁵ The Court rejected⁵⁶⁶ this objection as well on 14 November, mentioning that the law is constitutional as long as it does not apply to referendums organised within one year from the entry into force of the respective law. The law was later passed and confirmed by the President in December 2013.⁵⁶⁷

The European Commission, in its twelfth report on the Cooperation and Verification Mechanism for Romania (assessing the period July 2012 - January 2013), pointed out that, while the respect for the Constitution and the decisions of the Constitutional Court has been restored at the beginning of 2013, the lack of respect for the independence of the judiciary system and the instability faced by judicial institutions remain a source of concern.⁵⁶⁸

⁵⁶³Romania, Draft law PL-x nr.159/2013 amending and supplementing Law no.3/2000 on organising and conducting the referendum (*Proiect de Lege PL-x nr. 159/2013 pentru modificarea și completarea Legii nr.3/2000 privind organizarea și desfășurarea referendumului*), 10 September 2013.

⁵⁶⁴Constitutional Court (Curtea Constituțională) Decision no. 334/2013 on the objection of unconstitutionality of the provisions of the draft law PL-x nr. 159/2013 amending and supplementing Law no. 3/2000 on organising and conducting the referendum (*Decizia Nr.334/2013 cu privire la obiecția de neconstituționalitate a dispozițiilor Legii nr.3/2000 privind organizarea și desfășurarea referendumului*), 26 June 2013.

⁵⁶⁵President of Romania (2013) "Comunicat de presă ref. sesizarea de neconstituționalitate asupra Legii pentru modificarea și completarea Legii nr.3/2000 privind organizarea și desfășurarea referendumului", Press release, 23 September 2013.

⁵⁶⁶Constitutional Court, Decision no. 471 of 14 November 2013 on the objection of unconstitutionality of the provisions of Law no. 3/2000 on organising and conducting the referendum (*Decizia Nr. 471 din 14 noiembrie 2013 cu privire la obiecția de neconstituționalitate a dispozițiilor Legii pentru modificarea și completarea Legii nr.3/2000 privind organizarea și desfășurarea referendumului*), 14 November 2013.

⁵⁶⁷Romanian Presidency, "Decret semnat de președintele României, domnul Traian Băsescu, sâmbătă, 14 decembrie a.c.", Press release, 14 December 2013.

⁵⁶⁸European Commission (2013) Report from the Commission to the European Parliament and the Council on Progress in Romania under the Cooperation and Verification Mechanism, 30.01.2013.

9 Victims of crime, including compensation of victims

9.1 Legal developments relating to the rights of victims of crime

Briefly describe key developments that occurred, if any, in relation to:

9.1.1 reforms of the criminal procedure code;

The new Criminal Procedure Code (due to enter into force in 2014) introduces the possibility of multiple victims representation in cases where the incriminated act has produced injuries or harm to a high number of persons, and the trial would be considerably prolonged by individually considering their rights.⁵⁶⁹

The new Code also introduces the simplified trial (*judecata simplificată*), based on the common law system procedure of pleading guilty. This new procedure provides that the accused can admit their guilt (*acordul de recunoaștere a vinovăției*), therefore benefiting from a reduced punishment.⁵⁷⁰

Furthermore, victims' rights to translation and interpretation have been extended with regards to their communication with their lawyers, concerning the preparation of the hearing or of any claim pertaining to their case.⁵⁷¹

9.1.2 compensation of victims of crime;

No developments to report.

9.1.3 regulations on victim support;

The Law on Mediation initially provided that victims had the right to resort to mediation in certain criminal cases allowed for by the law, including cases where legal proceedings are initiated by the victim's legal complaint (i.e. rape).⁵⁷² Many voices, especially women's rights associations, have openly protested⁵⁷³ against the inclusion of rape among the crimes that can be mediated. They held that rape is a serious crime which cannot be treated as a misdemeanour, and that including it together with less serious crimes induces the idea that rape is not a serious crime. In August, a new law repealed⁵⁷⁴ the obligation to attend information sessions on mediation for all acts covered by criminal laws, including rape.

⁵⁶⁹ Romania, Law no. 135/2010 on the Criminal Procedure Code (*Legea nr. 135/2010 privind Codul de procedură penală*), 14 August 2013, Art. 78 (1).

⁵⁷⁰ Romania, Law no. 135/2010 on the Criminal Procedure Code (*Legea nr. 135/2010 privind Codul de procedură penală*), 14 August 2013, Art. 478.

⁵⁷¹ Letter no. 94148 of 03.12.2013 of the Ministry of Justice, on file with the NFP, p. 6.

⁵⁷² Romania, Law no. 115/2012 amending and supplementing Law no. 192/2006 concerning mediation and the profession of mediator (*Legea nr. 115/2012 pentru modificarea și completarea Legii nr. 192/2006 privind medierea și organizarea profesiei de mediator*), 4 July 2012, Art. 60¹ (1) (g).

⁵⁷³ Filia Center (*Centrul Filia*) (2013) "Protest împotriva includerii violului în Legea Medierii", Press release, 30 January 2013.

⁵⁷⁴ Romania, Law no. 255/2013 implementing the New Criminal Procedure Code (*Legea nr. 255/2013 pentru punerea în aplicare a Noului Cod de Procedură Penală*), 14 August 2013, Art. 84 (5).

9.1.4 the adoption of new criminal definitions within the scope of EU law.

The new Criminal Procedure Code criminalises the act of sexual aggression. Sexual aggression is defined as “the act of a sexual nature, other than the act incriminated as rape, with a person, carried out by constraint and by putting the victim in an impossibility to defend themselves or to express their will or to profit from this state”.⁵⁷⁵

Another change brought by the new Criminal Procedure Code is the replacement of the term "accused" (*învinit*) in a criminal case with the term "suspect". "Suspects" are those as to whom it is reasonable to infer, from the available data and evidence, that they have committed an act covered by criminal laws.⁵⁷⁶

9.2 Institutional developments concerning victims

Briefly describe key developments that occurred, if any, in relation to:

9.2.1 the role of Government in setting-up or coordinating victim-related activities (for example, victim support);

During 2013, no special measures have been taken by the Government with regard to the protection or information of victims of crime.⁵⁷⁷

9.2.2 the organisation and provision of compensation of victims, including as regards the amount of compensation paid;

In the first nine months of 2013, 22 crime victims have obtained financial compensation, out of which 8 were women and 2 were children.⁵⁷⁸ The amounts of these compensations could not be determined, as the ECRIS application does not include such data.⁵⁷⁹

9.2.3 the roles played by the police and the criminal justice system in providing support to victims of crime, focusing particularly on specialised units, prosecutors, courts, training and awareness raising;

The Superior Council of Magistracy has organized the first edition of the "Summer school for future judges, prosecutors and other legal specialists", financed by the Specific Programme Criminal Justice of the European Union as part of the "Judicial cooperation consolidation for protecting crime victims" project.⁵⁸⁰ During the five days, young judges and prosecutors from Romania, Spain and the Netherlands have received training on the application of legal

⁵⁷⁵ Romania, Law no. 286/2009 - New Criminal Code, (*Legea nr. 286/2009 - Noul Cod Penal*), 24 July 2009, Art. 219.

⁵⁷⁶ Romania, Law no. 135/2010 on the Criminal Procedure Code (*Legea nr. 135/2010 privind Codul de procedură penală*), 14 August 2013, Art. 77.

⁵⁷⁷ Letter no. 94148 of 03.12.2013 of the Ministry of Justice, on file with the NFP, p. 6.

⁵⁷⁸ Annex to letter no. 94148 of 03.12.2013 of the Ministry of Justice, on file with the NFP.

⁵⁷⁹ Letter no. 94148 of 03.12.2013 of the Ministry of Justice, on file with the NFP, p. 4.

⁵⁸⁰ Superior Council of Magistracy, “Comunicat de presă privind deschiderea lucrărilor Şcolii de vară pentru tineri judecători, procurori şi alţi profesionişti ai dreptului, organizată în cadrul Proiectului JUST/2012/JPEN/AG/2949 „Consolidarea cooperării judiciare pentru protejarea victimelor infracţiunilor””, Press release, 22 July 2013.

instruments of the European Union and the Council of Europe for the protection of victims' rights in legal proceedings. The Superior Council of Magistracy is the coordinator of this project which runs over 24 months, starting from the 1st of January 2013.⁵⁸¹

Furthermore, the 2013 national centralized training program for judges included a module on juvenile justice.⁵⁸²

9.2.4 generic victim support service provision, including the range of victims covered by support services and investments into victim support structures;

Based on data gathered from the National Agency against Human Trafficking, from the Ministry of Labour, Family and Social Protection and from probation services, the Probation Division within the Ministry of Justice has begun to develop⁵⁸³ an evaluation concerning a solution for a unitary coordinated system of victims' protection, to be used as a substantive basis for future legislative and institutional measures of the institutions consulted. These consultations are carried within the framework of the consultation process of the main institutions holding competences in the field of victims' protection which has been started in 2012 by the Ministry of Justice (through its Probation Division). The aim of these consultations is to identify medium and long-term perspectives, as well as possible solutions leading to a better coordination between institutional initiatives, based on an integrated approach, with a view to improve the current legislative and institutional framework in this area.

9.2.5 the main actors in the field of generic victim support provision (tasks, size, etc.).

In 2013, both of the main important actors in the field of generic victim support provision have seen their size slightly reduced. The Ministry of Justice's organisational structure has been reduced from 342 places to 331 places, out of which 5 places were reduced from the Minister's cabinet.⁵⁸⁴

As regards the Superior Council of Magistracy, its organisational structure has also been reduced following a series of restructuring measures. As a consequence of merging units and departments, there are now 4 less management positions.⁵⁸⁵

According to a reply from the National Council for Combating Discrimination (CNCD) the institution also suffered modifications in its organisational structure in 2013⁵⁸⁶ but it is not clear how. It appears that the number of positions in its organizational structure has decreased.⁵⁸⁷ On the other hand, in its annual report for 2012, the CNCD mentioned that there

⁵⁸¹ Letter no. 3/25392/1154 of 26.11.2013 of the Superior Council of Magistracy, on file with the NFP, p. 3.

⁵⁸² Letter no. 3/25392/1154 of 26.11.2013 of the Superior Council of Magistracy, on file with the NFP, p. 7.

⁵⁸³ Letter no. 94148 of 03.12.2013 of the Ministry of Justice, on file with the NFP, p. 6.

⁵⁸⁴ Letter no. 112176 of 31.01.2014 of the Ministry of Justice, on file with the NFP, p. 1-2.

⁵⁸⁵ Letter no. 3/30340/1154 of 17.02.2014 of the Superior Council of Magistracy, on file with the NFP, p. 1-2.

⁵⁸⁶ Letter no. 18844/05.02.2014 of the National Council for Combating Discrimination, on file with the NFP, p. 1.

⁵⁸⁷ There is a downward difference between Orders of the President of the NCCD No. 23/217.01.2013 and No. 59/02.04.2013.

were 90 positions within the institution, but in effect only 69 financed, and 64 filled.⁵⁸⁸ Its current organizational chart comprises 89 positions.⁵⁸⁹

9.3 Developments with regard to the rights of victims of trafficking or other severe forms of labor exploitation

Briefly describe key developments that occurred, if any, in relation to:

9.3.1 Changes in relevant criminal law definitions in this context;

In order to ensure a uniform regulation of criminal offences, it was considered necessary to include in the new Romanian Criminal Code⁵⁹⁰ that will come into force on February 1, 2014 certain criminal offences, which at the present are mentioned in Law no. no.678/2001 on preventing and combating trafficking in human beings, subsequently amended and supplemented. In the new criminal code are inserted legal provisions concerning human trafficking, traffic in minors, forced begging, use of services of an exploited person, use of a minor for begging.

The acts are criminalized in Chapter VII Trafficking and exploitation of vulnerable people of the new Romanian Criminal Code as follows:

Article 210 Human Trafficking:

(1) The recruitment, transportation, transfer, harboring or receipt of persons for the purpose of exploitation, committed through

a) Coercion, abduction, deception or abuse of authority;

b) Taking advantage of the inability to defend or express willingness or of the particularly vulnerable status of the person;

c) The offering, giving or receiving money or other benefits in exchange for the consent of a person who has authority over another person,

shall be punished with imprisonment from 3 to 10 years and deprivation of certain rights.

(2) Human trafficking committed by a public official during the performance of his duties shall be punished by imprisonment from 5 to 12 years.

⁵⁸⁸ Romania, National Council for Combating Discrimination (*Consiliul Național pentru Combaterea Discriminării*), Activity Report 2012, p. 110, available at: <http://cncd.org.ro/files/file/Raport%20de%20activitate%20CNCD%202012.pdf>

⁵⁸⁹ CNCD Organizational Chart available at: <http://cncd.org.ro/files/file/Organigrama%20CNCD%202013.pdf>

⁵⁹⁰ Romania, Ministry of Justice (*Ministerul de Justiție*), New Criminal Code and New Criminal Procedural Code (*Noul Cod Penal și Noul Cod de Procedură Penală*) available at http://www.just.ro/MinisterulJusti%C8%9Biei/NoileCoduri/ncp_ncpp_05092013/tabid/2604/Default.aspx.

(3) The consent of the human trafficking victim is not considered a justifying cause.

Article 211 Traffic in minors:

(1) The recruitment, transportation, transfer, harboring or receipt of a child in order to exploit him, is punished with imprisonment from 3 to 10 years and deprivation of certain rights.

(2) If the act was committed according with art. 210 para. (1) or by a public official in the exercise of his duties, the punishment is imprisonment from 5 to 12 years and deprivation of certain rights.

(3) The consent of the human trafficking victim is not a justifying cause.

Article 212 Forced or compulsory labor:

The act of subjecting a person in cases other than those provided by law, to perform a work against his or her will or compulsory labor shall be punishable with imprisonment of one to three years.

Article 213 Pimping

(1) Causing or aiding practicing prostitution or obtaining profit from prostitution by one or more persons shall be punished with imprisonment from 2 to 7 years and deprivation of certain rights.

(2) If the determination of starting or continuing practicing prostitution was achieved through coercion, punishment is imprisonment from 3 to 10 years and deprivation of certain rights.

(3) If the offenses were committed against a minor, special limits of the penalty shall be increased by half.

(4) By practicing prostitution means sexual acts with different people in order to obtain economic benefit for oneself or for another person.

Article 214 Begging exploitation:

(1) Any person who determine a minor or a person with physical or mental disabilities to appeal to public charity repeatedly asking for material help or receive real benefits from such activities shall be punished with imprisonment from 6 months to 3 years or a fine.

(2) If the offense is committed in the following circumstances:

a) By the parent, guardian or caretaker of the person who begs;

b) Through constraint

Punishment is imprisonment from one to 5 years.

Article 215 Using a minor for begging purpose:

The act of an adult, who has work ability, repeatedly appeals to public charity for material help using for this purpose the presence of a minor, shall be punished by imprisonment from 3 months to 2 years or a fine.

Article 216 The use of the exploited person's services:

The act of using the services provided in art. 182, by a person who knows that the recipient is a victim of human trafficking or traffic in minors is punishable by imprisonment from 6 months to 3 years or a fine, if the act does not constitute a more serious offense.

Article 182 is referring to what means the exploitation of a person: submission to perform forcefully certain labor or services; keeping a person in a state of slavery or similar processes of liberty deprivation or servitude; the removal of organs, tissues or cells of human origin, illegally.

Article 217 The Attempt:

The attempt of offenses listed in Art. 209-211 and art. 213 para. (2) is punishable.

9.3.2 The role of specialized government actors, the police and the courts in this area;

The ANITP, as component part of the Ministry of Administration and Interior, is a specialized structure responsible for co-coordinating, evaluating and monitoring at national level the implementation of anti-trafficking and victims' protection and assistance policies by public institutions⁵⁹¹.

The Agency also operates as a bridge between the trafficked victims and the law enforcement organizations as well as between authorities and the national NGOs providing services in this area.

The ANITP has the following main responsibilities:

- “to coordinate and monitor the activities carried out at national level with a view to collect, store, process, analyze and disseminate data on the circumstances of trafficked victims, assistance provided to them and their social reintegration;
- to take part in setting up indicators and benchmarks to assess the size and characteristics of the human trafficking process;
- to analyze the trafficking phenomenon in terms of etiology, structure and dynamics based on the Agency's own resources as well as information supplied by competent structures with responsibilities in the field;
- to centralize and evaluate quarterly or whenever needed all data provided by authorities, institutions and organizations engaged in reducing the trafficking in persons phenomenon along with the victim protection and assistance service providers;

⁵⁹¹ Romania, National Agency Against Trafficking in Persons (*Agentia Natională Impotriva Traficului de Persoane*) available at <http://anitp.mai.gov.ro/en/index.php?pagina=>

- to draw up assessment reports and submit them to higher command levels within the Inspectorate General of the Romanian Police, the Ministry of Administration and Interior and the Romanian Government;
- to monitor the operation of victim assistance centers in accordance with the national standards for specialized protection and assistance services granted to victims of trafficking;
- to monitor the national NGOs receiving funds within the National Interest Program and the implementation of the program aimed at providing assistance to trafficked victims;
- to refer Help-line callers to competent institutions with responsibilities in the field of human trafficking and offer counseling to victimized callers or suspected trafficking victims in crisis situations;
- to carry out activities to design, assess and bring to date the logical and operational architecture of the national database on victims of trafficking as well as the applications of electronic data processing by complying with the standards of confidentiality and personal data protection.”⁵⁹²

Chapter II of Law no. 211/2004 concerning measures to ensure protection for victims of crime is dedicated to the right to information of crime victims in general. The judges, prosecutors and police officers must inform victims regarding:

- a) The services and the organizations that provide counselling or other forms of assistance to victims, depending on their needs;
- b) The law enforcement authority to which they can file a complaint;
- c) The right to counsel and the institution where they can go to exercise this right;
- d) The conditions and the procedure for granting free legal assistance;
- e) The procedural rights of the injured party, of the civil party;
- f) The conditions and procedure in order to benefit from the provisions of Art. 86¹, 86², 86⁴ and 86⁵ CC and the provisions of Law no. 682/2002 on the protection of witnesses;
- g) Conditions and procedure for granting financial compensation by the state.

In addition, the Ministry of Justice and the Ministry of Interior, in cooperation with the Ministry of Communications and Technology of Information must ensure a permanent hotline to inform victims of crime. Access to the hotline is free of charge, by calling a single phone number at national level. The staff is required to notify the police if the phone call indicates that the victim is in danger (art. 5 of Law no. 211/2004). The information must also be published on the websites of the Ministry of Justice and the Ministry of Internal Affairs, courts, prosecutors’ offices and police units.

In practice, the 0800 800 678 hotline, with national coverage, managed by the ANITP⁵⁹³ mainly receives calls from persons who are interested to receive general information on the phenomenon of trafficking in persons in Romania or from those who intend to migrate abroad and need to inform themselves on the associated risks. According to the information provided by the ANITP⁵⁹⁴ in 2013, 926 persons used the hotline managed by the authority. The main issues for which people called were: 3 calls concerning possible cases of human trafficking, 95

⁵⁹² Romania, National Agency Against Trafficking in Persons (*Agentia Natională Impotriva Traficului de Persoane*) website presentation available at: <http://anitp.mai.gov.ro/en/index.php?pagina=anitp>.

⁵⁹³ Romania, National Agency Against Traffic in Persons (*Agentia Natională Impotriva Traficului de Persoane*), Help Line, available at <http://anitp.mai.gov.ro/>

⁵⁹⁴ Letter no. 3598073/SCIPNP/EGC of 8 January 2014 of National Agency against Traffic in Persons to the Centre for Legal Resources on the file with NFP

calls in order to obtain information regarding certain commercial societies, working contracts, work abroad, information requests concerning human trafficking phenomenon and the activity of the National Agency against Traffic in Persons. 828 calls were false ones. In 2013 there were no cases of foreign citizens victims of human trafficking to use this hotline.

From the information provided by the ANITP⁵⁹⁵ during 2013, the authority organized 55 raising awareness campaigns from which 6 were implemented at national level and 49 at regional and local level. Partners for these campaigns were institutions (General Directorates of Social Assistance and Child Protection, County School Inspectorates, General Inspectorates of Police) and NGOs (Ecumenical Association of Churches in Romania, World Vision Foundation, Children Phone Association, Association for the Development of Alternative Practices for Education and Reintegration). During 2013 the ANITP organized and participated in various seminars, workshops, roundtables on issues linked to the human trafficking phenomenon and victims' assistance. In 2013 the authority organized 4 seminars in Romania and participated to 5 seminars in Greece, Hungary, Republic of Macedonia, Cyprus, Bulgaria, under the project Integrated approach to prevent labor exploitation in origin and destination countries (*Abordarea integrata pentru prevenirea exploatarii prin munca in tarile de origine si destinatie*) implemented between February 2011 – August 2013 with the financial support of the European Commission, Prevention of and Fight against Crime Program. The main objectives of these seminars were: strengthening the interinstitutional cooperation, increasing the fight against human trafficking. Target groups for these seminars were: labor inspectors, judges, police officers, social workers, NGOs representatives. In May 2013 representatives of the ANITP participated in a workshop in Zurich having as theme the identification, reintegration and protection of human trafficking victims and organized in September 2013 a workshop in Bucharest having as main theme prevention activities regarding the human trafficking phenomenon. During the workshop in Bucharest were present representatives of Ministry of Internal Affairs, Ministry of Foreign Affairs, NGOs (Save the Children Romania, World Vision Foundation, Caritas organization, Children Phone Association, Ecumenical Association of Churches in Romania, Association for the Development of Alternative Practices for Education and Reintegration). These workshops were organized under the project Prevention, Protection, Identification (*Prevenire, Protectie, Identificare*), financed by the Swiss-Romanian Cooperation Programme and implemented between July 2012- July 2014.

In June 2013 representatives of the ANITP participated to a seminar in Amsterdam having as main theme train the trainers in order to identify victims of human trafficking. This seminar took place under the project Develop guidelines and procedures for identifying victims of human trafficking- EurTraGuide (*Dezvoltarea unor linii directoare si procedure comune pentru identificarea victimelor traficului de persoane – EurTraGuide*) financed by the European Commission, Prevention of and Fight against Crime Program, implemented between November 2011- November 2013. In this project the Romanian authority was partner and main applicant was France Ministry of Foreign Affairs.

Also in 2013 representatives of the ANITP participated in four seminars in Romania having as main theme forced labor. These seminars took place under the project Strengthening the fight against begging, a multidisciplinary approach (*Intarirea luptei impotriva cersetoriei, o abordare multidisciplinara*) implemented with the financial support of the European Commission. In this project the ANITP was partner and the main applicant was the Romanian Public Ministry (Prosecutor's Office attached to the High Court of Cassation and Justice). Target groups for these seminars were police officers, prosecutors, judges, NGOs, social workers.

⁵⁹⁵ Letter no. 3598073/SCIPNP/EGC of 8 January 2014 of National Agency against Traffic in Persons to the Centre for Legal Resources on the file with NFP

According to the information provided by the Directorate for Investigating Organized Crime and Terrorism (DIOCT) (*Direcția pentru Investigarea Crimei Organizate și Terorismului, DIICOT*)⁵⁹⁶ representatives of this institution participated during 2013 to a seminar and a regional conference. The seminar “Towards a European approach of a judicial formation concerning human trafficking” took place in Poland, Cracow with the financial support of the European Commission and it was organized by Polish National School of Judiciary and Public Prosecution, Dutch Training and Study Centre for the Judiciary, Italian Superior Council of Magistracy. The regional conference “Strengthening criminal justice in South-Eastern Europe concerning human trafficking” was organized in Republic Moldova, Chișinău by the Permanent Secretariat of the National Committee for Combating Trafficking in Human Beings and United Nations Office on Drugs and Crime.

Measures aiming at the effective identification and protection of victims by the police, courts or other relevant bodies, at the national or cross-border levels;

According to the information provided by the ANITP⁵⁹⁷ the identification and protection of victims continued to be made in 2013 according with the National Mechanism for Identification and Referral Concerning Victims of Human Trafficking which was approved by the Order no. 335 from 29 October 2007 still in force and issued by the Ministry of Internal Affairs. According to the reply from the ANITP to a request for public information from the NFP, statistics for 2013 regarding number of identified, assisted victims at national level by institutions and NGOs will be available starting with the second half of the first quarter of 2014.⁵⁹⁸

In the National Mechanism for Identification and Referral Concerning Victims of Human Trafficking⁵⁹⁹ are presented the concrete modalities for victims’ identification:

- Special investigations made by law enforcement officers. Police actions are considered to be main modalities for the identification of human trafficking victims.
- Through diplomatic missions in destination countries: many times victims’ documents are taken or destroyed by the traffickers and when they manage to escape they ask help from the Romanian diplomatic mission in order to obtain new documents to return;
- Through a free national non-stop line developed by National Agency Against Traffic in Persons names Tel Verde. Through TelVerde service can be retrieved and referred requests for assistance from victims of trafficking or concerns about a possible victim from various citizens.
- Other modalities: there are situation in which victims are identified by NGOs active in the field or by former clients of hospital/schools staff.

In the National Mechanism for Identification and Referral Concerning Victims of Human Trafficking⁶⁰⁰ are also mentioned certain indicators for victims’ identification such as: age, social characteristics (lack of education, discrimination, poverty), the place where the victim

⁵⁹⁶ Letter no.2918 of 17 January 2014 of Directorate for Investigating Organized Crime and Terrorism to the Centre for Legal Resources on the file with NFP

⁵⁹⁷ Letter no. 3598073/SCIPNP/EGC of 8 January 2014 of National Agency against Traffic in Persons to the Centre for Legal Resources on the file with NFP

⁵⁹⁸ Letter no. 3598073/SCIPNP/EGC of 8 January 2014 of National Agency against Traffic in Persons to the Centre for Legal Resources on the file with NFP

⁵⁹⁹ Romania, Ministry of Foreign Affairs (*Ministerul Afacerilor Interne*), National Mechanism for Identification and Referral Concerning Victims of Human Trafficking (*Mecanismul național de identificare și referire a victimelor traficului de persoane*) available at http://anitp.mai.gov.ro/ro/docs/legislatie/ordin_335.pdf

⁶⁰⁰ Romania, Ministry of Foreign Affairs (*Ministerul Afacerilor Interne*), National Mechanism for Identification and Referral Concerning Victims of Human Trafficking (*Mecanismul național de identificare și referire a victimelor traficului de persoane*) available at http://anitp.mai.gov.ro/ro/docs/legislatie/ordin_335.pdf

was found or identified, the circumstances in which a person was found, signs of physical or psychological abuse.

Victims of human trafficking can benefit upon request from protection from the Interior Ministry if they decide to become parties in the criminal trial against their traffickers.⁶⁰¹

According to article 25 Law no. 678/2001,⁶⁰² "during the trial of the crimes referred to in article 12 (trafficking in adults) and 17 (crimes related to trafficking in persons), at the request of the injured party, the court may declare the secret meeting". In the same way, Art. 26(3) establishes the principle that "the privacy and the identity of victims of trafficking are protected under this law". Furthermore, victims of trafficking who provide the prosecution or court with relevant information to identify the offenders may be included in the witness protection programme (governing the witness protection program is Law no. 682/2002).

Art. 27(1) Law no. 678/2001 states that: "at the request of the judicial authorities, the Ministry of Interior provides protection for victims of trafficking, as well as for the members of groups, foundations, associations or non-governmental organizations who support their activities".

The Witness Protection Program and its regime are laid down in Law no. 682/2002.

The criminal investigation body during the prosecution phase and the prosecutor during trial phase can ask the prosecutor and the court respectively to include in the program a witness, his/her family member based on a motivated proposal⁶⁰³.

The proposal for inclusion in the programme must include: information regarding the respective criminal case; personal data of the witness; data and information provided by the witness, and their crucial character in finding the truth; circumstances in which the witness took possession of data and information provided; any elements that highlight the state of danger in which the witness is; estimating the means of restoring the damage caused by the offense; a psychological evaluation of the witness; financial information regarding the witness; any other information relevant to assessing the situation of the witness and her/his inclusion in the programme. The proposal for inclusion in the programme must be accompanied by the written consent of the person who is required to include in the program and an assessment made by the National Office for Witness Protection about the possibility to include the person in the programme.⁶⁰⁴

The witness protection will end: at the witness' written request addressed to the National Office for Witness Protection, if during the criminal trial the witness will provide a false testimony, if he/she will commit a criminal offence, if the witness dies.⁶⁰⁵ The decision is taken by the prosecutor through an ordinance or by court.⁶⁰⁶

⁶⁰¹ Decision Government no. 299/2003 for the approval of the application regulation of Law no.678/2001 on preventing and combating trafficking in human beings, subsequently amended and supplemented, (Hotararea de Guvern nr. 299/2003 pentru aprobarea Regulamentului de aplicare a dispozitiilor Legii nr. 678/2001 privind prevenirea si combaterea traficului de persoane), article 24 paragraph 1

⁶⁰² Romania, Law no. 682/2002 on witness protection (*Legea nr. 682/2002 privind protectia martorilor*) available at http://anip.mai.gov.ro/ro/docs/legislatie/legea_678.pdf

⁶⁰³ Romania, Law no. 682/2002 on witness protection (*Legea nr. 682/2002 privind protectia martorilor*), article 5

⁶⁰⁴ Romania, Law no. 682/2002 on witness protection (*Legea nr. 682/2002 privind protectia martorilor*), article 6

⁶⁰⁵ Romania, Law no. 682/2002 on witness protection (*Legea nr. 682/2002 privind protectia martorilor*), article 17 para.1

⁶⁰⁶ Romania, Law no. 682/2002 on witness protection (*Legea nr. 682/2002 privind protectia martorilor*), article 17 para.2

9.3.3 Changes in the provision of specific victim support by the main actors in the field, focusing specifically on how referral from NGOs to the police or the courts, and vice versa, work;

A request to obtain information was sent to the ANITP, taking into consideration that it is the competent authority at national level which periodically elaborates reports presenting the evolution of human trafficking phenomenon, assistance provided by NGOs and institutions to human trafficking victims, improvements registered from one year to another. From the answer provided by the ANITP,⁶⁰⁷ it resulted that the assessment as to how the referral system from NGOs to institutions and vice versa worked in 2013 will be available starting with the second half of the first quarter of 2014.

According to the National Mechanism for Identification and Referral for Victims of Human Trafficking⁶⁰⁸ which continued to be applied also in 2013 the referral procedures depend on which institution/organization made the identification.

If the identification was made by law enforcement officers the following procedure will be respected:⁶⁰⁹

- “police officers will contact the representative of the ANITP in order to evaluate victim’s needs for assistance;
- the ANITP representative will evaluate victims needs and will appoint a case manager which will monitor the assistance provided;
- the ANITP representative will announce the social services provider.
- Special police structures, at the request of the ANITP representative, will evaluate the risks to which the victim can be exposed in order to establish the appropriate protection measures”.

If the victim was referred and repatriated by the International Organization for Migration (IOM) the following procedures will be respected:⁶¹⁰

- “the IOM representative will announce the ANITP representative about victim’s repatriation;
- the IOM representative will discuss with the victims about her/his possibility to collaborate with the judiciary authorities”.

If the victim was identified by a non-governmental organization from the destination country and referred directly to a Romanian NGO:⁶¹¹

- “the representative of the Romanian NGO will take the victim from the meeting place established together with the NGO from the destination country (border crossing point, airport).

⁶⁰⁷ Letter no. 3598073/SCIPNP/EGC of 8 January 2014 of National Agency against Traffic in Persons to the Centre for Legal Resources on the file with NFP

⁶⁰⁸ Romania, Ministry of Foreign Affairs (*Ministerul Afacerilor Interne*), National Mechanism for Identification and Referral Concerning Victims of Human Trafficking (*Mecanismul national de identificare si referire a victimelor traficului de persoane*) available at http://anitp.mai.gov.ro/ro/docs/legislatie/ordin_335.pdf

⁶⁰⁹ Romania, Ministry of Foreign Affairs (*Ministerul Afacerilor Interne*), National Mechanism for Identification and Referral Concerning Victims of Human Trafficking (*Mecanismul national de identificare si referire a victimelor traficului de persoane*) available at http://anitp.mai.gov.ro/ro/docs/legislatie/ordin_335.pdf

⁶¹⁰ Romania, Ministry of Foreign Affairs (*Ministerul Afacerilor Interne*), National Mechanism for Identification and Referral Concerning Victims of Human Trafficking (*Mecanismul national de identificare si referire a victimelor traficului de persoane*) available at http://anitp.mai.gov.ro/ro/docs/legislatie/ordin_335.pdf

⁶¹¹ Romania, Ministry of Foreign Affairs (*Ministerul Afacerilor Interne*), National Mechanism for Identification and Referral Concerning Victims of Human Trafficking (*Mecanismul national de identificare si referire a victimelor traficului de persoane*) available at http://anitp.mai.gov.ro/ro/docs/legislatie/ordin_335.pdf

- the Romanian NGO representative will announce the ANITP representative about the fact the victim accepts to be included in the assistance program that can be provided even by that certain non-governmental organization. The ANITP representative will include the victim in the official statistics;
- the victim will be informed by the NGO staff that she/he has the possibility to collaborate with the judicial authorities”.

9.3.4 Cooperation of government actors or public services with NGOs active in the field.

A multidisciplinary and inter-institutional approach between state institutions, authorities and assistance providers contributes to ensure/enforce adequate victim protection and the guarantees increased access to their legal rights. In line with the international programmatic documents (the UN Protocol to prevent, suppress and punish trafficking in persons, especially in women and children, additional to the UN Convention against transnational organized crime), the following actors have coordinated their efforts in the implementation of “the victim coordination programme in the criminal trial” programme, with the support of the US Embassy in Bucharest.⁶¹² the ANITP, in partnership with the General Inspectorate of Romanian Police, the General Inspectorate of Border Police, the General Inspectorate of Romanian Gendarmerie and the Directorate for Investigating Organized Crime and Terrorism. This programme started in 2006 and it is still being implemented.⁶¹³

The programme objectives are:

- To increase the number of trafficked victims who plead as injured parties or witnesses in the penal trial.
- To increase victims’ participation in the criminal proceedings and penal trial.
- To respect and grant victims’ rights in the phases of criminal proceedings and penal trial.
- To build victim knowledge on the applicable judicial and administrative procedures.
- To facilitate victims’ access to and relation with criminal investigation authorities and assistance providers.

The programme objective refers to maintaining permanent contact with trafficked victims; providing victims with information on the rights they have and the services they can access for specialized assistance; to updating victims on issues related to progresses in criminal proceedings; to inform and prepare the victim regarding the issues she may face during the penal trial.

According to the information provided by Alternative Sociale Association⁶¹⁴ in 2013 the collaboration with competent authorities was a good one. Between 25 May 2013 – 24 May 2015 the organization will implement the project „ Victims of human trafficking in Europe: the issue of third country nationals”. The objective of the project is to develop the capacity of local institutional networks in order to reduce the vulnerability of third country nationals to the human trafficking phenomenon. Trainings will be organized by the organization for 200 police

⁶¹² Romania, National Agency Against Traffic in Persons (*Agentia Natională Impotriva Traficului de Persoane*) available at <http://anitp.mai.gov.ro/ro/index.php?pagina=anitp>

⁶¹³ National Agency against Traffic in Persons (*Agentia Natională Impotriva Traficului de Persoane*), Project Coordination of victims in criminal trial, available at <http://anitp.mai.gov.ro/ro/index.php?pagina=anitp>

⁶¹⁴ Letter no. 664 of 04.11.2013 of Association Alternative Sociale to the Centre for Legal Resources on the file with the NFP

officers, border police officers and 60 specialists in providing social services in Iasi, Botosani, Vaslui countries that s result of their profesions have contact with thrid country nationals that can be vulnerable to the phenomenon.

Pro Refugiu Association, another Romanian organization focused on providing specialized legal, social, psychological assistance for victims of human trafficking⁶¹⁵ continued in 2013 its collaboration with competent authorities such as ANITP and with General Directorates of Social Assistance and Child Protection. The collaboration focused on providing specialized legal and psychological assistance for victims of human trafficking. The authorities provided also to the NGO relevant statistics concerning human trafficking phenomenon in Romania necessary for the development of a national report, an activity developed by Pro Refugiu Association as part of a transnational project „ Promotion of the rights of human trafficking victims with emphasis of legal support - a human rights based approach”⁶¹⁶ financed by the European Commission through the Prevention of and Fight against Crime Programme.

According to the information provided by Adpare Association⁶¹⁷ a good collaboration existed in 2013 between the non-governmental organization and competent authorities such as ANITP in order to provide to victims of human trfficking social, material, psychological and legal assistance. Also the organization has collaborated in 2013 with a transit centre for protection and assistance for victims of human trafficking, centre administrated by General Directorate of Social Assistance and Child Protection.⁶¹⁸

According to the information provided by the ANITP⁶¹⁹ detailed statistics concerning number of victims assisted in 2013 by NGOs and institutions, types of exploitation, will be available starting with the second half of the first quarter of 2014 when the authority will publish its annual report presenting the entire situation regarding human trafficking phenomenon, assistance provided to victims in 2013 at national level.

9.4 Developments with regard to the rights of victims of gender-based violence

Briefly describe key developments that occurred, if any, in relation to:

9.4.1 changes in the role of specialised government actors, the police and courts;

In 2013, there has been no change in the role of specialised government actors, the police and courts.

9.4.2 changes in the provision of specific victim support by the main actors in the field;

In 2013, there has been no change in the provision of specific victim support by the main actors in the field.

⁶¹⁵ Romania, Association Pro Refugiu (*Asociatia Pro Refugiu*) available at <http://prorefugiu.org/en>

⁶¹⁶ Romania, Association Pro Refugiu (*Asociatia Pro Refugiu*), Promotion of the rights of trafficked persons in Bulgaria, Romania and Slovakia with emphasis on legal support- A human rights based approach, Press release, 18 November 2013, available at <http://prorefugiu.org/en/proiect-transnational-promotion-of-the-rights-of-trafficked-persons-in-bulgaria-romania-and-slovakia-with-emphasis-on-legal-support-a-human-rights-based-approach-2/>

⁶¹⁷ Letter no. 64 of 08.11.2013 of Association Adpare to the Centre for Legal Resources on the file with the NFP

⁶¹⁸ Letter no. 64 of 08.11.2013 of Association Adpare to the Centre for Legal Resources on the file with the NFP

⁶¹⁹ Letter no. 3598073/SCIPNP/EGC of 8 January 2014 of National Agency against Traffic in Persons to the Centre for Legal Resources on the file with NFP

A monitoring report on the available information about cases of Protection Orders (PO) showed that the judicial system in Romania applies the legal provisions regarding the PO and the case-law in this field is developing at this time, that the great majority of applicants for POs are women, the length of procedures does not respect the principle of celerity prescribed by law and raises the risk of victimization, the dignity of the victims is not respected; hence, a correct and complete information of the population about the POs must be done at the national level through the police station, medical personnel, etc.⁶²⁰

9.4.3 measures taken to improve the effective protection of victims by the police, the courts or other relevant bodies, at the national or cross-border levels;

The National strategy on prevention and combating violence in the family 2013-2017 plans the adoption of standards, methodologies and unified intervention procedures in the field of violence in the family. It also includes drafting casework guidelines for police officers, prosecutors, and judges and drafting unified risk assessment methodology in the case of the victim of violence in the family.⁶²¹

The General Inspectorate of the Romanian Police mentioned having a special intervention procedure designed for police officials dealing with violence in the family incidents. The document is called ‘Procedure regarding the police intervention in conflicts taking place within the family’.⁶²² According to the General Inspectorate of the Romanian Police, the document refers to police tactics in the cases mentioned above, therefore, it cannot be made public.⁶²³ Further details were provided in the *Ad hoc information request (FRANET), Gender-based violence against women - Legislation and institutional aspects. ROMANIA*.

9.4.4 measures taken to enable your country to ratify the [Council of Europe ‘Istanbul Convention’](#) relating to violence against women and domestic violence.

According to the reply of the MMFPSPV for this report, in August 2013, the ministry together with the Ministry of Foreign Affairs initiated a memorandum proposing the signature of the ‘Istanbul Convention’ by Romania. This memorandum is currently sent to consultation to all ministries with competences in the field.⁶²⁴

9.5 Promising practices

9.5.1 Follow-up on the promising practices reported in Chapter 8 of Annual Report 2012, if they refer to your country. Check any

⁶²⁰ Studiu la nivel național cu privire la implementarea ordinului de protecție – Legea 25 din 2012 (Legea 217/2003 republicată pentru prevenirea și combaterea violenței în familie) (National level study on the implementation of the protection order – Law 25 of 2012 (Law 217/2003 on the prevention and combating of violence in the family, republished)), available at <http://www.cpe.ro/romana/images/stories/studiu%20monitorizare%20ordin%20protectie%20final.pdf>.

⁶²¹ HG 1156/2012 privind aprobarea Strategiei naționale pentru prevenirea și combaterea fenomenului violenței în familie pentru perioada 2013-2017 și a Planului operational pentru implementarea Strategiei naționale pentru prevenirea și combaterea fenomenului violenței în familie pentru perioada 2013-2017.

⁶²² IGPR, ‘Procedura privind intervenția poliției în cazul conflictelor intrafamiliale’ (‘Procedure regarding the police intervention in conflicts taking place within the family’).

⁶²³ IGPR, Response Nos.2921230/18.07.2013 and 1309699/ 07.08.2013, on file with the NFP.

⁶²⁴ MMFPSPV, Response No.459/27.01.2014, on file with the NFP.

available evaluation results; sustainability – indicating if the promising practice still exists (and if not – why); concrete impacts.

In August 2013 National Agency Against Traffic in Persons (NAATP) announced the end of its 2 years transnational project “Integrated approach to prevent child labor in origin and destination countries”⁶²⁵. The project was developed in cooperation with various governmental agencies from countries such as Greece, Cyprus, Bulgaria, Hungary and FYROM. The objective was to reduce the dimension of labor exploitation in origin, transit and destination countries.

The most important results obtained during the 2 years project were⁶²⁶:

- Development of a transnational study concerning labor exploitation;
- Improve collaboration of various relevant stakeholders active in the field;
- Organize an international conference in order to facilitate exchange of experience;
- Development of prevention information campaigns in all countries involved;
- Create a network of professionals experts in the identification and referral of human trafficking victims.

9.5.2 Provide a maximum of three new promising practices relating to victims of crime, including compensation of victims, putting each one in a separate table.

Title (original language)	-
Title (EN)	Action Against Trafficking in Minors
Organisation (original language)	Reaching Out Romania
Organisation (EN)	Reaching Out Romania
Government / Civil society	Civil Society
Funding body	European Commission – Daphne Program 2012
Reference (incl. url, where available)	http://reachingout.ro/daphne/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	January 2013 – January 2015
Type of initiative	Transnational project
Main target group	Professionals working in NGOs and competent authorities
Indicate level of implementation: Local/Regional/National	Transnational

⁶²⁵ Romania, National Agency Against Traffic in Persons (*Agentia Nationala Impotriva Traficului de Persoane*), Integrated approach to prevent labor exploitation in countries of origin and destination (*Abordarea integrata pentru prevenirea exploatarii prin munca in tarile de origine si destinatie*), Press release, 1 August 2013, available at <http://anitp.mai.gov.ro/ro/docs/massmedia/comunicat01.08.pdf>

⁶²⁶ Romania, National Agency Against Traffic in Persons (*Agentia Nationala Impotriva Traficului de Persoane*), Integrated approach to prevent labor exploitation in countries of origin and destination (*Abordarea integrata pentru prevenirea exploatarii prin munca in tarile de origine si destinatie*), Press release, 1 August 2013, available at <http://anitp.mai.gov.ro/ro/docs/massmedia/comunicat01.08.pdf>

Brief description (max. 1000 chars)	The main applicant is the Romanian NGO Reaching Out . Project Goal: Streamline and make more effective protocols and common procedures for identifying and dealing with minors who are victims of THB in the EU by creating a manual for the use of EU member states' police officers and social workers. This manual will be based on an in-depth research conducted on pilot groups of police officers and social workers from Romania (as the main source country for illegal minor sex workers in the EU) and police officers from Denmark and the Netherlands (two of the most relevant destination countries for minor sex workers). This in-depth research will be backed up by larger-scale research activities.
Highlight any element of the actions that is transferable (max. 500 chars)	An important action is the development inside project's platform of a special section named "Find a Partner" where authorities and NGOs from EU will be able to post their future initiatives in this field and also look for potential partners in the field of fight against human trafficking.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The platform in which the special section will be included will continue to be administrated by project's main applicant which will ensure a continuous information campaign at national and transnational level in order for the NGOs to become members of this special section.
Give reasons why you consider the practice as having concrete measurable impact	A continuous monthly monitoring of online activity will be made by main applicant in order to observe the number of NGOs which became users and inserted their contacts in Find a Partner section.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The collaboration between NGOs from various EU countries need to be consolidated and the elaboration of such special online platforms with sections Find a Partner can be a very useful information tools in establishing further cooperation, communication.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	All national stakeholders and partners will be consulted before the elaboration of the project's platform including the section Find a Partner.
Explain, if applicable, how the practice provides for review and assessment.	The special section Find a Partner will continue to be reviewed and adapted depending on the number of users that will have after project's end.

Title (original language)	Prevenire, Identificare, Protecție ⁶²⁷
Title (EN)	Prevention, Identification, Protection
Organisation (original language)	Agentia Nationala Impotriva Traficului de Persoane
Organisation (EN)	National Agency Against Trafficking in Persons
Government / Civil society	Government
Funding body	Swiss-Romanian Cooperation Programme
Reference (incl. url, where available)	-
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	July 2012 – July 2014
Type of initiative	Transnational
Main target group	National stakeholders, institutions and NGOs active in the field of prevention, identification, repatriation, reintegration of human trafficking victims
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The project focuses on improving cooperation at European, national and local level concerning the fight against human trafficking, strengthening synergy between governmental departments and NGOs active in the fight against human trafficking phenomenon. It also focuses on strengthening intervention capacity of the Romanian governmental actors such as representatives of the National Agency Against Trafficking in Persons, police officers, prosecutors and judges. During project's implementations the following activities will be organized: trainings, workshops, study visits in Switzerland and Romania, seminars. Also a brochure with relevant information regarding identification, referral, repatriation of human trafficking victims will be created and disseminated. A national conference will take place in Romania at the end of the project.
Highlight any element of the actions	Activities such as transnational prevention

⁶²⁷ Letter no. 3598070/SPIP/EGC/1.11.2013 of National Agency Against Trafficking in Persons to the Centre for Legal Resources, on the file with the NFP

that is transferable (max. 500 chars)	campaigns simultaneously in origin countries as Romania and destination ones as Switzerland can be implemented also in other EU countries in order to increase the awareness level among potential victims of human trafficking. Common workshops, study visits in origin and destination countries can increase level of cooperation, communication among relevant stakeholders having competence in the field of prevention, identification, repatriation, reintegration of victims.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The cooperation already established among relevant stakeholders from origin and destination countries will continue also after the end of project. New meetings, seminars at transnational level will continue to be organized in order to fight against human trafficking phenomenon in origin and destination countries.
Give reasons why you consider the practice as having concrete measurable impact	Periodic monitoring of each activity will take place. Reports will be created presenting details on how each activity developed will affect positively the target group.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The collaboration between relevant stakeholders from origin and destination will be improved as result of implementation of common activities in Romanian and Switzerland. Organizing common prevention information campaigns and seminars simultaneously in origin and destination countries is a practice that can be transferred also in relation to other EU countries which are considered to be origin or destination ones for victims of human trafficking.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Project's beneficiaries will be actively involved in the evaluation process. Their feedback in relation with the activities that will be implemented will be collected using various methods and tools such as interviews, questionnaires.
Explain, if applicable, how the practice provides for review and assessment.	An internal assessment will be made among the staff in order to observe their level of satisfaction resulting from their implication in this project. They will participate to assessment meetings, fill feedback questionnaires.

9.6 Any other significant developments with implications for victims of crime, including compensation of victims.

Nothing to report.

10 EU Member States and international obligations

10.1 Update Table 10.1 below on structures set up for the implementation and monitoring of the CRPD, using track changes

Table 10.1

EU Member State	Ratified in	Optional Protocol	Focal points within government for matters relating to the implementation of the CRPD – Article 33 (1)	Coordination mechanism – Article 33 (1)	Framework to promote, protect and monitor implementation of the CRPD – Article 33 (2)
AT	2008	Yes	Federal Ministry for Labour, Social Affairs and Consumer Protection (<i>Bundesministerium für Arbeit, Soziales und Konsumentenschutz</i>)		Monitoring committee (<i>Monitoringausschuss</i>)
BE	2009	Yes	Federal Public Service Social Security (sub-focal points designed by the seven independent entities)		Centre for Equal Opportunities and Opposition to Racism (<i>Centrum voor gelijkheid van kansen en voor racismebestrijding/Centre pour l'égalité des chances et la lutte contre le racisme</i>)
BG	2012	No	Ministry of Labour and Social Policy (<i>Министерство на труда и социалната политика</i>)	not established/designated	not established/designated
CY	2011	Yes	Department for Social Inclusion of People with Disabilities	The Pancyprrian Council for Persons with Disabilities	Office of the Commissioner for Administration (Ombudsman)
CZ	2009	No	Ministry of Labour and Social Affairs (<i>Ministerstvo práce a sociálních věcí</i>)	Ministry of Labour and Social Affairs in cooperation with Ministry of Foreign Affairs, the Government Board for People with Disabilities and the Czech National Disability Council	not established/designated
DE	2009	Yes	Federal Ministry for Labour and Social Affairs (<i>Bundesministerium für Arbeit und Soziales</i>) (16)	Federal Government Commissioner for Matters relating to Persons with	German Institute for Human Rights (<i>Deutsches Institut für Menschenrechte</i>)

			federal states (Länder) designated their own sub-focal points)	Disabilities	
DK*	2009	No	Ministry of Social Affairs and Integration (<i>Social- og Integrationsministeriet</i>)	Inter-ministerial committee of civil servants on disability matters	Danish Institute for Human Rights (<i>Institut for Menneskerettigheder</i>), Danish Disability Council and Danish Parliamentary Ombudsman
EE	2012	Yes	Ministry of Social Affairs (<i>Sotsiaalministeerium</i>)		Estonian Chamber of Disabled Persons (<i>Eesti Puuetega Inimeste Koda</i>)
EL	2012	Yes	not established/designated	not established/designated	not established/designated
ES	2007	Yes	Ministry of Health, Social Services and Equality (<i>Ministerio de Sanidad, Servicios Sociales e Igualdad</i>); Ministry of Foreign Affairs and Cooperation (<i>Ministerio de Asuntos Exteriores y Cooperación</i>)	National Disabilities Council (<i>Consejo Nacional de la Discapacidad</i>)	Spanish Committee of Representatives of People with Disabilities (<i>Comité Español de Representantes de Personas con Discapacidad</i>)
FR	2010	Yes	Ministry of Social Affairs and Health, together with Interministerial Committee for Disability (<i>Comité interministériel du handicap</i>)	Interministerial Committee for Disability, which consists of representatives of all concerned ministries	Defender of Rights (<i>Le Défenseur des Droits</i>); National Advisory Council for Human Rights (<i>Commission Nationale Consultative des Droits de l'Homme</i>) and National Advisory Council of Disabled Persons (<i>Conseil national consultatif des personnes handicapées</i>)
HU	2007	Yes	Ministry of Human Resources	National Council of Disability	National Council of Disability (<i>Országos Foglalkozási Tanács</i>)
IT	2009	Yes	Ministry of Labour and Social Policies (<i>Ministero del Lavoro e delle Politiche Sociali</i>)		National Observatory on the Situation of Persons with Disabilities (<i>Osservatorio Nazionale sulla condizione delle persone con disabilità</i>)
LT	2010	Yes	Ministry of Social Security and Labour (<i>Socialinės apsaugos ir darbo ministerija</i>) (additional sub-focal points in other public authorities)		Council for Disability Affairs (<i>Neįgalųjų reikalų taryba</i>) at the Ministry of Social Security and Labour and the Equal Opportunities Ombudsman (<i>Lygių</i>

					<i>galimybų kontrolieriaus tarnyba)</i>
LU	2011	Yes	Ministry of Family Affairs and Integration (<i>Ministère de la Famille et de l'Intégration</i>)	Ministry of Family Affairs and Integration	Luxembourg Consultative Commission of Human Rights (<i>Commission consultative des Droits de l'Homme du Grand-Duché de Luxembourg</i>); Centre for Equal Treatment (<i>Centre pour l'égalité de traitement</i>); and the National Ombudsman (<i>Méiateur au service de citoyens</i>)
LV	2010	Yes	Ministry of Welfare (<i>Labklājības ministrija</i>)		Ombudsman of the Republic of Latvia (<i>Latvijas Republikas Tiesībsargam</i>)
MT	2012	Yes	<i>Ministry for Social Policy (Ministeru tal-Politika Soċjali)</i>		National Commission for Persons with Disability (<i>Kummissjoni Nazzjonali Persuni b'Dizabilità</i>)
PL	2012	No	not established/designated	not established/designated	not established/designated
PT	2009	Yes	Ministry of Foreign Affairs; and Ministry of Solidarity and Social Security	National Council for the Rehabilitation and Integration of the People with Disabilities (<i>Conselho Nacional para a Reabilitação e Integração das Pessoas com Deficiência</i>)	not established/designated
RO	2011	No	Ministry of Labour, Family and Social Protection (<i>Ministerul Muncii, Familiei și Protecției Sociale</i>)		The Romanian Institute for Human Rights (Institutul Român pentru Drepturile Omului)
SE	2008	Yes	Ministry of Health and Social Affairs (<i>Social- och hälsovårdsministeriet</i>)	High Level Interministerial Working Group	not established/designated
SI	2008	Yes	Ministry of Labour, Family and Social Affairs (<i>Ministrstvo za delo, družino in socialne zadeve</i>)	not established/designated	Council for persons with disabilities (not functional yet). Until it is set up, the Government Council for the Disabled (<i>Svet Vlade Republike Slovenije za invalide</i>) carries out its functions
SK	2010	Yes	not established/designated	not established/designated	not established/designated
UK	2009	No	Office for Disability Issues, Department of Work and Pensions		Equality and Human Rights Commission

					(England and Wales), Scottish Human Rights Commission, Northern Ireland Human Rights Commission and Equality Commission for Northern Ireland
HR	2007	Yes	not established/designated		not established/designated
EU	2010	No	European Commission	See provisions of the Code of Conduct between the Council, the Member States and the Commission setting out internal arrangements for the implementation by and representation of the EU relating to the United Nations Convention on the Rights of Persons with Disabilities	European Commission, European Parliament's Petitions Committee, European Ombudsman, EU Agency for Fundamental Rights, European Disability Forum

10.2 Briefly describe key developments relating to structures for the implementation and monitoring of the Convention on the Rights of Persons with Disabilities (CRPD) as outlined in Article 33 of the CRPD, with a particular focus on the focal point, the monitoring body and the involvement of civil society.

The Romanian Ministry of Labour, Family, Social Protection and the Elderly (MLFSPE) (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice, MMFPSPV*) has been designated as focal point and coordination mechanism.

In 2013, the MMFPSPV has designated the Romanian Institute for Human Rights (RIHR) (*Institutul Român pentru Drepturile Omului, IRDO*) as national institution within the independent mechanism according to Article 33, par. 2 of the CRPD and signed a cooperation protocol with it. The protocol seems to also represent the designation act.⁶²⁸

The IRDO is the only human rights institution accredited with the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights but it only has a C status, that is – non-compliance with the Paris Principles, the principles which the CRPD stipulates that they should be taken into account when designating the independent

⁶²⁸ Cooperation protocol between the Romania, Ministry of Labour, Family, Social Protection and the Elderly (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice*) No. 40370/15.10.2012 and the Romania, Romanian Institute for Human Rights (*Institutul Român pentru Drepturile Omului*), No. 611/12.10.2012, Article 3.

mechanism.⁶²⁹ The legal capacities of the IRDO are extremely limited. According to *Law 9/1991 on the establishment of the Romanian Institute for Human Rights*, the main activities the institution undertakes are: organize a documentation centre; inform relevant actors on international human rights law; train those with a mandate in human rights; inform on Romania's efforts to protect and promote human rights; upon request, inform Parliament committees on human rights issues as related to draft laws or other issues the Parliament examines; do research on various aspects related to human rights in Romania and internationally; publish a human rights bulletin; organize opinion polls on various human rights aspects.⁶³⁰

Furthermore, the protocol signed with IRDO is extremely limited. The MMFPSPV continues to be the institution supposed to coordinate the promotion, protection, implementation and monitoring of the CRPD, as well as to draft the Country report on the implementation of the Convention. The MMFPSPV is also supposed to identify financing for projects in order to implement and monitor the Convention.⁶³¹ The obligations of IRDO, according to the protocol are:

- to designate representatives and to facilitate their participation to work meetings;
- to contribute to the monitoring process, by collecting information, ensure real and concrete data, through the allocation of resources and others;
- to provide information regarding persons with disabilities in order to draft the Country report on the implementation of the CRPD;
- to identify financing opportunities for projects in the field of the implementation and monitoring of the convention and to contribute to their elaboration;
- to contribute to the organizing and implementation of working meetings, seminars, round tables or of other types of debates;
- to grant support for the dissemination of results, of the information materials and in order to organize promotion activities.⁶³²

At the end of 2013, the NFP sent a request for information to IRDO, asking, among others, what activities it has undertaken in 2013 to implement the CRPD and where the financing for the activities came from (own resources, EU funding, etc...).⁶³³ IRDO replied that its activities related to persons with disabilities are presented in the publications of the Institute.⁶³⁴ On the webpage of the Institute we identified a publication from 2013 mainly related to the legal framework in Romania regarding the rights of persons with disabilities.⁶³⁵

⁶²⁹ International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights (ICC) *Chart of the status of national institutions accredited by the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights, Accreditation Status as of 11 February 2013*, available at: www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf.

⁶³⁰ Romania, *Legea 9/1991 privind înființarea Institutului Român pentru Drepturile Omului (Law 9/1991 on the establishment of the Romanian Institute for Human Rights)*, Article 3.

⁶³¹ Cooperation protocol between the Romania, Ministry of Labour, Family, Social Protection and the Elderly (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice*) No. 40370/15.10.2012 and the Romania, Romanian Institute for Human Rights (*Institutul Român pentru Drepturile Omului*), No. 611/12.10.2012, Article 3.

⁶³² Cooperation protocol between the Romania, Ministry of Labour, Family, Social Protection and the Elderly (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice*) No. 40370/15.10.2012 and the Romania, Romanian Institute for Human Rights (*Institutul Român pentru Drepturile Omului*), No. 611/12.10.2012, Article 4.

⁶³³ Centre for Legal Resources Letter No. 440/20.12.2013 to the Romanian Institute for Human Rights (*Institutul Român pentru Drepturile Omului*), on file with the NFP.

⁶³⁴ Romanian Institute for Human Rights (*Institutul Român pentru Drepturile Omului*) Letter No. 53/20.01.2014 to the Centre for Legal Resources, on file with the NFP.

⁶³⁵ Romania, Romanian Institute for Human Rights (*Institutul Român pentru Drepturile Omului*), *Evoluția protecției și promovării drepturilor persoanelor cu dizabilități în România (The evolution of the protection and*

The MMFPSPV also signed cooperation protocols, based on Article 33, par. 3 with three civil society structures (ONPHR Federation– National Organization of Persons with a Disability in Romania, RENINCO Association Romania and Light into Europe Foundation), and sent also a copy after one such protocol to the NFP. The provisions describing what each party to the protocol should do are similar to the ones outlined in the protocol with IRDO.⁶³⁶

Regarding the financing for the independent mechanism, the MMFPSPV replied that no money are foreseen either from the state budget or from other sources, and that the activities foreseen to take place as part of the independent mechanism have a voluntary based character.⁶³⁷

The Centre for Legal Resources (CLR) also closed a cooperation protocol in 2013 with the MMFPSPV, based on Article 3, par.3, but with different provisions from the ones described above. The activities to be undertaken by CLR mainly concern the implementation of unannounced monitoring visits to public, public-private or public centres where there are persons with neuropsychic disabilities in order to prevent ill, cruel, inhuman and degrading treatment or punishments of any kind. The MMFPSPV is supposed to facilitate this activity.⁶³⁸ CLR is an NGO which has been undertaking, since 2003, unannounced monitoring visits to mental health centres.⁶³⁹

Romania also ratified the Optional Protocol to the Convention Against Torture (OP-CAT) in July 2009. However, it has not yet established the National Preventive Mechanism. After an initial declaration for postponement,⁶⁴⁰ in July 2012, Romania asked for another two years postponement, to which the Committee Against Torture acceded in November 2012.⁶⁴¹ A legal proposal to establish a National Council for the Prevention and Combating of Torture was introduced in the Senate at the beginning of September,⁶⁴² and, as the Centre for Legal Resources, which initiated this particular proposal in 2009 (proposal later on debated with civil society and members of the Senate human rights committee and completed), announced announced the draft was adopted tacitly after 45 days by the Chamber of Deputies, on December 18, 2013, the Senate being the deciding Chamber. The NGO also explained what the Committee is supposed to do and stressed the importance of its total independence from

promotion of the rights of persons with disabilities in Romania), Bucharest, 2013, available at: http://irido.ro/file.php?fisiere_id=770&inline=

⁶³⁶ Cooperation protocol between the Romania, Ministry of Labour, Family, Social Protection and the Elderly (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice*) No. 40371/15.10.2012 and The Federation National Organization of Persons with a Disability, No. 940/04.10.2013.

⁶³⁷ Romania, Ministry of Labour, Family, Social Protection and the Elderly, Directorate for the Protection of persons with Disabilities (*Ministerul muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice, Direcția Protecția Persoanelor cu Dizabilități*) Letter No. 22.441/DPPH/SPSM/23.10.2013 to the Centre for Legal Resources, on file with the NFP.

⁶³⁸ Cooperation protocol between the Romania, Ministry of Labour, Family, Social Protection and the Elderly (*Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice*) No. 1493/01.10.2013 and the Centre for Legal Resources, No. 294/01.10.2013, available at: www.crj.ro/userfiles/editor/files/Protocol%20Monitorizare%281%29.pdf.

⁶³⁹ Centre for Legal Resources, *Advocate for dignity programme*, at: www.crj.ro/EN/Advocate-for-dignity/.

⁶⁴⁰ UN Treaty Collection (2013) *Databases, Chapter IV. Human Rights. 9.b. Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*, status as at: 08.12.2013, available at: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9-b&chapter=4&lang=en#EndDec.

⁶⁴¹ Committee Against Torture, Fiftieth Session (2013) *Sixth annual report of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*, p. 6, available at: <http://www2.ohchr.org/English/bodies/cat/opcat/annual.htm>.

⁶⁴² Romanian Senate, *BP564/05.09.2013 Propunere legislativă pentru înființarea Consiliului Național pentru Prevenirea și Combaterea Torturii (Legal proposal for the establishment of the National Council for the Prevention and Combating of Torture)* registered with the Chamber of deputies with the number PL-x 423/04.11.2013, information available at: www.cdep.ro/pls/proiecte/upl_pck.proiect?cam=2&idp=13696.

state institutions, including from the perspective of the functional independence of its staff.⁶⁴³ The Government sent a negative report on this proposal, favouring a different proposal, approved in the Government through a Memorandum in 2011, which would have the Ombudsperson fulfil the role of NPM, arguing that it has already communicated this option and a calendar for the NPM implementation externally and that adopting the proposal in the Parliament would give the impression of incoherence of the Romanian state in the context where the NPM implementation has already been postponed by five years. Finally, the Government also mentioned that the current legal proposal would have a higher impact on the budget, stating that the draft proposal should have included a financial component and reminded the Maastricht criteria on budget deficit and debt ceiling.⁶⁴⁴

The lack of monitoring mechanisms to protect the most vulnerable persons in the Romanian society is worrying particularly in the context of a number of incidents showing serious abuses against persons/children with disabilities which reached the media and were also taken up by civil society in 2013:

- In January 2013 media footage from a children's ward at the county hospital in Buzău showed children being tied to the beds with medical bandages. It turned out that the children in question were in state care and had mental health problems. The practice was also said to happen whenever the child was not accompanied, the hospital claiming lack of staff.⁶⁴⁵ The CLR issued a public letter to relevant authorities asking how the best interest of children with mental health problems who do not have a person to accompany them and who end up in hospitals is protected. CLR explained the legal framework showing the very exceptional and restrictive circumstances in which a person may be tied as well as the fact that child protection authorities must periodically check on children who were placed for care, protection or treatment.⁶⁴⁶ This incident pointed to a very serious system failure. A criminal investigation was started by the prosecutor's office and the Country Council did its own investigation, following which the director of the pediatric ward and the chief nurse were fired, and the medical assistant and the nurse in the specific room had their salaries cut by 10 per cent. From an administrative point of view however, no other measures addressing the system failures appear to have been taken.⁶⁴⁷

⁶⁴³ Centre for Legal Resources (2014) *Propunerea Legislativă privind înființarea Consiliului Național pentru Prevenirea și Combaterea Torturii, inițiată de CRJ, a fost adoptată tacit în Camera Deputaților (The Legal proposal on the establishment of the National Council for the Prevention and combating of Torture, initiated by CLR, was tacitly adopted in the Chamber of Deputies)*, 13.01.2014, available at: http://www.crj.ro/*articleID_1328-articles.

⁶⁴⁴ Romanian Government communication to the Romanian Parliament Chamber of Deputies No. 12416/DRP/20.12.2013, available at: www.cdep.ro/proiecte/2013/400/20/3/pvg423.pdf

⁶⁴⁵ TVR News (2013) *Anchetă la spitalul județean Buzău. Mai mulți copii au fost legați de paturi*, 28.01.2013, available at: http://stiri.tvr.ro/ancheta-la-spitalul-județean-buzau-mai-multi-copii-au-fost-legati-de-paturi_26537.html.

⁶⁴⁶ Centre for Legal Resources (2013) *(Unde este interesul superior al copiilor cu dizabilități severe și fără aparținători, legați de paturile dintr-o secție de pediatrie?) Where is the best interest of children with severe disabilities and lacking representatives tied to the beds from a pediatric ward?*, 30.01.2013, available at: www.crj.ro/Noutati/Unde-este-interesul-superior-al-copiilor-cu-dizabilitati-severe-si-fara-apartinatori-legati-de-paturile-dintr-o-sectie-de-pediatrie/.

⁶⁴⁷ ProTV (2013) *Măsuri în cazul copiilor legați de pat la SJ Buzău: șeful secției de pediatrie și asistentul șef, demisi* (Measures in the case of children tied to the bed at the Buzău CH: the head of the pediatric ward and the chief nurse, fired), 19.02.2013, available at: <http://stirileprotv.ro/stiri/actualitate/masuri-in-cazul-copiilor-legati-de-pat-la-sj-buzau-seful-sectiei-pediatrie-si-asistentul-sef-demisi.html>.

- In May 2013, television footage⁶⁴⁸ (part of a larger documentary drawing a parallel between conditions for mental health patients in the 90s and present) from a Centre for Neuropsychic rehabilitation and recuperation from district 2 in Bucharest (“Gheorghe Șerban” Centre) showed images of severely malnourished patients as well as patients tied to their beds. A Scottish foundation (RAP Foundation) had been volunteering in this Centre but its access was denied in 2012 after they raised concerns as regards the ill treatment of the young people in the centre (over 50 persons).⁶⁴⁹ The CLR also tried to enter the Centre after having been told about the situation of these persons by RAP foundation and was for the first time denied access to such a centre. Furthermore, at least two persons had died in this institution at the time when CLR and RAP were organizing a campaign to raise awareness on the situation of these young persons.⁶⁵⁰ After notifying the Mayor’s Office of District 2, as well as the Ministry of Labour, Family, Social Protection and the Elderly, the Centre for Legal Resources sued the General Directorate for Social Work and Child Protection (GDSWCP) (*Direcția Generală de Asistență Socială și Protecția Copilului, DGASPC*) of district two, to which the Centre is subordinated. In a first instance decision, on October 23rd, CLR won. Citing ECtHR case law (*Toteva v. Bulgaria*), the Court spoke of the positive obligation of the state to proceed to an official investigation, thorough and effective to identify and punish persons responsible for ill treatment and concluded that the refusal to allow CLR access in order to verify the respect of the rights of persons with disabilities, in the context of a public debate on the matter, breaches the positive obligations of the state and is unjustified. The court also pointed to the fact that the lack of norms of implementation for the law on mental health (in what regards how NGOs may contact mental health patients) cannot be invoked as a reason for not allowing access, as the state would be invoking its own fault as an argument.⁶⁵¹ The decision is however not final since the DGASPC District two contested the first instance court decision.⁶⁵² CLR finally managed to visit this centre in October 2013. According to the CLR “Advocate for Dignity” Programme Manager, the CLR monitoring team found, among others, an insufficient number of employees, patients who seemed sedated and did not interact with the monitors (unlike in the other centres visited), the management could not offer basic information about the patients or about the circumstances and other data regarding the deaths of patients which had occurred.

Following media stories about abuses of persons with disabilities, the MMFPSPV asked the National Agency for Payments and Social Inspection (NAPSI) (*Agenția Națională pentru Plăți și Inspecție Socială, ANPIS*) to undertake a control campaign in the centres of neuropsychiatric recovery and rehabilitation, which happened in June and August 2013 in the 51 centres in the records of the DPPD. Regarding the Centre Georghe Șerban, mentioned above, the report found a number of problems among

⁶⁴⁸ Antena 3 (2013) *În premieră. România irecuperabilă (Premiere. Irrecoverable Romania)*, 19.05.2013, min 19.50 to min 28.00, available at: <http://inpremiera.antena3.ro/reportaje/romania-irecuperabila-209.html>.

⁶⁴⁹ Centre for Legal Resources (2013) *Defenseless young people with severe disabilities held prisoner – Human Rights denied*, 28.05.2013, available at: www.crj.ro/userfiles/editor/files/Urgent%20appeal%20to%20the%20Prime%20Minister.pdf.

⁶⁵⁰ Centre for Legal Resources, Interights, Mental Disability Advocacy Centre (2013) *Romania must stop the torture of young persons with disabilities*, 26.06.2013, available at: www.mdac.info/en/26/06/2013/romania-must-stop-torture-young-adults-disabilities.

⁶⁵¹ Romania, District 2 First Instance Court Bucharest (*Judecătoria Sectorului 2, București*), Decision 13139/2013 available at: www.crj.ro/userfiles/editor/files/Hotarare%20Judecatoreasca%20sector2.pdf.

⁶⁵² Romania, Ministry of Justice Courts portal, Bucharest Tribunal (*Tribunalul București*), File No. 48779/300/2012, available at: http://portal.just.ro/3/SitePages/Dosar.aspx?id_dosar=3000000000248632&id_inst=3.

which: irregularities in what regards the number of beneficiaries allocated in each dorm, as a consequence of overcrowdedness, or inappropriate space arrangement, as well as in what regards the interior and exterior facilities; deficiencies in what regards the necessary clothing and shoes for the beneficiaries; deficiencies in what regards the necessary number of meals and the necessary number of calories per meal; although the majority of beneficiaries are underweight, their weight is constant in the past years, registering fluctuations of up to a kilogram (...).⁶⁵³ The report clearly states: “In the context where in the Centre Gheorghe Șerban (Bucharest municipality) there is a significant number of beneficiaries dependent on care, with problems of alimentation and swallowing, it has been found that there does not exist and is not implemented a *procedure on their feeding or on first aid measures* in cases of mechanical choking”.⁶⁵⁴ The report also states that: “At CRRN Gheorghe Șerban, in the period April 2012-June 2013, 4 beneficiaries were hospitalized in various stages, the number of hospitalization days (put together) being 24. The causes which have led to the hospitalization of the young persons have been the following: cataracts right eye (crystalline transplant), hyperthermia, bronchial wheezes, diarrhea, food vomits. Two of the beneficiaries subsequently died (in the hospital), the causes being heart attack unable to resuscitate, and acute breathing insufficiency”.⁶⁵⁵

- At the end of October 2013, media footage revealed written complaints which had been made by children from a state institution for children with psycho-social problems in Oradea, Bihor county, claiming they were being submitted to severe beatings, punishments and humiliations. The news story also showed declarations children had given in this sense.⁶⁵⁶ After the media footage, CLR seized the Ombudsperson, the County Council Bihor, the Ministry of Labour, Family, Social Protection and the Elderly, and also filed a criminal complaint with the prosecutor’s office attached to the first instance court Oradea. The CLR mentioned a number of reasons why the NGO considered this situation could happen, among which:
 - The person responsible to care for and supervise the child is the same as the guardian/legal representative who, in the case of an abuse, should represent the child;

⁶⁵³ Romania, National Agency for Payments and Social Inspection (*Agencia Națională pentru Plăți și Inspecție Socială*), Raport Național Tematic privind „Controlul modului de respectare a standardelor specific de calitate pentru centrele rezidențiale (centrele de recuperare și reabilitare neuropsihiatrică) pentru persoanele adulte cu handicap” (National Thematic Report on the “Control on the way in which specific standards of quality on residential centres (centres of neuropsychiatric recovery and rehabilitation) for adult persons with a disability are being respected”), pp. 19-22, available at: www.crj.ro/*articleID_1284-articles.

⁶⁵⁴ Romania, National Agency for Payments and Social Inspection (*Agencia Națională pentru Plăți și Inspecție Socială*), Raport Național Tematic privind „Controlul modului de respectare a standardelor specific de calitate pentru centrele rezidențiale (centrele de recuperare și reabilitare neuropsihiatrică) pentru persoanele adulte cu handicap” (National Thematic Report on the “Control on the way in which specific standards of quality on residential centres (centres of neuropsychiatric recovery and rehabilitation) for adult persons with a disability are being respected”), p. 22, available at: www.crj.ro/*articleID_1284-articles.

⁶⁵⁵ Romania, National Agency for Payments and Social Inspection (*Agencia Națională pentru Plăți și Inspecție Socială*), Raport Național Tematic privind „Controlul modului de respectare a standardelor specific de calitate pentru centrele rezidențiale (centrele de recuperare și reabilitare neuropsihiatrică) pentru persoanele adulte cu handicap” (National Thematic Report on the “Control on the way in which specific standards of quality on residential centres (centres of neuropsychiatric recovery and rehabilitation) for adult persons with a disability are being respected”), p. 24, available at: www.crj.ro/*articleID_1284-articles

⁶⁵⁶ ProTV (2013) *Acuzații grave la un centru de plasament din Oradea. Copiii spun că sunt bătuți cu pumnii de angajați* (Serious accusations at a placement centre from Oradea. Children say they are being beaten with the fists by the employees) 24.10.2013, available at: <http://stirileprotv.ro/stiri/actualitate/acuzatii-grave-la-un-centru-de-plasament-din-oradea-copiii-spun-ca-sunt-batuti-cu-pumnii-de-angajati.html>.

- The excessive institutionalization of children with disabilities on the basis of Article 60, par 2 of Law 272/2004 (while the institutionalization of children younger than two years old is forbidden, according to this paragraph of the law on child protection, institutionalization is allowed by exception for children younger than two if the child has serious disabilities and depends on specialized care in such institutions) and the lack of recovery and rehabilitation services with trained staff and in the least restrictive environment;
- Inadequate intervention of the DGASPC in the case of the child with disabilities abused in an institution – if the child had been the victim of ill treatment within the family environment, the child would have been taken out of this environment, the police and the prosecutor’s office would have been seized, and the judge, following the hearing of the child, could have adopted a special protection measure;
- Children with disabilities are not educated to avoid, recognize and report the cases of violence and abuse against them.⁶⁵⁷

The County Council Bihor replied through a public report to CLR’s complaint. It made its own investigation at the centre and found that a previous investigation undertaken by DGASPC Bihor in May 2013 had also found the “deficiencies signaled by the Centre for Legal Resources” and proposed recommendations in order to remedy them. The County Council report however also notes that: “The management of DGASPC Bihor had the obligation to order concrete measures in order to overcome the deficiencies found, but, it limited itself to put together a disciplinary investigation commission.” The County Council then went on to talk about what should be done, among which: the legal measures necessary in order to solve the suspicion of abuse on the children from the centre, to urgently come before the County Council with a new organizational structures of the centre in conformity with the minimal standards, namely talking about three types of centres to be established: two for children with behavioural problems and one for children who are under judicial investigation or specialized court supervision, create the necessary conditions to ensure privacy by separating the shower cabins and the toilets, etc...⁶⁵⁸

At the end of November 2013, CLR issued another statement expressing its disapproval with the reaction of the MMFPSPV and its Directorate for the Protection of Persons with Disabilities, which was also seized by CLR on the situation of the children in Oradea. According to CLR, “In the two replies, the officials of the two institutions invoke legal procedures, but make no reference to concrete measures to improve the emotional state of the adolescents and to prevent the situations of abuse. What is however more serious is the fact that the two institutions do not state whether the situation of abuse of the adolescents existed or not, all coming down to ‘the order in the papers’. **We thus wonder how serious the situation from the centres in**

⁶⁵⁷ Centre for Legal Resources (2013) *CRJ cere Parchetului și autorităților locale și centrale să asigure protecție copiilor abuzați fizic și emoțional într-un centru de plasament din Oradea* (CLR asks the Prosecutor’s office and local and central authorities to ensure protection to the children physically and emotionally abused in a placement centre from Oradea), 26.10.2013, available at: www.crj.ro/Noutati/CRJ-cere-Parchetului-%C8%99i-autoritatilor-publice-locale-si-centrale-sa-asigure-protect%C8%9Bie-copiilor-abuza%C8%9Bi-fizic-%C8%99i-emo%C8%9Bional-intr-un-centru-de-plasament-din-Oradea/.

⁶⁵⁸ Bihor County Council (2013) *Public report no. 14169/07.11.2013*, available at: <http://www.cjbihor.ro/pdf/raport%20public%2007.11.2013.pdf>

Romania must be for the authorities to take their role of defenders of children and young persons with disabilities seriously? We find, after the replies of the two institutions that the CLR was the only party to file a complaint with the Prosecutor's office following the abuses seized by the adolescents from Oradea.⁶⁵⁹

CLR also undertook a monitoring visit to the centre in Oradea in October and publicly reported on a number of very worrying issues. The main findings, according to CLR were: "Inadequate living and rehabilitation conditions for the 17 adolescents with psychosocial problems from the institution. Housing and closing within the same space of various children and adolescents with different vulnerabilities from behavioural problems to drug and alcohol consumption and intellectual disabilities amounts to a serious breach of the rights of the child. The conditions observed by the CLR representatives are of a nature to breach the right to dignity, as they are inhumane and degrading life and treatment conditions. A number of children accuse ill treatment of the type of abusive deprivation of liberty, beatings, threats with being beaten, swearings and emotional abuse. None of them knew adequate mechanisms to lodge complaints and had not received information of the case manager and legal representative. None of the adolescents indicated as abusing drugs and alcohol benefited from treatment. All those present maintained that they did not want to be in this centre and were anxious for not having their family close (deceased parents, disappeared or deprived of liberty). The main persons indicated as abusers in the statements of the children continue to be hired in the same centre, not being removed, as it is foreseen in Law 272/2004 from the vicinity of potential victims."⁶⁶⁰

According to CLR, in the particular case of this centre, a number of causes led to the abuses and fostered or perpetuated situations of abuse: the structure of the centre, where minors with different disabilities and attention needs are placed together does not respect their rehabilitation and recovery necessities; the staff is numerically insufficient and inadequate qualitatively; the lack of financial motivation and professional training for all professional categories working in these centres; lack of instruments to signal the abuses in the hands of the young persons abused and the lack of a mechanism to allow the access to justice for these young persons.⁶⁶¹

While the ANPIS report mentioned above concluded that the results of the control did not show serious situations of violence of abuse on the beneficiaries, it did reach a number of other problematic conclusions, among which:

- 92.15 per cent of the centres do not integrally fulfill the conditions on the necessary human resources;

⁶⁵⁹ Centre for Legal Resources (2013) (*Ministerul Muncii ignoră drepturile adolescenților din centrul de plasament de la Oradea*) *The Ministry of Labour ignores the rights of adolescents from the placement centre from Oradea*, 28.11.2013, available at: www.crj.ro/*articleID_1308-articles.

⁶⁶⁰ Centre for Legal Resources (2013) *Raportul CRJ, în urma vizitei de monitorizare în Centrul de plasament pentru copii cu probleme psihosociale din Oradea, județul Bihor* (*The CLR report following the monitoring visit to the Placement centre for children with psychosocial problems from Oradea, Bihor county*), 15.11.2013, available at: www.crj.ro/*articleID_1295-articles.

⁶⁶¹ Centre for Legal Resources (2013) *CRJ constată grave abuzuri la adresa minorilor din centrul de plasament pentru copii cu probleme psihosociale din Oradea* (*CLR finds serious abuses against the minors from the placement centre for children with psycho-social problems from Oradea*), 01.11.2013, available at: www.crj.ro/Noutati/CRJ-constata-grave-abuzuri-la-adresa-minorilor-din-centrul-de-plasament-pentru-copii-cu-probleme-psihosociale-din-Oradea-1277/.

- 84.31 per cent of the centres do not integrally fulfill the specific quality standards in what regards the size, accessibility, hygiene, facilities and arrangement of space in order to house the beneficiaries, of the spaces destined to daily activities and therapies, as well as of other functional rooms (to prepare food, restrooms, deposits and storing spaces, etc...)
- 25.49 per cent do not entirely fulfill the specific quality standards on care services (personal hygiene, food, clothing and shoes and medication), but the ANPIS mentions that since only 13 centres are in this situation one can say that the majority ensure these services to an adequate level;
- Although these centres should mainly ensure services of recovery and rehabilitation, only 13 per cent of its staff is qualified for this, while the medical and care staff represents 53.45 per cent of the staff, thus the services mainly concern medical assistance and care;
- No centre ensures the professional integration of their beneficiaries and 25.49 per cent do not ensure the services of recovery, integration/socio-professional reintegration, of support;⁶⁶²
- A number of 5 beneficiaries, from a single centre, were under 18, 142 beneficiaries from 28 centres had another type of disability than a neuropsychiatric one; and 156 from 11 centres were diagnosed as having “social handicap”, which the report mentions is a type of disability which does not exist in the law;⁶⁶³
- While these centres should only offer services on a temporary basis, most of the persons benefit from the services in the long run, many coming from state care services for children, indicating that “the CRRN is a residential service of closed type, provided for an unlimited period of time”.⁶⁶⁴

The report ends with a number of general recommendations.⁶⁶⁵

⁶⁶² Romania, National Agency for Payments and Social Inspection (*Agenția Națională pentru Plăți și Inspecție Socială*), Raport Național Tematic privind „Controlul modului de respectare a standardelor specific de calitate pentru centrele rezidențiale (centrele de recuperare și reabilitare neuropsihiatrică) pentru persoanele adulte cu handicap” (National Thematic Report on the “Control on the way in which specific standards of quality on residential centres (centres of neuropsychiatric recovery and rehabilitation) for adult persons with a disability are being respected”), p. 33, available at: www.crj.ro/*articleID_1284-articles

⁶⁶³ Romania, National Agency for Payments and Social Inspection (*Agenția Națională pentru Plăți și Inspecție Socială*), Raport Național Tematic privind „Controlul modului de respectare a standardelor specific de calitate pentru centrele rezidențiale (centrele de recuperare și reabilitare neuropsihiatrică) pentru persoanele adulte cu handicap” (National Thematic Report on the “Control on the way in which specific standards of quality on residential centres (centres of neuropsychiatric recovery and rehabilitation) for adult persons with a disability are being respected”), pp. 17-18, available at: www.crj.ro/*articleID_1284-articles

⁶⁶⁴ Romania, National Agency for Payments and Social Inspection (*Agenția Națională pentru Plăți și Inspecție Socială*), Raport Național Tematic privind „Controlul modului de respectare a standardelor specific de calitate pentru centrele rezidențiale (centrele de recuperare și reabilitare neuropsihiatrică) pentru persoanele adulte cu handicap” (National Thematic Report on the “Control on the way in which specific standards of quality on residential centres (centres of neuropsychiatric recovery and rehabilitation) for adult persons with a disability are being respected”), p. 33, available at: www.crj.ro/*articleID_1284-articles

⁶⁶⁵ Romania, National Agency for Payments and Social Inspection (*Agenția Națională pentru Plăți și Inspecție Socială*), Raport Național Tematic privind „Controlul modului de respectare a standardelor specific de calitate pentru centrele rezidențiale (centrele de recuperare și reabilitare neuropsihiatrică) pentru persoanele adulte cu

10.3 Briefly outline reforms of the legal framework and specific policy reforms introduced as a result of CRPD ratification in your country.

We are not aware of any reforms. Asked about this matter, the MMFPSPV replied to the NFP that: the implementation of the CRPD “represents a long term process which needs a detailed analysis of the provisions from the national legal framework which need amendment, the Romanian Constitution included.”⁶⁶⁶ The MMFPSPV also mentioned that it finds itself in an advanced stage of elaborating the National Strategy regarding Persons with Disabilities 2014-2020.⁶⁶⁷

On December 3rd, 2013, three NGOs issued a press statement on the occasion of the International Day of Persons with Disabilities, and in the context of CRPD provisions, pointing that in Romania there are 17,000 adults who live in large institutions with care which is inadequate for independent living. The statement, based on various other studies and analyses showed that in Romania, only in 17 counties (out of 41) can persons with disabilities access other type of living other than large-type institutions – namely protected housing. It also stated that, although the legal framework allows for the development of community living since 2011, at the end of 2012 only in 3 counties service provision contracts had been closed with specialized organizations also noting that this is not surprising when NGOs are asked to contribute up to 50 per cent of the service costs. The statement also criticizes the fact that, within the current structural funding financial exercise, Romania allocated 27.6 million euro to the retrofitting of large centres, instead of alternative community services. The NGOs asked that the Government Decision 23/2010 on the approval of cost standards for social services be amended since it is no longer adequate for professional community services, noting that those local administrations which develop community services are making major efforts to identify alternative resources. The statement considered that the approach of the Romanian state is not one which aims to develop community living for persons with disabilities, but one aiming to maintain institutionalization, thus in breach of the rights of persons with disabilities.⁶⁶⁸

The ANPIS control report mentioned above found that in the case of 28 centres, their capacity is over 60 persons, of which 5 are in course of being restructured on the basis of county strategies, and have projects in course of being implemented, 16 have county strategies and plans for restructuring but are not being restructured for various reasons, 7 centres were not included in the restructuring process but were included in rehabilitation programmes.⁶⁶⁹

handicap” (National Thematic Report on the “Control on the way in which specific standards of quality on residential centres (centres of neuropsychiatric recovery and rehabilitation) for adult persons with a disability are being respected”), p. 34, available at: www.crj.ro/*articleID_1284-articles

⁶⁶⁶ Romania, Ministry of Labour, Family, Social Protection and the Elderly, Directorate for the Protection of persons with Disabilities (*Ministerul muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice, Direcția Protecția Persoanelor cu Dizabilități*) Letter No. 22.441/DPPH/SPSM/23.10.2013 to the Centre for Legal Resources, on file with the NFP.

⁶⁶⁷ Romania, Ministry of Labour, Family, Social Protection and the Elderly, Directorate for the Protection of persons with Disabilities (*Ministerul muncii, Familiei, Protecției Sociale și Persoanelor Vârstnice, Direcția Protecția Persoanelor cu Dizabilități*) Letter No. 22.441/DPPH/SPSM/23.10.2013 to the Centre for Legal Resources, on file with the NFP.

⁶⁶⁸ Institute for Public Policies, Pro Act Support and the Centre for Legal Resources (2013) *Peste 17,000 de adulți cu dizabilități din România „celebrează” Ziua Internațională a Persoanelor cu Dizabilități închși în instituții (Over 17,000 adults with disabilities are “celebrating” the International Day of Persons with Disabilities closed in institutions)*, 02.12.2013, available at: www.crj.ro/*articleID_1316-articles.

⁶⁶⁹ Romania, National Agency for Payments and Social Inspection (*Agenția Națională pentru Plăți și Inspecție Socială*), Raport Național Tematic privind „Controlul modului de respectare a standardelor specific de calitate pentru centrele rezidențiale (centrele de recuperare și reabilitare neuropsihiatrică) pentru persoanele adulte cu

11 Charter case law (reference to the EU Charter of Fundamental Rights in national jurisprudence)

Provide key information and analysis on the **five** most important national judgements that refer to the EU Charter of Fundamental Rights in a prominent manner, **namely when this has a clear traceable impact on the reasoning of the Court**. This is not considered to be the case where a judgement only reflects that parties have mentioned the Charter in their submissions without affecting the reasoning of the Court. Focus should be put on judgements delivered by the highest Courts (like Constitutional Courts, Supreme Courts or Supreme Administrative Courts). Where, however, these Courts did not hand down such judgements in 2013, also judgements by lower ranking Courts should be reported. Equally, those judgements by lower Courts should be reported that are of crucial importance to the reception, standing and usage of the Charter at national level. Put each case in a separate table (see below).

Deciding body (in original language)	Înalta Curte de Casație și Justiție
Deciding body (in English)	High Court of Cassation and Justice
Case Number (also European Case Law Identifier, ECLI where applicable)	1115/1259/2010/a1*
Parties	The Pitești Local City Council, The Municipality of Pitești, The Romanian Government, SC A. E. România S.A., SCP P. I., SC T. A. I., SC T. SA, SC G. S. E. ROMÂNIA SA.
Decision date	7 February 2013
Web link to the judgement (if available)	N/A
Key facts of the case (max. 250 words)	The plaintiffs SCP P. I., SC T. A. I., SC G. S. E. ROMÂNIA SA, claimed that Government Decision no. 104/07.02.2002 concerning the transfer of electrical plants for heating from the state's private property and from the property of S.C. T. S.A. into the public property of local authorities and administration of local councils is not legal and violates the provisions of Law no. 213/1998 concerning public property and its legal regime. They

	<p>claimed that Law 213/1998 expressly states the conditions for transferring public property which belongs to legal persons where the state is a share holder, and the GD unlawfully departs from these provisions. The application was based on the provisions of Article 4 of Law no. 554/2004 of the administrative contentious, which states that the legality of an administrative act (such as GD no. 104/2002 was) , regardless of the date it was issued, could be reviewed at any time during a trial, by way of an exception, ex officio or upon request of any party to the proceedings.</p> <p>The defendants, The Pitești Local City Council, The Municipality of Pitești and the Romanian Government, claimed that, on one hand, the applicants had no interest in sustaining the claim, as subsequently the property would simply return to the state, and, on the other hand, that the application was inadmissible.</p> <p>The Galați Court of Appeal granted the application and found that Government Decision no. 104/07.02.2002 violated the provisions of the Romanian Constitution, the bilateral agreements closed by Romania with EU Member States and Law no. 213/1998, in that it transferred property to local authorities without proper compensation to the legal person which had enjoyed it so far.</p> <p>The High Court of Cassation and Justice decided, however, that the application was inadmissible. It found that granting Article 4 applications indiscriminately, including to acts issued before Law 554/2004 came into force, would allow any person to question the legality of any administrative acts without any time limit, thus endangering the security of legal transactions and violating the principle of legal certainty.</p>	
Charter Article(s) that are referred to by the Court	Art. 47 of the Charter.	
Translation of the Paragraphs where the Court is in its reasoning referring to the Charter	Inasmuch as they are interpreted as allowing to review the legality of individual administrative acts issued prior to Law 554/2004, the provisions of Article 4 would violate the right to a fair trial provided for by Article 6 of the European Convention on Human Rights , as well as Article 47 of the Charter of Fundamental Rights of the European Union, by violating the principle of legal certainty, which is one of the fundamental elements of the rule of law.	
Was the Charter already referred to by the Parties or was it the Court that used the Charter <i>ex officio</i>?	The Court used the Charter ex officio.	
Was the Charter directly applied?	Yes. The Charter was directly applied to assess whether national legal provisions violate rights and principles enshrined in the Charter.	
Was the Charter used in order to:	a. interpret national law?	Yes. The Court interpreted a provision of a national law (namely Article 4 of the Law 554/2004) in accordance to what

		it considered as being required by Article 47 of the Charter.
	b. check legality of national law?	No.
	c. interpret EU law?	No.
	d. check legality of EU secondary law?	No.
	e. (other use)?	No.
Was the Charter referred to together with other international sources, such as:	a. (Unwritten) general principles of EU law?	No.
	b. The European Convention on Human Rights or other Council of Europe conventions?	Yes. Together with the provisions of Article 6 of the European Convention on Human Rights.
	c. International law (UN conventions, etc.)?	No.
Was the Charter referred to in a <u>purely internal</u> situation without cross-border element and not linked with EU law?	Yes. The case concerned an application by Romanian legal persons to question the legality of a Government Decision concerning transfer of public property from the state to the local authorities. Although the Court of Appeal referred to the fact that one of the parties, G. S. E., enlisted share holders from other Member States and that the Government Decision in question was found to infringe international agreements in that it transferred property without proper compensation, these aspects are not relevant to the main issue tackled by the HCCJ judgement.	
Did the invocation of the Charter make a difference to (the outcome of) the case?	Yes, to a moderate extent. HCCJ found that indiscriminately granting applications to question the legality of administrative acts, regardless of the date they were issued, by way of exception, violates Article 6 of the ECHR as well as Article 47 of the Charter, with emphasis, however, on Article 6 ECHR.	

Deciding body (in original language)	Înalta Curte de Casație și Justiție
Deciding body (in English)	High Court of Cassation and Justice
Case Number (also European Case Law Identifier, ECLI where applicable)	554/1/2012
Parties	Plaintiff: C.T.; Defendant: the National Authority for Property Restitution
Decision date	18 January 2013
Web link to the judgement (if available)	N/A
Key facts of the case (max. 250 words)	The plaintiff demanded that the National Authority for Restitution of Property be ordered to pay him 500.000 lei constituting compensation awarded to the plaintiff by Decision no. 2354/28.05.2008 of the Central Compensation Board, for a building nationalised during the communist regime. The Craiova Court of Appeal rejected the application as premature, stating that the compensation cannot be paid since payments have so far been made, within available funds, for applications registered until March 11, 2008, while the defendant's application had been registered in August 2008 and thus had to wait its turn. The High Court of Cassation and Justice overturned this decision and ordered the defendant to issue a payment title in favour of the plaintiff. It found that the internal rules applied by the administrative authority cannot infringe the principle of handling an application within a reasonable time, as part of the right to a fair trial and the right to a good administration
Charter Article(s) that are referred to by the Court	Art. 41 of the Charter.
Translation of the Paragraphs where the Court is in its reasoning referring to the Charter	The fact that an administrative set of rules refers to the order in which applications were registered cannot paralyse, per se, the judicial action of a person which deems herself or himself prejudiced by the fact that the tile has not been issued, because the role of the rules is to organise the activity of the authority, not to infringe the principle of handling applications within a reasonable time, warranty of the right to a fair trial provided for by Article 6 of the European Convention on Human Rights and component of the right to a good administration, included in the legal order of the European Union by the Charter of Fundamental Rights.

Was the Charter already referred to by the Parties or was it the Court that used the Charter ex officio?	The Court used the Charter ex officio.	
Was the Charter directly applied?	The Charter was applied directly to assess whether the conduct of the public authority, in this case, violated a right of the plaintiff.	
Was the Charter used in order to:	a. interpret national law?	According to HCCJ, the internal rules for handling the requests for compensation cannot be applied in a manner which infringes Article 41.1 of the Charter.
	b. check legality of national law?	No.
	c. interpret EU law?	No.
	d. check legality of EU secondary law?	No.
	e. (other use)?	No.
Was the Charter referred to together with other international sources, such as:	a. (Unwritten) general principles of EU law?	No.
	b. The European Convention on Human Rights or other Council of Europe conventions?	HCCJ also referred to: Article 6 of the European Convention on Human Rights, in what concerns the reasonable time, as being applicable to administrative as well as to judicial proceedings; Article 1 of the First Protocol to the Convention in holding that the compensation and payment title consolidate the right to a property.
	c. International law (UN conventions, etc.)?	No.
Was the Charter referred to in a <u>purely internal</u> situation without cross-border element and not linked with EU law?	Yes. The case concerned an application lodged by a Romanian national to compel Romanian authorities to award compensation for land confiscated by the communist regime.	
Did the invocation of the Charter make a difference to (the outcome of) the case?	Yes, to some extent. In previous judgements concerning state compensation, HCCJ had found that the considerable duration of administrative proceedings was unlawful in that it violated Article 6 of the ECHR, which extended also to such administrative proceedings. HCCJ recently started referring to the right to a good administration as such, as provided for by Article 41.1 of the Charter, when assessing the conduct of public authorities, but continued to find violation of Article 6 of ECHR as well.	

Deciding body (in original language)	Înalta Curte de Casație și Justiție
Deciding body (in English)	High Court of Cassation and Justice
Case Number (also European Case Law Identifier, ECLI where applicable)	2001/54/2011
Parties	Plaintiffs: Z.P., F.M., S.M., S.O.; Defendant: The Central Compensation Board.
Decision date	22 January 2013
Web link to the judgement (if available)	N/A
Key facts of the case (max. 250 words)	The plaintiffs applied to courts to compel the Central Compensation Board to issue the compensation title for a building nationalised during the Communist regime and send it to the National Authority for Property Restitution. They stated that they had lodged a notification in 2001, that the local authorities had issued a decision to award compensation in 2007, that the file had been sent to the defendant, but no compensation had been awarded yet. The Craiova court of appeal decided in favour of the defendants and the High Court of Cassation and Justice upheld this decision. The courts found that the excessive duration of the administrative proceedings violated the plaintiffs' right to property, right to have the application handled within a reasonable timeframe and the right to a good administration.
Charter Article(s) that are referred to by the Court	Art. 41 of the Charter.
Translation of the Paragraphs where the Court is in its reasoning referring to the Charter	Handling a request within a reasonable time constitutes, also, an element of the right to a good administration, fundamental right of a citizen of the European Union, enshrined in Article 41 of the Charter of Fundamental Rights of the European Union, which represents a benchmark for the administrative conduct of the public authorities of Member States. The State holds, thus, the duty to organise the functioning of its authorities in such a manner as to comply with this requirement, so that the entitled person may effectively enjoy the protection ensured by Article 6 of the European Convention on Human Rights.
Was the Charter already referred to by the Parties or was it the	The Court used the Charter ex officio.

Court that used the Charter ex officio?		
Was the Charter directly applied?	The Charter was applied directly to assess whether the conduct of the public authority, in this case, violated a right of the plaintiff.	
Was the Charter used in order to:	a. interpret national law?	Yes. According to HCCJ, although the national law does not specifically provide for a timeframe for handling the requests for compensation or sets certain rules for handling the requests, such provisions of the national law must be applied, by state and administrative authorities, in a manner which observes Article 41.1 of the Charter.
	b. check legality of national law?	No.
	c. interpret EU law?	No.
	d. check legality of EU secondary law?	No.
	e. (other use)?	No.
Was the Charter referred to together with other international sources, such as:	a. (Unwritten) general principles of EU law?	No.
	b. The European Convention on Human Rights or other Council of Europe conventions?	Yes. HCCJ also referred to Article 6 of the European Convention on Human Rights, finding that the conduct of the administrative authorities violates the plaintiff's right to have an application handled within a reasonable time.
	c. International law (UN conventions, etc.)?	No.
Was the Charter referred to in a <u>purely internal</u> situation without cross-border element and not linked with EU law?	Yes.	
Did the invocation of the Charter make a difference to (the outcome of) the case?	Yes, to some extent. In previous judgements concerning state compensation, HCCJ had found that the considerable duration of administrative proceedings was unlawful in that it violated Article 6 of the ECHR, which extended also to such administrative proceedings. HCCJ recently started referring to the right to a good administration as such, as provided for by Article 41.1 of the Charter, when assessing the conduct of public authorities, but continued to find violation of Article 6 of ECHR as well.	

Deciding body (in original language)	Înalta Curte de Casație și Justiție
Deciding body (in English)	High Court of Cassation and Justice
Case Number (also European Case Law Identifier, ECLI where applicable)	1734/54/2011
Parties	Plaintiff: F.I.; Defendant: The Central Compensation Board
Decision date	29 January 2013
Web link to the judgement (if available)	N/A
Key facts of the case (max. 250 words)	The plaintiff applied to courts to compel the Central Compensation Board to issue the compensation title for a plot of land nationalised during the Communist regime. She stated that she had lodged a notification in 2001, that the local authorities had issued a decision to award compensation in 2006, that the file had been sent to the defendant, but no compensation had been awarded yet. The Craiova court of appeal decided in favour of the defendant and the High Court of Cassation and Justice upheld this decision. The courts found that the excessive duration of the administrative proceedings violated the plaintiffs' right to property, right to have the application handled within a reasonable timeframe and the right to a good administration.
Charter Article(s) that are referred to by the Court	Art. 41 of the Charter.
Translation of the Paragraphs where the Court is in its reasoning referring to the Charter	After Romania has joined the EU and following the coming into force of the Lisbon Treaty, which, in article 6, Title I of the consolidated Treaty, acknowledges the rights, freedoms and principles enshrined in the Charter of Fundamental Rights of the European Union, the Romanian citizens enjoy the right to a good administration as a fundamental right, in relation to their statute as European citizens. Thus, according to Article 41 of the Charter, every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union. Or, considering the provisions of Article 20 of the Constitution, the national laws, both primary legislation –

	such as Law no.247/2005, in this case, and the secondary legislation - G.D. no. 1095/2005 and Decision no. 2185/2008, concerning the procedure for handling requests for compensation, cannot be interpreted or applied in ignorance of the right to a good administration and in violation of the reasonable time for handling the request, as an element of the right to a good administration.	
Was the Charter already referred to by the Parties or was it the Court that used the Charter ex officio?	The Court used the Charter ex officio.	
Was the Charter directly applied?	The Charter was applied directly to assess whether the conduct of the public authority, in this case, violated a right of the plaintiff.	
Was the Charter used in order to:	a. interpret national law?	Yes. According to HCCJ, although the national law does not specifically provide for a timeframe for handling the requests for compensation or sets certain rules for handling the requests, such provisions of the national law cannot be applied in a manner which infringes Article 41.1 of the Charter.
	b. check legality of national law?	No.
	c. interpret EU law?	No.
	d. check legality of EU secondary law?	No.
	e. (other use)?	No.
Was the Charter referred to together with other international sources, such as:	a. (Unwritten) general principles of EU law?	No.
	b. The European Convention on Human Rights or other Council of Europe conventions?	HCCJ also referred to: Article 6 of the European Convention on Human Rights, in what concerns the reasonable time, as being applicable to administrative as well as to judicial proceedings; Article 1 of the First Protocol to the Convention in holding that the absence of any compensation creates an excessive burden for the plaintiff.
	c. International law (UN conventions, etc.)?	No.
Was the Charter referred to in a purely internal situation without cross-border element and not	Yes. The case concerned an application lodged by a Romanian national to compel Romanian authorities to award	

linked with EU law?	compensation for land confiscated by the communist regime.
Did the invocation of the Charter make a difference to (the outcome of) the case?	Yes, to some extent. In previous judgements concerning state compensation, HCCJ had found that the considerable duration of administrative proceedings was unlawful in that it violated Article 6 of the ECHR, which extended also to such administrative proceedings. HCCJ recently started referring to the right to a good administration as such, as provided for by Article 41.1 of the Charter, when assessing the conduct of public authorities, but continued to find violation of Article 6 of ECHR as well.