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REVISED EUROPEAN SOCIAL CHARTER

7th report on the implementation of
the Revised European Social Charter

submitted by

THE GOVERNMENT OF ROMANIA

(FOR THE PERIOD 1ST JANUARY 2005 – 31ST DECEMBER 2006

:

Articles 1, 9, 10, 15, 18, 20, 24, 25)

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CYCLE 2008

ROMANIA
THE 7TH NATIONAL REPORT
ON THE IMPLEMENTATION OF THE REVISED EUROPEAN SOCIAL
CHARTER

**PRESENTED BY
THE GOVERNMENT OF ROMANIA**

**FOR THE PERIOD 1ST JANUARY 2005 – 31ST DECEMBER 2006
ON ARTICLES 1, 9, 10, 15, 18, 20, 24, 25**

It concerns the accepted provisions of the following articles belonging to the thematic group “Employment, training and equal opportunities”: 1, 9, 10, 15, 18, 20, 24 and 25.

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:

To the trade unions and employers’ organizations representatives.

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The Committee addressed some general questions to all states party and requested to supply information in the following report on the following aspects (Conclusions 2006, Volume 1, pag.15) :

Regarding the 1st Group of provisions for Submission Reports, “Employment, training and equal opportunities”, from the employee’s social benefits point of view, in Romania there is no legislation which discriminates in order to protect national security, respectively of prevention and combating terrorism.

These are exceptions provided at **points 18 and 23** of the **Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation:**

- point (18) **This Directive does not require, in particular, the armed forces and the police, prison or emergency services to recruit or maintain in employment persons who do not have the required capacity to carry out the range of functions that they may be called upon to perform with regard to the legitimate objective of preserving the operational capacity of those services”.**

- point (23): **In very limited circumstances, a difference of treatment may be justified where a characteristic related to religion or belief, disability, age or sexual orientation constitutes a genuine and determining occupational requirement, when the objective is legitimate and the requirement is proportionate.** Such circumstances should be included in the information provided by the Member States to the Commission.

Some aspects regarding prison work

Article 1 Right to work

Paragraph 2-Freely undertaken work (non – discrimination, prohibition of forced labor, other aspects)

1. Prohibition of forced or compulsory work

Prison work:

I. Convicted persons are used for work according to the **Romanian Constitution**, republished, which stipulates at art. 42 that **forced labor is forbidden** and that „the labor of a convicted person, performed in normal conditions, during the detention period or on parole... is not considered forced labor...”

II. The Romanian Criminal Code, as subsequently amended, incriminates **obliging a person to perform forced or compulsory work (art. 191)**, an offence consisting in forcing a person, in any other cases than the ones provided by the law, to perform a work against his/her will or obligatory work.

We should also mention that the Criminal Code establishes the general rules on the enforcement of imprisonment penalties.

According to the **53³ of the Criminal Code**, “the regime of the enforcement of imprisonment penalties is based on the possibility of the convicted persons of performing, with their consent, useful work, if they are able to work, on educating the convicted persons, on their observing the interior regulations of the detention places, as well as on stimulating and rewarding those who work hard, are disciplined and have proven a good conduct. After reaching the age of 60 (men) and 55 (women), the convicted persons can perform work only at their request, if they are able to work.

The working regime of the persons under custody is provided by art. **53⁴** in the Criminal Code: “**the work performed by the convicted persons is remunerated, except the maintenance work necessary for the detention place and the work performed during a natural calamity.**”

III. The Law no. 275/2006 on the Penalties Enforcement and the Measures Taken by the Judicial Bodies during the Criminal Trial (published in the Official Journal, no. 627 on 20th of July 2006, 1st Part) sets up detailed rules regarding the work performed by the persons convicted to imprisonment penalties.

Chapter V of this law (articles 57- 63) includes general provisions regarding the performed labor, as well as provisions regarding the labor performed in special cases, the work duration, the work performing regime, payment of the performed work, the income assessment and the damage recovering.

According to the provisions of the art. 57 in the Law 275/2006, „the work performed by the persons convicted to imprisonment penalties **is remunerated, except the maintenance work necessary for the penitentiary and the work performed during a natural calamity.**”

Convicted persons who are able to work can perform some work, **with their consent**, according to their qualifications and abilities, as well as unskilled work. The legal provisions regarding the labor protection shall be applied accordingly. The convicted person who, during the execution of the penalty, becomes unable to work as a result of an accident or of a professional disease shall benefit of an invalidity pension, according to the legal provisions.

We should also mention that in some cases the various work activities can be assigned **only on the request of the convicted persons** (minors under the age of 15, women over the age of 55, as well as men over the age of 60).

In conclusion, **a person convicted to the imprisonment penalty cannot be forced to perform any type of work and cannot be obliged to work for any private or public undertaking, neither within, nor outside the penitentiary.**

As regards **the work performing regime, the art. 60** stipulate:

(1) The work of the persons convicted to the imprisonment penalty can be achieved:

- a) according to the providing services regime. These services can be rendered to economic agents, natural or legal persons, inside or outside the penitentiary;
- b) under self administration;
- c) maintenance work activities necessary for the penitentiary ;
- d) in case of a natural calamity .

(2) The administration of the penitentiary can conclude providing services contracts with the economic agents, natural or legal persons which are interested in using the work of the convicted persons.

For the work performed according to the legal provisions, the convicted persons are remunerated according to the established working program with a salary that cannot be smaller than the national minimum wages (art. 61 in the Law).

We should mention that the convicted persons to the imprisonment penalty do not have the statute of an employee for the period they work during the detention. The work of these persons is remunerated according to the art. 57 and 61 in the law no. 275/2006 and the wages for the performed work are not considered to have the character of a salary. According to art. 61 and 62 in the Law, this wages are received and assigned by the administration of the penitentiary where the convicted person executes his/her imprisonment penalty as it follows:

- 30% of the wages is for the convicted person, who can use 90% of this amount during the detention period, and the rest of 10% is deposited in a bank account on his/her name. The convicted person will take this amount and the due interest after having finished the penalty execution.

- 70% of the wages is for the National Administration of the Penitentiaries, constituting its own income which is taken, accounted for and used according to the legal provisions on the public finances.

IV. Other provisions on the work performed by the convicted persons can be found in the **Government Decision no. 1897/2006 on the Approval of the Regulations Regarding the Application of the Law no. 275/2006 on Penalties Enforcement and the Measures Taken by the Judicial Bodies during the Criminal Trial (published in the Official Journal, no. 24 on 16th of January 2007), Chapter IX – art. 164 -173:**

art. 164 - Work performing,

art. 165 - Conclusion of the employment contracts,

art. 166 - The maintenance work necessary for the detention place

art. 167 - Work selection and assignment,

art. 168 - Work protection measures and means,

art. 169 – Working program,

art. 170 - Income from production activities under self administration and providing services,

art. 171 - Remunerating the convicted persons who attend educational, professional training and re-qualification courses.

art. 172 -Administration of the sums belonging to the persons convicted to imprisonment penalties,

art. 173 – Registration of the performed work.

For example, **art 164** paragraph (4) stipulates that the „detainees can work in enterprises, sections and production workshops within the detention places, at economic agents, as well as at other natural or legal persons.”

Art. 166 enumerate the **types of the maintenance activities** performed for the detention place and which are not remunerated:

a) the activities for preparing the food, for the equipment maintenance and functioning, for cleaning and maintaining the hygiene of the detention place, as well as for accompanying the detainees with disabilities ;

b) the activities performed within the maintenance workshops, consisting of shoemaking, tailoring, washing, maintaining the cars, tinsmithing, locksmithing and other similar services ;

c) the occasional activities within the detention place which are performed by turns by all the detainees who are capable to work from a medical point of view;

d) other activities necessary for the detention place, according to their specific requirements.

According to the provisions of article 168 paragraph (2) „the legal provisions on the work organization and performing are also applicable to the detainees, including those referring to the work accidents, professional diseases and other risk situations”.

As regards **the place** where the work is carried out, this is determined according to the regime under which the convicted person is executing the penalty:

- **maximum security regime** : the detainees who have proven a good conduct and who obey the interior regulations of the detaining places can perform the work, if they are able, in small groups within the detention place, in special places which have secure locking devices and under permanent surveillance (art. 98 Government Decision no. 1897/2006)

- **closed regime**: the detainees who execute the penalty under the closed regime can perform the work under continuous surveillance, within or outside the detention place” (art. 110 G.D. no. 1897/2006)

- **semi open regime**: the work performed by this category of detainees is carried out within and outside the detention place and the surveillance is ensured by unarmed staff (art. 117 G.D. no. 1897/2006

- **open regime**: the persons under this regime can perform their work under similar conditions with the free persons, having the obligation to come back to the detention place after the working hours (art 124 G.D. no. 1897/2006)

Please provide information on the work performing conditions within the penitentiaries:

A few aspects regarding the work performing conditions within the penitentiaries can be found in **Law no. 275/2006** on the Penalties Enforcement and the Measures Taken by the Judicial Bodies during the Criminal Trial, as well as in **the Government Decision no. 1897/2006** on the Approval of the Regulations Regarding the Application of the Law no. 275/2006 on Penalties Enforcement and the Measures Taken by the Judicial Bodies during the Criminal Trial.

I. According to the **Government Decision no. 1897/2006** on the Approval of the Regulations Regarding the Application of the Law no. 275/2006 on Penalties Enforcement and the Measures Taken by the Judicial Bodies during the Criminal Trial, the maintenance activities performed for the detention place are not remunerated (art. 166, paragraph 1 in the G.D. 1897/2006). These activities include:

- a) the activities for preparing the food, for the equipment maintenance and functioning, for cleaning and maintaining the hygiene of the detention place, as well as for accompanying the detainees with disabilities ;
- b) the activities performed within the maintenance workshops, consisting of shoemaking, tailoring, washing, maintaining the cars, tinsmithing, locksmithing and other similar services ;
- c) the occasional activities within the detention place which are performed by turns by all the detainees who are capable to work from a medical point of view;
- d) other activities necessary for the detention place, according to their specific requirements.

Art. 166 paragraphs 2 in the G.D. 1897/2006 stipulate that the task assignment for the detainees shall be done according to the standards approved by the decision of the General Manager of the National Administration of the Penitentiaries.

Surveillance shifts can be organized during the night, for preventing some negative events (fires, floods), as well as for signaling emergency situations in which first aid is needed. This surveillance shifts are considered to be maintenance activities performed for the detention place.

II. Law 275/2006 (article 57) stipulates that persons convicted to the imprisonment penalty who are able to work can perform it, with their consent, according to their qualifications and abilities, as well as unskilled works.

We should also mention that minors convicted to detention, who reached the age of 15, can perform the work according to their physical development, to their abilities and knowledge, only on their request and with their parents or legal representatives' consent, if their health is not jeopardized.

Minors convicted to detention, who reached the age of 16 and convicted persons who reached the age of 60 (men) and 55 (women) can perform the work only on their request.

Every convicted person can perform the work only with the endorsement of the penitentiary's doctor and the legal provisions regarding the labor protection shall be applied accordingly.

Article 58 in the above mentioned law refers to the **work performed in special cases**.

Certain categories of convicted persons cannot perform their work during the night, or in harmful, dangerous places or other places which have a certain risk degree for the health or the integrity of these persons. The persons who benefit of this special regime are:

- Pregnant women convicted to the imprisonment penalty,
- Women who gave birth to a child during the detention period and who take care of children who have not reached the age of 1.
- Minors convicted to detention.

As regards the **duration of the performed work**, article 59 in the Law no. 275/2006 stipulates at paragraph 1 that the duration of the work performed by convicted persons is 8 hours a day and no more than 40 hours a week.

For the persons mentioned in article 58, the duration of the work day cannot overcome 6 hours a day and 30 hours a week.

The persons convicted to the imprisonment penalty, only with their written consent, can perform a work of 10 hours a day and no more than 50 hours a week.

The work during the night can be performed only with the written consent of the convicted persons, but no more than 7 hours a night and 35 hours a week.

The convicted persons benefit of a least one free day a week for rest.

ARTICLE 1 – RIGHT TO WORK

On the article 1, paragraph 1, and question A:

During January, the 1st 2005-31st 2006 December, it was in force the Law no. 76/2002 on Unemployment Insurance Fund and Employment Stimulation, legal document through which has been set up starting with 2002 the legal framework for implementing some active measures for employment stimulation instead of passive measures which represented the only for of social protection regulated until that date.

By the legal document mentioned above there are regulated measures that envisage to increase the employability of the jobseekers as well as stimulating employers for employing the unemployed and job creation, mainly through: vocational information and counseling, job-matching, vocational training, consulting and assistance for starting up an independent activity or for starting up a business, financial support for employing the unemployed in community service, stimulating the employers' for job-creation and for employing the unemployed coming from disadvantaged categories, encouraging the labor force mobility by granting incentives (installment bonuses) to the unemployed that are employed in other localities different from where they reside and due to this they change their place to live or work in a location further from where they reside (employment bonuses), stimulating the employment of the graduates of educational institutions and of special schools under the age of 16, registered with the agencies for employment by granting material incentives (installment bonuses), deduction of 50% from the employer's expenditures spent with the vocational training of their own staff.

For creating new jobs by setting up or developing small and medium enterprises, cooperative units, family associations as well as independent activities carried on by natural persons authorized from the unemployment insurance budget low interest credits are granted according to the legal document mentioned above.

By approving and implementing the National Program for Employment in 2005, the management of the National Agency for Employment aimed at employing at least 370,000 persons.

The social-economic situation registered at territorial level, the net effects of applying the programs designed for increasing the employability and the legal changes in the field required the inclusion of three special programs within the program approved for 2005:

- Program 180 – program designed from the disadvantaged areas and those with high unemployment rate / 46,670 persons
- Program for Valea Jiului- for increasing the employability and improving the living conditions in the area through which it was envisaged the employment of at least 8,120 persons
- Program for Danube Delta- special program that requires the employment of 190 persons.

The national program for employment envisaged all categories of jobseekers but was also structured on target groups.

Starting from the proposals of the county agencies for employment and the agency of Bucharest Municipality, there was envisaged the employment of 53,740 persons from the following target groups, as follows:

- 13,475 long term unemployed under 25
- 31,225 long term unemployed over 25
- 6,440 Roma persons
- 795 disabled persons
- 895 graduates over 18 coming from social care institutions
- 630 persons released from prison
- 235 persons subject to traffic risk
- 25 immigrants
- 15 refugees
- 5 foreign citizens

The national program for employment was structured according to the employment stimulation measures taking into account the possibilities for granting the resources for financial support for these measures.

There was envisaged keeping the balance between the employment stimulation measures addressed to the employer and those addresses to the jobseeker.

The structure of the national program for employment for 2005 envisages the stimulation of employment on active measures, as follows:

- 218,485 persons through job-matching
- 17,815 persons through employing graduates by job-subsidizing
- 8,475 persons through granting credits for small and medium enterprises and granting non-reimbursable funds
- 37,565 persons through granting benefits to the unemployed that employ before the unemployment period expires

- 13,030 persons through employing unemployed over 45 or single provider of family income by job subsidizing
- 860 persons through stimulating employers for employing persons that have less than 3 years until meeting the condition for age limit pension
- 4,150 persons through measures for stimulating labor force mobility
- 260 persons through employing persons with disabilities, by job subsidizing
- 1,035 persons through granting counseling and assistance for starting up an independent activity or a business
- 33,640 persons through subsidizing the expenditures for labor force for temporary employment of the unemployed in for community service
- 1,160 persons through concluding contracts of solidarity according to the Law no 116/2002 on preventing social marginalization.

By implementing the Program for employment for 2005 the employment of 507,363 persons was accomplished, out of which 201,257 women, with a ratio of 39,7% from the total number of the persons employed due to this program.

Through the three special programs included within the national program for employment for 2005 there were employed:

- 73,912 persons through Program 180
- 8,047 persons through Program for Valea Jiului
- 253 persons through Program for Danube Delta

Most of the vacancies were filled in the developing regions: North-East (82,344 jobs), South (80,311 jobs), West (78,383 jobs).

From the total number of the persons employed, 66,674 are persons that belong to **target groups** as follows:

- 658 persons with disabilities
- 10,366 Roma persons
- 28 persons released from prison
- 244 graduates (18 years old) coming from social care institutions
- 11,948 young long term unemployed
- 43,412 adult long term unemployed
- 4 persons under the risk of traffic
- 14 foreign citizens

Structured on age groups, the number of the employed persons is as follows:

- 117,438 persons under 25
- 148,701 persons aged between 25-35
- 134,624 persons aged between 35-45
- 106,600 persons over 45

In 2005, the activity of information and counseling developed within the information and counseling centers on career orientation was addressed to all categories of persons.

By the end of 2005 there were counseled /informed a number of 105,308 persons by own efforts of the county agencies for employment and a number of 19,851 persons were employed.

Through job/matching there were employed 376,396 persons out of which 152,310 were women.

Job-matching activity was also stimulated by the organizing, at national level, of the general job fair for all categories of jobseekers but also for the graduates of educational institutions, women, persons with disabilities, students in final years and Rroma persons, substantially improving the offer/demand balance on the labor market. Through organizing job fairs 24,230 persons were employed, as follows:

- 6,458 persons through job fair for women
- 11,507 persons through general job fair
- 1,266 persons through job fair for Rroma persons
- 191 persons through job fair for persons with disabilities
- 204 persons through job fair for students
- 4,604 persons through job fair for graduates

One of the important active measures for increasing the employability is vocational training because by ensuring the increasing of vocational competencies of the unemployed there are accomplished two objectives: immediately satisfying the requirements on the labor market and foreseeing future evolutions of the labor market.

Regarding the vocational training services, these were granted in 2005 to a number of 42,996 persons, out of which:

- women: 22,672
- young persons up to 25: 14,354
- persons over 45: 4,826
- long term unemployed: 4,940
- persons with disabilities: 114
- ethnical minorities (Rroma persons): 1601

At the end of 2005, 16,096 persons were employed after graduating the courses.

By the services for assistance and counseling for starting up an independent activity or a business, a number of 7,214 persons were assisted, out of which 922 persons were able to start an independent activity or their own business. These services consisted of : providing legal information, efficient management methods and techniques, counseling from the service providers contracted according to the law and specialized persons from the county agencies for employment, namely from the agency of Bucharest municipality.

By granting benefits for the unemployed who are employed before the unemployment period expires 30,034 unemployed were employed, out of which 12,914 women.

Through stimulating labor force mobility, 3,823 persons were employed, as follows:

- 2,036 persons were employed in a locality located further than 50 km from the locality where they reside
- 1,760 persons who changed their place to live following their employment.

For preventing unemployment among young graduates, the Agency acted on the labor market through implementing active measures for subsidizing the vacancies filled in by these persons.

Through this active measure by 31.12.2005, 20,720 graduated were employed, out of which:

- 24.78% graduates of junior high-school or schools of arts and crafts
- 28.71% graduates of senior high-school
- 46,5% graduates of university education

An important action that contributed to the employment of the graduates was organizing at national level the job fair for graduates on September 23rd 2005.

From the total number of 27,770 graduates, 4,604 graduates were employed.

Employment of the persons with disabilities- through the efforts of the National Agency for Employment and those of the county agencies and the agency of Bucharest municipality, by the end of 2005, 658 persons with disabilities were employed.

For identifying and facilitating the access of the persons with disabilities to the vacancies, the job fair for persons with disabilities was organized on July 18th 2005.

From the total number of 3,175 persons with disabilities, 158 persons with disabilities were employed.

The unemployment among persons over 45 and single providers of family income has become a major problem on the labor market because these categories face difficulties in finding employment. By the end of the year, through this active measure 20,764 persons over 45 or single providers of family income were employed. From these, 15,970 are unemployed over 45 and 4,794 are single providers of family income. By finding temporary employment in public works in community service, 66,112 persons were temporarily employed, out of which 18,579 persons were employed over a period of minimum 6 months in public works in community service.

By concluding solidarity contracts based on the Law no. 116/2002 on prevention and fighting social marginalization, 1,260 persons subject to social marginalization were employed at national level.

By stimulating the employers in order to employ persons who have three more years until meeting the requirements for age limit pension, in 2005, 622 persons were employed.

As far as granting low interest credits for job-creation is concerned, in 2005 148 persons benefited from these credits out of which 43 new businesses. In 2005, 3,045 persons filled in the new vacancies, out of which 1,607 unemployed.

Referring to 2006, the general objective of the national program for employment in **2006** was the employment of **380,000** persons, as follows:

- through job-matching **224,735 persons**
- **14,740** persons through vocational information and counseling
- **16,690** persons through vocational training
- **33,000** persons through benefits for the unemployed that find employment before the unemployment period expires
- **20,265** persons through stimulating the employers for employing older persons over 45 or unemployed that are parents –single providers of family income
- **1,070** persons through stimulating employers for employing persons who have three years until they meet the requirements for age limit pension
- **4,180** persons through stimulating labor force mobility
- **19,120** persons through stimulating employers for employing graduates
- **300** persons through stimulating employers for employing persons with disabilities

- **7,510** persons through granting low interest credits
- **1,110** persons through counseling and assistance services for starting up an independent activity or a business
- **35,455** persons by subsidizing the expenditures for the labor force for temporary employment in works for local development (public works in community service)
- **1,430** persons by concluding contracts of solidarity with insertion employers for young people who meet the requirements of the Law no.116/2002 on prevention of social marginalization

The program includes a special program, **Program 180** – designed for the localities from the disadvantaged areas as well as for the localities registering high unemployment rate 40,900 persons, where there are two sub-programs:

- Program for Valea Jiului- for increasing the employability and improving the living conditions in the area through which it was envisaged the employment of at least **7,840 persons**
- Program for Danube Delta- special program that requires the employment of 85 persons.

As a result of the implementation of the program for employment **in 2006** 509,127 persons were employed, as follows:

Through job/matching there were employed 389,407 persons out of which 151,824 were women and a number of 20.673 persons were employed as a result of implementing the information and counseling measure.

Job-matching activity was also stimulated by the organizing, at national level, of the general job fair for all categories of jobseekers. Through organizing job fairs 25,355 persons were employed, as follows:

- 13,302 persons through general job fair;
- 1,516 persons through job fair for Roma persons;
- 282 persons through job fair for young people leaving child care institutions;
- 2,694 persons through job fair for various occupations;
- 4,549 persons through job fair for graduates;
- 3,012 persons through job fair for different target groups

Through counseling and assistance services for starting up an independent activity or a business 17,762 persons were assisted, out of which 633 persons managed to start up an activity or a business. These services consisted of legal information, efficient management methods and techniques, counseling given by the service providers contracted according to the law and specialized persons within the county agencies for employment, namely that of Bucharest municipality.

By offering benefits for the unemployed who find employment before the unemployment benefit period expires 28,014 unemployed were employed, out of which 11,770 were women.

By stimulating labor force mobility, 3,626 persons were employed, as follows:

- 1,790 persons were employed in a locality further than 50 km from the locality where they reside
- 1,836 persons who change their domicile following employment

For preventing unemployment among young graduates the agency acted on the labor market through implementing active measures for job-subsidizing for this category of persons.

Through this active measure in 2006 16,414 graduates were employed, out of which:

- 3,284 graduates of junior high-school or schools of arts and crafts
- 5,964 graduates of senior high-school
- 7,166 graduates of university education

An important action that contributed to the employment of the graduates was organizing at national level the job fair for graduates on September 22nd 2006.

From the total number of 26,133 graduates, 4,549 graduates were employed (17.40%).

A measure that contributed to the employment of the graduates was the offer of the benefits (bonuses) for employment. In 2006, 5,429 graduates received employment benefits.

Through the efforts of the National Agency for Employment and those of the county agencies and the agency of Bucharest municipality, **by the end of 2006**, 775 persons with disabilities were employed through different measures.

The unemployment among persons over 45 and single providers of family income has become a major problem on the labor market because these categories face difficulties in finding employment. By the end of the year, through this active measure 21,323 persons over 45 or single providers of family income were employed. From these, 20,334 are unemployed over 45 and 989 are single providers of family income.

By finding temporary employment in public works in community service, 56,422 persons were temporarily employed, out of which 9,179 persons were employed over a period of minimum 6 months in public works in community service.

By concluding solidarity contracts based on the Law no. 116/2002 on prevention and fighting social marginalization, 1,705 persons subject to social marginalization were employed at national level.

By stimulating the employers in order to employ persons who have three more years until meeting the requirements for age limit pension, in 2006, 567 persons were employed.

As far as granting low interest credits for job-creation is concerned, in 2006, 93 persons benefited from these credits out of which 27 new businesses. In 2006, 2,018 persons filled in the new vacancies, out of which 1,234 unemployed.

In 2006, 46,681 persons took vocational training courses, out of which:

- women: 23,821
- young persons up to 25: 12,381
- persons over 45: 6,318
- long term unemployed: 3,633
- persons with disabilities: 90
- ethnical minorities (Rroma persons): 2,283

At the beginning of 2005, the main indicators that characterized the civilian labor force by its participation to the economic activity, according to the national Institute for Statistics (Labor Force Balance – January 1st 2005), were as follows:

- total population- 21,658.8 thousand persons
- work resources- 13,701,9 thousand persons (63.3% from total population)
- population outside work resources – 7,956.6 thousand persons
- civilian active population- 8,796.2 thousand persons
- population in vocational training and other categories of working age population-4,905.7 thousand persons
- employed civilian population-8,238.3 thousand persons
- employees-4,652.7 thousand persons
- other categories included in employed civilian population- 3,585.5 thousand persons

In 2005, the registered unemployment didn't register important fluctuations, the difference between the maximum and the minimum of the unemployment rate being of 0.8 percentage points with maximum of 6.4% reached in January and the minimum 5.6% in May, June, July and September.

The peak of 0.8 percentage points, lower compared to those of the previous years (when they were of 1.7 pp in 2004, 2.1 pp in 2003, 5.4 pp in 2002 and 3 pp in 2001), shows the flattening of the curve of the unemployment rate at national level.

From the monthly reports of the unemployment it was seen that the rates at national level were the lowest in the latest years. This phenomenon can be explained by the increased capacity of the economy to strengthen the existing jobs and to create new ones by offering employment opportunities for the jobseekers, as a result of the economic growth registered in 2005.

Question A

Regarding employment policy, starting with 2002 year, the Romanian Government implemented Employment National Action Plan and the former; the one from 2006, included comprised priorities measures of action at the level of the vulnerable groups from the labor market (persons from rural areas, rroma and vulnerable groups). By implementing this action plan was improved also institutional capacity of the Public Employment Service.

Financial resources (national budget, insurance unemployment fund, Phare funds from European Union) are used for implementing active measures aimed at improving human capital through training and also inclusion on the labor market of the vulnerable groups.

Labor market indicators reflect the period of economical restructures passed by the Romania, the influx of foreign capital and developing of new business raised the risk level and opportunities from labor market (collective dismissals, new opportunities of employment in the services sector, changes in employment rates between the tree main fields-agriculture, industry and services and between employment in public and privat sector). The evolution of labor market is swinging in the last period, but, the unemployment rate is maintained under European Union average, and the employment rate is maintained relatively steadily. Relevant information is in the bellowed table.

Table 1: Annual change in Gross Domestic Product (GDP), Productivity and Salaries

	2000	2001	2002	2003	2004	2005
Real increased of GDP in %	2.1	5.7	5.1	5.2	8.4	4.1
Employed population –thousands of persons	10508	10440	9234	9223	9158	9147
Employed population: changes in %, given the former year	-0.3	-0.6	-11.5	-0.1	-0.7	-0.1
Minim income as % from average income from economy	32.9	44.2	44.6	51.7	46.8	41.6

National Institute for Statistics, Romania

Increased of GDP =The annual average of raising GDP.Source; Employed Population = employed persons



Source :National Institute of Statistics, Labor Investigation in Farms (AMIGO) Romania

Unemployment rate among the youth decreased by 1,3 percentage points from 21,0% in 2004 to 19,7% in 2005, and the total of unemployed persons as proportion from the total active population was 6,3% in 2005 given 7,7% in 2004.

Long term unemployment registered a decreased of 0,7 pp from 2004 (4,7%) to 4,0% in 2005, this fact representing a reduction over 70 thousands of persons from the total number of long term unemployed persons.

The principles that will lay at the basis of the Romanian Government’s action in this field are:

- Involving the social partners, namely trade unions, employer’s representatives, public administration in issuance politics and strategies for the implementation of some special programs within the field of employment;
- Equal opportunities for all providers (contractors) of services on the labor market (providers of consultancy, training and employment);
- Moving decisional centers towards the local unities on the basis of the established objectives in order to pass to a competitive management that should lead to an increase of local responsibilities and to the improvement of the use of resources;
- Territorial distribution of the centralized recourses will be made in a transparent way, on objective criteria, based on the local contributions and action needs.

The Romanian Government will promote the following active and passive measures to increase the employment rate and to really decrease the rate of unemployment.

Romanian Government promoting active and passive measures, having as the main objective increasing **employment level and the real deduction of the unemployment rate.**

1. Passive Measures

– Modifying the quantum of unemployment benefit according to the contributory period and contribution to the unemployment social insurance budget. The quantum of the unemployment benefit will be a fix, monthly and free tax sum, representing 75% of the gross minimum basic salary, in force at the date of its establishment, to which we add according to the subscription stage, a sum representing a certain percent of the gross salary average from the latest 12 months. The percent of the gross salary from the latest 12 months that is used at establishing the unemployment benefit according to contributory period will be established by law.

-Graduates of pre-university and university education will be encouraged to enter the labor market by granting them a bonus amounting to the equivalent of a minimum gross salary to which we add a sum equal with the value of unemployment benefit which they were supposed to receive according to law and employers –are excepted from the payment of contribution to the unemployment fund afferent to the graduates employed for a period of 1 year.

- The employers who hire unemployed who single parent are supporting the mono-parental family or persons aged over 45 years, will be exempted of the payment of the contribution to the unemployment fund over one year time period.

-Facultative insurance within the unemployment insurance system will be realized only together with social and health insurance (National Agency for Employment contributes to the pensions and health fund in the favor of unemployment).

2. Active measures

Romanian Government promotes special programs, in partnership in order to diminish long-term unemployment benefits affecting youngsters, the persons over 45 years old as well as persons who are facing integration difficulties. It follows (will monitor) the constant increase of the share of employment incentives in the total unemployment social expenditure. The main measures are:

- **Jobs mediation**

It is taking into account the use and improvement the electronic system both at the local and national level and the access to this system of persons who are looking for a job, through a well established program by the National Agency for Employment (NAE) and county agencies. The vacant jobs will be occupied (employed) further to a contest, and the employment will be done exclusively upon the competence criteria of equal chances and the elimination of any form of discrimination.

- **Professional training**

It will be done in such a way as to respond to the labor market's requests, having as source the unemployment budget, and being flexible to the needs of the local labor market. Special programs of professional training on specific jobs for the people living in rural areas will be organized.

- **Consultancy and information related to career**

The functioning and development of the consultancy cabinets, the employment of the specialized persons who are able to do this job will be pursued.

At the same time, the material basis will be improved by setting up specialized libraries and expanding this service by cooperation with private cabinets.

- **Crediting in advantageous conditions**

To increase the efficiency of this measure and to have a control upon the number of persons who will be employed by the economic agents credited in advantageous conditions according to legal provisions, the percentage of newly created jobs that will be occupied by unemployed that are in the evidence of the employment agencies will be of minimum 60%, in comparison with 50% at the present.

- **Job fairs**

The labor exchanges will be organized twice a year: during the spring, the general labor exchange and during the autumn-the labor exchange for the University graduates and for graduates of the pre-University educational system. When the labor market launches a stringent request, special labor exchanges will be organized.

3. Recent institutional measures

-Creation of NAE (National Agency for Employment) decisional and leadership autonomy;

-Expanding the job offer abroad by promoting the competition between the agencies credited to make employments;

-Simplification and acceleration the activity of the Office for Labor Force Migration abroad by subcontracting to accredited agencies.

Normative acts adopted during 2005-2006 in order to maintain full employment of the jobs:

-Government Decision no.410/2005 for modification and completion Procedures regarding the access to the measures for encourage labor force employment, modalities of financing and their implementation, approved by Government Decision no.377/2002-O.G.no. 406/2005;

-Government Decision no. 1859/2005 for modification and completion Methodological Norms for applying Law no.76/2002 regarding insurance system for unemployment and labor force encouragement, approved by Government Decision no.174/2002-O.G. no.54/2006;

-Government Decision no. 1860/2005 for modification and completion Procedures regarding access to the measures for stimulation labor force, modalities of financing and their implementation instructions, approved by Government Decision no.377/2002-O. G. no.31/2006.

-Order no. 648/2005 regarding modification and completion Procedures for receiving and solving jobs requests or unemployment benefit, approved by Order of the President of National Agency for Employment no.85/2002-O. G. no.72/2006.

-Law no. 68 from 22 march 2006 regarding approval Government Emergency Ordinance no.144/2005 for modifications and completions Law no.76/2002 regarding unemployment insurance system and labor force encouragement.

Government Decision no.312/2006 for modifications Methodological Norms for applying Law no.76/2002 regarding unemployment insurance system and labor force encouragement, approved by Government Decision no.174/2002 O. G. no.235/2006.

Order no.39/2006 for modification Procedure of evaluation and selection of employers who are benefiting from the provisions of article 48-1 from unemployment insurance system and labor force encouragement, with its subsequent modifications and completions, O. G. no. 105/2006;

Order 40/2006 for modification and completion Procedures regarding the way of granting the benefits from are benefiting persons who are looking for a job during attending a professional training, approved by Order of Labor, Social Solidarity and Family's Minister no 171/2004-O. G. no.105/2006.

Order no.86/2006 for modifications and completion Procedures regarding monthly assertion by the employers of nominal evidence of employees and payment obligations to the unemployment insurance budget, approved by Order of labor minister, social solidarity and family no.405/2004,O. G. no.105/2006.

In order to a better access to the jobs for vulnerable groups was modernized the management of employment activities, through:

- New employment programs issued for measures of employment encouragement and bearing with priority towards target groups disadvantaged on the labor market and towards localities with the most number of unemployed registered persons;
- Modification legislation for realizing a better balance regarding motivation of employers in order to hire persons in risk for social exclusion
- Increase the performances in administration the budget for unemployment insurances;
- Increasing the expenditures with the active measures;
- Initiating the programs of economical developing, industrial parks and business centers;
- Promoting some actions of consulting with social partners in the framework of consultative councils of the employment agencies of county labor force.

Among the proposed modernization measures regarding social inclusion policies, some of them refers to the unemployed persons:

- Encouragement of employment the youth by offering them incentives both them and their employers;
- Encouragement setting up new jobs by crediting in advantageous conditions of small and medium enterprises;
- Support in employment the persons of 45 years old;
- Stimulation creation of jobs in the rural environment by developing the industrial sector and services;
- Organizing the free skilled and re-skilled trainings for those registered in the records of the employment agencies as job seekers;
- Increases the base brut salary on the economy guaranteed in payment.

Question B – Answer

Dynamics and evolution of labor force market is reflecting also in the dynamics of registered unemployment persons and employment vacant job through employment territorial agencies for employment during 2005-2006, according to the indicators below:

Indicator	2005	2006
Unemployment persons registered during the period	59894	51837
Unemployment persons employment in labor market	24639	23858
Vacant jobs registered during this period	42357	47501
Vacant job at the ending period	5302	7549
Number of employed jobs, %	58,2	50,2
Unemployment persons for a free job	1,4	1,1

Question C –Answer

Statistics data regarding vacant jobs started to be published in Romania starting with 2006. Thus, the rate of the vacant jobs per total of the economy was 1,78%. The most high vacant jobs rates were registered in the following economics areas: Public Administration and Defense (6,13%), Health and Social Assistance (3,88%), Financial intermediates (2,43%), Agriculture, hunting and forestry (3,28%) and Financial Intermediates (2,30%). Economics activities that register the lowest rates of the vacant jobs are: Fishing and piscicultură (0,23%), Extractive industry (0,27%), Electricity industry and termical, gases and water (0,39%), Transport, deposit and communications (0,64%).

Depending on the major groups of occupations, the most high rates of the vacant jobs were registered in case of groups: experts in science (3,15%), unskilled workers (1,85%) and agricultures and skilled worker in agriculture (1,70%). The lowest rate registered in case of groups - legislators, high officials and leaders (1,05%).

In regional profile, București-Ilfov and North-East lead regarding the rate of vacant jobs in 2006 years (the both with 2,04 % given the national average of 1,78%).The lowest rate registered in South - Muntenia (1,55).

On article 1 paragraph 2 questions A, C, D:

On the basis of the statement of art. 41 align (1) from the Romanian Constitution, republished, the right to work cannot be confined. Vocation, job and occupation choice as well as the place to work are free.

According to align (2) of the same article, the employees have the right to social protection measures. These refer to security and the health of the employees, work condition for women and young people, setting up a minimum gross wage at country level, weekly rest, paid leave, working in special conditions, vocational training as well as other specific situations set up by the law.

According to art. 42 align (1) from the Romanian Constitution republished, forced labor is forbidden.

As mentioned by the align (2) of the same article, the following do not represent forced labor:

- a) activities for performing military duties as well as those performed, according to law, instead of these because of religious reasons or beliefs;
- b) the labor of a person in prison, performed in normal conditions, during imprisonment or conditioned liberty;
- c) the work made in case of natural disasters or other dangers as well as those coming from civilian obligations set up by the law.

According to art.(3) align (1) from Law no. 53/2003 with its further amendments and complements, Labor Code, the liberty to work is granted by the Constitution; the right to work cannot be denied.

According to align (2) from the same article any person is free to choose the job and the vocation or any other activity that they are about to perform.

Nobody can be forced to work or not in a certain place or a certain vocation, regardless of it, according to art.3 align (3) of the same legal document.

According to art.4 align (1) from Law 53/2002 with its further amendments and complements – Labor Code, forced labor is forbidden.

As provided in paragraph (2) of the same article, the term “forced labor” designates any labor or service imposed to a person under threat or for which that person didn’t agree freely.

According to the provisions from art. 5 par. (1) from the mentioned law, in the labor relationship framework functions the equality principle towards every employee and employers.

Any direct or indirect discrimination towards an employee, based on sex criteria, sexual orientation, genetic features, age, nationality, color, ethnic origin, religion, political affiliation, social category, handicap, family situation or responsibility, trade union affiliation or activity, is forbidden, according to paragraph (2) of the same article.

As provided in article 5 paragraph (3) from the same law, direct discrimination are considered every documents and facts of exclusion, discrimination, restriction or choice, based on one or more of the criteria provided in article (2), which aim to the not granting, restriction or elimination of the recognition, use or exercise of the rights provided by the work legislation.

Are considered indirect discrimination the documents and the facts apparently based on other criteria than those provided in paragraph (2), but which generate the effects of a direct discrimination, according to paragraph (4) of the same article.

According to the provisions of the Romanian Constitution, republished, and to the provisions of the Labour Code, Law No. 76/2002, with its subsequent changes and completions, it envisages expressly from its first article that in Romania the right to freely choose an occupation and a job, as well as the right to unemployment insurance are guaranteed to each and every person.

On the basis of the orders of the article 4 paragraph (1) from the Law No. 76/2002, with its subsequent changes and completions, as it was in force at 1 January 2005 and as it is in force at present, in implementing the provisions of this law, are excluded any discrimination based on political criteria, race, nationality, ethnic origin, language, religion, social category, beliefs, sex and age.

The special measures and entitlements granted by this law to persons belonging to disadvantaged categories do not represent discrimination in the sense of the provisions of par. (2) of the same article.

Taking into consideration the above mentioned, it is considered that the orders of the Law no. 76/2002, with its subsequent changes and completions, as it was in force between 1st January 2005 – 31st December 2006, in our competence area, ensured the exercise, without any discrimination based on race, color, sex, language, political opinion or any other opinion, nationality or social category, well-fair, birth or any other circumstance, of right to freely choose the occupation and the job, as well as the right to unemployment insurance, encouraging the equal opportunities in accessing a job.

Policy of full occupation

According to article 16 of Romanian Constitution military or civilian public positions and dignities can be occupied by Romanian citizens and permanent residence in Romania, according to the law. The Romanian state guarantees the equal chances to man and women, as regards these functions and dignities.

After Romania's accession to the EU, the European citizens who fulfill the conditions provided for by the organic law has the right to vote and to be elected for the local public administration authorities.

According to the provisions of Law no.188/1999 regarding the Statute of civil servants, republished, the activities developed by the public servants which involve discharging public authority are:

- a) Implementation of laws and other normative acts;
- b) Drafting normative acts and other regulations that are specific to public institution or authority, as well as ensuring their sanction;
- c) Drafting politics, statistics, analyses, studies, programs, strategies and policies needed for achievement and implementation of public policies as well as necessary documentation needed for performance of laws, in view to implement the public institution's or authority's competences;
- d) Counseling, control and internal public audit;
- e) Administration of human and financial resources;
- f) Gathering budgetary debts;
- g) Representing public institution's or authority's interests in relation with individuals and national or international legal entities according to public or private law, within the limits of competences set by the head of the public institution or authority, as well as representing of the public institution or authority, as well as representing of the public institution or authority in front of the courts;
- h) Accomplish activities according to the public administration IT strategy.

Paragraph 2

The Romanian legislative framework on the discrimination field provides the principle of equality among all citizens without discrimination on grounds of race, nationality, ethnic origin, language, religion, social category, beliefs, sex, sexual orientation, age, disability, chronic non-infectious disease, HIV infection, belonging to a disadvantaged category, or any other criterion.

The prohibition and sanctioning of the discrimination deeds or acts committed by natural and legal persons is stipulated in *Government Ordinance no. 137 of 2000, republished, on preventing and sanctioning all forms of discrimination*.

The framework legislation on preventing and sanctioning of discrimination has suffered a major modification in 2006. These modifications were attained through the adoption of the *Law no. 324 of 2006 on amending and supplementing Government Ordinance no. 137/2000 on prevention and sanction of all forms of discrimination*. According to the provisions of the law into force, the forms of discrimination which are forbidden and sanctioned accordingly are:

Direct discrimination - any difference, exclusion, restriction or preference based on race, nationality, ethnic origin, language, religion, social category, beliefs, sex, sexual orientation, age, disability, chronic non-infectious disease, HIV infection, belonging to a disadvantaged category, or any other criterion, aiming to or resulting in a restriction or prevention of the equal recognition, use or exercise of human rights and fundamental freedoms or the rights established by law in the political, economic, social and cultural field or in any other fields of public life.

Order to discriminate – the disposal to discriminate a person on any ground as provided at direct discrimination definition

Indirect discrimination - those provisions, criteria and practices apparently neutral that disadvantage certain persons toward other persons, on the ground of criteria provided under direct discrimination definition, unless these provisions, criteria and practices are objectively justified by a legitimate aim and the means of achieving that aim are adequate and necessary.

Harassment - any behavior on the ground of race, nationality, ethnic origin, language, religion, social category, beliefs, sex, sexual orientation, age, disability, chronic non-infectious disease, HIV infection, belonging to a disfavored category, or any other criterion, aiming to create a humiliating, hostile, degrading or offending atmosphere.

Multiple discrimination - any difference, exclusion, restriction or preference based on two or more grounds as provided at direct discrimination definition; this situation consists in an aggravating circumstance to establish the contravention responsibility unless one or more of its components fall under the incidence of criminal law.

Victimization – any adverse treatment, which came as a reaction to a complaint or court case regarding the infringement of equal treatment and non-discrimination principle.

Likewise, any active or passive behavior that generates effects liable to favour or disadvantage, in an unjustified manner, a person, a group of persons or a community, or that subjects them to an unjust or degrading treatment, in comparison to other persons, groups of persons or communities, shall trigger contravention liability, unless it falls under the incidence of criminal law.

Any discriminated person is entitled to claim damages in courts of law, proportionally with the prejudice, as well as to the re-establishment of the situation prior to the discrimination or to the annulment of the situation created by discrimination, in accordance with common law. The claim for damages shall be exempted from judicial taxes and is not conditioned by national Council's for Combating Discrimination intimidation.

There are no limits to the amount of compensation that may be awarded in discrimination cases, these limits being established directly by the courts of law.

The period for submitting the damage claim is 3 years from the commission of the act of discrimination or from the date on which the victim takes cognizance of its commission. The judgment of the case takes place with the compulsory summons of the Council, as expert.

The interested person has the obligation to prove the existence of facts from which it may be presumed that there has been direct or indirect discrimination and it shall be for the respondent to prove that the facts do not constitute discrimination. In front of the Court of Law any proof can be pleaded, inclusively the video and audio evidence or statistical data.

Upon request, the court can order that the competent authorities withdraw or suspend the licence of legal entities that significantly prejudice the society by means of a discriminatory action or, although have caused a minor prejudice; repeatedly violate the provisions of the law herein.

The complaints regarding the infringement of the principle of equal treatment in employment and occupation, received by the National Council for Combating Discrimination have totaled a number of 110 in 2005 (out of 382 received), 130 in 2006 (out of 432 received), respectively 215 out of 427 (until July 2007).

Following the solving of these complaints, a number of 41 situations were considered infringement of the anti-discrimination legislation and sanctioned consequently with 8 fines and 33 warnings (during 2004-2007).

Likewise, in other 30 cases although sanctions were not imposed, the NCCD ascertained the existence of the discrimination facts and issued several recommendations to the competent public institutions or authorities, concerning:

- the exclusion of discriminatory conditions imposed for the recruitment/employment contests or exams
- the correlation of the certain legal provisions with the principle of equality and non-discrimination in the field of employment and occupation
- the elimination of discriminatory provisions from different laws and regulations
- the adoption of adequate measures for suppressing the discriminatory treatment of certain persons or social categories.

a) Regarding article 1 para. 2 “ Accepted free work (nondiscrimination, forced work forbidding, other aspects) for completing information already communicated to the ECSR and to the Secretariat, we underline that in November 2006 was adopted the Law no. 446/2006 on population’s preparation for defense which came into force at 1st January, 2007. During the legislative process, the draft law initiated by a group of deputies, approved by the Deputies Clamber, was modified before being adopted by the Romanian Senate. Thus, this law provides in article 4, para.2 that “the fulfillment way and the duration of the alternative service shall be established through a Government Decision”. We mention that, within the Romanian Ministry of Defense a draft of the abovementioned Government Decision is in progress and duration of alternative service is intended to be 12 months.

Referring to article 1 par. (3) Questions A, B, C, and D:

Referring to question A:

In **2005**, as a result to the labor exchange services a number of 376.396 persons were hired, as follows:

- 227.681 persons from the urban area and 148.715 persons from the rural area,
- 86.968 persons aged less than 25, 115.974 persons aged between 25-35, 100.940 persons aged between 35-45, 72.514 persons aged over 45,
- 152.310 women and 224.086 men

As a result to the professional information and counseling services a number of 19.851 persons were hired, as follows:

- 12.538 persons from the urban area and 7.313 from the rural area,
- 5.186 persons aged less than 25, 6.151 persons aged between 25-35 years, 5.334 persons aged between 35-45 years, 3.180 persons aged over 45.
- 8.696 women and 11.155 men.

The structure of those 16.096 persons hired as a result to the vocational training services is as follows:

- 10.659 persons from urban area and 5.437 from rural area,
- 5.056 persons aged less than 25, 5.263 persons between 25-35 years, 4.263 persons aged between 35-45 years, 1.505 persons aged over 45.
- 8.418 women and 7.678 men.

As a result to counseling and assistance services to start an activity as self-employed, a number of 922 persons were hired, as follows:

- 588 persons from urban area and 334 from rural area,
- 124 persons aged less than 25 years, 336 persons between 25-35 years, 293 persons aged between 35-45 years, 169 persons aged over 45 years.
- 377 women and 545 men.

In 2006, as a result to the labor exchange services a number of 389.407 persons were hired, as follows:

- 233.310 persons from urban area and 156.097 from rural area,
- 90.391 persons aged less than 25, 112.186 persons between 25-35 years, 103.679 persons aged between 35-45 years, 83.151 persons aged over 45.
- 151.824 women and 237.583 men.

As a result to the professional information and counseling services a number of 20.673 persons were hired, as follows:

- 12.041 persons from the urban area and 8.632 from the rural area,
- 5.263 persons aged less than 25, 5.762 persons aged between 25-35 years, 5.784 persons aged between 35-45 years, 3.864 persons aged over 45.
- 8.870 women and 11.803 men.

The structure of those 18.988 persons hired as a result to the vocational training services is as follows:

- 11.751 persons from urban area and 7.237 from rural area,
- 5.385 persons aged less than 25, 5.663 persons between 25-35 years, 5.332 persons aged between 35-45 years, 2.608 persons aged over 45.
- 9.674 women and 9.314 men.

As a result to counseling and assistance services to start an activity as self-employed, a number of 633 persons were hired, as follows:

- 497 persons from urban area and 136 from rural area,
- 78 persons aged less than 25, 213 persons between 25-35 years, 206 persons aged between 35-45 years, 136 persons aged over 45.
- 250 women and 383 men.

Question A

Regarding function the Employment Public Service, private agencies for employment and training and also free services granted, the Law no 76 from 16 January 2002 regarding unemployment insurance system and encouragement labor force employment, with its modifications and completions, provides free access to services granted by public agencies for labor force placement for all persons who are looking for a job, without discrimination-prohibited by law.

Free access is extended to other measures for employment.

Following we will quote provisions of laws in order to clarify requested by the Committee.

„ART. 1 In Romania the right to choose freely the profession and job, as well as the right to unemployment insurance shall be guaranteed for each person”.

(...)

ART. 4 (1) Any kind of discriminations for criteria such as politics, race, nationality, ethnic origin, language, religion, social category, beliefs, sex and age shall be excluded in the application of the present law.

(2) The measures and special rights granted by the present law to certain disadvantaged categories of persons shall not constitute discrimination within the meaning of the provisions of paragraph (1).

(...)

ART. 16

The beneficiaries of the provisions of the present law shall be the job-seekers, in one of the following situations:

- a) they became unemployed (...);
 - b) they could not fill a position after graduating an education institution or after satisfying the military service;
 - c) they fill a position and, for various reasons, they intend to change it;
 - d) they obtained the refugee status or other form of international protection, according to the law;
 - e) the foreign or stateless citizens who were employed or who obtained incomes in Romania, according to the law;
 - f) they could not fill a position after having been repatriated or after being released from detention.
- (...)

ART. 53 The measures for the employment stimulation shall aim to:

- a) increase the employment opportunities of the job-seekers;
- b) stimulate the employers to hire the unemployed and create new jobs.

ART. 54 The measures for employment stimulation shall be aimed both at the job-seekers and the employers and shall be carried out by way of specialized services, supplied by the employment agencies or other service suppliers from the public or private sector.

(...)

ART. 58

(1) Professional information and counseling is a set of services delivered free of charge to the job-seekers and have the following purposes:

- a) to provide information on the labor market and the evolution of the professions;
- b) to evaluate and self-evaluate personality for their professional guidance;
- c) to develop the ability and self-confidence of the job-seekers in order to enable them to make a decision on their own career;
- d) to train on job-searching methods and techniques.

(2) The professional information and counseling shall be carried out in specialized centers, organized within the employment agencies, as well as in other centers and accredited service suppliers in the public or private sector, who conclude contracts with the employment agencies, according to the law.

(3) The information regarding the labor market, the establishment of the career path, the evaluation and self-evaluation shall be carried out by self-information, by individual or group counseling services supplied, upon request, to the job-seekers or in the job clubs organized by the employment agencies.

(4) The professional counseling and training on job-searching methods and techniques and on the participation in interviews for employment shall be conducted by career counselors, within the career information and counseling centers or, upon request, within other organized types of training.

2. Labor exchange

ART. 59 (1) Labor exchange is the activity through which the employers are connected to the job-seekers in order to establish labor or job (service) relations.

(2) The employment agencies have the obligation to identify the vacancies with the employers and to make them available to the job-seekers.

(3) The labor exchange services for the job-seekers shall be granted free of charge by the employment agencies and they consist of:

- a) information on the vacancies and the conditions for their employment by way of publishing, posting, organizing job fairs;
- b) electronic exchange having the purpose to automatically match the supply and demand for jobs with the support of IT;
- c) Preliminary selection of the candidates according to the requirements of the available jobs and in accordance with their training, aptitudes, experience and interests.

2. Labor mediation

(...)

ART. 66

(1) The vocational training services shall be ensured free of charge for the persons provided in Article 16 a), b), d), and f)

(2) Through the vocational training services understands the benefits from that are benefiting from the persons provided al the paragraph 1 during attending to a professional training form.

(3) The persons who are benefiting from unemployment benefit have to attend to the vocational training program granted and organized by the employment agencies.

(4) The persons provided in art.(1) may benefit from vocational training services free of charge once for each period being job-seekers.

(...)

ART. 71

(1) Counseling and assistance to start an independent activity or to start-up a business shall be provided, upon request, to the job-seekers as legal, marketing, financial services, efficient management methods and techniques and other consulting services.

(2) The services provided in paragraph (1) may be supplied by the employment agencies or, where appropriate, by private companies, professional organizations, foundations and associations specialized in this field, with which the agencies conclude contracts according to the law.

(3) The services provided in paragraph (1) shall be granted free of charge only once for each period of time when the persons are benefiting from unemployment benefits according to this law.

Questions to B and D:

By entering into force of the Law no. 145/1998 on setting up, organizing and functioning of the National Agency for Employment and Vocational Training an institutional reform was implemented and the Romanian public service for employment was set up, on the structure of the specialty office from the relevant ministry and of the labor force offices from the county and from Bucharest municipality general directorates for labor and social protection.

Afterwards, in 2000 the institution changed its name in National Agency for Employment. Therefore, it was envisaged the set up of a specialized institution which offices for employment should be brought closer to the clients by creating local agencies and working points in the framework of the county agencies for employment.

According to the Law no. 145/1998, National Agency for Employment had as main objectives the institutionalization of the social dialogue in the employment and vocational training area, the strategies' implementation in the employment and vocational training area, as well as the implementation of social protection measures for unemployed persons.

For achieving its objectives, the institution had, mainly, the following responsibilities: the organization of the employment services, the organization, the provision and the financing, according to the law, of the vocational training services for unemployed persons, guidance for jobseekers and labor exchange for them and for the employers, with a view to achieving the balance between demand and supply on the internal labor force market. The above mentioned institution had, also, other responsibilities such as: the administration of the unemployment insurance budget, it proposed to the Ministry of Labor and Social Protection projects of normative documents in the area of employment and vocational training and of the social protection for the unemployed persons, the approval of the restructuring programs for commercial ventures to which the shareholders are natural or legal persons, other than the state, the organization of the programs of assessment, payment and accounting of the accommodation, allowances and benefits financed from the unemployment insurance budget.

On 1st March 2002 entered into force the Law no. 76/2002 on the unemployment insurance system and employment stimulation, a modern European law that replaced Law no. 1/1991 on social protection for unemployed persons and their vocational reintegration, creating the premises for assuring a high level of employment and labor force adaptation to the labor market requirements.

The new legislation on unemployment insurance and on employment stimulation, adopted in 2002, as well as its subsequent changes and completions, contributed to the reconsideration of the National Agency for Employment objectives and to its responsibilities' diversification.

Thereby, it was envisaged the set-up of a new framework for NAE's organization and functioning regulation, necessity accomplished by adopting the Law no. 202/2006 on organizing and functioning of the National Agency for Employment, by means of which it were assigned the institution's new objectives and responsibilities.

According to the provisions of the new normative document, National Agency for Employment is a public institution, having juridical status, under the authority of the Ministry of Labor, Social Solidarity and Family. This institution is organized and functions based upon the tripartite principle.

The National Agency is leaded by an administration board, constituted by officials from the Government, as well as from the trade union confederations and employer organizations representative at a national level, constituted by 15 members, as follows:

- a) 5 members, delegates from the Government, named with a prim-minister's decision;
- b) 5 members named by the trade union confederations representative, at a national level, through a common agreement (consensus);
- c) 5 members named by the employer organizations, representative at a national level, through a common agreement (consensus);

The Law no. 202/2006 provides the new NAE's objectives, namely employment stimulation and increasing the level of employment, preventing unemployment, the participations of the jobseekers in the vocational training services, ensuring equal opportunities on internal labor market and fighting any form of discrimination on the labor market, increasing social inclusion, protection of the persons within the Unemployment Insurance system.

With a view to accomplishing its objectives and exercising its attributions, National Agency for Employment has in its subordination the following units with juridical status:

- a) the county agencies for employment and the agency of Bucharest municipality, de-concentrated public services;
- b) regional adult vocational training centers;
- c) National Training Centre for the Agency's Own Staff.

The county agencies for employment and the agency of Bucharest municipality assure the implementation of unemployment preventing measures, social protection of the unemployed persons, at county and Bucharest municipality level, organize and coordinate the employment and vocational training activities for the labor force.

With a view to accomplishing their tasks, the county agencies and the agency of Bucharest municipality can set up, according to the law, local agencies for employment, own vocational training centers and also working points, unities with no legal status.

The regional adult vocational training centers organize and accomplish, according to the legal provisions, the vocational training activity for jobseekers.

According to the article 33 from the Law no. 202/2006, the head of the units mentioned above are supported by consultative tripartite boards, in the accomplishment of their tasks, constituted by 15 members each, as follows:

- a) 5 members, representatives of the local public authorities and of the ministry de-concentrated services and the other bodies of the central public administration from the territorial-administrative unities, named by the prefect, with the territorial agencies consulting. The entities from above may designate only one person each in the structure of the consultative board;
- b) 5 members named through agreement by the trade union confederations, representatives at a national level;
- c) 5 members named through agreement by the employer organizations, representative at a national level.

National Training Centre for the Agency's Own Staff ensures, on the basis of vocational training annual strategies and programs for the staff, approved according to the law, the training and the upgrading of the National Agency staff, as well as of the staff from the subordinated unities.

Referring to question C:

The measures implemented with a view to stimulating employment as a result to the entering into force of the Law no. 76/2002 on the unemployment insurance system and employment stimulation, are envisaged for jobseekers, as well as for employers and are accomplished through specialized services, delivered by the agencies for employment subordinated to the National Agency for Employment or by other service providers from the public or private sector.

The measures for employment stimulation mentioned above are designed to increase the employment opportunities of the jobseekers, as well as to stimulate the employers to hire unemployed people and create new jobs.

The increase of the employment opportunities of the jobseekers is accomplished by National Agency for Employment, through county agencies for employment, and the agency of Bucharest municipality, mainly, by:

- a) professional information and counseling;
- b) labor exchange;
- c) vocational training;
- d) counseling and assistance to start an activity as self-employed or to start-up a business;
- e) completing the wage income of the employees;
- f) stimulating the labor mobility.

The measures designed for increasing the employment opportunities of the jobseekers are financed from the Unemployment Insurance Fund and are granted freely by the agencies for employment and by accredited/authorized specialized service providers, for the measures mentioned above from a) – d), with which the agencies for employment conclude contracts, according to the law, usually by offer demand procedure.

As a result to the legal framework set up by the Law no.76/2002 on the unemployment insurance system and employment stimulation, the increase of the employment opportunities of the jobseekers can be accomplished by National Agency for Employment by promoting some special programs in partnership with legal persons of public and private entities.

In the same time, the measures for increasing the employment opportunities of the jobseekers are also provided, mentioned at the let a)-d) for a fee, by service providers from the public or private sector accredited and/or authorized according to the law.

The accreditation of the specialized service providers from the public or private sector is made by the National Agency for Employment on the basis of the Criteria of accreditation of the specialized service providers for stimulating employment approved by the Ordinance of the Government no. 277/2002, as modified by Ordinance of the Government no. 790/2004.

According to the provisions from art. 2 par. (1) from this normative document, the specialized services for employment stimulation for which the providers from public or private sector have to be accredited are: vocational information and counseling and labor exchange on the internal market.

As provided in par. (2) of the same article, the services provided to par. (1) are delivered by the agencies for employment or by other service providers, accredited under the conditions of this decision.

The providers can be legal persons from public or private sector or natural persons authorized to carry on an independent activity, according to the law, par. (3) of the same article.

On the basis of art. 4 par. (1) from the same normative document, the accreditation of the specialized providers is made by National Agency for Employment through county agencies for employment and the agency of Bucharest municipality.

With a view to accrediting, the providers have to meet the requirements for the employment stimulation provided in art. 3 from Criteria of accreditation of the specialized service providers for stimulating employment approved by the Ordinance of the Government no. 277/2002, with its subsequent changes and

completions and to submit to a county agency for employment or to the agency of Bucharest municipality an application together with the documents provided in art. 5 from the same criteria of accreditation.

The accreditation of the service providers that meet the accreditation criteria is made by issuing an accreditation certificate, according to annex 1 of this ordinance, as provided art. 7 par. (1) from the mentioned normative document.

The providers accredited under the conditions of the invoked normative document, have, as provided in art. 8 from this normative document, the following obligations:

- a) to carry out employment services under the conditions provided by law;
- b) to treat clients without any discrimination based on sex, age, religion, race, political opinions, social category, ethnic origin, family status and to respect the principle of equal opportunities;
- c) to assure the confidentiality of data and information on client and to allow them to access their personal data;
- d) to be sure that the employment of the job-matched persons was made under legal conditions;
- e) to allow the access of the staff responsible for the control of the county agencies for employment and the agency of Bucharest municipality, as well as of the National Agency for Employment, for verifying it meets and respects the accreditation criteria and the obligations envisaged in this normative document;
- f) to inform monthly the county agencies for employment and the agency of the Bucharest municipality, within the area where they reside, data on the number of the unemployed persons job-matched and hired, according to annex no. 2 from Methodological regulations for the implementation of the Law no.76/2002, approved by Ordinance of the Government no. 174/2002, with its subsequent changes and completions.

Question D-Answer

Representing employer's representative organizations and trade unions from Romania in organizing and administration employment services taking into consideration that National Agencies for Employment is managed by a tripartite Board consisted of 15 members, as follows:

- 5 members, Government's representatives, designed by the minister of labor, family and equal opportunities, one of the members is state secretary in the Ministry of Labor, Equal Opportunities and Family and is the president of the National Agency for Employment, appointed by the prime-minister;
- 5 members appointed by mutual agreement by the trade unions representative at the national level;
- 5 members appointed by mutual agreement by the employer's organizations representatives at the national level.

Board Council meets monthly or when is necessary, at the president request or third from his members, decisions being adopted with the vote of at least 2 third from the numbers of the present members, with the condition that each part be represented.

The main tasks of the Board Council are:

- Insure co-ordination of the activity of National Agency for Employment and makes proposals regarding agency's activity for next year;
- Analyzes and approves programs of employment and training;
- Approves the division of the unemployment insurance budget for the county employment agencies, depending on the specific territorial programs;
- Approves internal and external contracts of the agency and decides the contracts with international financing;
- Approves financial balance and the annual activity report.

Also, at the Ministry of Labor, Family and Equal Opportunity's level functions according to the law National Commission for Employment which is composed from representatives of ministers, agencies and departments in Government subordination or autonomous, at the state secretary level, and from the presidents of the trade unions organizations and employers' representatives' organization at the national level.

National Employment Commission has mainly, the following attributions:

- a) Follows issuance, implementation and monitoring National Action Plan for Employment (NAPE);
- b) analyzes objectives and proposal measures in order to be introduced in NAPE;
- c) debates the final form of NAPE that will be approved by the Government;
- d) draft attention to the Government strategies and policies for increasing the level and the quality of employment, correlated with the programs for economic and social development;
- e) Propose directions for human resources development at the national level, in the branch and territorial field.
- f) Propose measures for harmonize programs for development human resources financed from public funds or from other sources;
- g) makes offers for issuance some normative acts regarding employment and improvement the legislation in this field;
- h) based on trends of economic and social developments and the evolution on the labor market, makes offers for initiating some active measures on the labor market, makes proposals for initiating some proactive measures for fight against unemployment through fiscal policies, educational politics structural modifications, professional reorientation.

National Commission for Employment may ask for studies, reports and analyses regarding labor market that will be financed from the unemployment insurance budget.

Question E- Answer

Employment services transparency is made available to all relevant persons involved in the process through the law of decisional transparency, by organizing and providing the participation of social partners at the social dialogue commissions that debate the legislation proposals in the field of labour suggested by the Minister, at the National Employment Commission and by publishing activity and analysis reports on the site of the Minister of Labor, Family and Equal Opportunities.

Referring to art. 1 par. 4, letter a) and art. 9 – Right to vocational guidance questions A, B, C, and E

According to the provisions from art. 58 of the Law no. 76/2002, with its subsequent modifications and completions, vocational information and counseling represent a set of services granted free of charge to the jobseekers having the following purposes:

- a) to provide information regarding the labor market and the evolution of the occupations;
- b) to evaluate and self-evaluate people for their vocational guidance;
- c) to develop the ability and self-confidence of the jobseekers in order to enable them to make decisions on their own career;
- d) to train on job-searching methods and techniques.

The vocational information and counseling is carried out, as provided in par. (2) of the same article, by specialized centers, organized within the agencies for employment, as well as by other centers and accredited

service providers from the public or private sector who conclude contracts with the agencies for employment, according to the law.

Information on the labor market, indication on career path, evaluation and self-evaluation are accomplished through self-information, granting individual or group counseling services, at their request, to jobseekers or in the framework of job-clubs organized by the agencies for employment.

Vocational counseling and training on job-searching methods and techniques with a view to employing is accomplished by career guidance counselor, in the framework of the centers for information and counseling on career or, at request, in the framework of other organized institutions for training.

ARTICLE 1, PARAGRAPH 4

The measures to provide and favor the right to work of any person by proper professional training are applied by the public employment Services, by the information and counseling services that are granted. These have an essential role in the activity, the other types of services of employment incentives depend on their quality.

Information and professional counseling services

During **2006** a number of **126.121** jobseekers who are registered in the employment agencies registers (which represents 10.41% of total unemployed persons registered at NAE), benefited from the information and vocational counseling services. Out of these **11.097** were assisted by private suppliers that concluded service contracts with the agencies according to the law.

The information and professional counseling services, freely granted, were mainly directed to those categories of people with serious labor market integration problems, such as:

- youngsters (under 25 years old) - **33.782 people**;
- long term unemployed persons - **37.802 people**;
- Roma - **7.797 people**;
- imprisoned persons – **940 people**;
- disabled – **847 people**;
- Post-institutionalized youngsters – **263 people**, etc.

Following the participation to the information and professional counseling services, **37.352** persons have been attending professional training courses, **5.503** people benefited the consultancy services in order to start their own business and 36.906 people have been employed.

By implementing the program „**From school to professional life, towards the career**”, within which **1.518** group information and counseling meetings were developed¹. The aim was to increase the employment opportunities/chances by informing and professional guidance of the pupils in the final forms of pre/university education, future graduates.

During 2006, a number of **847** disabled people benefited from vocational counseling services, which represent 15.34% from the total disabled people registered in the agencies registers.

¹ Each group counselling sessions was organized with a class of pupils

Professional training services

Providing the professional competences necessary to the unemployed in order to be employed and re/employed and increasing the number of jobseekers 0and are attending training courses represented a priority objective for the National Agency for Employment in 2006.

Professional training is a significant active measure to finalize the professional profile of any jobseeker, being known that by providing the increase and development of professional competences for the unemployed two specific objectives are reached: satisfying the immediate requests on the labor market and increasing the opportunities of employment for the unemployed persons.

For 2006, *the national plan of professional training* envisages to include in vocational training programmes at least 50.000 people beneficiaries of the professional training free services according to the existent legal framework.

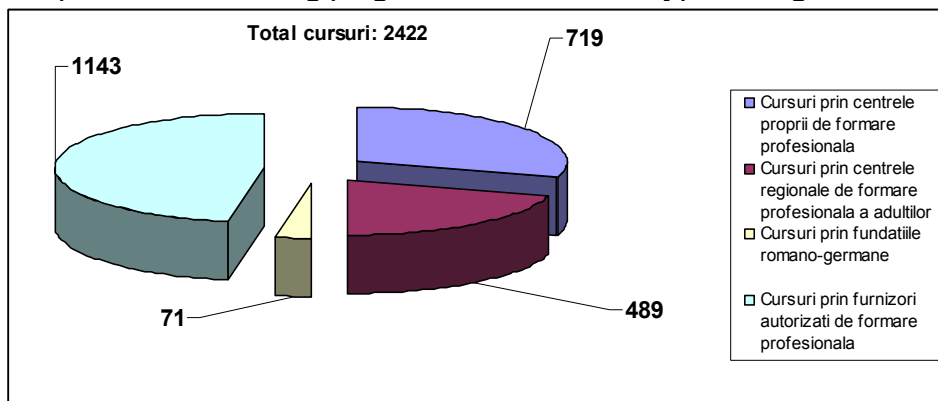
In order to reach this objective, **2.422** professional training programs have been organized, out of which: **2.190** programs were targeting the unemployed registered at the agencies, **79** programs have been organized for the imprisoned in the penitentiaries, **121** programs have been organized by the companies for their own employees according to art.48¹ of Law no. 76/2002 with the following modifications and completions, and **32** programs for other persons who are benefiting from free professional training services.

The activities for which most programs were organized and that included most persons are the following: agriculture (worker in the plant crops and husbandry), trade (trade worker, trade sale assistant), constructions (painter, workers in structures for constructions), electrotechnics, automatics, electronics, informatics/information technology (data operators and networks operators), food, beverage and tobacco and services (waiter, chef).

The **2.422** professional training programs financed from the unemployment insurance budget were organized both in the regional professional training centers or in the county employment agencies, and also through the certified suppliers of professional training with which the agencies have concluded contracts according to the law.

As well, training programs have been organized in the Romanian-German Foundations, which ANOFM co financed on the basis of an agreement with Germany.

The professional training programs distribution on types of organizers is shown graphically as follows:



Source: The National Agency for Labor Force Occupation

The professional training programmes that were organized in 2006 included **46.681 people**, out of which **42.565** were unemployed, registered at the labor force occupation agencies.

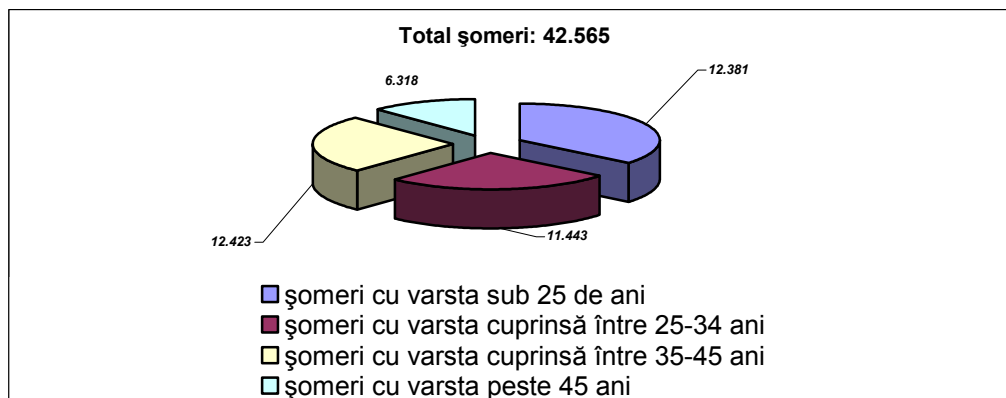
The **42.565** unemployed trainees (**22.228** women) were included in the following professional training formats:

- initial courses: 5.894 unemployed (3.640 women);
- skilled/re-skilled courses: 35.197 unemployed (17.671 women);
- vocational training: 1.012 unemployed (652 women) ;
- specialization: **462** unemployed (265 women).

The age structure for the people included in the training programs was relatively balanced. Thus the group of 25 – 34 years old represents 26,88% of the total students, and the group of 35 – 45 years old represents 29,18% of total students.

The young group up to 25 years old represents 29,08% of total students, this group being the most dynamic in attending the professional training programs. This demonstrates that, on one hand the youth and generally speaking the people aged up to 45 years old are more flexible in acquiring a new skill or in obtaining new professional abilities and competences, and on the other hand, the fact that young do not have the qualifications and the experience necessary to allow them to occupy the jobs that are available in the economy.

The age structure for the unemployed attending the training courses, thus:



Source: The National Agency for Employment

People belonging to groups that have difficulties in entering to the labor market, as well as people who benefited of free course based on the provisions of the Law no. 76/2002 with the subsequent modifications and completions were included in the professional training programs. Among these people we mention:

- 20.478 people who develop activities in rural areas;
- 3.633 long-term unemployed, of which: 2.572 adults over 25 years old and 1.061 young up to 25 years old;
- 2.660 people who are employed and attend the courses in order to avoid unemployment;
- 2.283 Roma people;
- 1.206 imprisoned people ;
- 90 disabled people;
- 55 post-institutionalized people.

*The professional training activity is a multi-annual measure, thus the total unemployed attending the vocational training course in 2006 was of **55.931**, among these 13.366 being unemployed who continued a professional training form that was started in 2005. The participation rate for the unemployed resulted as a participation ratio between the number of unemployed attending courses and the number of unemployed registered at the agencies. The ratio in 2006 was of 8,77%.*

With regards to the professional orientation measures, professional training and professional re-accomodation, equal access was complied with for all people involved, including the citizens of the other states that adhered to the Charter and live and work on the territory of Romania, and also the disabled people.

Regarding the inconsistency with article 1 – The right to work, paragraph 4 from The Revised European Social Charter – **Professional training, direction and rehabilitation**, we mention that there is a non-discriminatory legislation concerning the disability in education field . A very important legislative framework in this field is the Law 448/2006 on protection and promotion of the rights of the persons with handicap, published in Official Gazette, Part I, no. 1006/18/12/2006.

Chapter V – Direction, professional training and employment

Art. 71 – “(1) Any person with handicap who wishes to integrate or to re-integrate into the working process has a free access to professional assessment and direction, regardless of age, degree and type of disability.

(2) The person with handicap has an active participation into the process of professional assessment and direction, has access to information and to the activity selection, in accordance with his wishes and skills.”

Art. 72 – (1) Benefits from professional direction, by case, the person with handicap who is schooling and has the proper age for professional integration, the unemployed person, the person with no professional experience and the person who need professional re-conversion.

Chapter II – The rights of the persons with disability, Section 2 Education

Art. 17 - “In order to ensure the access of the persons with disability handicap to the education units, the public authorities have the obligation to adopt the following specific measures:

- a) to promote and to ensure the access to education and professional training for the persons with disability;
- b) to ensure home schooling/education for the persons with disability not able to walk during the compulsory schooling, also the school training, regardless of the location of the person with handicap, included by the support teachers;
- c) to ensure the access to the long-life education, adapted to the educational needs of the persons with disability;
- d) to support the co-operation between the special education units and the community, in order to ensure an educational offer suitable for the individual needs of the persons with handicap;
- e) to support the training of the teachers in order to adapt the educational practice for the pupil with disability from the regular education forms;
- f) to ensure the possibility of the sport practice by every person with handicap, also to ensure the training of the teachers in order to assimilate specific techniques and medical data;

- g) to ensure educational support services for the persons with handicap and their families, by specialists in the special psycho-pedagogical field;
- h) to ensure the access into the educational units and institutions.”

Answer regarding Conclusion 2007

Regarding the art. 1 paragraph 4 – Vocational Guidance, training and rehabilitation

In Romania, adult vocational training is regulated by Government Ordinance no. 129/2000 on adult vocational training, approved by the Law no. 375/2002 for the approval of Government Ordinance no. 129/2000 on adult vocational training.

The adult vocational training is organized according to these legal documents, and subsequent implementation documents.

The National Agency for Employment (NAE) organizes vocational training programs for jobseekers, according to the legal documents mentioned above, through its own centers network (8 Regional Centers, and 21 own centers of vocational training, in 21 counties).

The Law no. 133/2000 for the approval of the Government Ordinance no. 102/1998 on Continuous Vocational Training through the educational system refers strictly to permanent education offered by the Ministry of Education and Research and it doesn't involve adult vocational qualification.

In order to benefit from the provisions of the Law no. 76/2002 on the unemployment insurance system and employment stimulation, with its subsequent changes and complements, the jobseekers must be registered in the databases of the regional agencies for employment.

The following categories benefit from vocational training financed from the unemployment insurance budget:

- a) unemployed receiving or not unemployment benefits;
- b) the persons who were not 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) the persons who are in prison;
- f) the persons who returned into work after the child care leave;
- g) persons who returned into work after completing the military service;
- h) persons who returned into work after recovery of work capacity after expiring the period of invalidity pension;
- i) persons who carry out their activity in the rural area.

We specify that these persons **must be registered in the database of NAE, as jobseekers, according to the law.**

Beside these categories of persons, from the unemployment insurance budget are also financed 50% of the expenditures with vocational training services for up to 20% from the employed staff of the companies.

These vocational training programs are organized to prevent unemployment, and the companies that benefit from this facility are selected according to the law.

ARTICLE 9 – THE RIGHT TO VOCATIONAL GUIDANCE

Question A, item f

Between 2004-2006 NAE implemented the project “Counseling services for persons with disabilities” carry out on the basis of the new loan granted by World Bank (Ro 4616), that has as main goal the set-up of 8 counseling pilot centers for persons with disabilities (each in every development area) and the development of the agencies’ capacities of providing services of counseling and job-matching of a targeted group with special needs.

According to the obtained results after the implementation of this project, NAE aims to develop the experience gained in the framework of the 8 pilot centers at the level of every agency for employment, so that the capacity of providing efficient counseling services for persons with disabilities exists at national level.

All the advisers that carry out activities in these centers benefit from continuous training, participating in trainings and stages of good practice, with a view to developing the vocational competences and to increasing the quality of the services granted to persons with disabilities.

In the framework of County Agency for Employment from Bihor was set up, with the support of the Romanian- German Association Project Rumänienhilfe Alsterdorf, the “Counselling and Assistance at work for persons with disabilities Centre”, Bihor.

Some Comments:

1. School Education

In the education system, the educational and vocational guidance services are provided by teachers with special training who work in schools. These services are completed by those offered in the private sector where psychologists attested by the National Council of the Psychologists are carrying out psychological evaluations and make recommendations related to career options.

The educational and vocational guidance services offered in schools are available equally and free to all students enrolled in the national education system, without any discrimination.

2. Higher Education

Article 9 – The right to vocational guidance – stipulates the following: “Guidance in higher education is provided by the Guidance Centres working within the university campuses, which are private entities. The Committee wants to know how this service is delivered.”

With reference to this provision, we would like to mention that the guidance activity is carried out by each individual higher education institution. The ways guidance is carried out differ. For these purpose, the institutions organise various meetings and events presenting their education offer with a view to the employments opportunities of future graduates. At the same time, for the same purpose, the universities issues printed material, use the mass-media etc. Additionally, there are specialised departments operating in universities that provide guidance services to those who are interested.

Question A

The educational and vocational guidance services offered in the national education system:

- a. The access to the educational and vocational guidance services offered in the national education system is provided to all children/ young people and is free of charge.
- b. The vocational guidance activities are public and are carried out in an individualised manner.
- c. The measures taken in schools in order to provide information related to career/ professional options are:
 - regular information provided to students during classes with their class teacher;
 - meetings and lectures for parents;
 - programmes of individualised services;
 - career guidance services;
 - practical activities in companies and public and private institutions.
- d. The measures meant to ensure links between vocational guidance and the labour market:
 - practical activities in companies and public and private institutions;
 - visits to companies and public and private institutions;
 - processing of employment offers of companies and institutions;
 - participation in job fairs.
- e. The measures meant to improve the vocational guidance services:
 - the early intervention (pre-school guidance) and the early identification of children's / youth's skills and potential;
 - ensuring that all schools with legal personality have psycho-pedagogical counsellors (at all levels of school education);
 - Designing and implementing a special form of psychological and pedagogical characterisation so as to ensure objective educational and vocational guidance.
- f. The measures particularly addressed to people with disabilities:
 - the selection of information about career options and the job market during guidance classes and after-school activities;
 - the simulation regarding the compliance with the requirements of the qualifications for which the students are trained;
 - the setting up of privileged workshops;
 - knowledge about the need for work force in local communities;
 - distinguished qualifications based on the degree and the type of disability;
 - certain pre-career activities organised during grades 8th – 10th;
 - practical training in companies and institutions.

Question B

Vocational guidance measures meant to enhance professional and social promotion:

- providing for posts of psychological and pedagogical counsellors in all schools with legal personality;
- introducing educational and vocational guidance and counselling as a subject in the national curriculum;
- introducing the subject “Technological Education” in the core national curriculum from the 5th grade;
- establishing schools of arts and crafts with two levels of vocational qualification;
- organising practical training in companies and institutions.

Question C

Types of information available through vocational guidance services:

- specialised literature in the field of educational and vocational guidance;
- the annual school offer;
- The School Action Plan (SAP), the Local Institutional Action Plan (LIAP), the Regional Institutional Action Plan (RIAP);
- the annual fair of educational services and offers;
- job fairs.

Question D

Vocational information and counseling represents a set of services delivered free of charge to the jobseekers.

The vocational information and counseling is carried out by specialized centers, organized within the agencies for employment, as well as by other centers and accredited service providers from the public or private sector who conclude contracts with the agencies for employment, according to the law.

In 2005 for the payments made for external providers accredited, that concluded contracts with the agencies for employment, according to the law, 1 003 356 Ron were spent from the unemployment insurance budget, and in 2006 was spend 2 027 013 Ron.

Until 31.12.2006, 208 persons carried out the information and counseling activity within the agencies for employment, from which 58% had graduated university (39 persons have a bachelor degree in the field of psychology and sociology, and the rest in other fields). From those 208 advisers, 82 persons participated in upgrading courses in vocational guidance field, 47 persons – training courses on vocational information and counseling, 50 persons – master in Public Politics, 20 persons participated in the Program for developing the active life.

The geographical and institutional distribution of the information and counseling services is carried out in 181 localities, which covers all the 8 areas of the country, namely the 42 counties. In every county functions a county agency for employment, local agencies and working points.

In **2005** 111 045 jobseekers benefited from information and counseling services, from which 105 308 persons advised through county agencies for employment and 5 737 were advised through external providers.

Beneficiaries' classification:

a) by gender:

- 52007 women
- 59038 men

b) by age:

- 32802 persons under 25 years old;
- 28953 persons between 25-34 years old;
- 28951 persons between 35-45 years old;
- 20339 persons over 45 years old.

c) by studies:

- **14095** incomplete primary and secondary school;
- **24584** primary and secondary school;
- **33254** vocational school, apprenticeship school and skill courses;
- **31867** college or postsecondary school;
- **7245** university.

In **2006** 126121 jobseekers benefited from information and counseling services, from which 115024 persons advised through county agencies for employment and 11097 were advised through external providers.

Beneficiaries' classification:

a) by gender:

- 56368 women
- 69753 men

b) by age:

- 33782 persons under 25;
- 31250 persons between 25-34;
- 35072 persons between 35-45;
- 26017 persons over 45.

c) by studies:

- 17796 incomplete primary and secondary school;
- 33573 primary and secondary school;
- 35024 vocational school, apprenticeship school and qualification courses;
- 32680 college or postsecondary school;
- 7048 university.

Question D

Information about vocational guidance services:

- there is no information available to the amounts of money allotted;
- the specialised staff providing guidance fall into the following categories:
 - psycho-pedagogical counsellor teachers: 1300
 - teachers for students with speech disability: 386
 - supporting teachers: 700

The specialisations of the teachers who deliver services of educational and vocational guidance are in the following areas: pedagogy, psychology, special psycho-pedagogy, sociology, social pedagogy.

- all students/young people included in a form of education benefit from educational and vocational guidance services;
- in each county, there is a network of cabinets providing psycho-pedagogical counselling. This service is coordinated at county level by the County Centre of psycho/pedagogical Assistance.

Question E

Ensuring equal access

Answer regarding Conclusion 2007

Concerning the art. 9 – Right to Vocational Guidance:

According to art. 4 (1) of the Law 76/2002 on the unemployment insurance system and employment stimulation, with its subsequent changes and complements, a relevant legal document in the application of this law provisions are excluded any kind of discrimination based on political criteria, race, nationality, ethnic origin, language, religion, social category, convictions, gender and age.

According to art. 16 of the above mentioned law, beneficiaries of this law provisions are the jobseekers who are in one of the following situations:

- a) have become unemployed according to the provisions of art.5, IV, c);
- b) were not able to take-up employment after graduating from an educational institution or after completing the compulsory military service;
- c) have a job but, due to various reasons, would like to change it;
- d) have obtained a refugee status or other form of international protection, according to the law;
- e) **foreign citizens and stateless who have been employed or have earned an income in Romania, according to the law;**
- f) have not been able to take-up employment following repatriation or release from prison.

According to art. 57 (1) of the same law, the increase of employment opportunities of the jobseekers is carried out by the National Agency for Employment, by means of:

- a) professional information and counseling;
- b) job matching;
- c) vocational training;
- d) counseling and assistance to start an activity as self-employed or to start-up a business;
- e) completing the wage income of the employees;
- f) stimulating the labor mobility.

The provisions of art. 58 (1) of the Law 76/2002 on the unemployment insurance system and employment stimulation, with its subsequent changes and complements, stipulate that career information and counseling represents a set of services delivered free of charge to the jobseekers having the following purpose:

- e) to provide information on the labor market and the evolution of the occupations;
- f) to evaluate and self-evaluate people for their professional guidance;
- g) to develop the ability and self-confidence of the jobseekers in order to enable them to make decisions on their own career;
- h) to train on job-searching methods and techniques.

As item (2) of the same article provides, career information and counseling is carried out by specialized centers, created within employment agencies, as well as other centers and services providers from public and private sector, authorized, which conclude contracts with employment agencies, according to the law.

Professional guidance and training on job-searching methods and techniques and participating in interviews in order to take up a job is carried out by career guidance counselors, within career information and counseling centers or, upon request, within other organized training institutions.

Being aware of the problems faced by disabled persons while trying to find a job, NAE aims to develop the capacity of the agencies for employment to provide job matching and counselling services for this target group with special needs.

Therefore, since 2004, NAE is implementing the project “**Counselling services for persons with disabilities**” carried-out based on the loan from the World Bank (Ro 4616) which aims to develop the capacity of agencies for employment to provide job matching and counselling services for this target group with special needs, paying attention in the same time to the collaboration with the companies that are to employ persons from this category addressing, thus, both segments of the labor market: demand and supply.

From the results achieved until now after implementing this project, we mention the following:

- **setting up of 8 job matching and counseling pilot centers for disabled persons**, within the agencies for employment from the following counties: **Argeş, Caraş-Severin Cluj, Iaşi, Olt, Sibiu, Vrancea and Bucharest**;
- making more accessible the facilities within the 8 pilot centers according to the „ Regulation for adapting the civil buildings and urban areas corresponding to the needs of the disabled persons”
- the training of the staff that provides job matching and counseling services for disabled persons within the 8 counseling pilot centers.
- organizing an interpreter course of sign language for 16 persons of NAE network;
- creating a volunteers network from NGO’s which are collaborating cu NAE staff (counselors and mediators) in order to grant specialized services for persons with disabilities and for employers interested in employ these persons,
- purchase of special equipments for making more accessible and to adapt the jobs for disabled persons.

National Agency for Employment shows a special interest in developing special services for disabled jobseekers. Therefore, in October 2007, **the setting up of other 12 centers for counseling disabled persons** was approved by the Governing Body of NAE.

Vocational training on the labor market

a.

The activity of counseling carried out within the agencies for employment follows a **conventional procedure** implemented at national level, which defines: the activity aim, the types of provided services, the principles of performing an activity, the expected results, the needed location and equipment, the staff concerned in the activity and the way of working.

The staff concerned in the activity, namely the vocational guidance counselors, shall have specialized training: university studies of psychology, sociology, pedagogy, social support or other types of university education.

b. There is no separate budgetary chapter for vocational counseling activity. Because there is no separate budgetary chapter for vocational counseling activity the expenditures allocated for this activity is summed up to the salaries paid to the persons who carry on this activity (UIF).

The 2005-2007 situations of the beneficiaries of the vocational counseling services is presented below:

Year	The total number of beneficiaries, from which:	Women	Men
2005	111.045	52.007	59.038
2006	126.121	56.368	69.753
2007	470.296	205.994	264.302

For the information dissemination, in the framework of the project “Information and Counseling on Career” was created a national portal for information, counseling and guidance on career that gives the possibility of supplying on-line services and services in self administration regime.

The right of the foreigner citizens or of the stateless who have been employed or have earned an income in Romania to benefit from vocational information and counseling services is guaranteed according to the article 16 from the Law no. 76/2002 on the unemployment insurance system and employment stimulation, with its subsequent changes and complements.

ARTICLE 10 THE RIGHT TO VOCATIONAL TRAINING

Referring to article 1 paragraph 4 let.b), article 10 paragraph 1 – The right to Vocational Training questions A, C, E and article 10 paragraph 5:

On the basis of art. 63 paragraphs 1 corroborated with art. 65 par. (3) from the Law no. 76/2002, with its subsequent modifications (changes) and completions, jobseekers can participated in vocational training programs, financed from the unemployment insurance budget, meant to increase and diversify their skills with a view to ensuring their mobility and reintegration into the labor market.

According to par. (2) of the same article, the vocational training program ensure, according to the law, the initiation, training, retraining, upgrading and specialization of the jobseekers.

The vocational training of the jobseekers is made according to the current and future needs of the labour market and in accordance with the individual options and aptitudes of the persons concerned, as it is provided in par. (3) of the same article.

The access to the free-of-charge vocational training programs (financed from the unemployment insurance budget) is provided as a result of the professional information, counseling or labor exchange activity, as it is provided in the art. 64 par. (1) from the same normative document.

According to the art.66 par. (1) from the above mentioned law, vocational training services mean all the rights the persons mentioned at art.66 par. (1) and (2) benefit from during their participation in a type of vocational training.

The jobseekers who are benefiting free of charge from vocational training services, have, according to par. (2) of the same article, the following rights:

- a) to benefit from theoretical and practical training during the course and to sit free of charge for the graduation exam for two times at the most at the end of the course;
- b) to benefit from writing and training materials and to receive books;
- c) to benefit, if the case, from protection equipment during practical training;
- d) to benefit, for the travel from home to the training unit, by free season ticket for the public means of transportations or, by cases, by reimbursing the transportation expenditures, for at the most 4 travels per month, if they can't travel every day to the training unit, under the circumstances stipulated by the enforced regulations for the employees of the public institutions and regies autonomies of a special type, during the period of delegation and secondment in another locality, and also in the case of travel, within locality, on duty, and also by free season ticket on all the public means of transportation during traveling from the accommodation unit to the training unit.
- e) to benefit from medical consultations and medical tests necessary for participating to the training course.

According to the art.67, paragraph (1) from the mentioned law, the vocational training activity of the jobseekers is coordinated, at a national level, by the National Agency for Employment.

The vocational training of the jobseekers is accomplished, according to the paragraph (2) from the same article, by the agencies for employment through vocational training centers subordinated to those and through the territorial centers for vocational training for adults, subordinated to the National Agency for Employment, as through vocational training providers, from the public or private sector, authorized in the conditions of the law.

According to the art.68, par.(1) from the mentioned legal document, the training, retraining, upgrading and specialization are organized for the occupations, trades and professions defined and included in the Classification of the occupations in Romania.

The National Agency for Employment and the authorized vocational training service providers may also organize training, retraining, upgrading and specialization courses for occupations or trades not included yet in the Classification of the Occupations in Romania only after they receive the agreement of the Ministry of Labor, Social Solidarity and Family, as the par.(2) of the same article stipulates.

Referring to the art.10, paragraph 1

Questions A, B

In 2005, for the vocational training services an amount of 18.235.576 RON was spent and in 2006, an amount of 25.330.926 RON was spent.

The vocational training programs organized by the agencies for employment are training, retraining, and upgrading and specialization programs. The access to these programs is made through the participation of the persons who require it for informing and counseling activities regarding the carrier or through job-matching.

The vocational training programs take place in 22 own vocational training centers, being subordinated to the 21 county agencies for employment and the 6 territorial centers vocational training for adults and also through vocational training providers authorized according to the law, of whose services are stipulated in a contract through offer selection.

Referring to the article 10, paragraph 2:

The legal framework on the apprenticeship was instituted through the enforcement of the Law no.279/2005 on the in work apprenticeship, in the base of the art.213 from the Labor Code – Law no.53/2003 with the further modifications and completions and of the art.10 from the Methodological rules of application of the provisions of the Government Order no.129/2000, regarding vocational training for adults, approved through the Government Ordinance no.522/2003, with the further changes and completions.

According to the Law no.279/2005, the *in work apprenticeship* is a type of vocational training for employees, which is organized and developed in the base of a work contract of a particular type (in work apprenticeship contract), and the *apprentice* is the natural person employed in the base of an in work apprenticeship contract.

The coordination of the apprentice vocational training is made by the *apprenticeship foreman*, a person with the status of employer's employee, certified in this sense, in the terms of the law regarding the work apprenticeship.

In the base of the Law no.279/2005, the persons who *can conclude in work apprenticeship contracts*, as employers, are only the juridical and natural persons authorized by the Ministry of Labor, Social Solidarity and Family, according to the law.

By derogation (impairment) the provisions of the Law no. 300/2004 on the authorization of the natural persons and the familial associations which develop economical activities in an independent way, may employ apprentices and:

- a) natural authorized person, if he/she proves that he/she carry-on the activity for what he/she was authorized from at least one year;
- b) family association, through its representative, if it proves that it carry-on, from at least one year, the activity for which it was constituted as a family association.

According to the Law no.279/2005, any natural person who already is 16 years, but is younger than 25 years and does not have a skill proper for the job for which the in-work apprenticeship is organized.

The natural person may conclude an in work apprenticeship contract, in his quality of apprentice and, at the age of 15, with the written agree of the parents or of the legally representatives, for the activities appropriate to physical development, abilities and their knowledge, if there are no jeopardize their health, development and vocational training .If there is no written agree of the parents or of the legally representative it will determine the absolute nullity of the apprenticeship contract.

The following categories may also be employed as apprentices:

- a) foreigners and stateless persons who gained a work license in Romania, according to the provisions of the laws ;
- b) citizens of the European Union Member States, of the states who signed the Agree regarding European Economic Area and their family members.

The verifying of the accomplishing of the conditions that must be accomplished by one person in order to be employed as an apprentice is made by the employer, in the base of the documents provided by the art.4 and the art.5 from the Methodological Rules for applying the Law no.279/2005 approved through the Government Ordinance no.234/2006.

The person employed in the base of the in-work apprenticeship contract has the apprentice status. The apprentice status gives him all the rights and the obligations provided by the labor law as well by this present law.

The apprentice benefits by the legally disposals applicable to other employees, if they are not opposed to the apprentice status.

With the view to the vocational training of the apprentice, the employer has the obligation to ensure, for the apprentice, the access to a theoretical and practical training, and also all the conditions necessary so as the foreman to accomplishes all the tasks regarding the apprentice training.

The Law no.279/2005 contains the provisions regarding:

- the way in which the apprenticeship in work contract is concluded, **carried-out, modified, suspended and finished**;
- the authorizing of the employers for concluding the apprenticeship in work contracts, respectively who may organize this activity;
- the foreman certification;
- the vocational training organization through in work apprenticeship;
- skills, respective job for that are organized apprenticeship in work;
- the way of financing the in work apprenticeship;
- the control of the in work apprenticeship activity.

The method of applying the provisions regarding the mentioned elements is regulated through the methodological Rules of applying the provisions of the Law no.279/2005 about the in work apprenticeship, approved by the Government Ordinance no.234/2006.

The employer authorization and the foreman certification, according to the art.11 from the Law no.279/2005 is accomplished by the Ministry of Work, Equal Opportunities and Family, through the territorial work, social solidarity and family directions, respectively through the Bucharest municipality, in the base of the commission's notification of authorizing the county vocational training providers, respectively of the Bucharest municipality, established according to the law.

The employer authorization is made in the base of accomplishing the evaluation criteria, established by the enforced law for the authorization of the vocational training providers for each of the occupations/qualifications, for which the employer wants to organize the in in-work apprenticeship.

The foremen certification is realized in the base of accomplishing some of criteria regarding the training, the experience in work and the training competencies.

The in-work apprenticeship is organized for the levels 1,2 and 3 of training, established by the enforced law and for the occupations included in the Occupational Classification from Romania, for which there are vocational training standards, respectively occupational standards.

The skills for which the apprenticeship may be organized at the workplace are those provided by the Register of Qualifications for which there can be organized programs carried-out with qualification certificates, approved by the Order of the work, equal opportunities and family minister and by the order of the education, research and youth minister no.35/3.112/2004 published in the Official Gazette of Romania, Part I, no. 107 from February 4, 2004. The jobs for which the apprenticeship may be organized are included by the Occupational Classification from Romania at the main groups 3, 4, 5, 6, 7 and 8.

In the case when the vocational training courses through apprenticeship, organized for the jobs contained by the Occupational Classification from Romania at the main groups 3, 4, 5, 6, 7 and 8, the conditions are given at the educational level, as follows:

- for the main groups 3 and 4 minimum the high school;
- for the main groups 5, 6, 7, and 8 minimum the obligatory education

The theoretical training of the apprentice is developed at a vocational training provider authorized according to the law provisions enforced for the respective skill or job. (Government Order no. 129/200 regarding the vocational training for adults, republished, with the further changes and modifications).

The practical training is developed in work places which allow the gaining of all the competences provided in the occupational standard, respectively the vocational training standard.

There is forbidden to use the apprentices in order to carry-on other activities and/or to exercise other attributions, except those which have, as main object, the theoretical and practical training according to the in work apprenticeship contract.

The final evaluation of the apprentice vocational training activity is organized by the employer with who this one concluded the in work apprenticeship contract and is accomplished by an examination commission made off by the foreman and two specialists from the activity area in what the apprentice vocational training was carried-on, designated by the commission of authorization of the county vocational training, respectively of the Bucharest municipality, at the employer's request.

The evaluation and the certification of the vocational training through in work apprenticeship are accomplished according to the legal provisions enforced regarding the vocational training for adults.

According to the art.43 from the mentioned rules, the graduates of the vocational training through in work apprenticeship, organized for the occupations contained in the Register of qualifications for which there can be organized vocational training programs with graduating certificates, will receive vocational qualification certificates.

The graduates of the vocational training through in work apprenticeship, organized for the Occupation's Classification from Romania to the main groups 3, 4, 5, 6, 7 and 8, will receive graduation certificates, having the value of partial qualification certificates.

In order to stimulate the vocational training for in work apprenticeship according to the provisions of the 17 article, par.(1), from the Law no. 279/2005, the employers who employ persons in the base of an in work apprenticeship contract according to the law, receive monthly, on request, from the unemployment insurances budget, during the period of the apprenticeship development, for each person:

- a) a sum equal with 50% from the minimum economy-wide gross wage;
- b) a sum equal with the monthly amount of the theoretical training services of the apprentice, without exceeding 20% from the minimum economy-wide gross wage.

The minimum economy-wide gross wage, envisaged at the article 17 par. (1) from the law, is the minimum economy-wide gross wage, enforced in the month when the payment is made. (art. 46 par.(4) from the methodological rules for the law application).

The vocational qualifications or the competences for which the mentioned amounts, according to the art.20, par.(1) from the same standard act, are established each year through an order of the president of the National Agency for Employment.

With the view to the annual approval of the professional qualifications/competences for which agreements for granting the mentioned amounts are concluded, the county or the Bucharest municipality agencies for employment establishes, with consulting the social partners, the list of vocational qualifications/competences requested on the labor market from the local level from the county and send it to the National Agency for Employment.

ARTICLE 10, PARAGRAPH 2

Question A

The apprenticeship contract is concluded, executed, modified, suspended and terminated only by complying with the regulations of Law no. 53/2003 – Labor Code referring to the apprenticeship and the individual labor contract.

Besides the compulsory elements of the individual labor contract, the apprenticeship contract comprises the following clauses related to the following:

- a) qualification, respectively the competences that the apprentice is to acquire;
- b) the name of the foreman apprenticeship and his qualification;
- c) the place where the professional training is to take place;
- d) the training practice program and the theoretical training one;
- e) the duration necessary to be granted the qualifications and the competences;
- f) the in kind advantages granted to the apprentice.

The employer's rights and obligations are set in the apprenticeship contract that is to be completed with the provisions in the applicable collective labor contract and the internal regulations.

Any individual, between 16/25 years old, who does not have a qualification in the occupation that the apprenticeship is organized for, can be registered as apprentice at the work place.

The individual can conclude an apprentice contract at the work place, as apprentice, on being 15 years old, with the written agreement of the parents or the legal representatives, for the activities adequate to his physical development, his capacities and knowledge, provided that his health, professional training and development are not prejudiced. The lack of parents' or legal representative's approval annuls the apprenticeship contract.

The following categories can also attend the apprenticeship programs:

- a) foreign citizens, as well as stateless persons who got the labor permit in Romania, according to the legal in force regulations;
- b) the citizens in the member states of European Union, of the states signatories of the Agreement regarding the European Economic Space and their family members.

Maternity is not a reason of discrimination in executing the apprenticeship at the work place.

The apprentices who are not 18 years old have the right to be supported, the family Code provisions are applied to them, the apprenticeship period being assimilated in the study continuation one.

Only the legal entities and the individuals who are authorized by the Minister of Labor, Family and Equal Opportunities can conclude apprenticeship contracts at the work places, as employers.

By derogation to the provisions of Law no. 300/2004 regarding the authorization of the individuals and family associations that are independently developing economical activities can employ apprentices, and:

- a) the certified individual, provided he proves that has been delivering the services he has been certified for at least one year prior to the employment;
- b) the family association, by its representative, provided that it proves that it has been delivering services at least one year prior to the employment.

The certified individual or the family association can organize an apprenticeship at the work place for a maximum of three apprentices who are preparing at the same time and only for the 1st level of qualification, according to the legal dispositions.

The apprenticeship contract duration cannot be longer than 3 years and shorter than 6 months. The apprentice can be subject to a probation period that cannot be longer than 30 working days.

The professional training through apprenticeship consists of theoretical and practice training. The time necessary to the theory training is included in the normal working hours.

The monthly salary, established in the apprenticeship contract, is at least equal to the minimum gross salary at the country level, in force for a program of 8 hours a day, that is an average of 40 hours a week.

The normal work program for the people employed on basis of an apprenticeship contract is of a maximum of 8 hours a day, 5 days a week.

During the apprenticeship employment period the employer is obliged to provide the apprentice who resides permanently in other town, without having the possibility of daily transportation, the accommodation and 3 meals a day.

The accommodation conditions must be provided by the employer and supported by the apprentice, and their value cannot overcome 50% of the net salary the apprentice is getting at the work place, according to the in force apprenticeship contract

Question D - Answer

To support financially the employers who employ people, on basis of an apprenticeship contract according to the law, they receive monthly, on request, from the unemployment insurance budget, during the apprenticeship contract, for each person:

- a) o sum equal to 50% of the minimum gross salary, in force in the country;
- b) o sum equal to the monthly counter value of the services of theoretical instruction of the apprentice, without overcoming 20% of the minimum gross salary at the country level, in force.

These facilities are not valid during the probation period provisioned in the apprenticeship contract and neither during the period when the work relations are suspended.

The monthly sum granted to the employers is proportional to the time effectively worked by the apprentice, as well as for the period of the annual vacation of the apprentice.

The professional qualifications and competences for which the sums are granted are established annually by the order of the President of the National Agency for Employment.

Question E and Question F - Answer

The above mentioned measures are applied to all young people categories, irrespective of sex, the people pertaining to the vulnerable groups, to the disabled people, equal access to these measures being granted for the Romanian citizens or the citizens of other European Union states residing and working on the Romanian territory.

Referring to the article 10 paragraph 3:

Also, regarding the vocational training for adults, the Government Ordinance no.129/2000 on the vocational training for adults, republished, with its subsequent modification and completions.

In the base of the art.2 par.(1) from the mentioned ordinance, the adults have equal rights for accessing the vocational training, without discriminations on age, gender, race, ethnic origin, political or religious affiliation criteria.

According to the art.3 from the same ordinance, the vocational training for adults has the main objectives:

- a) facilitating the social integration of the persons according to their vocational intends and the labor market necessities;
- b) preparing the human resources able to contribute to the growing of the competitiveness of the labor force;
- c) updating the knowledge and vocational retraining in the main occupation, as in relative occupations;
- d) changing the qualification, determined by the economic reorganization, social mobility and changes of the work capacity;
- e) acquiring advanced knowledge, methods and modern procedures necessary for accomplishing the job tasks.

According to the art.7 from the mentioned normative act, vocational training for adults is organized distinctively on levels of training, vocations, occupations, jobs and specializations, taking into account the needs of employers, the basically competences of the adults, the requirements of their jobs and their promoting possibilities or employing, as of the requirements of the labor market and the adults' aspirations.

In the framework of the vocational training for adults, the credits transferable system is available. On the base of their accumulation, there may be certified the acquiring of new vocational competencies.

The types of acquiring the vocational training of the adults are:

- a) courses organized by the vocational training providers;
- b) courses organized by employers in the framework of their own units;
- c) stages of practice and specialization in the units within the country and abroad;
- d) other vocational training types envisaged by the law.

According to the art.8 par.(3) from G.O. no. 129/2000, republished, with the further changes and completions, the National Agencies for Employment fulfills the following attributions in the area of the labor force training:

- a) coordinates, at a national level, the vocational training activity for jobseekers, according to the law, applies the politics and the strategies regarding the training and retraining of the jobseekers;
- b) organizes vocational training programs for these categories of adults through own centers, through private centers and through authorized vocational training providers;
- c) assigns vocational training programs, through direct giving, through offers selection or through tender according to the law.

Referring to the article 10 paragraph 4:

The provisions of the Law no. 76/2002 on the unemployment insurance system and employment stimulation, with the further modification and completions, regulates the measures for implementing the strategies and politics elaborated with the view to protect the individuals against the risk of unemployment, ensuring a high level of employment and adapting the labor force to the requirements of the labor market.

In the base of the article 3 from the above mentioned law, the measures mentioned by this law have the purpose to accomplish the following objectives of the labor market:

- a) to prevent unemployment and to fight against its social consequences;
- b) to integrate and reintegrate the jobseekers into the labor market;
- c) to support the employment of persons from the disadvantaged categories on the labor market;
- d) to ensure equal opportunities on the labor market;
- e) to stimulate the unemployed to take-up employment;
- f) to stimulate the employers to employ jobseekers;
- g) to improve the structure of employment by economic branches and geographical areas;
- h) to increase the labor force mobility in view of the structural changes the national economy is undergoing;
- i) to provide protection within the framework of the unemployment insurance system.

Measures for preventing unemployment:

According to the article 48¹ paragraph (1) from the law no.76/2002, with the further modifications and completions, with the view to prevent unemployment and strengthen the jobs through expanding and diversifying the vocational competences of the employed persons, the employers who organize, in the base of the annual plan of vocational training, vocational training programs for their employees, carried-on by the vocational training services providers, authorized in the limits of the law, gives, from the unemployment insurance budget, an amount representing 50% from the expenditures with vocational training services organized for a number of at least 20% from the employed staff.

In the case of mass redundancy, according to the article 49 from the mentioned law, the employers have the obligation to notify the employment agencies with a view to adopt measures for fighting unemployment and preventing the unfavorable social effects of these dismissals.

According to the article 50 from the same law, in the situations mentioned at the article 49, the employers have the obligation to grant a notice period, according to the Labor Code or the collective labor agreement, to their employees who are to be dismissal.

During the notice period, the employees will participate in pre-layoff services delivered by the employment agencies or by other employment services providers from the public or private sector, selected and accredited by the agencies according to the law.

According to the article 51 from the mentioned law, the following activities are mainly considered pre-layoff services:

- a) information on the legal provisions regarding the protection of the unemployed and offering employment and vocational training services;
- b) placement on the existing vacancies at local level and training on job seeking techniques;
- c) vocational re-orientation within the undertaking or by way of short-term training courses;
- d) survey the employees' opinion and their counseling on the measures for fighting unemployment.

Measures for stimulating the employment:

In the base of the article 53 from the law 76/2002, with the further changes and completions, the measures for the employment stimulation envisage:

- a) increase the employment opportunities of the jobseekers;
- b) stimulate the employers to hire unemployed people and create new jobs.

According to art. 54 from the same law, the measures for employment stimulation shall be aimed both at the job-seekers and the employers and shall be carried out by way of specialized services, supplied by the employment agencies or other service suppliers from the public or private sector.

According to the article 57 paragraph (1) from the mentioned law, the increasing of the employment opportunities for the jobseekers is realized by the National Agency for Employment, through:

- a) vocational information and counseling;
- b) job matching;
- c) vocational training;
- d) counseling and assistance for starting an independent activity or for starting a business;
- e) completing the wage income of the employees;
- f) stimulating the labor force mobility.

Stimulating the employers to hire unemployed:

According to the article 77 from the Law no. 76/2002, with the further modifications and completions, the stimulation of the employers to hire unemployed persons is **accomplished** through:

- a) job subsidies;
- b) providing low interest credits in order to create new jobs;
- c) providing other incentives.

Each measure mentioned above is detailed in the above-mentioned law.

In the year **2005**, the total number of persons contained in the active measures of employment stimulation was 747.225. Among them, 423.482 are from the urban environment and 323.743 from the rural environment,

The structure based on age categories is as follows: persons under 25 years – 178.836, persons with the age between 25-35 years – 210.218, persons with the age 35-45 years – 196.912, persons older than 45 years – 161.259.

From the total number of 747.225 persons who used the active measures of employment stimulation, 925 are persons with disabilities, 25.595 are Roma persons, 462 are young persons who left the protection system for children and 79.551 are long term unemployed.

From the 42.996 persons, participants at training in the year 2005, 22.672 were women. The unemployed number, participants in the training program was 39.932, and their age structure was as follows:

- persons under 25 years: 14.354 persons;
- persons aged between 25-34 years: 10.419 persons;
- persons with the age between 35-45 years: 10.333 persons;
- persons over the age of 45: 4.826 persons.

For the year **2006**, the total number of persons who used the active measures of employment stimulation was 916.720 persons. From this, a number of 471.752 are from the urban area and 444.968 from the rural area. The structure on age categories is as follows: persons younger than 25 years – 197.374, persons aged between 25-35 years – 244.934, persons with the age between 35-45 – 248.100, persons older than 45 years – 226.312.

In 2006 the number of participants at the vocational training was 46.681 persons, from which 23.821 women, and the number of unemployed was 42.565.

The structure on age groups of the unemployed is the following:

- persons under 25 years: 12.381 persons;
- persons with the age between 25-34 years: 11.443 persons;
- persons with the age between 35-45 years: 12.423 persons;
- persons over the age of 45: 6.318 persons.

ARTICLE 10, PARAGRAPH 5

Question A - Answer

According to the law of the professional training programs organized by the National Agency for Employment, the courses are free of charge for the people who are looking for a job, being financed from the unemployment insurance budget.

Thus, vocational and evaluation the adult professional training results and assessment is financed from the following sources:

- a) employers own funds;
- b) unemployment insurance budget;
- c) sponsorships, donations, external sources;
- d) taxes from the people participating at the professional training courses.

The trade companies and the national societies, the cooperation unities, the state own enterprises and other institutions can spend money to train professionally the employees, these expenses are deduced from the profit tax or the income tax. The institutions financed from extra budgetary funds can spend money for the professional training of its employees from these incomes.

The institutions financed from the state budget or the local budgets can finance the expenses with the professional training of the employees from budgetary or extra budgetary sources, according to the approved own budgets. During the period they participate at professional training programs financed by the employers, the employees receive the salary rights established according to the labour individual contract for the normal working program.

The employers support the transport expenses for attending vocational training program, if these programs are developed in other town than the one where the employee has his working place.

The professional training financing can be achieved from sponsorships as well, donations or external sources.

The terms and conditions that the private suppliers of professional training are granted financial support from external sources correspond to the applicable legislation and provisions in the international cooperation agreements to which Romania is signatory.

Question B and Question C - Answer

Attending to the professional training of the employees can be achieved through the following forms:

- a) participation at the courses organized by the employer or the professional training service suppliers in the country or abroad;
- b) professional adaptation courses complying with the position and the work place requests;
- c) practice and specialization courses in the country and abroad;
- d) apprenticeship organized at the work place;
- e) individualized training;
- f) other forms concerted by the employer and the employee.

The employer has the obligations to provide the employees periodical access to vocational training. The concrete way of vocational training, the parties' rights and obligations, the professional training duration, as well as any other aspects related to the professional training is object to additional acts at the individual labor contracts.

In case that the participation to the vocational training courses or probation is initiated by the employer, all the expenses occurred during this participation are supported by him.

In case that the participation to the professional training courses imposes a partial stop in the activity, the employee attending the courses will benefit of his salary rights as follows:

a) if the participation imposes a stop in the activity for a period not longer than 25% of the daily period in the normal working hours, he will benefit, during the whole period of professional training, of the total salary corresponding to his position, including all indemnities, increments and bonuses;

b) if the participation imposes a stop in the activity for a period longer than 25% of the daily period in the normal working hours, he will benefit of the base salary.

If the participation at the professional training courses imposes a total stop in the activity, the individual labor contract is suspended, and the employee benefits of the indemnity paid by the employer, provisioned in the applicable collective labor contract or the individual labor contract.

The people looking for a job can participate at the professional training course that provides the increase and diversity of their professional competences in order to provide their mobility and reintegration in the labor market.

The professional training programs provide, according to the law, the initiation, skill, re-skill, perfection and specialization for jobseekers. The vocational training for jobseekers is carried out taking into account the present and future requests and on the labor market and they are according to the individual options and capacities of those people.

The forms the vocational training is achieved for jobseekers are the following: courses, practice and specialization, as well as other forms. The access to vocational training programs is made following the information and professional counseling or mediation activity. The professional training programs for the people who are looking for a job are organized differently depending on the levels of experience and specializations, as well as on the categories and groups of people.

The professional training activity for the people who are looking for a job is developed on basis of a national plan of professional training, annually elaborated by the National Agency for Labor Force Occupation. The national plan of professional training is approved by the Minister of Labor, Family and Equal Opportunities.

The vocational training financing is carried out from the unemployment insurance budget, on basis of the indicators established by the approved national vocational training plan.

The vocational training services are provided freely for the persons who have become unemployed, and could not employ after graduating an education institution or after satisfying the military service, who have obtained the statute of refugee or other form of international protection and could not occupy a work place after repatriation or after being released from prison.

The people who benefit of unemployment benefit are obliged to attend to the vocational training programs offered and organized by the agencies for employment, they can benefit freely of the vocational training services once for each period in which they are looking for a job.

The vocational training activity for the jobseekers is coordinated at the national level by the National Agency for Employment. The vocational training for the jobseekers is achieved by the agencies for employment by the centers of vocational training subordinated to them, as well as by other suppliers of professional training services, in the public or private system, certified according to the law.

Question D - Answer

The control for complying with the obligations regarding the labor relations concluded between the employers and the apprentices, who benefit of sums from the unemployment insurance budget, is carried out by the control bodies in the agencies for employment at the county level, or in Bucharest city.

The labor inspectors have the competence to control the way of concluding, executing, modifying, suspending or terminating the apprenticeship contract in the situations and under the conditions provisioned in the methodological norms of applying the Law. On the labor inspectors' notification, the procedure of withdrawal the employer's authorization or the apprenticeship master certification can be initiated.

The Minister of Labor, Family and Equal Opportunities, through the directions of labor, social solidarity and family, at the county level, or in Bucharest, exerts the control on the way the apprenticeship is organized at the work place. The conflicts related to the conclusion, execution, modification, suspension or cessation of the apprenticeship contract at the work place are solved according to the legal provisions related to the labor conflicts.

Any infringement of the legal dispositions constitutes an offence and is sanctioned by the people having control attribution with a fine of 5.000 lei RON. In case the sanctioned dispositions are infringed 3 times one year, the employer's authorization to employ apprentices at the work place is withdrawn, and the right to obtain a new authorization is annulled for a period of 4 years after the withdrawal.

ARTICLE 15- THE RIGHT TO INDEPENDENCE FOR THE PERSONS WITH DISABILITIES, TO SOCIAL INTEGRATION AND PARTICIPATION IN THE COMMUNITY'S LIFE

Paragraph 1

Regarding the inconsistency with article 15, par. 1 of The Revised European Social Charter – **Preparation of the vocational training of the persons with disabilities**, we mention the provisions of the 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 opportunities of social integration and inclusion.

The Law 448/2006 on protection and promotion of the rights of the persons with handicap stipulates in *Chapter II – The rights of the persons with handicap, Section 2 Education:*

Art. 13 – “(1) The persons with handicap have equal and free access to any form of education, regardless age, in accordance with the type and degree of handicap and their educational needs.

(2) The persons with handicap have the assurance of long-life education and professional training.”

Question B

a. the evaluation of people with disabilities by the Complex Evaluation Service within the County departments of Social Assistance and Child Protection. These evaluations are discussed by the Child Protection Commission established at county level, who issues a certificate of educational and vocational guidance.

From the point of view of the education system, each school of special education has a post of psychological diagnostician and a post of counsellor teacher who evaluate all students with disabilities and make recommendations on their educational and vocational guidance. The criteria for the evaluation of children and adults with disabilities are provided in the legislation specific to the ANPDC and the ANPH.

b. the education of people with disabilities is organised as follows:

- in mainstream schools – the children with disabilities benefit from support services provided by supporting teachers. These are the forms of integration:

- the individual integration of a child with disabilities in a mainstream class;
- the integration of a group of 2-3 students with disabilities in a mainstream class;
- a special class integrated in a mainstream school.

- in special education schools based on the type of disability.

In 2007, there are 187 special education schools in Romania where 27.445 students with various disabilities (usually severe disabilities) are learning. A number of 20.445 students with disabilities attend mainstream schools and benefit from educational assistance. There are approximately 3.700.000 students enrolled in mainstream education in some 15.000 schools.

c. All students who complete the 8th grade, no matter the type and the degree of disability, receive guidance during secondary education (school of arts and crafts or high-school). Educational guidance is provided by the commission for child protection. There are families who keep their children in schools so as to benefit from some advantages such as a double child allowance, an allowance for accompanying persons.

d. Vocational training for children with disabilities is similar to that provided to other children.

e. As regards the training of young people with disabilities, there are no restrictions referring to the areas of specialisation. The access to some qualifications may be limited only by a recommendation of the Expertise Commission for Labour Capacity.

f. Re-training is free and is provided by County Agencies for Employment.

Question D

In the education system, there are several types of institutions that provide general educational, guidance and training services:

- the county school inspectorate – coordinates, monitors and evaluates all educational services at a county level;

- the schools – provides general education and vocational education at level 1, 2 and 3;

- the county centres and the cabinets of psycho-pedagogical assistance – provides educational and vocational counselling and guidance to all students;

- the internal commission for continuous evaluation – evaluates and makes recommendations on educational and vocational guidance.

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 2005, there were **459.552 persons** with handicap (54.861 children and 404.691 adults)

From the total number of the persons with disability:

-441.459 are non-institutionalized, from that: 55.984 children and 386.960 adults

- 18.093 in institutions (362 children and 17.731 adults).

In 2006, the total number of persons with disability was **488.054 persons**, (55.121 children si 432.933 adults).

Among the persons with disability

- 470.716 in family 54.914 children si 415.802 adults;
- 17.338 in institutions (207 children si 17.131 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 handicap, “Equal opportunities for people with handicap – towards a non-discriminatory society”.

In drafting out the National Strategy concerning the social protection, integration and inclusion of the persons with handicap, 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 communautaire documents, as well as other documents drafted by non-governmental organizations which carry out activities in the field of protection of the persons with handicap.

“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.*”

The full name of the public institution with legal body, subordinated to the National Authority for Disabled Persons, it is The National Institute for Prevention and Fighting of the Social Exclusion of the Disabled Persons (NIPFSEDP).

Question B

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Article 15 para 2-“Employment of the persons with handicap”

Question A and B:

Arrangements for disabled person employment:

The Law no. 76/2002 on the unemployment insurance system and employment stimulation, with the further changes and completions, regulates also the measures of stimulating the employers for hiring the unemployed belonging to disadvantaged categories, including with the view to employ the persons with disabilities, as a category hard to employ.

So, in the base of the article 80, paragraph (2) from this law, as it was enforced until January 1, 2006, the employers who hire graduates with a labor contract on a non-limited periodm from among the persons with disabilities receive, monthly, during a period of 18 months, for each graduate:

- a) 1 minimum economy-wide gross wage, enforced at the day of employment date, for the graduates of the inferior level of the college or of the arts and professions schools;
- b) 1,2 minimum economy-wide gross wages, enforced at the day of employment , for the graduates of the superior secondary school or of the post college;
- c) 1,5 minimum economy-wide gross wages, enforced at the day of employment, for the university graduates.

Through enforcing, starting with the date of January 1, 2006, of the Government Ordinance no.144/2005, the employers who employ, with non-determined period labor contract, graduates from persons with disabilities, benefit, beside these rights also by the exemption of the payment at the unemployment insurance budget for employment for the respective graduates.

Also, according to the art.85 par.(1) from the same legal document, the employers who, related to the number of employees, according to the law, don't have the obligation of employing persons with disabilities, if they employ, with labor contract during the non-determined period, persons with disabilities and they keep their work or job relations for at least 2 years receive, monthly, for a period of 12 months, for each person employed from this category, an amount equal with the minimum economy-wide gross wage.

In the year 2005, through the stimulation measure for the employers for employing persons with disabilities, there were employed a number of 217 persons and in the year 2006 through the same stimulation measure there were employed a number of 186 persons.

In the year 2005, as a consequence of job fair establishment for the persons with disabilities, there were employed a number of 191 persons and in 2006 there were employed 7 persons, without establishing a job fair for this category of persons.

Regarding the vocational training services for the persons with disabilities, there were financed from the unemployment insurance budget these were granted, in the year 2005 for a number of 114 persons with disabilities and in the year 2006 for a number of 90 persons with disabilities.

At this article, at *the chapter Vocational training is provided for vocational training for all types of higher education, including university.*

According to the Article 5, paragraph (1) of the Education Law no. 84/1995, republished, with its subsequent changes and completions, the citizens of Romania, therefore the people with disabilities being included, have **equal rights of access** to all levels and forms of education, including university education, irrespective of their social and economic background, gender, race, nationality, political or religious pertaining.

Article 15, Paragraph 2 –The actual National Strategy on social protection, integration and inclusion of the people with handicap „Equal opportunities for people with handicap – towards a non-discriminatory society” reaffirms the following important aspects:

- employment has a major contribution to the full participation of the people with handicap to the economic, cultural and social life, as well as to personal development;

- granting facilities to the employers that hire persons with handicap, through legal provisions to increase the employment rate.
- improved access of the people with handicap 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 handicap in the community life

In December 2006 the Law 448/2006 on protection and promotion of the rights of the persons with handicap was promulgated, this law abolished GEO no. 102/1999, Through this new law is strongly stimulated the interest of the persons with handicaps in searching a job taking into account that that the monthly allowance of 179 lei or 147 lei (considering the degree of handicap) is totally received, regardless the income.

To this benefit is added also the complementary personal budget of 80, 60, 30 lei (considering the degree of handicap), this budget being granted regardless the income.

The amendment of the Romanian Tax Code, approved by Law 571/2003, by the GEO nr. 24/2005, ordinance for the amendment and completion of the Law 571/2003 – amendment of art. 55 – by introduction in art. 1 (k1) of “... there are free of tax ... the incomes of the persons with handicap-degree of handicap severe or medium.”

These measures were efficient in that they lead to the increasing of the number of the employed persons with handicap, in 24 months, from 12.350 in 2004 to 16.225 in 2006, a 3.875 increasing, respectively 23,88 %.

Prevention and sanction – the discrimination based on disability criteria

The new Labor Code, adopted by the Law no. 53/2003 (published in the OG of no. 72 of 5 February 2003), with its modifications and completions, 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 persons with handicap for the period 2006 – 2013 “Equal opportunities for the persons with handicap-towards a society without discrimination”, includes the running off an awareness campaigns to fight the existing stereotypes and prejudices against the persons with handicap and to promote their rights.

Taking these priorities into consideration, NAPD implemented during the period October 2006-March 2007 an informing and awareness campaign on persons with disabilities, which is a part of Phare 2003 Project, “Assistance for the reform of persons with disabilities protection system”.

The specific objectives of the projects are:

- Fighting of discrimination and stigmatizing of persons with handicap;
- Information of persons with handicap on their rights and services they are able to attend to;
- Promotion of professional integration of persons with handicap.

The campaign took place during October 2006 – March 2007 with the slogan “Be in my place! Learn to understand!” in order to create positive attitudes and changing of mentalities regarding the persons with handicap.

The campaign message: “Some people have more obstacles than others. Why be prejudiced?”

The campaign budget: 1 million Euro.

The number of the employed persons with handicap

The statistics shows that at 31 December 2006, the number of employed persons with handicap was 16.225.

The number of protected units

By the end of 2005, a number of 41 protected units was authorized by the National Authority for the Persons with Handicap, and at 31.12.2006, a number of 51 protected units was authorized, in which work 736 persons with handicap.

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

The Decision no. 268/2007 for the approval of the Methodological Standards to the enforcement of the Law no. 448/2006 on the protection and promotion of the rights of the persons with handicap, stipulates: art. 44 – are considered protected units, in the meaning of the law:

- a) the economic companies with legal body, regardless the form the property and organization, which have at least 30 % persons with handicap legally employed;
- b) departments, workshops and other structures of the economic companies, public or non-governmental institutions with own administration and with 30 % persons with handicap legally employed;
- c) the person with handicap authorized, according to the law, to develop economic activities, included the family association with a person with handicap. There are also included persons with handicap authorized by special laws that work individually or organized.

In accordance with the Law no. 448/2006 on the protection and promotion of the rights of the persons with handicap: art. 80 –

(1) The protected units can be set up by any physic and legal body that has persons with handicap legally employed.

(2) The protected unit can be:

- a) with legal body;
- b) without legal body, with own administration, as departments, workshops or other structures of the economic companies, public or non-governmental institutions, also the institutions organized by the authorized person with handicap, according to the law, to develop independent economic activities.

art. 81. – (1) The authorized protected units benefit of the following rights:

- a) authorizing tax exemption;
- b) income tax exemption, provided that at least 75 % of the exemption income to be re-invested for restructuring or for purchase of technological equipment, devices and/or equipping of the protected jobs, in accordance with the Law no. 571/2003 on Tax Code, modified and completed;
- c) other rights conceded by the local public administration authorities financed by own funds.

The persons with handicap employed into the protected units develop activities in different fields: manufacturing of cardboard; manufacturing of brushes, brooms; tailoring; carpentry; locksmith's trade; joinery; upholstery; glass processing; manufacturing of modulary prosthesis; manufacturing of wheel chairs; agriculture; bakery; accounting activities.

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

The Law 448/2006 stipulates the following:

art. 77 – (1) The persons with handicap can be employed according with their professional training and work capability, certified by the certificate of handicap degree, issued by the county or local assessment commissions.

(2) The public institutions and authorities, the legal, public or private bodies, who have at least 50 employees, have the obligation of employment al least 4 % of persons with handicap from the total number of employees.

(3) The public institutions and authorities, the private or public legal bodies, who do not hire persons with handicap as provided in par. (2), have option for accomplish the following obligations:

- a) to pay monthly to the state budget an amount representing 50 % of the minimum basic pay multiplied with the number of jobs in which they did not hire persons with handicap;
- b) to purchase products or services from the authorized protected units, in partnership, in an amount equal cu the amount owned to the state budget, as provided at. a).

(4) The public institutions of national defense, public order and national security are excepted from the provisions of par. (2).

The terms and conditions, including those referring to salaries, for the employment of the persons with handicap in a normal work environment, are those applied in general to the work force

The Law 448/2006 stipulates as followed:

Art. 76 – (1) The persons with handicap have the right to work and obtain incomes according to the provisions of the labor legislation and with the special stipulations from the hereby law.

Art. 77. - (1) The persons with handicap can be employed according to their professional training and work capability, certified by the certificate of handicap degree, issued by the local or county assessment commissions.

Art. 78. - (1) The employment of the person with handicap is possible in the following forms:

- a) in the free labor market;
- b) at home;
- c) in protected facilities.

(2) The protected employment facilities are:

- a) protected job;
- b) authorized protected unit.

Art. 82 – (1) The persons with handicap searching for a job or employed benefit of the following rights:

- a) professional training courses;
- b) reasonable job adjustment;
- c) counseling anterior and during employment and also during the probation period made by a specialist;
- d) paid probation period, of at least 45 working days;
- e) a paid previous notice, of minimum 30 working days, granted by the employer for non-imputable reasons to the employee at the cessation the individual labor contract;
- f) the possibility of working less than 8 hours a day, according to the law, if the person with handicap benefit of a recommendation of the assessment commission;
- g) salary tax exemption.

The employment of the persons with handicap in public institutions

The Law 448/2006 on protection and promotion of the rights of the persons with handicap stipulates:

Art. 77 – (2) The public institutions and authorities, the private or public legal bodies, who have at least 50 employees, have the obligation of hiring 4% persons with handicap.

(3) The public institutions and authorities, the private or public legal bodies, who do not hire persons with handicap as provided in par. (2), have the following obligations:

a) to pay monthly to the state budget an amount representing 50 % of the minimum basic pay multiplied with the number of jobs in which they did not hire persons with handicap;

b) to purchase products or services from the authorized protected units, in partnership, in an amount equal to the amount owned to the state budget, as provided at. a).

(4) The public institutions of national defense, public order and national security are excepted from the provisions of par. (2).

Regarding the possibility for a disabled person to obtain the civil servant status, we have to underline that the current legislation does not make any differences, when organizing and developing the contests undertaken in order to occupy a public position, between the candidates that are legally recognized as “disabled persons” and the rest of the persons that are not within this social category.

1. According with the Law no. 188/1999 regarding the Civil Servants Statute, republished, a person can occupy a public position when the art. 54 provisions are fulfilled; the provisions that are dealing with this current analyze are: c) and d) – full exercise capacity and in a health state that fits the public position that the candidate apply for, attested to by a special medical checking;

2. Regarding the full exercise capacity, we state that situation in which a person loses this capacity as a consequence of the submission under interdiction of that person, in accordance with the legislation, cannot be subject to further discussions regarding the elimination or the modification of this condition foreseen as compulsory when participating to occupy a public position; this conclusion arises from the from the definition of judicial interdiction, the special characteristics and the general judicial effects of its declaration by a competent authority;

3. Regarding the health state that fits the public position, attested by a special medical checking, we inform you the following:

- Art. 54 (d) from Law no. 188/1999 regarding the Civil Servants Statute, republished, makes references exclusively at the necessity of proving the exercise capacity of the person that participates at a public position selection, starting from the statement that every person has equal opportunities of being admitted in a public position as a consequence of a contest’s promotion, and the required document for this purpose is the medical checking according with art. 8(1)-(f) from the Contests organization Regulation, part of the GD no. 1209/2003, regarding the organization and development of the civil servants career;
- According with the Ministry of Public Health provisions regarding the special forms utilized for the medical checking and the medical certificate (document no. E.N. 5724/31.07.2007, from the

Ministry of Public Health registered at NACS with no. 1036848/13.08.2007), the special form content that attests the health statute is provisioned in the Ministry of Public Health Order no 576 /2007 regarding the evidence and operative-technical system approval of the hospitals and utilised within the specific medical assistance systems, and the present regulation does not provide the possibility of replacement of this specific form with other types of forms;

- According with the Emergency Government Ordinance no. 102/1999 regarding the special protection and employment of the disabled persons, modified and completed, the placement of the disabled persons in special categories is done by special medical expertise commissions that are formed especially for this situations and the disability degree is attested exclusively through a certificate emitted with this specific purpose;
- According with the GO no. 137/2000 regarding the prevention and the sanctioning of all the types of discrimination, the definition of discrimination is the following: the exclusion, the differentiation, the restriction or preferences made, **inclusively based on disabilities** that have as effect the restriction or the exclusion of recognition, or the limitation of exercitation of the recognized rights, attested by law, respecting the equality of opportunities, in all the public life areas;

Considering those information, we propose to demand a clarifying position from the Social Rights European Committee and from all the empowered Romanian public authorities in this area, regarding the fact that a disability, even if is not explicitly provisioned as an illegal discrimination reason, it doesn't constitute and cannot constitute a recruitment and selection criteria in order to occupy a public position.

Promotion measures on the employment of the persons with handicap

Art. 83 – The employers of the persons with handicap have the following rights:

a) the deduct, at the estimation of taxable profit, of the afferent amount for the adaptability of protected places of work and acquirement of equipment and equipages which are used in the production process by the person with handicap;

b) the deduct, at the estimation of taxable profit, of the outlays with the transportation of the persons with handicap from their house to the place of work, and also of the outlays with the transportation of starting materials and of the end products at and from the house of the person with handicap, which is hired for the work at his house;

c) the deduction from the insurance budget for unemployment of the specific starting outlays, forming and professional orientation and of employment in work of people with handicap;

d) a state subvention, according to the Law 76/2002, concerning insurance system for unemployment and the stimulation of work force, modified and completed.

Measures for the accessibility of the physical, informational and communication environment

The Law 448/2006 on protection and promotion of the rights of the persons with handicap stipulates in Chapter VI – Accessibility:

Art. 60 – In order to ensure the access to the physical, informational and communication environment for the persons with handicap, the public authorities have the following obligations:

- a) to promote and implement the concept “Access for everyone”, in order to prevent new barriers and new sources of discrimination;
- b) to support the research, the development and the production of new information and communication technologies;
- c) to recommend and to support the introduction into the initial training of the students of courses regarding the handicap and the special needs, including the accessibilities;
- d) to facilitate the access of the persons with handicap to the new technologies;
- e) to ensure the access to the public information for the persons with handicap;
- f) to ensure authorized interpreters of the sign language;
- g) to design and implement, in co-operation or in partnership with the private or public legal bodies, accessibility and awareness programs of their importance.

The National Authority for the Persons with Handicap is implementing the public policies referring to the accessibility of the physical, social, labor and informational environment. It is monitoring the level of accessibility of physical environment in following institutions of public interest: schools and university, Prefect’s office and County Council, Towns Hall, County General Directorates for Social Assistance and Child Protection, sanitary unities, finance department, Courts and also the crossroads accessibility, public telephones (their arrangements).

In year 2005, NAPH financed a project aiming at designing complex software that allows an analysis of the level of accessibility of environment, according to existing legislation.

In December, 2005 Ministry of Labor, Social Solidarity and Family, National Authority for People with Handicap and Bucharest City Town concluded the Protocol no 9007/07.12.2005 regarding promoting partnership between the two institutions on accomplishing of physical environment accessibility for the persons with handicap

Regarding the accessibility of the informational environment, a first training for interpreters in sign language, specific for persons with hearing deficiencies was held at the no 1 Special school for deaf persons, Bucharest. This training was organized by NAPH, the National Institute for Preventing and Reducing Social Exclusion of Persons with Handicap and the National Association of Deaf people from Romania. A number of 17 people attended the training and, after certification from NAPH, they will form the first authorized interpreters in sign language in Romania.

The methodology for the training for obtaining the certificate of interpreters in sign language specific for persons with hearing deficiencies was adopted under Order no. 94/2005 (OG, no. 353/26.04.2005).

Measures taken to allow the transportation, accommodation and cultural activities access of the persons with handicap

The Law no. 448/2006 on protection and promotion of the rights of the persons with handicap stipulates in Chapter II – The rights of the persons with handicap: Section 3 – The dwelling

Art. 18 – (1) In order to ensure the access of the persons with handicap to achieve a house, the public authorities have the obligation to introduce a priority criterion for rental, at lower floors, of the houses which to the state or to territorial administrative units of the state, pertained property of the state.

(2) The persons with severe handicap benefit of the following rights:

a) the giving of a room for living, supplementary against of minimal standards for living scheduled by the law, on the base of renting contract for the houses which belong of public or private domain of the state or of the territorial administrative units of the state;

b) the settlement of the rent, in law conditions, on the base of renting contracts for the locative surfaces which have the destination of houses, which belong to the state or to territorial administrative units of the state, at the minimal price scheduled by the law.

(3) The beneficiary of the par. (2) provisions is also the family or the legal representative during the period of taking care of a child or an adult with severe handicap.

(4) The beneficiary of the par. (2) b) is also the adult with medium handicap.

Section 5 – The transportation

Art. 20. – The authorities of the public administration have the obligation to take the following measures regarding the transportation of the persons with handicap:

- a) to achieve adjusted means of transportation;
- b) to adjust the means of transportation, according to the legislation;
- c) to realize, in co-operation or partnership with the private or public legal bodies, transportation programs for the persons with handicap.

Section 4 – Culture, sports, tourism

Art. 19 – (2) In order to ensure the access of the persons with handicap to culture, sports and tourism, the public administration authorities have the following obligations:

- a) to support the participation of the persons with handicap and their families to cultural, sporting and touristy activities;
- b) to organize, in co-operation or partnership with private or public legal bodies, different cultural and sporting activities for the persons with handicap;
- c) to ensure sporting conditions for the persons with handicap;
- d) to support the activity of the sporting organizations of the persons with handicap.

(3) The child with handicap, also his attendant has free access to museums, shows and artistic and sporting activities.

(4) The adults with handicap benefit of tickets for museums, shows, artistic and sporting activities, as follows:

- a) the adult with severe and grave handicap, also his attendant have free access;
- b) the adult with low and medium handicap benefit from the same access as the pupils and students.

The participation of the Non-Governmental Organizations at the politics and social integration measures of the persons with handicap

The development of the partnership with the non-governmental organizations which develop activities in the field of protection people with disability is one of the main directions of action supported by the National Authority for the Persons with Handicap.

It is facilitated consulting and the permanent dialogue between the authorities and the NGO's, in order to establish their participation to decide the politics and legal rules concerning the protection of the persons with handicap.

Answer to the Conclusion 2007

As regards chapter 15, para 2 – The employment of disabled persons:

For stimulating the employment of disabled persons, National Agency for Employment promotes measures for employment stimulation, subsidizing the employers, according to the provisions of the Law no. 76/2002 on the unemployment insurance system and employment stimulation, with its subsequent changes and complements as follows:

- stimulating employers, by direct subsidy to create new jobs and to hire unemployed persons from among the most disadvantaged categories. Therefore, for the **unemployed persons with disabilities**, the employers receive, from the unemployment insurance budget, for a 12-month period, for every employed person belonging to this category, a monthly amount equal with a minimum gross wage at national level;
- the employers who hire with an open-ended contract **graduates from disabled persons** will receive, for a 18-month period, for each graduate:
 - 1 minimum gross wage at national level, in force at the date of employment, for the graduates of the first high-school cycle or craftsmanship schools;
 - 1.2 minimum gross wages at national level, in force at the date of employment, for the graduates of the post secondary education;
 - 1.5 minimum gross wages at national level, in force at the date of employment, for graduates of university education.

According to the **Law no. 448/2006** on protecting and promoting the rights of persons with disabilities, starting with January 1st 2007, all legal persons, including public institutions that have more than 50 employees have a legal obligation to hire **4% persons with disabilities**. On the contrary, they can choose between 2 options:

a) to pay to the state a **monthly fine with a value of 50%** from minimum gross wage for each disabled persons that should have been hired, or

b) to **purchase products or services from the protected units authorized by NADP**, on partnership basis, for an amount correspondent to the amount owed to the estate budget (law no. 448/2006, Art. 77).

The employers who are not obliged (according to the law no. 448/2006 on protecting and promoting the rights of persons with disabilities) to hire 4% from the staff, disabled persons, in case in which they have more than 50 employees, if he hires with an open-ended contract disabled persons and keep their working or civil service relation at least 2 years, will receive, for a 12-month period, a monthly amount equal with a minimum gross wage at national level.

In 2005, the number of disabled persons registered with the agencies for employment was of 4.775, from which 2.023 are women. A number of 1.829 persons with disabilities benefited from job matching services, and by implementing the Program for employment, 658 disabled persons were employed, from which 234 are women. From those 658 persons with disabilities employed, a number of 217 were employed according to the job subsidy measure.

On July 18th 2005, the **Job Fair for Disabled Persons** was organized in order to identify and facilitate the access of disabled persons to the vacancies.

From the total number of 3.175 disabled persons participating in the fair, 158 disabled persons were employed.

In 2006, the number of disabled persons registered with the agencies for employment was of **5.521**, from which 2.312 - women. A number of 2.448 disabled persons benefited from job matching services, and by implementing the **Program for employment, 775 disabled persons** were employed, from which 286 are women. From those 775 persons with disabilities employed, a number of 186 were employed according to the job subsidy measure.

In 2006, at the labor market request **Job Fairs for Disabled Persons** were organized, in 3 counties, and from the total number of 380 disabled persons participating in the fairs 58 disabled persons were selected with a view of employing and 7 persons were employed.

In 2007, the number of disabled persons registered with the agencies for employment was of **5.522**, from which 2.331 are women. A number of 3.097 disabled persons benefited from job matching services, and by implementing the **Program for employment, 1.072 disabled persons** were employed, from which 389 are women. From those 1.072 persons with disabilities employed, a number of 286 were employed according to the job subsidy measure.

In 2007 the **Job Fair for Disabled Persons** was organized at the labor market request, in 3 counties (Satu Mare, Bihor și Arad) and the number of employed persons was of 10 from the 36 selected with a view of employing and from the 167 persons participating in the fair.

Taking into consideration what was mentioned above, it is considered that the measures regulated by the Law no. 76/2002 on the unemployment insurance system and employment stimulation, with its subsequent changes and complements, assure the employment stimulation of disabled persons.

Regarding the vocational information and counseling services provided to disabled persons, during 2005-2007, the situation is as follows:

Year	Total number of beneficiaries
2005	673
2006	847
2007	1868

As regards the vocational training services financed from the unemployment insurance budget, these were provided, in 2005, to a number of 42 996 persons, from which:

- women: 22.672;
- young people up to 25 years: 14.354 persons;
- persons over 45 years: 4.826 persons;
- long term unemployed persons: 4 940 persons;
- disabled persons: 114 persons;
- ethnic minorities (Rroma persons): 1601 persons.

In 2006 benefited from vocational training, financed from the unemployment insurance budget, a number of 46.681 persons, from which:

- women: 23.821;
- young people up to 25 years: 12.381 persons;
- persons over 45 years: 6.318 persons;
- long term unemployed persons: 3.633 persons;
- disabled persons: 90 persons;
- ethnic minorities (Rroma persons): 2.283 persons

In 2007 benefited from vocational training, financed from the unemployment insurance budget, a number of 46.999 persons, from which:

- women: 24.500;
- young people up to 25 years: 10.416 persons;
- persons over 45 years: 7.359 persons;
- long term unemployed persons: 3.104 persons;
- disabled persons: 106 persons;
- ethnic minorities (Rroma persons): 1613 persons.

One of the main element of the project “**Counseling services for disabled persons**” carried on the basis of the loan granted by the World Bank (Ro 4616) consisted in implementing an **Information Campaign** of the public opinion on job matching and counseling services for disabled persons, with a view to increasing the transparency of the services provided by NAE for this category of beneficiaries, who faces the risk of social exclusion.

1. the production of audio-video materials:

- a) **a presentation movie** on NAE’s services of 7 minutes (sequences retaken in a pilot center on the provided services, sequences retaken on the jobs of the DP with different levels of disability, in institutions where jobs were regulated, sequences retaken in companies that hired DP through the agencies for employment, interviews with disabled persons employed, interviews with employers);
- b) **2 video clips** (for the 2 targeted groups: a) employers –DP employment stimulation, b) DP – employment stimulation, active behaviors stimulation
- c) **3 video media announcements**
- d) **6 audio media announcements.**

2. printing informative materials:

- a) **brochure (booklet),**
- b) **folders,**
- c) **3 types of posters,**
- d) **personalized portfolio** – including: customized pens with the logo and the slogan of the campaign, a DVD with the presentation movie and with the 2 advertising spots, brochure, folders and letterhead files

3. A logo of the project and an icon – disability symbol were created and appear on all the products made for this project.

4. The information from the printed informative materials can be found also on the blog www.pot-ce-poti-si-tu.ro or www.potcepotisitu.ro, created within this project. This blog is a dialog area for disabled persons from Romania.

The launching campaign conference, at national level, took place on September 28th 2007, followed up by meetings with social partners, at every county level (in all 42 counties) for advertising counseling and job matching services provided for disabled persons: press conferences and workshops in which participated officials of NAE, of NADP, of the local authorities, of the employers organizations, of trade unions, NGO representatives etc.

ARTICLE 18 THE RIGHT TO ENGAGE IN A GAINFUL OCCUPATION IN THE TERRITORY OF OTHER PARTIES

According to Government Emergency Ordinance 56/2007, foreign workers who work on Romania's territory are issued "work authorizations" for one year period, automatically renewable, by renewing the stay permit till 1 year.

By entering into force of this legal act, the procedures for granting the right to work are much simplified.

Thus, the employer is the person who applies at Romanian Immigration Office for issuance of work authorization in view to hire an alien. The application is settled within 30 days. The conditions to be fulfilled refer to realization of a legal selection, the proof of the legal activity of the employer, the employer does not have debts to the state budget and the employer is solvent.

Also, it is necessary that the diplomas for studies and professional qualifications, a CV, a written statement that the alien has no criminal record and he/she is medically suitable to be handed over.

After granting the work authorization, in the above-mentioned term, the alien shall apply for the long stay visa for work purpose. The application shall be done at one of the Romanian diplomatic missions abroad. The term to be granted the visa is 7 days (This term of 7 days is a medium term resulted from the practice of institutions involved in these procedures, if the statistics in this field go to this result).

After entering the country, the alien must conclude the work contract and afterwards he/she shall apply for granting the stay right at the Romanian Immigration Office territorial branch where he/she set his/her temporary residence. The application shall be accompanied by a medical certificate proving he/she is able to work.

EOG nr.194/2002 regarding juridical regime of foreigners in Romania, republished, with its subsequent modifications and completions, provide in art. 30 para 7 and para 9 that long- stay visa are granted by the the Romanian diplomatic missions and consular offices, with the approval of the National Centre for Visas, only after obtaining the notice of the Romanian Office for Migration . This notice shall be issued within 30 days from the date of receiving the request Ministry of External Affairs.

After entering in the country, the foreigner conclude labor contract with the employer and after requires prolonging the right to stay in order to employ at the territorial formation of the Romanian Offices for Refugee where resides. The request will be annexed by a medical certificate to prove he/she is suitable to work.

Decision to deny the granting of the stay permit for employment purpose may be attacked in front of the court within 10 days from communication.

A future employer must demonstrate that there are no unemployed people suitable in the labor market in Romania suitable for that job, that he/she has undertaken a legal selection allowing the Romanians citizens to apply for the vacant positions.

The Romanian Immigration Office has no discretionary powers to deny granting the work authorization just because a national applicant is more competent. The decision on the person to be hired belongs, exclusively, to the employer.

The permanent residents in Romania are exempted from getting a work authorization. The conditions to be fulfilled to be granted the permanent residence are set by the Government Emergency ordinance 194/2002 on alien's regime in Romania, further modified and completed:

a) A temporary stay, continuous and legal in the last 5 years previous to the subsistence of the request, as follows:

i) the stay shall be considered continuous when the period of absence from the Romanian territory is less than 6 consecutive months and does not exceed a total of 10 months for the entire period;

ii) the stay shall be considered legal when against the aliens hasn't been disposed any of the measure of removal from the national territory;

iii) when establishing the continuous and legal stay only half of the stay period for study purposes shall be counted;

iv) when establishing the continuous and legal stay shall not be counted neither staying periods based on diplomatic or service visas nor as seasonal worker.

b) Prove to hold the means of support in the amount provided for the minimum family net income on the economy, members of Romanian citizens are exempted;

c) Prove to have health insurance, under conditions of the law;

d) Prove to legally hold an appropriate dwelling space for them and the family members they live with; family members of Romanian citizens are exempted;

e) Speak the Romanian language at a satisfactory level;

f) Do not represent a danger for public order and national security.

(2) The aliens of Romanian nationality or born in Romania, as well as those whose stay is in the interest of the Romanian state may be approved the establishment of permanent domicile without meeting the conditions provided for under the above mentioned paragraph 1 letters a) to e).

(3) The minor alien may obtain the establishment of domicile in Romania at the same time with his/her parents without meet the conditions provided in para1. In case only one of the parents holds a permanent stay right, the consent of the other parent, in authentic form, is necessary.

Aliens who prove that they have invested minimum 1.000.000 Euros or have created over 100 jobs (full time jobs) may granted the right to permanent stay and can be exempted from conditions mentioned at letters a) and b).

SELF EMPLOYED WORKERS

The law on self employed activities does not apply to non EU citizens.

According to the provisions of article 74 let. a) from GEO no. 194/2002 with its subsequent modifications and completions the foreigners entitled to a right of permanent stay shall benefit, under the law, by an equal treatment to the Romanian citizens regarding : ” the access...to the economical activities in an independent way and also professional activities by correspondingly apply of the provisions of the Law 300/2004 regarding license the persons and family associations who carry out economical activities in a independent way, with its subsequent modifications and completion, provided that the activity pursued does not involve, even occasionally, the exercise of certain prerogatives of public authorities”.

These provisions transpose into Romanian legislation the provisions of art.11 para 1 let a from Directive 2003/109/CE of the Council regarding the status of citizens of the third states who are residing for a long term.

Article 43 from GEO no 194/2002 regulates the possibility for obtaining long-term stay visa for carry on the professional activities in an individual way, provisions that are not in contradiction with the disposals of the Law 300/2004 regarding license the persons and family associations who carry out economical activities independently, their provisions can be apply also for the persons provided in GEO no. 194/2002.

Besides these we mention another category of persons who, according to the legislation enforce, have the right to carry out economical activities independently, thus:

-the foreigners entitled to a right of stay for family reunification on the Romanian territory (Art.66 from GEO, no. 194/2002)

-the foreigners entitled to a right to permanent stay in a Member State (art. 120¹ from GEO no 194/2002);

-foreigners who are benefiting from a protection form granted according to the provisions of the Law no. 122/2006 regarding asylum in Romania (art. 20, para 1 let. c) and art.133 align. 1 let c) from Law no.122/2006).

EXERCISING THE RIGHT TO BECOME EMPLOYED

The new law provides a facility for the aliens to find another employer, only from the point of view of the stay right, which means that there is no obligation to leave Romania and obtain a new visa for the purpose of work for the new employer. There are no other facilities provided.

In case that the alien does not try to find another employer the Romanian Immigration Office (RIO) may revoke the right to stay; the law does not provide a time limit for him to find a new employer but without being specifically provided, RIO allows him a period of time on this purpose.

ARTICLE 20- THE RIGHT TO EQUAL OPPORTUNITIES AND EQUAL TREATMENT IN MATTERS OF EMPLOYMENT AND OCCUPATION WITHOUT DISCRIMINATION ON THE GROUNDS OF SEX

Regarding the women's level in employment we would like to underline the following:

I.1 The structure of the population in Romania

	2002	2003	2004	2005	2006	Natural Increase 2002-2006
The total of population from the 1 st of July 2007	21,794,793	21,733,556	21,673,328	21,623,849	21,584,365	- 210,480
men	10,642,538	10,606,245	10,571,606	10,543,518	10,543,518	- 121,349
women	11,152,255	11,127,311	11,101,722	11,080,331	11,080,331	-89,079
The percentage of women -total -%	51.17	51.20	51.22	51.24	51.3	

Source: The National Institute of Statistics, The statistics Yearbook of Romania 2006, The Romanian Population until the first of July 2006

The decrease of the occupied population had become a common phenomenon within the whole country until the year 2005, due to the reorganization of the industrial sector. However this decrease was differentiated from one region to another and from a county to another.

The evolution and the structure of the occupied population is the following:

I.2. The evolution and the structure of the total occupied population:

- thousands of persons-

	2002	2003	2004	2005	2006
The total of occupied population	9234	9223	9158	9147	9313
Men	5031	5057	4980	5011	5074
Women	4203	4166	4178	4136	4239
The percentage of women –total -%	45.5	45.2	45.6	45.2	45.5

Source: The National Institute of Statistics, The statistics Yearbook of Romania 2006, The Labor Force in Romania. Employment and unemployment.

During the year 2006, an increase of the occupied population (both of the total population, but also of sexes) has been noticed compared to the year 2002, while the percentage of the total occupied female population was of 45,5%, same as during the year 2002.

During the year 2006 the employment rate of the population between 15-64 years old was 58,8%, a growth of 1,1% have been noticed compared to the year 2005 and bigger with 0,8% compared to the year 2002

I.3 The employment percentage of the population of 15 years old and over this age, segregated by sexes (%)

	2002	2003	2004	2005	2006
The employment rate of the population with ages between 15-64	58,0	57,8	57,9	57,7	58,8
Men	64,1	64,1	63,6	63,9	64,7
Women	52,0	51,5	52,1	51,5	53,0

Source: The National Institute of Statistics, The Labor Force in Romania. Employment and unemployment.

The employment percentage of women with ages between 15-64 years old was lower than the one of men. During 2003-2005 this percentage was of 51,5% and 52,1%, while in 2006 the percentage registered a growth up to 53%.

It is important to underline that the incidence of unemployment among women is lower than men's, both from unemployment perspective calculated according ILO and the administrative data provided by NAO.

I.4. The unemployment rate according to BIM

	2002	2003	2004	2005	2006
Unemployment percentage of ILO -total	8.4	7.0	8.0	7.2	7.3
Men	8.9	7.5	9.0	7.7	8.2
Women	7.7	6.4	6.9	6.4	6.4

The unemployment percentage according to ILO, during 2006, was of 7,3%, with 0,1% higher than during the year 2005, but with 1,1% lower than during the year 2002. As far as women are concerned the percentage was of 6,1%, with 1,6% lower than during the year 2002. Comparing the percentage between sexes a difference of 2,1% can be noticed (8,2% for men compared to 6,1% for women).

The long term unemployment rate (one year and over one year) was of 4,1% for the year 2006, out of which 4,7% for men and 3,3% for women.

During the year 2006, the total number of unemployed people registered at the National Agency for Employment was of 1.026.803, out of which 40% were women (411.622).

Most of the unemployment cases, regarding both sexes, result from the renewal of the job requests from the unpaid unemployed people (26,5% from the total are women and 31,3% are men). However, it is necessary to underline the fact that 20 % of the total unemployment entries come from people with difficulties to be employed.

During the year 2006, due to the efficient implementation of the measures that actuate employment, (according to the national program of employment of the National Agency for Employment), 509.127 persons were employed, out of which 197.864 were women (almost 40% of the total numbers).

Most of the women were employed as a result of the measures for labor mediation (151.124 women).

From 197.864 women, 12.629 were employed as a result of the programs of temporary employment developed for the local communities, 9.674 were employed as a result of graduating various training courses, 9.630 were employed as a result of the grants given to the employers for hiring school graduates, 9.434 were employed as a result of the grants given to the employers for hiring people over 45 years of ages (8.592), or unemployment unique supporter of the mono-parental family (842) 1.259 were employed as a result of granting bonuses for mobility (by accepting a job at a 50 km distance or by changing the domicile), 828 were employed due to the employment schemes created as a result of granting loans with low interest from the unemployment insurance budget, 729 were employed as a result of concluding solidarity contracts (according to the Law no.116/2002), 295 women were employed as a result of the subsidies given to the

employers for hiring women with 3 years until retirement, 84 were employed as a result of the subsidies given to the employers for hiring people with disabilities.

It is important to mention that 11.770 women benefited from the income benefits completion because they were employed before the expiration of the unemployment allowance and 3.281 young school graduates benefited from employment bonus, according to article 73¹ from the Law no.76/2002 with its modifications and completions.

Employed persons benefited from one or more active measures

I.5. The employment rate of 15 years old and above this age according to their residence

Indicator	2001	2002	2003	2004	2005	2006
<i>Urban</i>	48,9%	47,3%	47,5%	48,9%	47,9%	49,8%
<i>Rural</i>	69,4%	56,1%	55,2%	52,3%	53,0%	52,5%

Source: The National Institute of Statistics, The Labor Force in Romania. Employment and unemployment

The employment rate of the persons with ages between 15-64 years old from the urban environment exceeded the percentage from the rural environment in two of the 8 regions.

I.6. The distribution of the employed population on regions in the III –rd trimester of 2006

Region	Center	Bucharest-Ilfov	Norh-East	South-East	South Muntenia	South-West Oltenia	West	North-West
Value	10,8%	11,0%	17,9%	12,7%	15,6%	11,0%	8,7%	12,3%

It is important to notice that men's employment percentage is higher than the employment percentage of women.

Statistics data show, that in order to improve the employment rate of women, several measures must be enforced in order to improve the women situation on the labor market.

The number of women entrepreneurs is three times lower than the men's.

I.7. Persons who attended a form of training, in the former 4 weeks, in the educational system on sexes and residence, in the IV trimester of the year 2006

	- thousands of persons -				
	Total	Women	Men	Urban	Rural
Persons who attended a form of training	98269	47828	50440	52103	46166

Source:, The Labor Force in Romania. Employment and unemployment, IV trimester 2006, The National Institute of Statistics

II. We would like to inform you that the Government Ordinance no.270/2006 regarding the National Strategy for Equal Opportunities between women and men for the period 2006 -2009 and regarding the General Plan of Action for implementing the National Strategy for Equal Opportunities between women and men for the period 2006 -2009, was published in the Romanian Official Journal no.270/2006, Part I. The provisions of the Government Ordinance no.285/2004 were repealed.

III. Question A:

In order to eliminate all forms of discrimination based on sex, in all fields of Romania's public life, was instituted a special law namely Law no. 202/2002 regarding the equal opportunities between women and men, republished, law which regulates the measures for promoting equal opportunities between women and men.

According to the law, equal opportunities between women and men mean the consideration of abilities, needs and goals of women.

The measures for promoting equal opportunities and treatment between women and men and for eliminating all forms of discrimination on grounds of sex are applied in the field of labor, education, health, culture and information, politics, decision-making process, providing and access to goods and services as well as in other fields regulated by specific laws.

The general framework is established by the Labor Code, approved by Law 53/2003.

Question B:

The specific law in the field of equal opportunities between women and men guarantees the equality of opportunities and treatment in labor field.

Employees are entitled, in case that they consider themselves to be discriminated on grounds of sex, to file notifications/complaints to employer or against him, if the latter is directly involved, and to request the support of the trade union or of the employees' representatives in the company to settle their situation at the workplace.

If this notification/complaint was not settled at company level through mediation, the employee who submits factual elements that lead to the assumption of a direct or indirect discrimination on grounds of sex in the field of labor, under the provisions of the hereby law, is entitled to notice the competent institution as well as to file a complaint to the qualified court of law, where he/she has its domicile or residence, namely to the departments specialized in labor conflicts and social insurance rights within the court of law or, as the case may be, to contentious-administrative courts, no later than a year as from the deed.

The person who submits factual elements that lead to the assumption of a direct or indirect discrimination on grounds of sex in other fields than the labor is entitled to address to the competent institution or to file a complaint to the qualified court of law, according to the common law and to request material and/or moral compensations as well as and/or the removal of consequences of discriminating facts from the person who did them. 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.

Question C:

Law no.202/2002 on equal opportunities between women and men stipulates that „any disposals that infringe the principle of equal opportunities and treatment between women and men, comprised in individual or collective labor agreements, in the internal regulations of the companies, in the statutes of independent professions and of trade unions or of the employees’ representatives or of the non-profit associations or of the ones with lucrative purpose are or remain repealed”.

Question D:

The infringement of the provisions of this law entails disciplinary, material, civil, contravention, or penal responsibility of the guilty persons.

The ascertainment and sanctioning of contraventions under the Law 202/2002 on equal opportunities between women and men, shall be made by: labor inspectors within the territorial labor inspectorates, in the case of contraventions related to the non-observance of provisions in labor field and by the National Council for Fighting against Discrimination in the case of contraventions regarding the non-observance of provisions from the other fields.

The court of law can order the guilty party to pay compensations to the person who considers him/her to be discriminated based on gender and who claims its requests before a court of law in an amount reflecting accordingly the prejudice suffered. The amount of the damages will be set up by the court according to the common law.

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.

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. The amount of the damages will be set up by the court according to the law.

The law stipulates a set of duties of employers to prevent and eliminate the discrimination based on ground of sex.

In case of infringement of these provisions employer is sanctioned according to the law.

Question E:

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 have been submitted for facts that allow the assumption of a direct or indirect discrimination and who has to prove the non-infringement of equal treatment principle.

Question F:

Within the Law no.202/2002 republished, it is stipulated that the **maternity** cannot represent a reason for any discrimination.

Any less favorable treatment applied to a woman related to pregnancy or the maternity leave shall constitute discrimination in the sense of the law.

It is forbidden to request a candidate, with a view to her employment, to take a pregnancy test and/or to sign an engagement that she will not remain pregnant or she will not give birth to a child during the validity of the individual employment contract. Excepted from these provisions are the jobs forbidden for pregnant women, or for women which are breastfeeding.

Dismissal cannot be disposed on the period in which the woman employee is pregnant or in maternity leave; (it is excepted dismissal for reasons that results from judicial reorganization or employer bankruptcy, in terms of laws).

At the end of the maternity leave or of the leave for taking care of child up to 2 years old or, in case of disabled child, up to 3 years old, the employee has the right return to the last work place or to an equivalent work place with equivalent work conditions and, also the right to benefit from any work conditions improvement from which employee would have benefited during their absence.

Question G:

The Law no.202/2002 republished stipulates that “a difference of treatment based on a gender characteristics when, because of the nature of the specific professional activities had in view or of the framework in which these are developed, constitutes an authentic and determinant professional requirement as long as the objective is legitimate and the requirement proportional.”

Question H:

The Law no.202/2002 republished, it stipulates that „by positive actions it is understood those special measures adopted for a temporary period in order to accelerate de facto the achievement of equal opportunity between women and men and which are not considered discriminatory actions”.

Question J:

The National Agency for Equal Opportunities between Women and Men is responsible for implementing of the National Strategy for Equal Opportunities between Women and Men 2006-2009 and the General Plan of Measures.

In what is regarding the economic field, the main objectives are:

- Supporting equal access of women and men to the labor market, trough-
- A. Campaigns for informing women and men of their equal rights on the labor market
- B. Promoting equal access to initial and continuous training for women and men
- C. Promoting access of women and men to economic activities in which they are weakly represented
- D. Promoting the principle of equal pay for work of equal value

■ Reconciling family life with vocational life trough –

- A. Promoting measures that allow flexible work hours
- B. Encouraging fathers to become involved in attending children, including by requesting paternal and parental leaves
- C. Promoting development of social services within the community for attending children and dependent persons of the family
- D. Informing with regard to maternity protection at workplace

ARTICLE 24 – RIGHT TO PROTECTION IN CASES OF TERMINATION OF EMPLOYMENT

(Conclusions 2006)

Question A

According to the provisions of article 58 from the Law no.53/2003-Labor Code, with its subsequent modifications and completions, dismissal represents cessation of the individual labor contract at the employer's initiative. The dismissal can be ordered for reasons related to the employee's person or for reasons which are not related to the employee's person.

Dismissal for reasons related to the employee's person

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 30 days, under the rules of criminal procedure;
- c) if, by 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
- e) if the employee requires conditions of standard age and contributory period and not ask for retirement in the term of law.

Dismissal for reasons not related to the employee's person

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 one or more reasons irrespective of that person.

According to art. 59 from the Labor Code it is prohibited the dismissal's 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.

Also, employee's dismissals (excepting the case where the dismissal is disposed for reasons as judicial reorganization or bankruptcy of the employers) can not be disposed:

- 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 knew 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.

All these situations (where can be disposed dismissal and also cases in which dismissal is prohibited or can not be disposed) are provided in law.

Dismissal decision, according to the legislation enforce, is issuing in written, and under the absolute nullity, have to be motivate de facto and de jure and to comprise provisions regarding the term in which can be contest at the court.

According to the provisions of art.41 from Labor Code, the individual labor contract can be modified only by the agreements parties.

Amendments to the individual labor contract shall refer to any of the following elements:

- a) length of the contract;
- b) work place;
- c) kind of work;
- d) work conditions;
- e) wages;
- f) working time and rest time.

As an exception, the unilateral amendment of the individual labor contract shall only be possible in the cases and under the conditions stipulated by the present code. The work place can be modified unilaterally by the employer by delegating or temporarily detaching the employee to a work place other than the one stipulated

in the individual labor contract. During the delegation or detachment, respectively, the employee shall preserve his/her position and all the other rights stipulated in the individual labor contract.

The employer can temporarily change the place and kind of work, without the employee's consent, also in cases of absolute necessity, as a disciplinary sanction, or as a measure for protecting the employee, in the cases and under the terms stipulated by law.

B. According to the article 283, the requests for solving a labor conflict (dispute) can be formulate within 30 calendar days from the date the employer's unilateral decision concerning the conclusion, execution, amendment, suspension, or termination of the individual labor contract has been notified.

The competence for judging industrial conflicts shall belong to the courts established according to the Civil Procedure Code. Requirements shall be filed with the competent court having jurisdiction over the petitioner's domicile or residence or, as the case may be, head office.

The petitions concerning the solution to industrial conflicts shall be judged as emergencies. The trial terms shall not exceed 15 days.

The evidence shall be produced as a matter of urgency, and the court shall be entitled to deny the benefit of the admissible evidence to the party delaying its submittal without good grounds (unjustified).

C.

According the provisions **of article 76 from Labor Code**, the dismissal ordered in non-compliance with the procedure stipulated by the law shall be rendered void (absolute nullity). In the event of an industrial conflict, the employer cannot invoke in court other de facto or de jure reasons than the ones stated in the dismissal decision.

According to the article 78 from Labor Code, 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 act.

The law does not make any related to the size of enterprise and the quantum of indemnity.

E. The law does not make any difference related to the term of the individual labor contract.

(Conclusions 2007)

According to Article 31 (1) in the Single National Collective Labor Agreements for 2001, 2002, 2003– 2004, corroborated to Article 27 (1) and (2) of Law no 53/2003 – the Labor Code, subsequently amended and completed, in order acquire employed and legally maintain the status of an employee, every individual must be able to perform that work, both physically and psychically. That is why a medical examination is stipulated, not only when the individual employment contract is concluded, but also on a regular basis during the execution of this contract.

The employee may, at a certain time, have his/her capacity to work lost or decreased, due to an illness, an accident at work or other causes, and this wouldn't allow him/her to perform a certain occupation. Physical and/or psychical incapacity is to be determined by the competent authority only.

Article 61 (c) of the Labor Code stipulates that the employer can order a dismissal for reasons related to the employee, in case the decision of the competent expert authorities establish the mental and/or physical incapacity of the employee, which does not allow the employee to fulfil his/her tasks according to that job. **Such an approach is imposed also for the protection of the employee.**

When there is no decision from the competent authorities to justify the termination of an employment contract on grounds related to disability and occupational disease (for which no medical counter-indication from the competent authority forbids the employee to continue his/her activity), the dismissal at once of the employee is prohibited.

We mention that, **prior to dismissal, the employer has the obligation to suggest to the employee other workplaces available within the company, compatible with his/her professional training or work capacity as proved by the labor medicine physician, and in case the employer has no such vacancies, he has the obligation to request for the support of the county employment agency, in order to redeploy (redistribute) the employee** (Article 64 of Law no 53/2003 – the Labor Code, subsequently amended and updated). The employee benefits from 3 working days since the employer's notification in order to express his/her written consent regarding the new position offered.

Additionally, according to Article 30 (b) of Law no 98/1994 establishing and sanctioning contraventions to the standards of public health and hygiene, subsequently amended and updated, **maintaining an individual in a workplace for which the (health) care authorities decided a temporary or permanent medical interdiction represents a contravention.**

Also, according to Article 60 (1) of Law no 53/2003 – the Labor Code, subsequently amended and updated, **dismissal of an employee cannot be ordered during his/her temporary incapacity to work**, as certified by a medical document, according to the law.

According to Article 59 (a) of the Labor Code, **dismissal of employees on ... age based grounds is forbidden.**

Regarding the question asked by the European Committee for Social Rights on the termination of employment when the enterprise is moving to a new location,

According to art. 65 para 1 from the Labor Code, the dismissal for reasons not pertaining to the employee's person represents the termination of the individual labor agreement, caused by elimination the employee's workplace as a consequence of economical difficulties, technological transforming or reorganization of the activity.

At the paragraph 2 to the same article is provided that elimination of the workplace have to be effective and have a real and serious cause, among those provided at the para 1.

Given those above-mentioned we do consider the fact that the enterprise is moving to a new location represents a reason for reorganization of the activity, and the dismissal can be disposed in the terms of article 65 from the Labor Code.

Regarding the comments of the European Committee of Social Rights on unjustified dismissal and the payment of compensation (to the employee) according to the “restitutio ad integrum” principle, we mention:

- The competence for judging industrial conflicts (according to Article 284 (1) of Law no 53/2003 – the Labor Code, subsequently amended and updated) belongs to the courts established according to the Civil Procedure Code, respectively the courts that judge industrial conflicts in first instance, except for the conflicts that are the competence of other instances. The industrial conflict (according to Article 3 of Law no 168/1999 on the resolution of industrial conflicts, subsequently amended and updated) is the conflict between the employees and the employers they work with, regarding issues of professional, social or economic interest or the rights such as derived from the labor relations.
- Article 78 (1) of Law no 53/2003 – the Labour Code stipulates that in case the dismissal has been ungrounded or unlawfully made, the court shall annul it and shall compel the employer to pay a compensation equal to the indexed, increased and up to date wages and the other rights that the employee would have received. Paragraph 2 of the same Article 78, stipulates that, upon the employee’s request, the court that annulled the dismissal can re-establish the parties’ status existing previously to the issuing of the dismissal decision.
- Moreover, Article 278 of Labor Code stipulates that “the non-execution of a final court decision on the reinstatement at work of an employee is a criminal offence and shall be punished with imprisonment from 6 months to 1 year or by a fine.”

ARTICLE 25 – RIGHT OF WORKERS TO THE PROTECTION OF THEIR CLAIMS IN THE EVENT OF THE INSOLVENCY OF THEIR EMPLOYER

A. According to the law no.200/2006 regarding setting up and using the Guarantee Fund for the payment of wages claims, the payment of salary claims resulting from individual labor contracts and from collective labor contracts concluded by the employees with the employers against whom were decided definitive judicial decisions for opening the bankruptcy procedure and against was disposed the measure of total or partial revoking the administration right, denominated follow up employers with the status of insolvency are insured by the Guaranteed Fund.

B. According to the provisions of Law no.85/2006 regarding insolvency procedure, insolvency (bankruptcy) is that status of debtor’s patrimony, which is characterized through the insufficient of pecuniary funds available for the payment of eligible (claimable) debts:

- a) Insolvency is presumed as being obvious (visible) when the debtor, after 30 day from the time limit, did not paid his debt to one or more creditors;
- b) Insolvency is imminent (impending) when is proved that the debtor would not pay at the limit term the mortgaged eligible debts with pecuniary funds available at the expiration date.

C. According the provisions of **Law no.200/2006 regarding setting up and using Guarantee Fund for the payment of salary claims** from the Guarantee Fund Resources are supported, in the limits and conditions provided in the law, the following categories of wage claims:

- a) Owing salaries/wages,

- b) pecuniary restitutions owing, owned by the employers for the leave unaffected by the employers, but only for a maximum an year of work,
- c) Compensatory payments owing in the quantum established in the collective labor contract and/or in the labor individual contract, in case of cessation labor reports,
- d) Owing compensations which employers have the obligation to pay, according to the labor collective contract and/or individual labor contract, in case of labor accident or professional diseases,
- e) Owing indemnities, which employers have the obligation, according to the law, to pay them on the period of temporary cessation of the activity.

D. The law does not provide any derogation in its application.

E. According to the legislation enforce, the total sum of the salaries supported from the Guarantee Fund can not exceed the quantum of 3 gross average salaries on economy for each employee. The above-mentioned salary is the gross average wage/salary on the economy communicated by the National Institute for Statistics in the month in witch was opened the insolvency procedure.