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EUROPEAN SOCIAL CHARTER (revised)

Sixth National Report on the implementation of the European Social Charter (revised)

submitted by

THE GOVERNMENT OF ROMANIA

(for the period 1 January 2003 to 31 December 2004

on articles 1, 2 (para. 1, 2, 4-7), 3 (para.1-3), 4, 9, 15, 21, 24, 28, 29

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2007

ROMANIA
THE 6 TH NATIONAL REPORTS
ON THE IMPLEMENTATION OF THE REVISED EUROPEAN SOCIAL CHARTER

PRESENTED BY
THE GOVERNMENT OF ROMANIA

FOR THE PERIOD 1ST JANUARY 2003 – 31ST DECEMBER 2004

ON ARTICLES 1, 2 (para. 1, 2, 4-7), 3 (para.1-3), 4, 9, 15, 21, 24, 28, 29

According to Article C of the Revised European Social Charter and article 21 of the European Social Charter, on the measures adopted to give effect to the accepted provisions of the European Social Charter Revised, ratified on 7th May 1999.

According to Article C of the ESCR and the Article 23 of the ESC, the copies of this report were communicated:

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Article 1- The right to work

Paragraph 4- Vocational training, guidance and rehabilitation

According to the Law no. 76/2002 on the Unemployment Insurance Fund and Employment Stimulation, with its further amendments and complements, the following categories of jobseekers are benefiting from free of charge vocational training services, which are in one of the following situations:

- have no job, do not earn any income or earn, from legal activities, an income lower than the current national gross minimum wage guaranteed for payment;
- are registered with the National Agency for Employment or other employment services provider which functions according to the law;
-were not able to take-up employment after graduating from an educational institution or after completing the compulsory military service;
-have obtained a refugee status or other form of international protection, according to the law;
- foreigners or stateless persons who have been employed or have earned an income in Romania, according to the law;
- have not been able to take-up employment following repatriation or release from prison.

In order to cover the need of qualified labor force, the National Agency for Employment implements and finances from the Unemployment Insurance Fund vocational training programs in view of initiating, training/ retraining, up-grading and qualifying both the jobseekers and the employed persons. The vocational training programs are organized by the county agencies for employment (CAE), by own vocational training centers, regional adult training centers, and by vocational training providers, authorized according to the law.

Regarding the "equal treatment for nationals of other Parties", according to article. number 4 from Law no. 76/2002 on the Unemployment Insurance Fund and Employment Stimulation, with its further amendments and complements, for implementing the provisions of this law any discrimination regarding politics, race, nationality, ethnical origin, language, religion, social category, belief, gender and age is excluded.

By the amendments and complements of the Law no. 76/2002 on Unemployment Insurance Fund and employment stimulation, in April 2004 (Law no. 107/2004) it was envisaged the enlargement of the categories of persons who can benefit from financial support for vocational training.

From the Unemployment Insurance Fund it is financed the vocational training both for the jobseekers and for other categories envisaged by the law.

From free-of-charge vocational training benefit:

a. unemployed receiving unemployment benefits and unemployed not receiving unemployment benefit;
b. persons who have not been able to take-up employment after graduating from an educational institution or after completing the compulsory military service;
c. persons who have obtained a refugee status or other form of international protection, according to the law;

d. persons who have not been able to take-up employment following repatriation or release from prison;
e. persons in prison;
f. persons who started the activity after cessation the leave for child raising;
g. persons who started the activity after completing the military service period;
h. persons who started the activity after completing work capacity recovery after expiring the period of invalidity pension.
i. persons who work in rural areas.

Besides these categories of persons, from the Unemployment Insurance Fund there are also financed **50 % from the expenditures for the vocational training courses for a number of at most 20% of the companies' employees.** These vocational training programs are organized in order to prevent unemployment and the companies that benefit from this measure are selected according to the law.

As a result of the amendment of Law no. 76/2002, the beneficiaries of the free-of-charge vocational training also have the following rights: free-of-charge season ticket for public transportation or, by case, the refund for the transportation expenditures, for at most four travels during one month, if they cannot go everyday to the training unit, medical assistance, medical tests and tests required for the vocational training program; they also benefit from accommodation and an amount of money for covering meals according to the regulations in force for the employees of public institutions and particular autonomous companies.

Under the Phare Twinning Project RO02/IB/SO/03 / Support for MoLSSF for continuous vocational training, the Short and Medium term Strategy for continuous vocational training 2005-2010 was drafted, approved by Government Decision no. 875/2005.

The strategy has two main objectives:

- to increase the participation in vocational training and make easier the access for all categories of persons, from the perspective of life-long learning;
- to improve the quality and the efficiency of the continuous vocational training system by using the result-focused management.

In the framework of these objectives, the National Agency for Employment has responsibilities in actions as:

- annually increase, in the next 5 years, by 10 % of the amounts allocated for vocational training, from the Unemployment Insurance Fund;
- a more efficient use of public funds for vocational training;
- increasing the motivation to participate in vocational training;
- dissemination of "good practice" that the National Agency for Employment has;
- personalize the vocational training programs by recognizing the competencies previously acquired;
- improve the institutional communication and the partnership among institutions responsible with roles and attributions in continuous vocational training;
- draft a methodology for monitoring the vocational training system, based on indicators comparable with those from the European Union;
- draft instruments for assessing the training demand and supply;
- adjust the legal framework for drafting and implementing a new vocational training system;
- diversify the methods for providing information, counseling and guidance services;

- improve the vocational network of information, counseling and guidance for meeting the needs of the persons, using a wide range of methods, techniques and instruments with which these can access, analyze and interpret the information they receive. Improvement of information, counseling and guidance services quality;
- strengthening the administrative capacity of the National Agency for Employment.

The National Agency for Employment satisfied the needs of the vocational training market by developing a network of own vocational training centers and regional vocational training centers. Thus, in order to develop the network
k of regional vocational training centers, after 2004 it was decided to set-up other **8 own centers** (Arges, Braila, Buzau, Galati, Maramures, Sibiu, Alba, Mehedinti) and one regional (Brasov). The own vocational training centers of the agencies for employment as well as the regional adult training centers are opened mainly for the jobseekers but also for the employees and for interested natural persons.

Currently, The National Agency for Employment has in its subordination **6 regional centers** for adult vocational training (Brasov, Cluj, Craiova, Calarasi, Turnu Magurele, and Valcea) and **22 own vocational training centers i**n 21 counties. The centers under the subordination of the county agencies for employment and the regional vocational training centers have been authorized for trades/qualifications according to the requirements on the labor market.

As a conclusion:

A) Starting with **2002**, the participation of the persons who benefited from vocational training financed from the Unemployment Insurance Fund increased from 19,536 persons to **23,961 persons** in **2003** and in **2004**, **28,032 persons** participated in vocational training courses. In **2005,** the number of persons that benefited from vocational training financed from the Unemployment Insurance Fund was of **42,996,** and during the first 6 months of 2006 **23,517 persons** were covered in vocational training programs.

B) The payment for vocational training programs, organized for persons other than the unemployed, was made by the companies for their own staff and, by the natural persons who attended training or up-grading courses in view of changing or keeping their job.

2001

During 2001, 49.359 persons were trained, other than the unemployed (own staff of the employers or persons interested in changing their jobs), out of which **35,888 persons** graduated until the end of the year, the others graduated during 2002.

2002

At the end of 2002, the number of trained persons, other than the unemployed, was of **62,036**, as follows:

- 25,436 persons trained at their employers' request
- 36,600 persons at their request.

The number of the graduates among these persons was of 38,761, until the end of 2002, most of the trainees graduated during 2003.

2003

During 2003, **94,635 persons,** other than the unemployed participated to vocational training programs, as follows:

- 29,713 persons trained at their employers' request;
- 64,922 persons at their request.

The number of the graduates among these persons was of 48,075, until the end of 2003, most of the trainees graduated during 2004.

2004

The completion of the legal framework for adult vocational training, in 2003, created the premises for beginning the authorization process of the vocational training providers in January 2004.

Starting with the authorization process of the vocational training providers, some of the vocational training providers who request methodological assistance services from the agencies for employment were authorized as training providers according to the new legislation and others requested the services of the vocational training centers in subordination of the agencies for employment or of the regional adult training centers.

The number of the persons who requested the services of the training centers and of regional centers in 2004 was of **1930 persons** as follows:

- 1010 persons trained at their employers' request
- 920 persons trained at their request.

The vocational training expenditures for these courses were paid as in the previous years by the employers for the employees and by the persons interested.

Article 2 – The right to just conditions of work

Paragraph 1 – Reasonable daily and weekly working hours

Regarding the request of the European Committee for Social Rights to clarify the differences between the concepts of "extra-hours" and "overtime", we specify that the Labor Code (LC)[1] defines the following terms: "working time", "the normal length of the working time", "the distribution of the working time", "the maximum length of the working time", "extra work".

- **"working time" – article 108 (LC)**:

The working time is the time an employee uses to carry out his/her tasks.

- **"the normal length of the working time" – article 109 (LC)**:

(1) For full-time employees, the normal length of the working time shall be of 8 hours per day and 40 hours per week.
(2) As far as young people under full legal age are involved, the length of the working time shall be of 6 hours per day and 30 hours per week.

- **"the distribution of the working time" – article 110 (LC)**:

(1) The distribution of the working time throughout the week shall, as a rule, be uniform, with 8 hours per day for 5 days, and with two days of rest.
(2) Depending on the typical features of the company or of the work performed, one can also choose an unequal distribution of the working time, provided the normal length of the working time of 40 hours per week is observed.

- **"the maximum length of the working time" – article 111 (LC)**:

(1) The maximum legal length of the working time shall not exceed 48 hours per week, including overtime work.
(2) As an exception, the length of the working time, which also includes overtime work, can be extended to over 48 hours per week, provided the average number of working hours, as calculated for a reference period of 3 subsequent months, does not exceed 48 hours per week.
(2^1) For certain fields of activity, enterprises or trades set out by the national collective employment agreement, reference periods of at least 3 months but no longer than 12 months can be negotiated within the branch-level collective agreement applicable.
(2^2) The length of the annual leave (holiday) and the cases of the individual employment contract suspension are not taken into account when establishing the reference periods according to the provisions of paragraphs (2) and (2^1).
(3) The provisions of paragraphs (1), (2) and (2^1) shall not apply to young people which reached the age of 18.

- **"extra work" – article 117 (LC)**:

(1) The work performed outside the normal length of the working week, as stipulated under article 109, shall be considered extra work.
(2) The extra work cannot be performed without the employee's consent, except for a case of absolute necessity or urgent works meant to prevent accidents or remove the consequences of an accident.

[1] Law no. 53/24 January 2003 – The Labor Code, amended and updated

- **article 118 (LC):**

(1) At the employer's request, the employees can perform extra work, provided the provisions of article 111 or 112, by case, are observed.

(2) Performance of extra work above the limit set according to the provisions of art.111 or 112, by case, is prohibited, with the exception of the case of "force majeure" or for other urgent projects aimed to prevent accidents or throw the consequences of an accident.

- and article 119 (LC):

(1) The extra work shall be compensated for with time off paid in the next 30 days after the work has been performed.
(2) Under these terms, an employee shall benefit from the adequate wages for the hours performed over and above the normal work schedule.

The 2005 – 2006 national collective employment agreement sets out, in Article 14, that "working hours exceeding the normal length of the working time, at the employer's request, are extra-hours".

As a consequence, there is no difference between the concepts of "extra-hours" and "overtime".

We mention that the working time is also regulated by special laws for certain fields of activity or professions. For instance, Order no. 870/01.07.2004[2] regarding the organization and execution of permanence hours in public medical organizations sets out that the daily working time is 7 hours for some of the medical staff.

Also, the Law no. 128/1997[3] sets out a different working time, taking into account the teaching load (pre-university and university).

Also, the specific framework for regulating the limits regarding the extra-hours, as well as other provisions concerning the working time are included in the collective employment agreements. For instance, by collective negotiations carried out according to the provisions of the Labor Code, Article 111 (2^1), the Additional Paper to the 2005 – 2006 National Collective Employment Agreement, established in Annex 6 that the following fields of activity will have a reference period for calculating the average of 48 hours per week of at least 3 months, but no longer than 12 months:

a) Agriculture, fish farms and fishing
b) Forestry, Hunting Economy, Water and Environment Industry
c) Manufacture of food products, beverages and tobacco
d) Manufacture of wood and wood products
e) Constructions
f) Commerce
g) Tourism, hotels and restaurants
h) Transport
i) Construction materials and cements
j) Electricity, steam and hot water supply, oil and gases: oil and gases sector
k) Chemistry and petrochemistry: chemical fertilizers.

[2] Order no. 870/01.07.2004 for the approval of the Regulation regarding the working time
[3] Law no. 128/1997 regarding the status of the educational staff, amended and updated

Thus, the regulating of the working time must be regarded as a set of provisions included in the applicable laws, namely the Labor Code and the collective employment agreements, as well as the pieces of legislation (laws, ordinances, Government decisions) that may refer to general or specific situations.

Regarding the request of the European Committee for Social Rights, we specify that the working hours performed within separate weeks shall not exceed 60 hours, even if the average of 40 hours a month is observed, as the daily length of 12 hour working time shall be followed by a period of 24 hour rest (Labor Code, Article 112 paragraph 2).

In response to the Committee's request, we specify that, according to the 2005 – 2006 National Collective Employment Agreement, Article 18, the time necessary for putting on – taking out the equipment at the beginning and at the end of the working schedule is not included in the normal length of the working time. However, the time necessary for organizing the work and the objects needed at work may be considered as working time.

Considering the control activities on the observance of the legal provisions that regulate the working time, we mention that by GEO (Emergency Government's Ordinance) no. 65/2005[4], the Labor Code was amended and updated with the establishing of infringement sanctions for breaching legal provisions relating to: extra work, weekly rest, night work. Starting the 5 August 2005, when GEO 65/2005 became effective, the Labor Inspection sanctioned 98 employers all over the country for non-observing the regime concerning extra work and applied fines to a total amount of 151 400 RON. During January – June 2006, 160 employers were sanctioned and contravention fines to an amount of 267. 100 RON were applied.

Paragraph 2 – Public holidays with pay

As for the legal holidays on which no work is performed, we mention that they are provided by the Labor Code, Article 134. The Labor Code became effective in March 2003 and repealed Law no. 75/1996[5].

According to art.134 para.1 from Law 53/2003, Labor Code with its modifications and completions, the legal holidays on which no work is performed shall be:

- the 1st and 2nd of January;
- the first and second Easter days;
- the 1st of May;
- the 1st of December;
- the first and second Christmas days;
- two days for each of the two annual religious holidays, declared as such by the legal religions other than Christian, for persons belonging to such religions.

According article 135 from the same through the Government decision shall establish the adequate work schedules for health and catering institutions, with a view to providing medical care and supplying people with the essential food stuffs; the implementation of such schedules shall be mandatory.

According to article no. 136 from Law no.53/2003, Labor Code is regulated that the provisions of Article 134 shall not apply at work places where activity cannot be interrupted due to the nature of the operating process or to the type of activity.

[4] Emergency Government's Ordinance no. 65/29 June 2005 of amending and updating Law no. 53/2003 – the Labour Code

[5] Law no.75/1996 concerning the legal holidays on which no work is performed

The Labor Code provides in the art.137 para.1, that for the employees who are performing their work in the work places where the activity can not be interrupted due to the nature of the operating process or to the type of activity, shall be granted time off in lieu during the next 30 days (no mention is made in relation to the trade union consultation).

According to art.137 para.(2) from the same normative act, in case that, (if**) for justified reasons,** no days off are granted, the employees shall benefit, for the work performed on legal holidays, from a rise in the basic wages which cannot be less than 100% of the basic wages corresponding to the work performed during the normal work schedule.

The law refers to justified reasons and not of the justified situations. Law does not define the notion of justified reason, this interpretation being for the instance estimation.

Paragraph 4 - Reduced working hours or additional holidays for workers in dangerous or unhealthy occupations

For the workplaces where risks could not be eliminated or sufficiently reduced, the legislation in force includes a set of provisions in order to reduce the exposure by diminishing the length of working time, by granting additional annual leaves, wage rises, protection food, and personal protective equipment free of charge, hygienic and sanitary equipment and by reducing the retiring age.

All these facilities granted to the employees are stipulated by the collective agreement at branch-level, group of enterprises, enterprises and institutions.

The employees who work under difficult, dangerous or harmful conditions benefit from a working schedule of less than 8 hours a day, set through negotiations between employers and trade unions or, if need be, employees' representatives.

Order no. 245/2003 of MoHF[6] approves the categories of personnel and workplaces for which daily working time is less than 8 hours in the medical sector.

According to the Labor Code, Article 142, the employees who work under difficult, dangerous, or harmful conditions, blind persons, other disabled people, and young people, who are not 18 years of age shall benefit from an additional holiday of at least 3 working days.

According to Law no. 19/2000[7], insured persons who have paid insurances, while being employed in workplaces with special or particular working conditions, are benefiting from diminishing of the standard retiring age.

By the Government's Decision no. 261/2001[8] the enterprises which, for various reasons, failed in normalizing their working conditions, are obliged to draw up their own normalizing programmes so that up to 2007, they provide their employees a healthy working environment.

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[6] Order no. 245/2003 of the Ministry of Health and Family regarding the approval of the categories of personnel and of the workplaces for which the daily working time is shorter than 8 hours

[7] Law no. 19/2000 concerning the public system of pensions ant other social insurance rights, amended and updated

[8] The Government's Decision no. 261/2001 concerning the criteria and classification methodology of the workplaces with particular working conditions, amended and updated

At the end of 2003, 1 595 enterprises, with a total number of 730 404 employees, had 263 975 employees hired in workplaces with particular working conditions.

The efficiency of the measures ordered by the normalizing programmes of the enterprises led to the normalization of the working conditions for very many workplaces classified as particular working condition workplaces.

Thus on 1 July 2006, only 881 enterprises with 432 866 employees still had 5 681 particular working condition workplaces with 162 797 employees.

Paragraph 5 – Weekly rest period

According to art.132 para.1 from Law no.53/2003-Labour Code, with modifications, the weekly rest is granted over two consecutive days, usually on Saturday and Sunday.

According to para 2 of the same paragraph, in case that in the rest on Saturday and Sunday would be detrimental to the public interest or the normal evolution of the activity, the weekly rest can also be granted on other days laid down in the applicable collective labor contract or the company's rules and regulations.

According to paragraph 3, for the purpose of paragraph (2), the employees shall benefit from a wage benefit laid down in the collective labor contract or, as the case may be, the individual labor contract.

As far as the weekly rest period is concerned, the Labor Code, Article 132 paragraph 4, stipulates that in exceptional circumstances, the weekly rest days are granted on a cumulative basis, after a period of continuous activity which shall not exceed 15 calendar days, with the authorization of the territorial labor inspectorate ant the consent of the trade union or, as the case may be, of the employees' representatives. When certifying the granting of the weekly rest on a cumulative basis, upon the employer's request, the Territorial Labor Inspectorate must take into account the following criteria:

1) the working activity has to be a continuous one;
2) the working activity must not be longer than 15 calendar days;
3) such circumstances must be an exception and not a rule of the employer's;
4) after 15 calendar days of continuous activity, the weekly rest has to be of 4 days;
5) the trade union or the employees' representatives must agree with this matter.

According to art.133 para.1 from the same normative act, in the event of urgent works, the immediate performance of which is necessary for the organization of rescue measures for persons or salvage of goods of the employer, for preventing imminent accidents or for removing the effects of such accidents over the company's materials, equipment or buildings, the weekly rest can be suspended for the personnel required to perform such works.

The employees whose weekly rest has been suspended under the terms of paragraph (1) shall be entitled to the double of the compensation due according to Article 120 (2).

Article 119

(1) The extra work shall be compensated for with time off paid in the next 30 days after the work has been performed.
(2) Under these terms, an employee shall benefit from the adequate wages for the hours performed beyond the normal work schedule.

Article 120

(1) If the compensation with paid time off is not possible within the time limit stipulated under Article 119 (1) during the next month, the extra work shall be paid to the employee by adding a supplementary wage corresponding to the duration of the work performed.

(2) The supplementary wage for extra work, granted under the terms stipulated by paragraph (1), shall be established by negotiation, within the collective labor contract or, as the case may be, the individual labor contract, and shall not be lower than 75% of the basic wages.

As for the control activities concerning the observance of the legal provisions that regulates weekly rest, we mention that GEO no. 65/2005 amended and updated the Labor Code by establishing infringement sanctions for the violation of legal provisions regarding weekly rest. Starting 5 August 2005, when GEO no. 65/2005 became effective, the Labor Inspection sanctioned 271 employers all over the country for the non-observance of the regulation on the weekly rest. During August 2005 – April 2006 labor inspectors applied contravention fines to a total amount of 427 900 RON.

Paragraph 6 – Information on employment contract

In the annex 2 hereto presents in its entirety the template for the individual employment contract, approved by Order no. 64/2003[9].

Paragraph 7 – Night work

As far as the night shift is concerned, the National Collective Labor Agreement and the Labor Code stipulates that employees who are to perform at least 3 hours of night work shall benefit either from a work schedule an hour shorter than the normal length of the working day, without this leading to a decrease in the basic wages, or a supplementary wage of at least 15% of the basic wages of each night work hour performed. The employees who are to perform at least 3 hours of night work shall be subject to a free medical examination before starting activity and afterwards, periodically. The employees who perform night work and have acknowledged work related health problems shall be transferred to a day work they are fit for.

Young people who have not turned 18 years of age shall not perform night work, and pregnant women, women after childbirth, or nursing women shall not be obliged to perform night work.

[9] Order no. 64/28 February 2003 on the approval of the framework template of the individual employment contract

Article 3 – Right to safety and healthy working conditions

Paragraph 1 –Issues of safety and health regulations

Romania's 2004-2007 Policy and Strategy in the field of safety and health at work was approved by joint Order no. 674/1140/10.12.2003 of the minister of Labor, Social Solidarity and Family and the Health minister, namely. This legal document is based on the 2002-2006 European Strategy in the field of safety and health at work, launched in Brussels, in 2002, by the European Commission.

The Policy has the main objectives:

1. The implementation up to 2006 of the community acquis in the field;
2. The development and consolidation of the institutions playing a role in implementing the legislative provisions on safety and heath at work;
3. The development of the activity preventing accidents at work and occupational diseases by developing a culture of preventing occupational risks and an efficacious mix-up of theory and practice;
4. The development and extending of the social dialogue structures with a view to involving to a higher extent of the social partners, at both decision making and implementation level.

The harmonization of the national legislation with the provisions of the EU directives, of the ILO conventions an recommendations and with the provisions of the European Social Charter – revised, allowed the inclusion of the general principles of preventing accidents at work and occupational diseases and of the minimum requirements of preventing the exposure to occupational risks (chemicals, carcinogens, asbestos, biological agents, noise, vibrations, manual handling of loads, etc).

According to din Law no. 90/1996[10], Article 18, and the General Norms of Labor Protection (GNLP)[11] Article 11 (b), the employer is obliged to ensure drafting of the risk assessment for the health and safety of employees in order to set prevention methods, including the selection of work equipment, of chemical substances and preparations used, of work place arrangement.

According to Law no. 90/1996, Article 18 (h), the employer has, in his turn, the duty to ensure the correct information of every person - before the employment contract intervene - with regard to the risks they are exposed at their workplaces and to the methods of preventing those risks as well.

Through its Policy and Strategy in the field of safety and health at work Romanian authorities aim at developing and consolidating the institutions playing a role in the implementation of the safety and health legislation, namely the Labor Inspection, the Directorate General for Insurances at Accidents at Work and Occupational Diseases, National Research and Development Institute in the Labor Protection Field, the public health institutes, directorates of public health, clinics for occupational diseases, private centers for monitoring the work environment and surveillance of the active population's health.

The Policy also aims at developing the prevention of accidents at work and occupational diseases by developing a culture of preventing occupational risks and an efficacious mix-up of theory and practice. With this aim in view, the authorities try to develop an efficient means of communication among all public institutions and organizations involved in the prevention of occupational risks.

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[10] Law no. 90/1996 of the labour protection, republished and amended

[11] General Norms of Labour Protection (GNLP), 2002

The Labor Inspection, as part of this means of communication, informs the workers upon the risks at the workplaces, as well as on preventive measures to be taken, by:

- Professional training courses, organized by the territorial labor inspectorates, for the persons assigned to safety and healthy at work in different enterprises;
- Specific advice, provided by the labor inspectors;
- Monthly, quarterly briefs on specific fields of activity regarding the new pieces of legislation in the field;
- **Media campaigns (TV, radio, newspapers);**
- **Round table discussions, seminars gathering together employers, employees and social partners;**
- **The organization of the European Week for Safety and Health at Work on topics established by the Bilbao European Agency;**
- Posting of pieces of information on the Labor Inspection site.

Regarding the Committee observations of the article 3 para.1, we mention that, according to the provisions of the art.63 para 1 from the Law no.346/2002 on insuring for the labor accidents and professional diseases, with its subsequent modifications and completions, the insurer, through the specialty personnel "that developing activities for preventing labor accidents and professional diseases" is:

a) Attending to establishing preventing programs at the national level, through identifying situations with major risks of labor accidents and professional diseases;
b) granting counseling regarding measures and prevention means for the labor accidents and professional diseases,
c) proposes effecting and financing of studies and analyses for the institutions of specialty research, in order to underline the priority measures for priority preventing at the national level,
d) granting technical assistance to the employers for issuing the prevention instructions,
g) advising prevention measure and controls their application,
i) establishing prevention programe on the basis on the concrete situation recognized at the labor places,
j) advising the employers regarding security and health in labor".

Starting with 1st October 2006 enforced the **Law of security and health in labor no.319/2006** that repealed Law of labor protection no.90/1996 and General Norms for Labor Protection.

The Law no.319/2006 was published in the O.G. no.646/26.07.2006 and transposes the Directive 89/391/CEE.

According to this law, were issued 19 Government Decisions through realized transposing all the specify directives from the field of health and safety at work enforce, realizing thus legislative reconstruction of the provisions for the General Norms for Labor Protection.

From these Government Decisions, a number of 17 were already published in the Official Gazette.

Their enforcement stage is presented in Anex 1.

The Law no.319/2006 provides at the art.45 that Ministry of Labor, Social Solidarity and Family is the competent authority in the field of safety and health at work and have as attributions issuing the national politics and strategy in the field of safety and health at work, in cooperation with Ministry of Public Health and by consulting with other institutions with attributions in this field.

The obligation of assessing the professional risks by the employers is provided at the art.7, thus:

"Article 7:

(1) In the framework of his responsibility, the employer has the obligation to take the necessary steps in order to:

a) insuring the safety and health protection of the employees,
b) prevention the professional risks,
c) informing and training the employees,
d) insure the organizatoric framework and of the necessary means for safety and health at work.

(2) The employer has the obligation to follow the adaptation of the measures provided at the para.1, taking into account the modification of the conditions, and for improvement of the present situations.
(3) The employer has the obligation to implement the measures provided at the para. (1) and (2) following the general principles for preventing (warning):
(a) Avoiding the risks;
(b) Assessing the risks that can not be avoided;
(c) Fighting the risk at source;
(d) Accommodation the labor for human being, especially regarding drafting the jobs, choosing the labor equipments, labor methods and production, in order to reduce the labor monotone, of the labor with predetermined rhythm and diminution these effects over the health;
(e) Accommodation the technical progress;
(f) Replacement of that is danger with that is not danger or with that is less danger,
(g) Developing one politics for coherent prevention that comprises technology, labor organization, labor conditions, social relations, and the influence of the factors from the labor environment,
(h) Adoption, with priority, of the measures of collective protection given the measures of individual protection,
(i) Granting the trainings appropriate to the employees.

(4) Without prejudice other provisions of the present law, taking into account de nature of the activities from enterprises and/or unity, the employer has the obligation :
a) to evaluate the risks for safety and health of the employees, inclusively, at the preference of the labor equipment, matter or chemical preparation used for and arrange the labor places,
b) that, after evaluation provided at lit.a), and if it is necessary, prevention measures, and also other working method and production applied by the employer in order to insure the improvement of the security level and protection the safety and health of the workers, and to be integrated in the activities of the enterprises and/or respective units and at all the hierarchic levels,
c) to take into consideration the workers capacities regarding safety and health at work, when they are in charge with this tasks,
d) to ensure that budget and introduction the new technology to make the object of the consultation with workers or their representations regarding the consequences over the safety and health for workers, caused by choose the equipment, conditions and labor environment,
e) to take the appropriate measures, for that, in the areas with raised and specify risk, the access is allow only for the workers that have received the adequate trainings.

(5) Without prejudice other legal provisions, when in the same workplace are developing their activity the workers from many enterprises/units, their employers have the following obligations:

a) to cooperate in order to implement provisions regarding security, health and hygiene in work, taking into consideration the nature of the activities;
b) to coordinate the actions in order to protect workers and prevention professional risks, taking into consideration the nature of activities;

c) to mutual inform about the professional risks.
d) to inform workers/and or their representatives about professional risks.

(6) Measures regarding safety, health and hygiene in work can not have any financial obligations for the workers."

The systems of certifying for equipments are instituted through the Law no.608/2001 regarding assessment of the products conformity, republished in the OG. No. 313/06.04.2006. This law establishes a number of 28 of products for that were issued technical regulations in order to avoid the conformity, called "regulated fields". These are the following:

REGULATION FIELDS **:

1. Equipments of law voltage
2. Containers under pressure
3. Toys
4. Products for construction
5. Electromagnetic compatibility
6. Industrial machines
7. Protection individual equipment
8. Balance machines with non-automatic function
9. Medical devices active implant
10. Ardent with gases combustible
11. Boiler for hot water
12. Blast used for civil purposes
13. Medicine devices
14. Environments with blast potential
15. Agreements crafts,
16. Elevators
17. Refrigerators equipments
18. Under pressure equipments
19. Medicine devices for diagnosis in vitro
20. Equipment for radio and telecommunications
21. Packing and refuses of packing
22. Transport installation on cable for persons
23. Operatively of the feroviar transport of great speed;
24. Maritime equipments;
25. Transportable equipments under pressure;
26. Noise in the environment generated by the equipment aimed to use]n the exterior of the building
27. Interoperability of system of feroviar trans european transport for great speed;
28. Means for measure.

**) The list contained the fields will be completed, by case, through the Government Decision.

Paragraph 2-Provisions for impose the regulations of safety and health through the surveillance measures

Explanation:

According to provisions of the article 5 let a) from the Law no.346/2002, are compulsory insured for labor accidents and professional diseases "the persons who are developing activities on the basis on the individual agreement, irrespective of its duration, and also civil servants", as a consequence inclusively the persons that are temporary employed.

According to provisions of article 5 let.c) are compulsory insured for the labor accidents and professional diseases "unemployed persons, on the duration of effecting professional practice in the framework of training courses organized according to the law.'

Also, apprentices, pupils and students are compulsory insured according to the provisions of article 5 let. d), and the householders, may be insured, in the terms of law, on the basis on an individual insured contract according to the provisions of art. 6 para.1 from the Law no.346/2002.

In Romania, according to the general norms of labor protection (GNLP) Annex no. 32:", the maximum admission level to the exposure to asbestos dust is 0, 3 fibre/cubic centimeters, corresponding to Directive 83/477/ EEC from 19 September 1983 of the Council regarding protection of workers against risks, related to asbestos exposure during their labor, thus was modified by the Directive 91/382/EEC from 25 June 1991.

Law nr.90/1996 of the labor protection and Methodological Norms for applying, General Norms for labor protection approved by the Joint Order no. 508/933/2002 comprise the necessary measures for preventing professional diseases due to the asbestos exposure.

In order to eliminate or reduce the risks in the asbestos activities are applied 2 categories of measures:

1. Techical-organizatorical (that are in the employers' scope);
2. Medicines taking as purpose prophylaxis of the professional diseases and promoting safety and health at the labor place (that are in the doctors from the labor medicine's competence).

The present legislation provides a unitarian framework both for the labor medicine specialists and to all those responsible for the prophylaxis of the professional diseases and constitutes a useful means for identifying the relations between risks factors from the labor environment and affecting the employees' health:

1. Law regarding public health assistance no.95/2006-Title I,
2. Law no.90/96 of the labor protection and Methodological Applying Norms, General Norms for Labor Protection approved by The Joint Order no.508/933/2002 comprises the necessary measures for preventing professional diseases caused by the asbestos exposure.
3. **Order of the Ministry of Health and Family no.803/12.11.2001 regarding the approval of the exposure indicators for approval the exposure indicators/and or relevant biologic effects for establishing the specify answer of the organism at the risk exposure for professional disease (published in the O. G. no.811/18 December 2001).**
4. Government Decision no.1875/12/2005 published in the O.G. Part I no.64 from 24 th of January 2006 regarding protecting health and security of the workers given the risks due to asbestos exposure.

According to legislation from Romania, each employer benefits, from the medicine examination at his/her employment, and annually, for the activities with professional exposure.

Each employer from the public, private and corporatist sectors is obliged to insure the surveillance health status of the all employees in relation with professionals' determinants for labor place through labor medicine services.

As for the regulations on asbestos, we mention that starting with 01.09.2006 enforced Government's Decision no. 1875/2005[12] fully transposing the provisions of Directive 83/477/CEE amended by Directive 91/382/CEE. This decision stipulates that starting 1 January 2007 the following activities by which workers are exposed to asbestos fibers are forbidden:

a) asbestos-mining activities;

b) Manufacturing and processing of asbestos-based products;

c) Manufacturing and processing of products containing asbestos that was deliberately added.

Activities of treating and removing products resulting from demolish and the elimination of asbestos is left out.

The General Norms of Labor Protection (GNLP) have been applied since November 2002. They contain provisions regarding the protection of asbestos exposed workers in its Title VI, chapter I, section 2. According to GNLP, Annex no. 32, the maximum admission level to the exposure to asbestos dust is 0, 3 fibre/cubic centimeters.

Starting 1 September 2006, employers must take measures so as no worker is exposed to an asbestos concentration in the air higher than 0,1 fiber/cubic centimeters, measured as compared to an average moderated in time on an 8 hour reference (according to Government's Decision no. 1875/2005).

During 2001 – 2004 the Labor Inspection developed awareness rising and control campaigns in order to reach to a reduced asbestos exposure of workers. The results of these campaigns are:

	2001	2002	2003	2004
No. of controlled employers (units)	400	359	391	409

The inspection and awareness raising activities the labor inspectors carried out determined the employers to apply technical and organizational measures by which they reached to:

- a diminishing in the concentrations of asbestos dusts in the working environment;
- an introduction in the production process of non-asbestos materials and the use of materials replacing asbestos;
- a decrease of the number of asbestos dusts exposed workers.

[12] The Government's Decision no. 1875/2005 concerning the protection of the workers' health and safety to the risks due to the exposure to asbestos

As far as ionizing radiations are concerned, according to Law no. 90/1996, Article 5(4), the National Committee for the Control of Nuclear Activities draws up standards specific to the nuclear activities and controls the application of these standards.

According to the General Norms of Labor Protection, Article 11 (r), the employer has the obligation to take the necessary measures to inform the labor protection department regarding the employees that have a determined or temporary work relation, in order to include them in the activity program for health and safety at work.

The Law no. 90/1996, Article 18 (h) stipulates the employer has the duty to ensure proper information of every person - before the employment contract intervene - with regard to the risks they are exposed at their workplaces and to the methods of preventing those risks as well.

Moreover, Law no. 90/1996, Article 18 (k) and GNLP, Articles 48-65, stipulate as mandatory the medical examination prior to employment, periodical medical exam and medical exam at restart of activity, irrespective of the type of employment.

The Labor Inspection also checked, by its control campaigns organized during 2001 – 2004, on the way the employers monitor the health of the employees and the way they receive necessary information on the risks they are exposed to at workplace, no matter the type of employment.

Thus labor inspectors controlled 5 869 enterprises in 2001, 11 108 enterprises in 2002 and 17 356 in 2003.

Conforming of these provisions of the article 3, paragraph 2, of the ESCR, that ads the parties obligation of consulting with employers and employees organization, is insured by the General Norms for labor protection, approved by Joint Order of the Ministry of Labor, Social Solidarity and Ministry of Health and Family no.508/933 from November 2002. Thus, art.11 let.s) of the Chapter I-Employers obligations regarding security and health at work provides that employers have the obligations "to be insured that the employees/their representatives are consulted in the matters regarding measures and consequences regarding safety and health in labor at the introduction of new technology, choosing technical equipment, improving the conditions and environment of labor, at designation the persons with specific attributions or at the employment, when is appropriate, of the specialized institutions or legal entities and physical entitled to supply services in the labor protection field, at designation the persons with attribution regarding the first help, prevention and fire extinction, employees evacuation, and also the way for developing the activity of prevention and protection against professional risks, inclusive of that for training in the field".

We must mention that legislation was updated, the norms approved by the Order no.508/933 from 2002 ceased its availability in November 2006 when enforce the provisions of the new Law regarding health and security at work, no.319/2006.

Law no.319/2006 provides at the art.47 the following:

"(1) Labor Inspection represents the competent authority regarding the control of legislation implement regarding the safety and health at work.
(2) The institution provided at the para.1 controls the way in which is applied the national legislation from the field of safety and health at work for the all physique persons and legal entities from the sectors provided at the article 3 para.1 excepting those provided at the article 50 para 1 and 2 and has, mainly, the following attributions:

a) controls realizing programs for prevention professional risks,

b) requires measurements and determinations, examines products and materials in units and in the outside, for clarifying some events or danger situation;
c) disposes the stopping activity or out of use the labor equipments, in case that is finding a grave and imminent danger of accidents and professional disease and notify, by case, criminal prosecution bodies,
d) examines events according the scopes, endorses the research, establishes or conforms the character of accidents;
e) co-ordinates, in collaboration with National Institute for Statistics and with other involved institutions, by case, reporting system and evidence of the labor accidents and incidents, and, in collaboration with Ministry of Public Health, reporting system of the professional diseases or related to profession;
f) analyzes the activity of the external services provided at the art.8 para.4 and suggests the withdrawal qualification, by case;
g) Reports to the Ministry of Labor, Social Solidarity and Family distinctive situations that needs improvement the regulation from the safety and health in labor domain;
h) Provides information to those who are interested in the most efficient means of observing legislation from the safety and health at work domain.

Labor Inspection activity is also regulated by the Law no. 108/1999.

Paragraph 3 – Consultation with employers' and workers' organizations regarding safety and health

As far as accidents at work are concerned, we mention that the notification procedure for the accidents at work is presented in the Methodological Norms of application to Law no. 90/1996.

Has such an event occurred, the employer must at once inform about it the Territorial Labor Inspectorate and the National House of Pensions and other social insurance rights (Rom. C.N.P.A.S.) - Directorate General for Insurances at Accidents at Work and Occupational Diseases.

The events occurred are investigated by:

- the legal person at whose premises the event occurred, when the accident at work had as a result a temporary work incapacity;
- the Territorial Labor Inspectorate, when lethal accidents at work occur, when workers are missing, when accidents at work generate invalidity, for the collective accidents at work as well as when dangerous incidents occur;
- The Labor Inspection, in case of collective accidents at work and dangerous incidents involving a high complexity.

The registration of an accident at work is made on the grounds of the official report of investigation by the legal or the natural person where the accident occurred.

The employer draws up statistics of the accidents at work on the basis of the templates published, through Law no. 90/1996, by the territorial labor inspectorates, in the register of accidents at work, and by C.N.P.A.S.

Also, the Labor Inspection draws up a quarterly, half-yearly and a yearly statistics on account of the information received from the territorial labor inspectorates and publishes it on its web page.

Regarding the labor inspectors' investigation-related attributions, according to Law no. 90/1996, Article 22, (b), (c), (d), and (e), labor inspectors are authorized to:

- have free access, any time and without prior notice, in the head offices of the legal persons and in any other workplace established by the legal persons concerned;
- request information, from any person participating in the work process with regard to the activity in the labor protection area;
- request from management of the legal person and from the natural person the necessary documents and information so as to be able to carry out the control or to investigate the accidents at work;
- perform or request measurements and determinations for the clarification of some dangerous situations and collect samples of products and materials and to have them tested outside the company whenever the situation imposes such actions.

As far as its administrative capacity is concerned, we mention that on the 30 April 2006, the Labor Inspection had an effective of 1 442 labor inspectors. Out of this total, 542 were in charge of controlling the implementation of the occupational safety and health legislation, and 900 were assigned to control the implementation of the legislation in the field of the labor relations and the work recording. The personnel structure is as follows:

in the field of safety and health at work:

- 38 labor inspectors at central level;
- 504 labor inspectors within the 42 territorial labor inspectorates.

In the labor relations field:

- 25 labor inspectors at central level;
- 875 labor inspectors within the 42 territorial labor inspectorates.

During 2001-2004, the number of the controlled enterprises at national level is:

-	**2001**	**2002**	**2003**	**2004**
No. of controlled employers	**62 149**	**76 180**	**53 478**	**68 777**

In order to determine the employer to correct the non-conformities detected during the control or while investigating accidents at work and occupational diseases, labor inspectors dispose of the necessary judicial means of action settled by Law no.108/1999[13] and Ordinance no. 2/2001[14].

These coercive judicial measures are differently applied, depending on the non-conformity detected and, according to circumstances, they are:

1) disposing measures *(prescribed in the control official report)* with a view to bringing into conformity, with precise achieving and reporting deadlines;

2) applying infringement sanctions *(prescribed in the official report of ascertaining and sanctioning infringements)*, according to legal provisions; depending on the situation, i.e. taking into account the level of the social danger of the deed committed, these infringements can be: warning or infringement fine.

Beside these, according to the nature and the gravity of the deed, the labor inspector can apply one or more of the ***complementary infringement sanctions***, such as:

- the cancellation of the issued authorization: for functioning, from the labor protection point of view; for manufacturing, processing, holding, transporting, trading and using explosives; for storing explosives; for holding and using toxic products and substances;
- the withdrawal of the approval: regarding the legality of the registrations in the work books, made by the employers who are authorized to do that; for classifying the particular working conditions workplaces; for holding, storing and using phyto-sanitary substances;
- the immediate interruption or suspension of the work processes whenever the labor inspector ascertains an imminent danger of accident or occupational disease for the workers participating in the work process or for other persons.

3) referring to the cases of breaches stipulated by the law as being infractions to the relevant judicial authorities;

4) Asking for the radiation of the legal person concerned from the Commerce Register, in case the employer repeatedly committed serious breaches to the provisions of the labor legislation or from the standards of safety and health at work.

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[13] Law no. 108/1999 on the set-up and organization of the Labour Inspection, republished.

[14] Ordinance no. 2/2001 regarding the judicial system of contraventions, subsequently amended and updated

The employer can lodge a complaint against the labor inspector's official report of ascertaining and sanctioning the infringement and the application of the sanction, within 15 days after having received or having been informed on it, in this case the execution of the sanction being suspended.

The complaint, together with the copy of the **Error! Hyperlink reference not valid.**official report of ascertaining the infringement and the application of the sanction, is lodged with the territorial labor inspectorate where the labor inspector who applied the sanction works. The institution has the obligation to receive it and to hand back to the complainer evidence in that respect. **Error! Hyperlink reference not valid.**The complaint, together with the case file, is to be sent at once to the court in the circumscription of which the infringement was committed.

As regards the initial educational background and the vocational life-long learning of the labor inspectors in the field of safety ant health at work, according to the Government's Decision no. 767/1999[15,] the function of labor inspector is available to persons with technical, juridical, economic, psycho-sociological and labor medicine high qualification.

As far as the life-long vocational training is concerned, since 2002, all the labor inspectors have been included in a Life-long Vocational Training Program at the Professional Training and Vocational Life-long Learning Centre of the Labor Inspection in Botoşani. Also, during 2004-2005, labor inspectors benefited of training sessions in order to get a European Computer Driving License.

The Labor Inspection applied, during 2001-2004, infringement sanctions for the breaching of the norms of safety and health at work, as follows:

	2001	**2002**	**2003**	**2004**
Number of applied sanctions	7 817	4 993	7 600	8 883
Amount of the applied sanctions	5 276 300 RON	4 633 700 RON	7 407 000 RON	7 625 200 RON

The management of the insure activity for labor accidents and professional diseases is insured by the NHPOSIB and by a tripartite council (art.73 from Law no.346/2002). The tripartite council is constituted from the representatives of the Government, employees and employer's representatives (art.76 para.1 from the Law no.346/2002). Also at the level of territorial houses for pensions, for the activity of insurance for labor accidents and professional diseases are constituted consulting tripartite councils (art.80 para.1 from the Law no.346/2002).

The Romanian law prohibits using the asbestos starting with 1st January 2007, and the Directive regarding asbestos was transposed, as results from the information from the point 1 from the Annexes, being enforce starting with 1st September 2006.

Employees' radiological protection in Romania is regulated by a series of normative acts issues according to the Law no.111/1996 regarding developing in safety, regulation, license, and the control of nuclear activities that establishes that the competent authority in the field is the National Commission for Nuclear Activities Control (CNCAN). This institution is in responsible of the European directives transpose that regulates the field of ionizing radiations, inclusively the radiological protection of employees.

[15] The Government's Decision no. 767/1999 concerning the approval of the Regulation for the organization and functioning of the Labour Inspection

The temporarily employed workers are benefiting from equal benefits with the employees employed on an indeterminate period, because in the Labor Code was transposed a part from Directive 91/383/CEE and also, in the General Norms for Labor Protection. Until the date of repeal the General Norms for Labor Protection, the provisions regarding this matter will be included in a Government Decision.

The personal scope of regulations (scope of regulations):

The new frame-law on the safety and health at work, Law no.319/2006 completes a great parte from these lacks, thus:
-inserts the term of "worker" instead of that of "employee" or "employed person" because includes all those that performing a legal activity, irrespective of having or not a labor contract.

"Article 5-According to the present law, terms and expressions below have the following meaning:
a) worker-person employed by an employer, according to the law, inclusively students, pupils in the period of trainings, and also apprentices and other participants at the labor process, excepting the persons who are performing housework;
b) Employer-a person or a legal entity that is in the labor reports or work relation with the respective worker that has the responsibility of the enterprises/and or units;
c) Other participants at the labor process – persons in the enterprises/units, with the employer permission in the period of probation of the professional skills in order to employ persons which performing activities for community or volunteer activities, and also unemployed persons when participating at a training form and persons who not have individual labor contract concluded in written form, and for that can make the proof of the contractual provisions and of the benefits effected through any means of proof";

Article 4- The right to a fair remuneration

Paragraph 1 – Adequate remuneration

1. According to the requests of the European Committee for Social Rights regarding supplying the information regarding proportion of the employees covered through the labor collective agreement by the salary, we specify the following :

According to the Quarterly Gazette in the Field of Labor, Social Solidarity and Family no.1 (53)/2006, realized by the Directorate for Strategy and Synthesis from the Ministry of Labor, Social Solidarity and Family, the proportion of workers covered through labor collective agreements by the salary is thus:

Number of units with over 21 employees registered at the labor directorates, social solidarity and family, <u>in 2005 year</u>				
Total	**From which, upon property forms:**			
	Stat	Mixed	Private	Other forms
24207	3305	1243	19226	433

Number of collective agreements and additional acts concluded at the unity level, in 2005 year										
Total	From which:		From the total, on the property forms:							
	Collective agreements (*)	Additional acts (**)	State		Mixed		Private		Other forms	
			(*)	(**)	(*)	(**)	(*)	(**)	(*)	(**)
10936	6903	4033	719	579	78	73	6051	3349	55	32

(*) = collective contracts

(**) = additional acts

Following this, the covering by the labor collective agreements in the 2005 year was 45,2%.

2. Regarding the European Committee for Social Rights question regarding the measures which the Government intend to take in order to raise the minimum salary at a level that can be considered equitable finds in the framework of observations and cases of non-conformity underlined by this Committee regarding the second national report, at the art.4, para.1, we mention :

In the present, Ministry of Labor, Social Solidarity and Family together with social dialogue partner's representatives at the national level and other ministries issued a draft-law through is proposing elimination connections between the level of some rights and obligations and the level of the minimum gross income for the economy, provided in the normative acts enforced.

According to the Government Programme 2005-2008, the **minimum gross income for the economy** will raise in the period 2005-2008 by 60% given its level from the end of 2004 year.

Thus, ***the minimum gross salary for the economy guaranteed in payment in*** the period 2005-2008 will follow at least the dynamic of raising the gross average salary on the economy, thus, in 2008 year, this will reach a growth about 60% given December 2004, according to the Government Programme 2005-2008.

For 2005 year, the minimum gross salary for the economy guaranteed in payment was established at the value of 310 RON monthly, bigger with 10,7 % given that established for the 2004 year, in value of 280 RON monthly.

For **2006 year,** the minimum gross salary for the economy guaranteed in payment was established at the value of 330 RON monthly, bigger than 6,5 given that established **for 2005 year**, in the value of 310 RON monthly.

The difference till reach **the growth of about 60% given the value of the minimum gross salary for de economy guaranteed in payment registered in December 2004,** this growth was provided in the Government Programme 2005-2008, is to be granted **during the period 2007-2008.**

Paragraph 2 – Increased rate of remuneration for overtime work

Regarding the aspects related to granting free time in compensation, we mention:

For the civil servants

According to art. 13 from the Government Ordinance no.2/2006 regarding regulation the salary rights and other rights of the civil servants for 2006, extra working hours performed by the civil servants appointed in the public position of execution, management or from the category of high public servants will be paid with an increase from the base salary, namely, 75% from the base salary for the first 2 hours of outstaying the normal working day and 100% from the base salary for the next hours. With an increase by 100% are also paid the hours performing in weekly rest period or in another day in which, according to the rules enforced, is not working.

The work performs according those above mentioned, may be compensate with free time correspondingly, at the public servants' request, in conditions in that the hours weren't paid.

Extra work can be performed and the increases abovementioned may pay only if the effecting extra hours were disposed by the hierarchic chef, without exceed 360 hours annually.

For the contractual personnel from the budgetary sector

According art.18 from the Government Ordinance no.3/2006 regarding salaries increases that will grant in 2006 year for the contractual personnel from the budgetary sector, the work perform over de normal working time by the contractual personnel from execution or management positions is considered supplementary work (extra work) and is compensated with free time correspondingly.

In case that compensation the supplementary work with free time correspondingly was not possible in the next 30 days after its performing, the supplementary hours will pay, in the next month, with an increase applied at the base salary, namely 75% from the base salary for the first 2 hours of exceeding the duration normal working days and 100% from the base salary for the next hours and for hours worked in the weekly days rest or in others day in which, according to the regulates enforced, is not working.

The work over the normal working time can be performed and the increases abovementioned may pay only if the performing supplementary hours were disposed by the hierarchic chief, without exceed 360 hours annually.
At the work places for that the normal working time was reduced, according to law, under 8 daily hors, staying over the working programme thus approved can make only temporarily, in special situation, being compulsory compensation with free time.

In the competition system

- According to art.14 from the **Collective Agreements at the national level for 2005-2006 years**, concluded according to art.10 and 11 from Law no.130/1996, republished, registered at the Ministry of Labor, Social Solidarity and Family, no.20.01/31.01.2005, the hours performing at the employees' request extra the normal working day established in the unit are supplementary hours.

The normal working day in a unit establishes observing the provisions regarding working time from the Law no.53/2003-Labour Code.

According to the same article, the employees can be invited to perform supplementary hours only with their consent.

In order to prevent or throw the effects of some natural calamities, of some accidents or other cases of force majeure, employees have the obligation to perform the supplementary work required by the employer.

Article 15 from the same normative act provides that the supplementary work is compensated by free hours paid in the next 30 days, after performing this and in these conditions the employee is benefiting from the salary correspondingly for the hours performing over the normal working day programme.

According to the Law no.53/2003 – Labor Code the work performed over the normal working weekly time, of 40 hours, is considered supplementary work.

The supplementary work can not be affected without the employee's agreement, excepting the case of force majeure or for emergency works aimed to prevent performing some accidents or clear the consequences of an accident.

According to article 119 from this law, the extra work shall be compensated for with time off paid in the next 30 days after the work has been performed. Under these terms, an employee shall benefit from the adequate wages for the hours performed beyond the normal work schedule.

At the art.120 from the same law **if the compensation with paid time off is not possible within the time limit stipulated under Article 119 (1) during the next month, the extra work shall be paid to the employee by adding a supplementary wage corresponding to the duration of the work performed. The supplementary wage for extra work, granted under the terms stipulated by paragraph (1), shall be established by negotiation, within the collective labor contract or, as the case may be, the individual labor contract, and shall not be lower than 75% of the basic wages.**

According provisions of the Labor Code, teenagers under 18 years of age shall not perform extra work, and the length of the working time shall be of 6 hours per day and 30 hours per week.

Paragraph 3 – Non-discrimination between men and women workers with respect to remuneration

According to art.6 para.2 from the Law no.53/2003-Labour Code, to all employees who are performing an activity (work) shall have recognized their right to equal payment for equal work, their right to collective negotiations, their right to personal data protection, as well as their right to protection from unlawful dismissals.

The principle „equal pay for work of equal value" was an integral part of Law no.202/2002 regarding equal opportunities between women and men published in the Official Gazette no.301 on the 8th of May 2002.Thus, Chapter 2 of the Law, Equal opportunities between women and men in the labor field", regulates:

Article 6 (1) through equal opportunities and treatment between women and men in labor relations it is understood the non-discriminatory access to:

a) the choice or free exercise of a profession or activity;
b) employment in any position or job vacancy and at all levels of the professional hierarchy;
c) **Equal pay for work of equal value;**

d) Information and vocational counseling, initiation, qualification, improvement, specialization and professional recon version programs;
e) Promotion at any hierarchical and professional level;
f) Working conditions that observe the occupational safety and health provisions, according to the applicable law;
g) Benefits, other than salaries, as well as social security.

(2) In accordance with paragraph 1, all workers, including self-employed persons and those who are working in the agriculture sector, are benefing from equal opportunities and treatment between women and men in the field of agriculture.

Article 7(1) Employers have the obligation to ensure equal opportunities and treatment of employees, women and men, within labor relations of any kind, inclusively by introduction provisions in the regulations of organization and operation and in internal order of companies, which forbid the discrimination.
(2) Employers have the obligation to regularly inform employees, including by posters in visible places, on their rights to the observance of equal opportunities and treatment between women and men in the labor relations.

ART. 8

(1) It is forbidden the discrimination by the use through employers of practices that disfavor persons of a certain gender, in respect of the labor relations, relating to:
a) advertising, organizing, contests of exams and selection of candidates to occupy the vacancies in the public and private sector;
b) termination, suspension, modification and/or ceasing of the legal labor relation or service;
c) setting up or modification of attributions in the job description;
d) determining remunerations,
e) benefits, other than salary-related, as well as social security,
f) information and vocational counseling, initiation, qualification, improvement, specialization and reconversion programs,
g) assessment of individual professional performances;
h) professional promotion,
i) application of disciplinary measures;
j) the right to join a union or to access the facilities afforded it,
k) other conditions of work performance, in terms of law.

(2) The provisions of paragraph 1 letter a) shall not apply to workplaces where, duet o particularities of those respective professional activities or to the special working conditions, gender particularities are decisive.

ART.9 (1) Maternity can not be a reason for discrimination.
(2) It is forbidden to request a candidate to take a pregnancy test with a view to her employment.
(3) The provisions of paragraph (1) do not apply to workplaces forbidden to pregnant and/or nursing women, due to the nature or special working conditions.

Article 10- (1) The sexual harassment of a person by another at the workplace or at the place where an activity is carried out is considered gender-based discrimination.

(2) It is considered gender-based discrimination any behavior defined as sexual harassment, intended:
a) to create at the workplace an intimidating, hostile or discouraging environment for the affected person,
b) to negatively influence the situation of an employee as regards the vocational promotion, remuneration or revenues of any nature or the access to vocational training or retraining, in the case of his/her refusal to accept an undesired, sexually related to behavior.

Art.11

In order to prevent and eliminate all behaviors defined as gender-based discrimination, employers have the following obligations:

a) to include disciplinary sanctions in internal regulations, in the conditions of the law, for employees infringing the personal dignity of other employees, by creating degrading, intimidating, hostile, humiliating or offensive environments by committing the discriminatory actions defined in art.4 letters a) to c) and in art.10;

b) to ensure notification of all employees on the prohibition of sexual harassment at the workplace, including by posting in visible places the internal regulations to prevent any act of gender-based discrimination;

c) to apply, immediately after receiving a complaint, any disciplinary sanctions against any manifestation of sexual harassment at the working place, according to letter a).

Art.12

It is consider discrimination and it is forbidden the unilateral modification by the employer of labor relations and working conditions, including the dismissal of the person who submitted a complaint at the company level, in accordance with the provisions of art.33, paragraph (2) to the qualified courts of law, with a view to apply this law and after the court decision remained definitive, excepting justified reasons, not related to the case.

Art.13

In order to prevent gender based discriminating actions in the field of labor, at the negotiation of the collective labor agreement at the national level, as well as the negotiation of the collective labor agreement at company level, the contracting parties will set up clauses prohibiting discrimination acts and, respectively clauses on the manner of solving the intimations/complains filed by person affected by such acts".

Also, art.26 provides that "Labor Inspection effecting the control of applying the provisions of the present law, according to art.24 let c), both in the public and private sector, through the labor territorial inspectorates".

As to the settlement of notifications, complaints regarding the gender based on discrimination, it is stipulated that:

"Art.33-(1) Employee is entitled, whenever they consider themselves to be discriminated based on gender, to file notifications or complaints to the employer or against it, if the latter is directly involved, and to request the support of the trade union or the employees' representatives in the company to settle their situation at the workplace.

(2) If such notification/complaint was not settled at the company level through mediation, the employee who submits factual elements that lead to the assumption of a direct or indirect gender-based discrimination in the field of labor, under this law, is entitled to file a complaint to the qualified court of law, namely to the departments specialized in labor conflict and litigation or to social insurance departments responsible for the are in which the employer or the perpetrator carries out their activity or, as the case may be, to contentious-administrative courts, but not later than a years as from the deed.

(3) In the complaint field in accordance with paragraph (2), the employee considering him/her to be discriminated based on gender is entitled to request material and/or moral compensations and/or the removal of the consequences of discriminatory acts from the perpetrator.

Art.34

(1) The person who submits factual elements that lead to the assumption of a direct or indirect gender-based discrimination in other fields than the labor is entitled to file a complaint to the qualified court of law, in accordance with the law.

(2) In the complaint field in accordance with paragraph (1), the employee considering him/her to be discriminated based on gender is entitled to request material and/or moral compensations and/or the removal of the consequences of discriminatory acts from the perpetrator.

Art.35

While enforcing this law, the qualified court of law can order ex officio that the responsible persons cease the discriminatory situation within an established term.

Art.36

(1) The court of law can order the guilty party to pay compensations to the person who considers him/herself to be discriminated based on gender and who claim its requests before a court of law in an amount reflecting accordingly the prejudice suffered.

(2) The amount of the damages will be set up by the court according to the common law.

Article 37

(1) The employer reintegrating in the company or at the workplace a person, on the basis of a definitive court decision, in accordance with the provisions of this law is obliged to pay the remuneration lost due the unilateral modification of the labor conditions or labor relations, as well as all contributions to the state budget and to the state social insurance budget due by employer and employee.

(2) If the reintegration in the company or at the workplace is not possible for the person for which the court decided that the labor conditions or labor relations were unilateral modified, the employer shall pay to the employee damages equal to the real prejudice suffered by the employee.

(3) The amount of the damages will be set by the court according to the law.

Art.38

(1) The complaints of submitted to the qualified courts by persons who consider themselves to be discriminated base don gender are exempted from stamp tax.

(2) Trade unions and NGO’s operating in the field of human rights protection are entitled to legally represent the discriminated persons and to assist them within the administrative procedures framework, at their request.

(3) Trade unions and NGO'S which have the quality to represent before court discrimininated persons will do this action without asking any charge if the discriminated person does not have the necessary financial means."
Through the modifications brought by the Law no.202 through Law 501/2004, the following additions regarding the vocational training were brought:

Art. 15

It is forbidden any gender based discrimination as regards the access of women and men at all levels of education and vocational training, including the apprenticeship at work place, retraining, and generally, lifelong education.

As for the burden of proof, through the modifications to the Law it is stated that:

Art.48

(1) The persons who consider they to be discriminated base don gender can submit complaints/notifications to the Agency or can file complaints directly to the qualified courts of law.
(2) The burden of proof lays with the person against whom the complaint/notification was submitted or, as the case may be, the file to court has been submitted for facts that allow the assumption of a direct or indirect discrimination, which has to prove the non-infringement of equal treatment principle.

Paragraph 4 – Reasonable notice of termination of employment

According to article 73 paragraph from the Law no.53/2003- Labor Code, the persons dismissed based on Article 61 c) and d), and Articles 65 and 66 shall benefit from the right to a notice which cannot be less than 15 working days.

Paragraph 5 – Limitation of deduction from wages

According to article 164 paragraph (1) from the Law no.53/2003-Labour Code, no amount shall be withheld from the wages, except for the cases and under the circumstances stipulated by the law.

According to paragraph (2) no amounts shall be withheld as damages caused to the employer unless the employee's debt is due, liquid and exigible, and has been found as such by a judgment which is final and irrevocable.

At the paragraph 3 of the same article, it is provided that, in the case of several creditors of the employee exists, the following sequence shall be observed:
a) child support, according to the Family Law;
b) contributions and taxes due to the state;
c) damages caused to public property by means of illicit actions;
d) to cover other debts.

According to the same article, the cumulated amounts withheld from the wages per month shall not exceed half of the net wages.

According to article 165 from the Law no.53/2003, Labor Code, the acceptance without reserve of part of the wages or the signature of the payment documents under such circumstances shall not be construed as a waiver by the employee to the entire wages due to him/her, according to the provisions of the law or of the contract.

Art. 9- The right to vocational training

Vocational guidance on the labor market

The information and vocational counseling center network of NAE now includes a number of **182 own counseling centers, where 210 career guidance counselors' work.** We mention that, compared to the number of centers envisaged in Appendix 1 of Order 921/1997 (227 centers in NAE's network) until now 182 centers have been set up because, in the meanwhile, NAE's organizational chart was modified so that many local agencies and working points, proposed to be future counseling centers, have been closed.

We present below the status of the counseling service beneficiaries, between 2001-2006, mentioning that for the period 2001-2005 it was presented the status registered at the end of the year (December 31st), and for the year 2006 it was presented the status of the last month that the report had been drafted for (June).

Year	Total benefices, from that:	Women	Men
2001	125.303	61.139	64.164
2002	116.685	58.322	58.363
2003	87.879	43.483	44.396
2004	86.161	42.548	43.613
2005	111.045	52.007	59.038
2006, Semester	63.818	27.154	36.664

Subcomponent "Information and Council regarding career" in the framework of World Bank project RO-3849 "Labor force employment and social protection" was implemented for a period of 10 years, between 1st February 1993 and 30 September 2003 by the Ministry of Labor, and Social Protection (in the present Ministry of Labor, Social Solidarity and Family), Ministry of Education (in the present Ministry of Education and Research) and Ministry of Youth and Sport (National Authority for Youth).

Financing the project was realized through a loan from the World Bank and the technical assistance was insured till 1998 by the PS Jarvis & Associates, through a nonrefundable loan granted by the Canadian Agency for International Developing.

The goal of the subcomponent was the developing a coherent system, new and flexible one of guidance and professional training through:

- Creating a network of information centre and professional counseling and their settlement with the adequate logistics;
- Projecting, realizing and implementing some products and activities in the field of information and professional guidance;
- Training the specialty personnel in the field of guidance and counseling regarding career through organizing some trainings programme.

Because in this phase was realized a network of information centers, counseling and career guidance that allows supplying these services in a relation face-to-face, that involves a kind of rigidity of the system and also higher costs for time and moneys from the beneficiaries was proposed the continuation of the project in the meaning of diversity the modalities for supplying the services through using IT and communication technology.

According to the provisions of Addendum at the project RO-4616 "Developing the social sector" approved by the GD no.695/2004, implementation of the subcomponent "Information and counseling regarding career" will continue till June 2007.

As a consequence, in July 2004, was signed a Collaboration Protocol between Ministry of Labor, Social Solidarity and Family, Ministry of Education and Research, National Agency for Employment and National Agency for Youth that provides continuation, by the signed institutions, of the activity in the frame of the project.

The goal of this phase of the project implementation is strengthening the Romanian system of information, council and career guidance, the objectives being:

- Increase the visibility of the information system, counseling and guidance career,
- Flexibility the access to information services, counseling and career guidance;
- Increase the quality of information system, council and career guidance.

Were established four action directions and specify activities, thus:

1. Projecting, realizing and exploitation of a national portal that will offer the possibility to supply services of information, council, and career guidance in on-line regime,
2. Up-dating of 250 of occupational profiles and issuing a number of 100 new occupational profiles,
3. Realizing the study regarding the needs of training counselors, the standards in counseling and the programe of their training,
4. Realizing a public campaign of information regarding the importance and availability of the services of information, counseling and career guidance.

All the activities provided are in hand (under way) of realize according to the work plan for the project implementation.

Article 15- The right of the person with disability to independence, social integration and participation at the community life

Paragraph 1: ***Preparation of the vocational training for people with disabilities***

Children with disability

1. The responsibility of the Ministry of Education and Research in the field of special education

The special education is coordinated by the Ministry of Education and Research. Starting with the year 2000, the Romanian Government policy in the field of special education of the children / pupils with disabilities aimed at the following **main objectives**:

a. **the school beginning (debut)** of these children within the mass schools has to take place in the closest school unit to their residence;

b. ensuring the educational services, the logaoedic therapies and psycho-pedagogical counseling for those with difficulties of learning, school adaptation, school integration or behavioral deficiencies in order to maintain them in public schools;
c. **transfer from special school to public schools** of those pupils who are not suited for special schools or for those with a mistaken diagnosis or with a visible school adaptation progress obtained through education;
d. **orientation** to special schools only in the case of non-integration in class community; this is the last resort for those pupils in order to ensure their education;
e. The special schools have to pass a process of restructuring and transformation **into centers for inclusive education.**

These main objectives in the educational field could be efficiently realized due to the Ministry of Education and Research's preoccupation to update the legislation in the field of special education, as well as its correlation to the European requirements. The following legislative acts are important for the field:

- ***Education Law no. 84/1995***, republished, with the subsequent changes, in its chapter VI, art. 41-45, regulates the situation of the Romanian special learning system.
- ***Law no. 128/1997 regarding the Teaching Staff Statute*** stipulates specific situations in the process of learning, compensation, and recovery and school integration, for the personnel involved in the field of special education.
- ***The Government Decision no. 1251/2005*** regarding some *improving measures* for the activities of learning, training, compensation, recovery and social protection of children / pupils with special education requirements in the framework of special learning system and integrated special learning system.
- ***OMER no. 4925/2005*** for the approval of the *Regulation for the organization and functioning of the pre-university school units,* chapter IX, includes stipulations regarding special learning system.
- ***OMEN no 4217/1999*** regarding the approval of the *Regulation for the organization and functioning of the special learning system.*
- ***OMER no. 4527/2005*** regarding the approval of the *Framework-plan of learning system for the classes / groups / special learning school units which enroll children / pupils / young people with mild or medium deficiencies.*
- ***OMER no. 4528/2005*** regarding the approval of the *Framework-plan of learning system for the classes / groups / special learning school units which enroll children / pupils / young people with serious, severe, deep or associate deficiencies.*
- ***OMER no. 4323/1998*** *regarding the application of the new Framework-plan of special learning system for primary and secondary level starting with the 1998-1999 school year.*
- ***OMER no. 3372/2004*** regarding the approval of the *Framework-plan of learning system for the arts and crafts schools in special education.*
- ***OMER no. 4920/2003*** regarding the approval of the *Framework-plan of special learning system for special school units which enroll pupils with hearing deficiencies.*
- ***OMER no. 3529/2001*** regarding the approval and the application of the new *Framework-plan of learning system for integrated special education units* from those schools and classes which are subordinated to the General Directorate of Penitentiaries.
- ***OMER no. 5081/2004*** *regarding the obtaining of the certificate of interpreter in sign language specific for persons with hearing deficiencies.*
- ***OMER no. 5160/2005*** *regarding the application of the "Second chance for the primary education" programme.*
- ***OMER no. 5735/2005*** *regarding the approval of the curricula for basic education in the framework of* ***the*** *"Second chance – lower secondary education".*

- ***OMER no. 5418/2005*** *regarding the approval of the Regulation for the organization and functioning of the County Centers / Municipal Centre for Resources and Educational Assistance and of the Framework-Regulation for their subordinated institutions.*
- ***OMER no. 5379/2004*** *regarding the Methodology of organization and functioning of the educational services delivered by supporting teaching staff / itinerary which offer assistance to pupils with deficiencies integrated in mass education.*
- ***OMER no. 3662/2003*** *regarding the approval of the methodology of setting up and functioning of the "Internal Commission for continuous evaluation".*
- ***OMER no. 4833/1999*** *regarding the granting of the certificate for theoretical and practice in special education to the teaching staff involved in special learning system.*
- ***OMER no. 3798/1999*** *regarding the attending the training probation period in special education.*
- ***Note no. 43618/08.12.2003*** *regarding the remuneration for the teaching staff which implements the afternoon turn in special education.*
- ***Note no. 15401/21.06.2004*** *– Explanations regarding the improvement of special learning system for persons with sight deficiencies.*
- ***OMER no. 4653/08.10.2001*** *regarding the approval of the educational plan for the special schools which enroll children with deaf blindness.*

2. Curriculum for special education

Starting with the 1999/2000 scholar-year, it was elaborated a specific curriculum for the special learning system, which subsequently has been adapted, modified and transformed. Thus, for the education of children / pupils / young people with disabilities, in 2005/2006 scholar-year, it uses the following **framework plans and scholar programs**:

- framework plan for special learning system (general);
- framework plan for each type of special school which enrolls pupils with:
    a. mental deficiencies and learning difficulties;
    b. hearing deficiencies;
    c. c. sight deficiencies;
    d. neuro-movement deficiencies;
- framework plan for the pupils integrated in mass education;
- framework plan for the pupils with severe, deep, associate deficiencies;
- framework plan for early intervention (institutional education begins from 1 year old);
- framework plan for the pupils with mild and moderate deficiencies;
- framework plan for the pupils with deaf blindness;
- framework plan for arts and crafts schools – special education.

Concerning the application of these educational plans and educational curricula, we underline the fact that:

- All these educational plans and curricula have been elaborated by the working groups of the National Commission for Special Education, discussed by this Commission, noticed by National Council for Curriculum and approved by Order of Minister.
- Each educational unit may decide within the reunited Teaching Council the type of curricular plan to apply, depending on the type and degree of deficiency.
- Some special education units may apply educational plan adapted for mass school.
- Special education units for the pupils with sensorial deficiencies apply the educational plan of mass education. These units maintain only the structure and form of organization according to the special education system, but in contents, school preparation, and specialization are identical with mass education.

- Arts and crafts schools, high-schools, post secondary special classes are organized according to the mass education model (content, profiles, specializations, objectives, and/or skills). Specific to these units, still remain the strategies, the modalities, and the learning methods.
- At graduation, the pupils within these special education units take national exams (tests, baccalaureate or final exams), the same as all the graduates from the mass education. For them, there are stipulated facilities and adaptations within the organizational methodologies. Thus, for the national tests, these facilities are included in article 38 and 39 of the methodology and for the baccalaureate exam, in article 55 and 56 of the respective methodology.

3. Individualized educational intervention plans / curricula

a. For all the pupils with deficiencies, who are integrated in the public (normal) education, the teaching staff responsible for the group / class in collaboration with the supporting / itinerary teaching staff, elaborate and apply personalized intervention plan, depending on the educational requirements of the integrated pupil. Thus, there are applied individualized educational intervention curricula for: learning difficulties, behavior disorder, social adaptation difficulties, understanding disorder, hyper-activism, for reducing the risk of school leaving due to weak results etc.

b. For pupils from special schools, the process of learning is realized according to the principle of differentiation and individualization, and for the specific therapies, there are conceived individual programs of learning, correction, compensation, whose purpose aiming at the progress of the development of personality.

4. Number of staff and of the assisted persons

Statistics of the special and special integrated education, at 15 June 2006:

A. Special education units: 142, as follows:

-**117** special learning units for **the pupils with mental deficiencies or learning deficiency, accommodation, schooling integration;**
- **19** special units for the pupils with **hearing deficiencies**;
- **8** educational units and colleges for the pupils **with sight deficiencies** (low-vision persons or blind persons;
- 8 educational units for the pupils **with movement deficiencies, neuro-movement**.

The compulsory education is carried out in all these special educational units. In 43 special educational units from those 142 mentioned above, compulsory education is followed by vocational training and education in arts and crafts schools or in post-high schools. From 2005/2005 school-year, some of the 99 special educational units at the I-VIII grades level have the possibility, according to the law, to prolong the schooling within unit at IX and X level school.

B. Pupils within special educational units: **24.500**, assigned as follows:

-19 586 pupils with severe, deep, associated mental deficiencies;
-1159 pupils with movement / neuro-movement deficiencies;
-2386 pupils with hearing deficiencies;
-1369 pupils with sight deficiencies.

C. Within mass education schools, the pupils with mild or medium deficiencies benefit of supporting educational services, of personalized intervention programs, which measures the pupils learning progress, as well as their adaptation and integration in the field of mass school. Thus:

- **14.295 pupils** with mild and medium deficiencies attend the mass school and beneficiate of **supporting educational services** and psycho-pedagogical support;
- **17. 948** pupils attend **logopedic therapy;**
- **293.468 pupils** attend supporting and psycho-pedagogical service;
- **651 pupils attend school at their home;**
- **699 supporting teaching staff / itinerary** which give assistance to pupils with deficiencies integrated in mass education.

D. Teaching staff within special education: 7774 from which **699** supporting teaching staff:

Within mass education, each county has 40 teaching staff at least (with priority at I-IV grades level) included in an initial special education training. We underline the fact that these training courses have been organized by MER in collaboration with UNICEF, RENINCO Association, and international organizations VISIO (Holland) and SENSE INTERNATIONAL (England).

5. Qualification and vocational training

According to the new Classified List of specializations and crafts, pupils with deficiencies, irrespective of the school attended (special or general school) have the right to choose the profession he /she prefers and which is compatible with the type and the degree of deficiency. For certain professions, the schooling is determined by the recommendation of the medical Commission for investigating the work capacity.
After graduating the 8^{th} grade, the pupil with deficiencies, together with his/her parents and class master, choose the field in which to qualify. We underline the fact that the present Classified List, which allows the pupil to choose a profession, is approved by Government Decision.

6. Evaluation of special education

Special educational units are evaluated according to the institutional evaluation methodology at national level, according to national standards and having also specific achievement indicators;

Pupils with disabilities, both those from the mass education and from special education, are evaluated in the same way as the pupils from the entire educational system, using marks and/or qualifying. In the case of pupils with disabilities, it is evaluated with priority the progress in the field of scholar integration, social learning, personal autonomy and social independence.

7. Regarding counseling and guidance courses (syllabus)

Starting with the 2006-2007 scholar year, the counseling and guidance courses (syllabus) are set to be implemented in the school units (one hour / per week, I-XII grade). For this purpose, there were organized training sessions for local trainers, so as to the end of 2007, all the class masters have to be trained in this specific module. This initiative has as the main objective the identification of the problems faced by the pupils and offering solutions through and counseling, assistance and guidance on various topics.

The recommendations given in the counseling and guidance courses are not compulsory; they represent an offer from the school to finding solutions to certain difficulties or to guiding the pupils towards certain specific vocational paths, depending on the ability and qualities. The educational objective of the school is added to the task of the family and the community to offer the pupils the necessary information and guidance.

The Ministry of Education and Research together with the Institute for Educational Sciences and The House of Teaching Staff in Bucharest organized, during the 11th - 14th of April 2006, a training course, at national level, for the training councilors in each county, in order to be able to teach in the curricular aria of "counseling and guidance".

During the 24 hours of training, it was aimed at developing the following competencies:

- Communication for career guidance
- Projecting the training course at the county / local level
- Management of the network of experts in the field of counseling and guidance.

After the completion of the training course, a number of **89 trainers** at *national level* were trained to multiply the counseling and guidance syllabus at county / local level.

The second part of the program dealt with the training the county trainers for each of the 41 counties and for Bucharest. Thus, a number of **1548 teachers** were trained as *county trainers;* they will carry on the arrangements and lectures for the local training courses, till the end of 2006.

8. Regarding the pupils counseling and the consequences of the pupils non-observance of these advices

The advices pupils receive are not compulsory. The counselors supervise if the pupils change their behavior, or if they are open to the changes desired during the guiding process. These remarks represent the ground of future changes in the future guiding and counseling activity.

The consequences of the pupils' non-observance of these advices may take the form of a wrong school and vocational guidance, which will lead to transfers from a profile / specialization to another and some possible school failures.

Through the *Program regarding early education,* have been created positions for school counselors for pre-university education, so that the pre-school pupils benefit from diagnosis and guidance. These counselors are specialized staff: graduates in psychology, pedagogy, socio-pedagogy, psycho-pedagogy and special psycho-pedagogy.

In CJAPP and school / inter-school counseling and guidance offices work a number of 419 teachers and 719 psychologists, in total - 1135, more than last year.

All counseling and guidance activities, including those for special education, are coordinated, in regard to content and from the institutional point of view (CJAPP, school / inter-school counseling and guidance offices, logopedical centers, special education units), at county level, by a newly created institution, Centre for Educational Resources and Assistance, which ensures the coordination of diagnosis, evaluation and guidance for all the children and pupils within the educational system.

The adults with handicap:

During the period September 2003 - June 2004, the National Authority for the Persons with Handicap (NAPH) has continued to achieve the activities foreseen by the National Action Plan 2003-2006 (NAP) for the implementation of the National Strategy concerning the special protection and social integration of the persons with handicap. The activities develop during this period were in complete accordance with the National Strategy purpose: "to increase the quality of life for the persons with handicap."

According to the article of 18 parafraph1), letter a) of the Law no.519/2002 for the approval of the Government Emergency Ordinance no. 102/1999 concerning the special protection and employment of person with handicap, published in the Official Gazette (OG) no. 555/29.07.2002, that stipulates for children with handicap: "free and equal access in any institution of education in conformity with their function and their rehabilitation capacity, with the observance of the legal provisions in the field of educational legislation, in order to ensure equal opportunities for their social integration."

The National Strategy concerning the special protection and social integration of the persons with handicap (adopted through the Governmental Decision (GD) no 1215/2002, published in the OG no. 853/26.11 2002, in section 6 Sectorial Domains/ Psychopedagocic-Formative-Vocational Domain, promotes the concept of education for all and stipulates the inclusion of all children in the educational process, irrespective of the degree and type of deficiency, through promoting inclusive education, avoiding the labeling or stigmatizing of certain groups of persons with deficiencies as being "non-educable."

Also, The new National Strategy on the social protection, integration and inclusion of the people with disabilities for 2006 – 2013 „Equal opportunities for people with disabilities – towards a non-discriminatory society, adopted through the GD no. 1175/2005, (published in the Official Gazette of Romania no. 919 from 14 October 2005, Part I), continued to support education at any age, including primary education, training and life-long learning opportunities at all life stages, in order to increase the chances of social integration and inclusion.

The estimated number of the persons with handicap in Romania

According to the statistics of the National Authority for Persons with Handicap, obtained from the General Directorates for Social Assistance and Child Protection, at the end of 2002, there were 423.393 persons with disabilities (56.886 children and 366.507 adults)

From the total number of the persons with disability:
-403.533 are no institutionalized persons, from that: 55.984 children and 347.549 adults;
-19.860 in institutions (902 children and 18.958 adults).

In 2004, the total number of persons with handicap was 425.711 (56.292 children and 369.419 adults).

From the total number of the person with disability

- 406.028 are non-institutionalized persons, from that 55.828 children and 350.200 adults,
- 19.683 are institutionalized persons, from those 464 children and 19.219 adults.

This statistics are published on NAPH site www.anph.ro

The initiative of changing the medical definition of the handicap into a social-approach definition similar to the one approved by the World Health Organization in the international classification of functioning (ICF 2000).

"International Classification of Functioning, Disability and Health" was translated and published with the financial and logistic support of UNICEF – Romania, in 5000 copies, distributed at local level, having the approval of the World Health Organization.

The National Authority for the People with Handicap promotes the vision and concepts laid down in the International Classification of functioning, disability and health, through the National strategy concerning the

social protection, integration and inclusion of persons with disabilities, "Equal opportunities for people with disabilities – towards a non-discriminatory society".

At issuing the National Strategy concerning the social protection, integration and inclusion of the persons with disabilities, the following documents were taken into consideration: the revised European Social Charter, adopted in Strasbourg on the 3rd of May 1996 and ratified by Romania through the Law no. 74/1999, acquis communitaire documents, as well as other documents drafted by non-governmental organizations which carry out activities in the field of protection of the persons with disabilities.

"In the meaning of this Strategy, the terms and phrases below shall be understood as follows:

a) handicap - means the loss or the limitation of the chances of a person to take part to the community life at an equivalent level as the other members. It describes the interaction between the person and the environment. The goal of this definition is to focus the attention on the deficiencies of the environment and on certain systems organized by the society that hamper the equal participation of the people with disabilities;

b) persons with disabilities are those persons whose equal access to the social life is hampered or limited by the social environment, non adapted to their physical, sensorial, mental, psychological and/or associated deficiencies, requiring protection measures to supporting their social integration and inclusion;
c) disability is the general term for significant losses or deviations of the body functions or structures, the individual's difficulties to perform activities and the problems encountered when involving in life situations, as defined by the International Classification of Functioning, Disability and Health."

- Under the vocational training programs organized by the agencies for employment persons with disabilities are also included.

Regarding their number, the data are available starting with 2002 as follows:

- in 2002 - 52 persons with disabilities were trained;
- in 2003 - 8 persons with disabilities were trained;
- in 2004 -21 persons with disabilities were trained;
- in 2005 -114 persons with disabilities were trained;
- in the first 6 months of 2006 - 54 persons with disabilities were trained;

Before participating in a vocational training course, the persons with disabilities also benefit of career information and counseling services, thus, one of the active measures proposed by NAE, which aims at increasing the employment chances of the persons with disabilities, is vocational counseling.

Starting with 2004, NAE has been implementing a new project " Counseling services for persons with disabilities" carried-out based on a new loan granted by World Bank (Ro 4616) which aims at developing the agencies for employment capacity to provide counseling and job-matching services for a target group with special needs, and at the same time focusing on the collaboration with the companies that will employ persons from this category, addressing thus both segments of the market: demand and supply.

For this, 8 counseling and job-matching pilot centers for persons with disabilities were set-up within NAE, each one for each development region, in the following locations:

1.CAE Iasi (Iasi)- region 1
2. CAE Vrancea (Focsani)- region 2
3. CAE Arges (IPitesti)- region 3
4. CAE Olt (Slatina)- region 4
5. CAE Caras-Severin (Resita)- region 5
6. CAE Cluj (Cluj)- region 6
7. CAE Sibiu (Sibiu)- region 7
8. Bucharest Municipality Agency for Employment (Bucuresti)- region 8

We present below the status of the number of beneficiaries of the counseling services for persons with disabilities during 2004-2006, mentioning that for 2004-2005 it was presented the status registered at the end of the year (December 31st), and for the year 2006 it was presented the status of the last month that the report had been drafted for (Term I, 2006).

Year	Total of beneficiaries:
2004	481
2005	673
Term. I 2006	336

The National Agency for Employment proposes, depending on the results obtained after the implementation of this project, to extend the experience gained within the 8 pilot centers to the level of all the other agencies for employment, creating this way the possibility to provide efficient counseling services for persons with disabilities at national level.

Paragraph 2 – Employment of the persons with disabilities

The actual National Strategy on social protection, integration and inclusion of the people with disabilities „Equal opportunities for people with disabilities – towards a non-discriminatory society" reaffirms the following important aspects:

- employment has a major contribution to the full participation of the people with disabilities to the economic, cultural and social life, as well as to personal development;
- granting facilities to the employers that hire persons with disabilities, through legal provisions that brings the increase of the employment rate, is necessary;
- improved access of the people with disabilities to the new information and communication technologies creates the bases for a better participation perspective;
- a better access to the work place, education, culture and entertainment institutions, as well as in public transportation means, is highly important for the affirmation of the people with disabilities in the community life.

The number of employed persons with handicap increased (from 11.782 persons with handicap, in 2004, to 13.684 persons handicap employed in 2005), as a result of the adoption of the Law no. 343/2004 for the amendment and completion of EO no. 102/1999 regarding the special protection and employment of persons with handicap, law that stipulates the granting of an allowance to the persons with severe and accentuated handicap that developed the remunerate activity, at the date of 31.03.2005 registered an increased of the number of persons with disability employed in 2005.

Disability as discrimination form mentioned in the Labour Force-prevention and sanctions this discrimination reason

The new Labor Code, adopted trough the Law no. 53/2003 (published in the OG of no. 72 of 5 February 2003) stipulates at the chapter II - Fundamental principles, article 5:

"(1) Within the framework of work relations, the principle of the equality of treatment for all employees and employers shall apply.
(2) Any direct or indirect discrimination against an employee, based on criteria such as sex, sexual orientation, genetic characteristics, age, national origin, race, color of the skin, ethnic origin, religion, political options, social origin, disability, family conditions or responsibilities, union membership or activity, shall be prohibited.
(3) A direct discrimination shall be represented by actions and facts of exclusion, differentiation, restriction, or preference, based on one or several of the criteria stipulated under paragraph (2), the purpose or effect of which is the failure to grant, the restriction or rejection of the recognition, use, or exercise of the rights stipulated in the labor legislation.
(4) An indirect discrimination shall be represented by actions and facts apparently based on other criteria than those stipulated under paragraph (2), but which cause the effects of a direct discrimination to take place."

Public awareness campaigns, to go beyond the negative attitudes and prejudices

The Action Plan implementing the National Strategy on the social protection, integration and inclusion of the people with disabilities for the period 2006 – 2013 "Equal opportunities for the people with disabilities-towards a society without discrimination", includes the running off an awareness and/or sensibility campaigns to fight the existing stereotypes and prejudices against the disable people and to promote their rights.

As beneficiary of the PHARE Project/ 2003/005-551.01.04- "Support to the Reform of the System of protection for the Disabled People", NAPH has elaborated in February 2004 the following documents:

- The Terms of Reference (ToRs) and the Guideline for application for the Grant Scheme component (PHARE/2003/005-551.04.01), having as objective the restructuring / closing down of the large residential institutions, developing the existing alternative services and creating new community, based alternative services.
- The Terms of Reference (ToRs) for the Public Awareness Campaign component (PHARE/2003/005-551.04.01). This campaign has as objectives to inform the disabled persons and their families on their rights and on the services they can access, to promote their socio-professional integration, and to fight against their discrimination and stigmatization the people with disability.

Both projects are on going.

The number of the persons with handicap employed

The statistics shows that at 30 December 2004, the number of employed persons with handicap was 11.782.

At September 30th 2005 the number of employed persons with handicap was 13.684.

The number of protected units

Until December 12, 2004, 41 protected units have been authorized by NAPH. 932 disabled persons work in these protected units.

The protected units are considered as sheltered employment; description of all the types of sheltered employment facilities

In the meaning of the Government Emergency Ordinance no. 102/1999 concerning the special protection and employment of person with handicap, the protected units are considered as sheltered employment.

GEO no.102/1999, approved with modifications and completions through Law no.519/2002, with modifications and subsequent modifications-article 37 and article 38.

A protected unit benefits of the following rights:

a) income tax exemption, with the condition that at least 75% of the amount obtained from the exemption will be re-invested for procurement of technological equipment, machinery, tools, work installations and/or to ensure the accessibility of the sheltered work places;
b) exemption for VAT of operations developed in authorized protected unit;
c) other facilities that can be granted by the authorities of local public administrations from their funds.

The employment terms and conditions, including those referring to salaries, for the employment of the disabled people in a normal work environment, are those applied in general to the work force.

The Government Emergency Ordinance no. 102/1999 from 29/06/1999 concerning the special protection and employment of the persons with handicap, approved trough the Law no.519/2002, with its subsequent modifications and completions, stipulates:

"Article 35 – The conditions of employment of the persons with handicap and the conditions to produce incomes are made according to the general labor legislation, with other regulations in force, as well as the special provisions of this emergency ordinance, aiming at the socio-professional integration of these persons.
Article 36 – (1) The persons with handicap can be employed according to the law, by physical or legal bodies that hire remunerated personnel, in proportion to their professional grounding and to their physical and intellectual capacity, on individual labor contract basis.
(2) The employment of the persons with handicap can be done by creating protected work places, specially set up, in order to eliminate the obstacles of all kinds, through ensuring the adequate facilities and appropriate adjustments.
(3) The persons with handicap can also be employed as home workers, in which case the employer should ensure the transportation of the raw materials and materials they utilize in the work process and of the finished products, to and from their dwelling."

Legal grounds according to which the economic agents have to ensure that at least 4% of their labor force is represented by persons with handicap

The Government Emergency Ordinance no. 102/1999 concerning the special protection and employment of the persons with handicap, approved through the Law no.519/2002, with completions and modifications, stipulates:

"Art. 42. - (1) The economic agents having at least 75 employees, as well as the authorities and public institutions with at least 25 contractual work places, have the obligation to hire persons with handicap with individual labor contract, with a rate of least 4% of the total number of employees, respectively of the number of contractual work places foreseen in the organizational chart (pay sheet).

Article 43 (1) The economic agents, the authorities and public institutions that violate the provisions of art. 42, paragraph (1) is compelled to pay, on monthly basis, to the state budget a sum equal to the minimum gross salary per country multiplied with the number of places in which did not employ (hire), person with disability".

Responsibility of the employers to ensure the accessibility to the work place for the persons with disability

The Government Emergency Ordinance no. 102/1999 concerning the special protection and employment of person with handicap, approved, with completions and modifications, through the Law no.519/2002, stipulates at art. 42. (2) that all the adjustments and facilities necessary to eliminate any barrier in their activity will be ensured for the persons with handicap hired with individual work contract.

Terms and conditions for the employment of the persons with handicap

The Government Emergency Ordinance no. 102/1999 concerning the special protection and employment of the persons with handicap, approved through the Law no.519/2002, with completions, stipulates:

Article 44 The persons with severe, accentuated or medium handicap, hired with individual labor contract, are the beneficiaries of the following special protection rights:

a) They can be hired, according to their training, physical and intellectual capacities in any position of the organizational chart. The employers have the obligation to ensure the adjustment of the work places and to eliminate any barrier in carrying on their activity;
b) a paid trial period, at least 45 working days;
c) a paid notice of minimum 30 working days, at the dissolution of the individual labor contract, at the employer's initiative, for any reason non-imputable to the employee;
d) the possibility of working time less than 8 hours per day, according to the law, based on a medical recommendation;

The employment of persons with disability in public institutions

The Law no. 343/2004 for the amendment and completion of EOG no. 102/1999 regarding the special protection and employment of persons with disability stipulates the granting of an indemnity for the persons with severe and accentuated handicap who developing a remunerating activity.

The article 42, align. 1 from Law no. 343/2004 stipulates: "The economic agents having at least 75 employees, as well as the authorities and public institutions with at least 25 contractual labor places (functions), have the obligation to hire persons with disability on the basis on an individual labor contract, in

a percentage of at least 4% from the total number of the employees, respectively from the number of contractual functions (positions) foreseen in the tables of organization."

Law no.76/2002 regarding insurance for unemployment system and employment stimulation (that repealed the former regulate Law no.1/1991 regarding social protection of the unemployed persons and professional reinsertion) contains some provisions regarding measures for stimulation the employment and maintenance the person with disability in the labor process.

Thus, the employers who employ with on a non-determinate period graduates from some education institutions among the persons with disabilities receive monthly, for each graduate person, during an 18-month period:

a) 1 minimum gross wage at national level, in force at the date of employment, for the graduates of lower high-school level or craftsmanship schools;
b) 1,2 minimum gross wages at national level, in force at the date of employment, for the graduates of senior high-school or post secondary education;
c) 1.5 minimum gross wages at national level, in force at the date of employment, for graduates of university education.

The employers who employ graduates in the above-mentions terms are obliged to maintain the labor or service reports of those at least 3 years from the date of the date of signing, on the contrary, being oblige to restore the sums received for each graduate plus the appropriate interest.

In the period of those 3 years, the graduates can follow a form of professional training, organized by the employer, in the terms of law, and the necessary expenditures for the professional training will be supported, at the employer's request, from the unemployment insurance budget.

Employers who, after those 3 years expire, maintain the labor or the service reports with the graduates employed in above conditions receiving, for each year of continuation the labor or service reports, a financial aid equal with the sums corresponding to the social contributions owned by the employers for these persons and transferred, according to the law. This financial aid can be granted on a period of at least 2 years.

- **The number of persons with disability who are on the record of the National Agency for Employment**

On December 31st 2004, on the records of the National Agency for Employment the number of the persons with disabilities registered as jobseekers (unemployed) was of 476, and on December 31st 2005 was of 460.

- **The measures for promoting the employment of the persons with disability in the civil service**

According to article 42 from G.D. 102/1999 approved by Law no. 159/2002 with its further amendments and complements, the companies that have at least 75 employees, as well as the authorities and public institutions that have at least 25 contractual functions (positions), must employ persons with disabilities with individual labor contract in a percentage of at least 4 % from the total number of employees, respectively from the number of positions with fixed-term contract, envisaged within the position register.

Withal, according to the above-mentioned normative act, the persons with disabilities employed with individual labor contract have to be provided with all adjustments and facilities necessary for removing any impediments during their work activity.

According to Law no. 76/2002 on unemployment insurance system and employment stimulation, amended and complemented art. 80, align. (2), the employers who employ on a non-determined period labor contract graduates among the persons with disabilities receive monthly, for each graduate, during an 18-month period, from the Unemployment Insurance Fund the following subsidies, depending on the educational institution they graduated:

d) 1 minimum gross wage at national level, in force at the date of employment, for the graduates of junior high-school or craftsmanship schools;
e) 1.2 minimum gross wages at national level, in force at the date of employment, for the graduates of senior high-school or post secondary education;
f) 1.5 minimum gross wages at national level, in force at the date of employment, for graduates of university education.

Also, according to the same law, art. 85 align. (2), the employers hiring with an open-ended contract unemployed from among persons with disabilities, also receive monthly, from the unemployment insurance funds, during a period of 12 month, an amount equal to the current national gross minimum wage in force, under the obligation of maintaining the working or labor relation for a period of at least 2 years.

Thus, by implementing these measures, during 2002- 30.06.2006, a total number of 1,434 persons with disabilities were employed, as follows:

- in 2002- 475 persons with disabilities;
- in 2003- 352 persons with disabilities;
- in 2004- 301 persons with disabilities;
- in 2005- 217persons with disabilities;
- in 2006 (sem.I)- 89 persons with disabilities;

During the same period, without wage subsidizing, 1,890 persons with disabilities were employed, as follows:

- in 2002- 288 persons with disabilities;
- in 2003- 331 persons with disabilities;
- in 2004- 529 persons with disabilities;
- in 2005- 441persons with disabilities;
- in 2006 (sem.I)- 301 persons with disabilities.

Article 21 – Right to information and consultation

According to art.39 paragraph 1 let.h from Law no.53/2003-Labour Code, with its modifications and completions, the right to information and consultation is one of the the employee's main rights.

According to the art.2 from the same normative act, the provisions contained in the present code apply to:

a) Romanian citizens who are employed under an individual labor contract and who are working in Romania;

b) Romanian citizens employed under an individual labor contract abroad, based on contracts concluded with a Romanian employer, except when the legislation of the state on the territory of which the individual labor contract is performed is more favorable;

c) Foreign or stateless citizens employed under an individual labor contract, who work for a Romanian employer on the territory of Romania;

d) Persons who have acquired the refugee status and are employed under an individual labor contract on the territory of Romania, according to the law;

e) Apprentices who work based on an on-the-job apprenticeship contract;

f) Employers who are natural or legal entities;

g) Trade unions or employers' organizations.

According to art.40, par.2 from Law no.53/2003-Labour Code, with its modifications and completions, the employer's main obligations are as follows:

a) To inform the employees on the work conditions and elements regarding the progress of work relations;

……..

d) To inform periodically the employees about the company's economic and financial position, accepting the sensitive or secret information, that through divulge, can prejudice the unit's activity. The periodicity of communication is establishes through negotiation in the applicable collective labor contract.

e) to consult with the trade union or, as the case may be, the employees' representatives on the decisions likely to affect substantially their rights and interests;

……..

As an alternative to the mediation services of the labor force on the internal plan granted by the National Agency for Employment, through the GD no.1320/2001 was set up the Office for Labor Force Migration, public institution, with legal entity under the Ministry of Labor, Social Solidarity and Family's subordination, having as main attributions:

a) Applying in the labor force migration, of the international treaties signed in the Romanian name, and also of the agreements, conventions and understandings signed by the Romanian Government and other state governments,

b) Recruitment and placement labor force abroad in the states which Romania do not have bilateral agreements in the labor force domain,

c) Issuing the labor permit to the foreigners for employment in Romania,

d) Cooperation with the specialized institutions from Romania, UE member States, and also other states.

Withal, through adoption GD no.823/2002 for modification and completion GD no.1320/2001, in the framework of Office for Labor Force Migration was set up the Information Centre and Documentation for the Migrant Workers having as main attributions:

a) Issuing and broadcasting informative materials for migrant workers regarding labor conditions and life in Romania and abroad,

b) Broadcasting the information regarding provisions of the communitarian legislation and internal in the matter, inclusively the provisions of the bilateral agreements, and also the administrative procedures related to their application

c) Realizing studies regarding to the migrations of (migrant) workers.

The Romanian law doesn't distinguish between employees hired at the commercial societies with stat or private capital, or by the field of activity, being forbidden any discrimination of the employees regarding the right to information and consultation.

Article 24 – Right to protection in cases of termination of employment

Art. 55 from the Law. No.53/2003-Labour Code, individual agreement can be ceased as follows:

a) de jure;

b) based on the parties' agreement, on the date agreed upon;

c) as a result of the unilateral will of one of the parties, in the cases and under the terms limitedly stipulated by the law.

According to art. 59 from the Law no.53/2003, Labor Code it shall be prohibited to dismiss employees:

a) based on criteria such as gender, sexual orientation, genetic characteristics, age, national origin, race, color, ethnic origin, religion, political option, social origin, disability, family status or responsibility, trade union membership or activity;

b) for the exercise, under the terms of the law, of their right to strike and trade union rights.

According to the art.60 para. 1 from the same normative act, employees' dismissal shall not be ordered:

a) for the duration of the temporary industrial disablement, as established in a medical certificate according to the law;

b) for the duration of the quarantine leave;

c) for the duration an employed woman is pregnant, if the employer learnt about this fact prior to the issuance of the dismissal decision;

d) for the duration of the maternity leave;

e) for the duration of the leave for raising a child up to the age of 2, or, in case of a disabled child, up to the age of 3;

f) leave for looking after a sick child up to the age of 7 or, in case of a disabled child, for intercurrent diseases, up to the age of 18;

g) for the duration of the military service;

h) for the duration of the exercise of an elected position in a trade union body, except when the dismissal is ordered for a serious infraction of discipline or for repeated infractions of discipline perpetrated by that employee;

I) for the duration of the leave.

According to the art.61 from the Law no.53/2003, Labor Code, the employer can order the dismissal for reasons related to the employee's person under the following circumstances:

a) if the employee has perpetrated a serious infraction or repeated infractions of the work discipline regulations or those set by the individual labor contract, the applicable collective labor contract, or the company's rules and regulations, as a disciplinary sanction;

b) if the employee is taken into preventive custody for a period exceeding 60 days, under the rules of criminal procedure code;

c) if, following a decision of the competent medical investigation authorities, it is established the physical unfitness and/or mental incapacity of the employee, which prevents the latter from accomplishing the duties related to his/her work place;

d) if the employee is not professionally fit for his/her job.

The article 65 para 1 from the same normative act, the dismissal for reasons not related to the employee's person shall represent the termination of the individual labor contract, caused by the suppression of that employee's position due to economic difficulties, technological changes, or activity reorganization.

(2) The suppression of a position must be effective and have an actual serious cause, one of those stipulated under paragraph (1).

At article 67 from the same normative act, provides that the employees dismissed for reasons which are not related to their persons shall benefit from active measures to control unemployment and can benefit from compensations under the terms stipulated by the law and the applicable collective labor contract.

According to art.69 from Law no.53/2003-Labour Code, with its subsequent modifications and completions, in case of collective dismissal, the employer has the following obligations:

a) to initiate, in order to be agree, in terms stipulated by law, consulting with the trade union or, as the case may be, to the employees' representatives, referring to methods and means for avoiding collective dismissal or reduce the number of affected employees and palliation the consequences,

b) to put at hand to the trade union that has members in the unity, or, as the case may be, to the employees representatives, in conditions stipulated by law, all the relevant information in connection with the collective dismissal, for making offers.

According to provisions of article 76 from the same normative act the dismissal ordered in non-compliance with the procedure stipulated by the law shall be rendered void.

According to article 77 from Law no.53/2003-Labour Code, with its modification and completion, in the event of an industrial conflict, the employer cannot put forward in court other de facto or de jure reasons than the ones stated in the dismissal decision.

Article 78 par (1) from the same law, stipulates that if the dismissal was not well-grounded or was unfair, the court shall rule its cancellation and force the employer to pay an indemnity equal to the indexed, increased or updated wages and the other entitlements the employee would have otherwise benefited from.

At the par.2 from the same article, at the employee's request, the court which ruled the cancellation of the dismissal shall restore the parties to their status prior to the issuance of the dismissal document.

Article 28 – Right of employees' representatives to protection

According to the article 223 para.1 from the Law no.53/2003-Labour Code, the representatives elected in the management bodies of the trade unions shall be protected by the law against all forms of conditioning, constraint or limitation of the exercise of their functions.

(2) For the duration of their office, as well as for 2 years after its termination, the representatives elected in the trade union management bodies cannot be dismissed for reasons not connected with the employee's person, for being professionally unfit, or for reasons related to the office mandate received from the employees in the company.

(3) Other protection measures for persons elected in trade union management bodies shall be provided in special laws and in the applicable collective labor contract.

According to art. 229 from the same normative act during the exercise of their term of office, the employees' representatives shall not be dismissed for reasons not connected with the employee's person, for being professionally unfit, or for reasons related to the carrying out of the term of office they received from the employees.

Article 29 – Right to information and consultation in collective redundancy procedures

According to art.68 from Law no.53/2003-Labour Code, with subsequent modifications and completions, collective dismissal means the dismissal, within 30 calendar days, ordered for one or more reasons of those stipulated under Article 65 (1), of:
a) at least 10 employees, if the employer who is dismissing them has more than 20 employees and less than 100 employees;
b) at least 10% of the employees, if the employer who is dismissing them has at least 100 employees but less than 300 employees;
c) at least 30 employees, if the employer who is dismissing them has at least 300 employees.

According to art.69 from Law no.53/2003-Labour Code, with its subsequent modifications and completions, in case of collective dismissal, the employer has the following obligations:

a) to initiate, in order to be agree, in terms stipulated by law, consulting with the trade union or, as the case may be, to the employees' representatives, referring to methods and means for avoiding collective dismissal or reduce the number of affected employees and palliation the consequences,
b) to put at hand to the trade union that has members in the unity, or, as the case may be, to the employees representatives, in conditions stipulated by law, all the relevant information in connection with the collective dismissal, for making offers.

According to article 70, par.1 from Law 53/2003-Labour Code, with its subsequent modifications and completion the employer shall notify in writing the trade union or, as the case may be, the employees' representatives of his intent of collective dismissal, at least 30 calendar days before the issuance of the dismissal decisions.
(2) The notification of the collective dismissal intent shall take the form of a collective dismissal project, which shall comprise:
a) the total number and categories of employees;
b) the reasons for the dismissal;
c) the number and categories of employees to be affected by the dismissal;
d) the criteria envisaged, according to the law and/or collective labor contracts, for establishing the dismissal priority sequence;
e) the steps considered for limiting the number of dismissals;
f) the steps for mitigating the consequences of the dismissal and the compensations to be granted to the employees dismissed, according to the provisions of the law and the applicable collective labor contract;
g) the date on which or the period during which the dismissals shall take place;
h) the period in which the trade union or, as the case may be, the employees' representatives can make proposals for avoiding dismissals or diminishing the number of employees dismissed.

According to article 71 par 1 from Law no.53/2003, Labor Code, with its modifications and completions, the trade union or, as the case may be, the employees' representatives may propose to the employer steps for avoiding the dismissals or diminishing the number of employees dismissed, within 15 calendar days of the date of receipt of the dismissal project.

According to par 2 of the same article the employer shall reply, in writing and stating good reasons, to the proposals formulated according to the provisions of paragraph (1), within 5 days of their receipt.

According to the provisions of the art.76 from Law 53/2003, Labor Code, with its modifications and completions, the dismissal ordered in non-compliance with the procedure stipulated by the law shall be rendered void.

According to art.77 from the same normative act, in the event of a labor conflict, the employer cannot put forward in court other de facto or de jure reasons than the ones stated in the dismissal decision.

According to art.78, par 1 from Law no.53/2003- Labor Code, with its subsequent modifications and completions if the dismissal was not well-grounded or was unfair, the court shall rule its cancellation and force the employer to pay an indemnity equal to the indexed, increased or updated wages and the other entitlements the employee would have otherwise benefited from.

At the employee's request, the court which ruled the cancellation of the dismissal shall restore the parties to their status prior to the issuance of the dismissal document.

Annexes no.1

The list of the Government Decision which transposed the provisions of the specific Directives in the health and safety at work field

The available situation at the 7th September 2006

1. GD no.1875/2005 (OG no.1875/2005) (OG no.64/24.01.2006) regarding workers' health protection and safety given the risks owned to the asbestos exposure, through was transposed the Directive 83/477/CEE, modified by the Directive 91/382/ CEE Directive 98/24/CE and Directive 2003/18/CE
2. GD no.1876/2005 (OG no.81/30.01.2006) regarding the minimum requirements of security and health regarding to the worker exposure at the risks generated by the vibrations, through was transposed Directive 2002/44/ CE;
3. GD no.300/2006 (OG 251/21.03.2006) regarding minimum requirements of security and healthy for temporary or mobile constructions site, which transposes Directive 92/57/EEC – construction sites;
4. GD no 493/2006 (OJ no 380/03.05.2006) regarding minimum safety and health requirements referral to workers exposure to risks generated by noise, which transposes Directive 2003/10/EC – noise;
5. GD no 971/2006 (OJ no 683/03.05.2006) regarding minimum requirements for the provision of safety and/or health signs at work, which transposes Directive 92/58/EEC – sign;
6. GD no.1.007/2006 (OJ no 696/15.08.2006) regarding minimum safety and health requirements for improved medical treatment on board vessels, which transposes Directive 92/29/EEC – medical treatment on vessels board;
7. GD no 1.028/2006 (OJ no 710/18.08.2006) regarding minimum safety and health requirements for work with display screen equipment, which transposes Directive 90/270/EEC – display screen;
8. GD no 1051/2006 (OJ no 713/21.08.2006) regarding minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back trauma to workers, which transposes Directive 90/269/EEC – manual handling of loads.
9. GD no 1048/2006 (OJ no 722/23.08.2006) regarding minimum health and safety requirements for the use by workers of personal protective equipment at the workplace, which transposes Directive 89/656/EEC – personal protective equipment;
10. GD no 1049/2006 (OJ no 727/25.08.2006) regarding minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries, which transposes Directive 92/104/EEC – mineral-extracting industries
11. GD no. 1050/2006 (OJ no 737/29.08.2006) regarding minimum requirements for improving the safety and health protection of workers in the mineral- extracting industries through drilling, which transposes Directive 92/91/EEC– mineral-extracting industries through drilling;
12. GD no. 1058/2006 (OJ no 737/29.08.2006) regarding minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres, which transposes Directive 99/92/EC – explosive atmospheres;
13. GD no. 1091/2006 (MO nr. 739/30.08.2006) regarding minimum safety and health requirements for the workplace, which transposes Directive 89/654/EEC – workplaces.
14. GD no. 1093/2006 (OJ no 757/06.09.2006) regarding minimum safety and health requirements for the protection of workers from the risks related to exposure to carcinogens or mutagens at work, which transposes Directive 2004/37/EC – carcinogens and mutagens.
15. GD no. 1092/2006 (OJ no 762/07.09.2006) regarding the protection of workers from risks related to exposure to biological agents at work, which transposes Directive 2000/54/EC – biological agents.

Government Decisions to be published in Official Journal:

1. GD no. 1136/2006 regarding minimum health and safety requirements regarding the exposure of workers to the risks arising from electromagnetic fields, which transposes Directive 2004/40/EC - electromagnetic fields;
2. GD no. xxxx/2006 regarding the minimum safety and health requirements for the use of work equipment by workers at work, which transposes Directives 89/655/EEC, 95/63/EC and 2001/45/EC – work equipment;
3. GD no. 1135/2006 regarding the minimum safety and health requirements for work on board of fishing vessels, which transposes Directive 93/103/EEC – fishing vessels.

4. GD no. xxxx/2006 regarding the protection of the health and safety of workers from the risks related to chemical agents at work, which transposes Directives 98/24/EC, 91/322/EEC, 2000/39/EC and 2006/15/EC – chemical agents, was approved by the Government on 6 September.

APPENDIX **2**

INDIVIDUAL LABOUR CONTRACT
concluded and recorded under no. .../ .... in the general book of employees*)

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*) By 31 December 2003, any individual labor contract shall be registered with the territorial labor inspectorate, and the registration number shall be mentioned on the contract.

A. Parts to the contract

The employer - a legal/natural entity ....., with head office/residence in ....., registered with the Register of Commerce/public administration authorities in ..... under no ....., fiscal code....., telephone no. ....., lawfully represented by ....., having the capacity of .....,

and

the employee - Mr. /Mrs. ..... is residing in ....., no. ..... Str. ....., County ....., holder of ID card/passport series ..... no. ....., issued by..... on..... personal code ..... labor permit series ..... no. ..... of (date) .....
have hereby concluded the present labor contract under the following terms mutually agreed upon:

B. Object of contract: .....

C. Duration of contract:
a) non-determinated, the employee ..... being due to start work on .....;
b) determinated, for ..... months, i.e. the period between ..... and ...../for the period of time when the position holder's individual contract is suspended.

D. Work place
1. Activity shall take place at .....
2. In the absence of a fixed work place, the employee shall carry out his/her activity as follows: .....

E. Type of work
Office/trade ..... under the Classification of occupations in Romania.

F. Job responsibilities
The job responsibilities shall be stipulated in the job description, which is enclosed with the individual labor contract*).

G. Work conditions:
1. The activity shall take place in compliance with the provisions of Law No. 31/1991."
2. The activity performed shall take place under normal/particular/special work conditions, under Law No. 19/2000 on the public pension system and other social security rights, with subsequent amendments and additions.

H. Duration of work

1. A full work rate, the duration of work time being..... Hours/day, ... hours/week.
a) Distribution of work time shall be as follows: ..... (day hours/night hours/uneven).
b) The work schedule may be changed under the terms of the internal regulations/applicable collective labor contract.
2. A work rate fraction of ..... hours/day (at least 2 hours/day), ... hours/week.
a) Distribution of work time shall be as follows: ..... (day hours/night hours).
b) The work schedule may be changed under the terms of the internal regulations/applicable collective labor contract.
c) No supplementary hours shall be allowed, except for a force majeure or other urgent works aimed at preventing accidents or removing the consequences of such.

I. Leave

The duration of the annual rest leave shall be ..... workdays, depending on the duration of work (full time, rate fraction).
The employee shall also benefit from an additional leave of .....

J. Wages:
1. Gross monthly basic wages: ..... ROL
2. Other components:
a) benefits .....;
b) emoluments .....;
c) other additions ..... .
3. Additional hours of work performed outside the normal work schedule or on non-workdays or on lawful holidays shall be compensated for by means of paid free hours or paid for by means of a wage benefit, according to the applicable collective labor contract or Law No. 53/2003 - Labor code.
4. The date(s) on which wages are being paid shall be ..... .

"K. Rights and obligations of the parties concerning labor safety and health:
a) individual protective outfit .....;
b) individual work outfit .....;
c) hygiene and sanitary materials .....;
d) protective (safety) food .....;
e) other rights and obligations related to labor health and safety ..... ."

L. Other clauses:
a) trial period shall be .....;
b) notice period in the event of dismissal shall be ..... workdays, under Law No. 53/2003 - Labor code or the collective labor contract;
c) notice period in the event of resignation shall be ..... calendar days, under Law No. 53/2003 - Labor code or the collective labor code;
d) if the employee is to carry out his/her activity abroad, the information stipulated under Article 18 (1) of Law No. 53/2003 - Labor code - shall also be included in the individual labor contract;
e) other clauses.

M. General rights and obligations of the parties
1. The employee shall have the following main rights:
a) right to receive wages for his/her work;
b) right to daily and weekly rest;

c) right to an annual rest leave;
d) right to equal chances and treatment;
e) right to labor safety and health;
f) right to vocational training, under the terms of additional acts.

2. The employee shall have the following main obligations:
a) obligation to complete his/her work rate or, as applicable, to meet the responsibilities set forth in the job description;
b) obligation to comply with work discipline;
c) obligation to be faithful to his/her employer in meeting his/her job duties;
d) obligation to observe labor safety and health measures in the unit;
e) obligation to observe job confidentiality.
3. The employer shall have the following main rights:
a) to issue mandatory orders to the employee, provided such orders are lawful;
b) to exercise control on how job duties are being complied with;
c) to find any disciplinary departures and to implement adequate sanctions, under the law, the applicable collective labor contract, and the internal regulations.
4. The employer shall have the following main obligations:
a) to grant the employee all the rights deriving from the individual labor contracts, the applicable collective labor contract, and the law;
b) to permanently provide the technical and organizational conditions considered when drawing up the work rates, and adequate work conditions;
c) to inform the employee on work conditions and the elements regarding the progression of work relationships;
d) to release, on request, all the documents attesting to the employee status of the person having made the request;
e) to ensure the confidentiality of the employee's personal data.

N. Final provisions

The provisions of the present individual labor contract shall be completed by the provisions of Law No. 53/2003 - Labor code - and of the applicable collective labor contract concluded at the level of the employer/employers' group/economic branch/national economy, registered under No. ...../ ..... with the General division of labor and social solidarity of ..... county/municipality..... /Ministry of Labor and Social Solidarity.

Any amendment to contract clauses during the execution of the individual labor contract shall require an additional deed to the contract to be concluded, under the provisions of the law.

The present individual labor contract has been concluded in two copies, one for each party.

O. Any conflicts in connection with the conclusion, execution, amendment to, suspension or cessation of the present individual labor contract shall be solved by the court of law having material and territorial competence, under the law.

Employer, Employee,
....

Lawful representative,
.....

On the date of ..... the present contract shall cease to operate, based on Article..... of Law No. 53/2003 - Labor code, after the lawful procedure has been met.

Employer,
.....

Point 1 of the letter G was modified by the point 1 of the unique article from the Order no.76/11 March 2003, published in the Official Gazette no.159/12 March 2003.

Title 1 and the content of the letter J were modified by the point 2 of the unique article from the Order no.76/11 march 2003, published in the Official Gazette no.159/12 March 2003.

Title and the content of the letter k were modified by the point of the unique article of the Order no.76/11 March 2003, published in the Official Gazette no.159/12 March 2003.