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EUROPEAN SOCIAL CHARTER

18th National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF ROMANIA

Article 7, 8, 16, 17, 19 and 27

for the period 01/01/2014 - 31/12/2017

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7 November 2018

CYCLE 2019

The 18th National Report
on the implementation
of the European Social Charter (Revised)

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for the period 1 January 2014 - 31 December 2017

on the Group 4 of articles of the European Social Charter (Revised),
“Children, family, migrants”: 7, 8, 16, 17, 19 (para. 7 and 8) and 27 (para. 2).

Article 7 - The right of children and young persons to protection

Paragraph 1

- *The Committee requested additional information on the approval of the Government Decision regulating the child's performance of paid activities in the cultural, arts, sports, advertising and modelling sectors, that was in a draft version during the previous reporting period.*

The Government's Decision was adopted in the beginning of 2015. The regulation relies on the provisions of art. 92 para. (2) of the Law no. 272/2004 on protection and promotion of children rights, republished, as subsequently amended and supplemented, and its purpose is to regulate the conditions that need to be complied with when a child performs paid activities in the cultural, arts, sports, advertising and modelling sectors, as well as on the prior information procedure to be complied with by the child parents/his/her legal representatives in relation to the public social care unit.

Also, this decision answers to one of the obligations that Romania committed itself to by ratifying the International Labour Organization Convention no. 182/1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, ratified through Law no.2013/2000, respectively ensuring a proper protection of children against exploitation through labour, in relation to intolerable as well as to dangerous forms of labour, as well as in such cases when they are involved in performing a number of activities in areas such as: culture, arts, sports, advertising and modelling etc.

This Government Decision was drafted based on a large-scale consultation process undertaken at national and central level. The first draft version of the decision was developed within the ILO-IPEC Programme in 2005-2006, with a nation-wide consultation, organized at central level (representatives of all member institutions of the National Steering Council on prevention and fighting exploitation of children through labour - CND, including trade unions and employer's associations), as well as at county /Bucharest district level (47 DGASPCs, 41 Labour Inspectorate bodies, the local inter-sectorial team together with representatives of the child protection, health, education, police, labour inspection services within 12 counties).

In the context of transposing the (EU) Directive 94/33 within the domestic legislation through GD no. 600/2007 on protection of young people in their workplace, the bill was divided into two sub-documents: one addressing dangerous labour, in general, and the other addressing dangerous labour in the cultural, arts, sports, advertising and modelling sectors.

The first draft was translated into GD no. 867/2009 on the prohibition of dangerous labour for children, which includes shared provisions for the formal and informal sectors and the list of dangerous workplaces for children within the informal sector, while the other chapter was regulated through **GD 75/2015 on regulating the performance by children of paid activities within the cultural, arts, sports, advertising and modelling sectors.**

- *The provisions of the Labour Code on the minimal employment age are not applicable to the labour performed outside an official workplace framework, such as independent labour or non-paid labour.*

Pursuant to art. 13 of Law no. 53/2002 - the Labour Code, as subsequently amended and supplemented, the natural person acquires the labour capacity when he/she reaches the age of 16 years. Also, the above mentioned provision of the law stipulates the fact that the natural person may conclude a labour contract as an employee when he/she is 15 years old, based on his/her parents' or legal representatives' agreement, for activities that are fit to his/her physical development, skills and knowledge, unless his/her health, personal development and vocational training are endangered.

Employment of persons under 15 years old is forbidden, pursuant to art. 13 para. (3) of the above mentioned law.

We also mention the fact that Romanian labour legislation regulates distinctively, through special laws, any activities undertaken within atypical forms of labour, such as volunteerism or liberal professions.

- *The Committee asked about the measures undertaken by the child protection authorities in order to identify cases of children under 15 years old who are working on their own or as part of the informal economy, outside a labour contract.*

The informal sector is defined by GD no. 867/2009 on the prohibition of dangerous labour for children as the “sector where the activity undertaken by a child for natural persons takes place without any contractual form regulated by law, such as: domestic activities within own households or other households, activities in the agricultural sector, street-based activities: car wind-shield washing, renting parking spaces, distribution of leaflets/magazines and other similar activities in marketplaces, train stations and ports, traditional activities such as: melting non-ferrous metal, manufacturing of bricks and others”.

The dangerous types of labour in the informal sector are identified by the General Directorates for Social Care and Child Protection (DGASPC), through specialised units - intervention in abuse situations, neglect, human trafficking and migration, following a report from children themselves, professionals and any other persons who are confronted with such situations. The professionals are under an obligation to report, as this is the case also for any form of violence against the child, as stipulated by the Law no. 272/2004 on protection and promotion of children rights, as subsequently amended and supplemented.

The mechanism used for reporting, identifying, planning and providing services needed by the children and the family, and also the case monitoring, are included in the GD no. 49/2011 for the approval of the Framework-methodology for prevention and intervention based on a multidisciplinary team and on the network resources in situations involving violence against the child and domestic violence (Appendix 1) and the Methodology for multi-disciplinary and inter-institutional intervention for exploited children and children who risk labour-based exploitation, children who are victims of human trafficking and also Romanian migrant children who are victims of other forms of violence in other countries (Appendix 2).

GD no. 867/2009 also stipulates the measures for the parents, should they be exploiting their own children through informal labour in the informal sector, except for the cultural, arts, sports, advertising and modelling sectors. Thus, the parents must attend parental education programmes or, as applicable, counselling programmes, based on the services provided or facilitated by DGASPC. Also, the parents may receive an administrative sanction should they refuse to be provided with the above mentioned services. The natural persons who involve children in dangerous forms of labour are sanctioned for committing an administrative offence.

As regards the prevention of dangerous labour in the cultural, arts, sports, advertising and modelling sectors, the GD no. 75/2015 regulated the conditions that must be complied with in the situation when a child performs a paid activity. Such conditions are applicable to the parents, the chaperones or the organizers of such events. Thus, the parents have an obligation to notify in advance the Social Care Public Service in relation to the fact that their own children undertake paid activities in these areas, while DGASPC is monitoring and applying sanctions.

According to the provisions of the labour law in force, the Labour Inspection body may take mandatory measures in such cases when children are traced to be performing lucrative activities while not complying with the legal provisions on the age limit, as well as with those on the employment status for minors.

Through their control activities, the labour inspectors also check on the manner in which the employers comply with the legal provisions on employment of young people aged 15 to 18 years old.

The results of control actions in the area of labour relations translated into the following figures, for the reporting period:

No.	INDICATORS	2014	2015	2016	2017
0	1	3	4	5	6
1	No. of control actions performed, of which:	130,720	72,882	76,690	73,002
	- targeting undeclared employment	127,903	70,976	74,097	69,190
2	TOTAL no. of employees of the employers included in the control action, among whom:	3,972,699	3,318,419	3,353,998	2,969,449
a.	- women:	1,847,089	1,531,949	1,443,342	1,298,925
b.	- young people aged 15-18 years old:	9,529	7,927	3,861	5,278
3	TOTAL no. of employers sanctioned for employment without legal documents, among whom:	4,226	3,072	2,901	2,426
	- <i>No. of employers using young people aged 15- 18 years old in employment:</i>	57	66	88	95
4	TOTAL no. of persons identified in employment without legal documents, among whom:	14,096	10,332	9,936	5,609
a.	- women:	5,480	2,559	2,415	-
b.	- young people aged 15-18 years old	71	102	123	-

As mentioned in all the previous reports, the minimum age for employment, pursuant to art. 45 para. (4) of the Constitution, is 15 years old. According to the constitutional rule, the Labour Code stipulates that the natural persons is admitted for employment when they turn 16 years old (art. 13 para. 1), however, the natural person may conclude a labour contract as an employee when he/she turns 15 years old, based on his/her parents' or legal representatives' agreement, for activities that are fit to his/her physical development, skills and knowledge, unless his/her health, personal development and vocational training are endangered (art. 13 para. 2).

Thus, between the age of 15 and the age of 16, a natural person acquires a limited capacity for employment.

Pursuant to art. 13 para. 3 of the republished Labour Code, as amended and supplemented, up to the age of 15 years old, the minors are not allowed to conclude an employment contract (any type of individual labour contract) as an employee.

According to art. 265 para. 1 of the republished Labour Code, as amended and supplemented, failure to comply with the legal age condition for employment of a minor or using a minor to perform some activities by not complying with the legal provisions on the employment status of minors shall be deemed an offence and shall be punishable by a custodial sentence of no less than 3 months and no more than 2 years or by a fine.

In this context, the Labour Inspection body, through the territorial Labour Inspectorates, have notified the criminal investigation bodies during the reporting period, as follows:

No.	INDICATOR	2014	2015	2016	2017
0	1	3	4	5	6
	No. of offences related to employment of minors by non-complying with the legal age conditions in or with the legal provisions on the employment status of minors	25	60	49	60

The Department on Fighting Organized Crime (DCCO) within the Ministry of Home Affairs and its territorial units investigate minor trafficking cases in the context where the offences that have involved minors as victims fulfil the legal criteria in order to be deemed organized crime offences, which are prosecuted by DIICOT and whose investigation is related to the offences stipulated under art. 211 of the Criminal Code on trafficking minors.

For a better protection of underage victims, the *GEO no. 18* of 18 May 2016 inserted provisions on certain aggravating circumstances which are related to the legal capacity in which the traffickers operate or to certain conditions for committing such a crime.¹

In order to identify and monitor cases of exploitation of children through labour, multi-disciplinary and inter-institutional teams are made up at county level, and these includes representatives of the General Directorate for Social Care and Child Protection, the Territorial Labour Inspectorate, the County Police Inspectorate, the County School Inspectorate, the Public Health Department, non-governmental organizations, the County Armed Police Inspectorate, and of the National Agency against Trafficking in Persons.

Human trafficking is a serious crime, that is circumscribed to organized crime and it should not be mistaken with illegal or voluntary prostitution, pandering, (voluntary or forced) begging or with performance of labour/services by infringing the legal provisions on pay, labour conditions etc.

As regards **forced labour**, all conditions related to the work being provided must be reviewed, in order to clearly differentiate human trafficking for the purpose of labour exploitation from the other crimes/misdemeanours derived from the labour legislation, which can be identified and sanctioned by the structures specialised in labour protection in the country of destination (failure to conclude an employment contract, failure to provide weekly holidays, failure to comply with the provisions for overtime or night time labour, failure to comply with health and safety rules etc.).

Also, human trafficking with the purpose of exploitation of forced labour should not be mistaken with the offence of “*pressing a person into forced or compulsory labour*” stipulated by art. 212 of the Criminal Code or with the offence of “*misrepresentation*”

¹ ART. 211 *Trafficking in underage persons*

- (1) *Recruitment, transportation, transfer, harbouring or receipt of a juvenile for the purpose of their exploitation shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.*
- (2) *The offence is punishable by no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights when:*
 - a) *the offence had been committed under the terms of art. 210 para. (1);*
 - b) *the offence had been committed by a public servant while in the exercise of their professional duties and prerogatives;*
 - c) *the offence endangered the underage person’s life;*
 - d) *the offence had been committed by a family member of the underage person;*
 - e) *the offence had been committed by a person who was entrusted with the underage person’s care, protection, education, guardianship or treatment or by a person who abused his/her recognised position of trust or authority exercised over the underage person.*

stipulated by art. 244 of the Criminal Code, which are not included in the scope of investigations performed by the structures fighting organized crime.

According to the cases recorded throughout the past years, the most common types of exploitation in the area of trafficking minors were **sexual exploitation** - specific for minor victims aged 15 to 18 years old, **forced beggary** and **forced criminality** - specific for minor victims under the age of 14 and, to a lesser extent, exploitation through forced labour, usually on the domestic labour market.

Every time when data were found on potential exploitation of a minor, the specialised structures initiated investigations in order to rescue the victims and hold the offenders accountable, cooperating in this respect with all the institutions involved in the fight against human trafficking, at national and international level.

Also, during the reporting period (2014-2017), as well as during this year, DCCO participated to the EUROPOL initiative **European Joint Action Days on Trafficking Human Beings EMPACT - Joint Action Days on THB**, dedicated to prevention and fighting trafficking of minors and also to actions aimed at **trafficking for forced labour purposes**, and undertook, on one hand, preventive actions with an enhanced level of awareness, and, on the other hand, intelligence gathering operations, control actions, monitoring of trafficking/risk indicators at border crossing points, as well as, where the criminal investigation phase allowed this, de-structured the organized crime groups operating with this purpose, and such actions were attended by representatives of **ANITP, IGPF, IGI** and of the **Ministry of Labour and Social Justice**.

Paragraph 2

When the G.D. no. 867/2009 on the prohibition of hazardous work for children became effective, the Labour Inspection performed a target action regarding the youth work to implement this normative act and to assess the existing situation.

Further, during the period stipulated in this report, namely from 2014 to 2017, according to the framework action program, the Labour Inspection annually carried out campaigns having as topic the verification of the activity carried out by young people in fields likely to frequently use the work of youth and children, such as: constructions, processing and preserving the meat/fish and bakery and farinaceous-based products, warehousing and sale of cereal products and bakery products, manufacture and sale of dairy products, alcoholic and soft drinks production, wood industry, wholesale and retail trade, security, units operating in mountain and seaside resorts, units operating during the night (restaurants, bars, clubs, gambling, non-stop business units, fuel distribution units), collection and recycling of non-hazardous waste, maintenance and repair of motor vehicles, other services.

The Labour Inspection does not have any statistics regarding the found non-conformities or the number of sanctions associated with a certain professional category of workers or related to their age.

Paragraph 3

- *The Committee requested additional information on the approval of the Government Decision on regulating the provision of paid activities by children in cultural, artistic, sports, advertising and modelling fields, being drafted at the time of the last report.*

The Government Decision was approved in early 2015. The normative act was based on the provisions of art. 92 para. (2) of Law 272/2004 on protection and promotion of children rights, republished, as further amended and supplemented, and aims at the regulation of

the conditions which have to be complied with if children provide paid activities in the cultural, artistic, sports, advertising and modelling fields, and the procedure of previously informing the public social service by his/her parents/legal representatives.

Also, this decision is an answer to one of the obligations which Romania undertook while it ratified the Convention of the International Labour Organisation no. 182/1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, ratified by Law no. 203/2000, namely providing children with proper protection against labour exploitation, both as regards intolerable and hazardous work, and when they are involved in the provision of activities in fields such as: cultural, artistic, sports, advertising and modelling, etc.

The drafting of this decision was based on an ample process of consultancy at national and central level. The first form of the draft decision was drafted within the ILO-IPEC Program from 2005 to 2006, with national consultation, both centrally (representatives of member institutions of the National Management Board for preventing and fighting against the labour exploitation of children - NMB, including trade unions and employers' organisations) and at county level/districts of Bucharest (47 General Directorates for Social Assistance and Child Protection, 41 labour inspectorates, local cross-sector teams with representatives of child protection, health, education, police, labour inspectorates in 12 counties).

In the context of transposition of the EU Directive 94/33 into domestic law by the GD no. 600/2007 on youth protection at the workplace, the draft normative act was divided into two projects: one for hazardous work in general and the other one for hazardous work in the cultural, artistic, sports, advertising and modelling fields.

The first draft materialized in the GD no. 867/2009 on the prohibition of hazardous work for children, containing common provisions for the formal and informal fields and the list of hazardous work for children in informal sector, and the other chapter was regulated by the GD 75/2015 on regulating the provision of paid activities by children in the cultural, artistic, sports, advertising and modelling fields.

- *The Committee asks if the maximum work limits of 6 hours per day and 30 hours per week applied to young people aged 15 to 18 are also applied to young people aged over 15 who are still subject to mandatory education. On the contrary, it asks which is the daily and weekly maximum duration of work during school days and outside the school for children aged over 15 who are still subject to mandatory education.*

According to the provisions of art. 3, letter a) in conjunction with art. 10, para. (1) of GD no.600/2007 on the protection of young people at the workplace, the duration of the work time regulated in art. 10, para.(1) shall apply to young people as defined in art. 3, letter a), who have concluded an individual employment contract in accordance with the legislation in force, **whether or not they are subject to mandatory schooling.**

„ART. 3

For the purpose of this decision, the used terms and concepts have the following meanings:

a) young person - any person aged at least 15 and not more than 18;”

„ART. 10

(1) In the case of young people, the work time is maximum 6 hours/day and 30 hours/week.”

- *The Committee asked if the rest period for young people is at least two consecutive weeks during summer holiday.*

The G.D. No.600/2007 does not include any provisions according to which the rest period for young people should be of minimum of two consecutive weeks during school holidays (Directive 94/33/EC on the protection of young people at the workplace, whose provisions were fully transposed into the national laws by the GD no. 600/2007, does not stipulate that the rest period of young people must be of minimum two consecutive weeks during school holidays), but according to the provisions of art. 15 the young people benefit from an additional vacation of at least 3 business days and in the cases provided for in art. 5 para. (2) and (3), the employers make sure that the free period of any work is included, as far as possible, in the school holidays of the children subject to full-time mandatory schooling, stipulated in the national law.

- *The Committee requested information on the duration of school holidays in Romania.*

According to the Order of the Minister of National Education no. /24 February 2017, the structure of the school year 2017/2018 included school vacations, as follows:

Winter holiday 23 December 2017 - 14 January 2018

Inter-semester holiday 3 February - 11 February 2018

Spring holiday 31 March - 10 April 2018

Summer holiday 16 June - 9 September 2018

By way of exception, for the school ending classes:

- The summer holiday of the 8th grade starts on 8 June, benefiting from 34 weeks of schooling;
- The 9th and 11th grades benefit from 37 weeks of schooling.

Such order is issued every school year, the differences being 2-3 days and being incurred by the changes of calendar dates in relation to the days of the week.

- *The Committee has noticed that Roma children and children living in rural and under-privileged areas are still confronted with a high school drop-out rate.*

To improve the situation of children coming from under-privileged areas, including the rural area, MNE continues to develop a social program package, funded from the central level or from the funds of local/county councils, programs supporting the access to and participation in education and training: Educational materials, Euro 200, Professional Scholarship, Settlement of Commutation Costs, High School Money, Honey and Fruit, School After School, "Second Chance" Program, Program - pilot for providing food support for pre-schooler children and pupils in 50 state pre-university education establishments (Hot meal), Vouchers for Kindergarten, Romanian School Program for 2017 - 2023, Granting scholarships.

The most relevant indicator corresponding to the social program package, in the meaning of efficiency, is the ESLR (Early School Leaving Rate), which was 19.1% in 2015, namely 18.1% in 2017.

MNE started a set of procedures in order to identify children at school dropout risk entitled "**Warning system for RESL (Reducing Early School Leaving)**" funded by the EU (€15,000) - by Structural Reform Unit, a specialized agency of COM.

The European funding project "**High-Quality Inclusive Early Childhood Education**" aims at increasing the access and quality of early education services for pre-school children from nurseries and kindergartens by drawing up and implementing coherent and reliable policies and strategies in the field of early education, and ensuring the specialized and qualified human resource for education and care of pre-school children in 235 nurseries and kindergartens - practice base.

MNE prepared project sheets to access the programs:

- **Computer system for school management in pre-university education (2017-2020 SIMS)**” (36 months - €30 million) for collecting, managing and analysing the information regarding the school results and daily school activity in pre-university education;
- **National Education Platform** (36 months - €30 million) for creating an online educational platform and a virtual school library;
- **Computerized county** - the 5th - 7th grades and vocational training classes shall be equipped with tablets for pupils, smart blackboard and projector in each class;
- **WI - FI Campus Project.**

The activities carried out to ensure the access and equal treatment for Romani (from 1 January 2014 to 31 May 2018) initiated/developed by MNE together with its institutional partners

1. Collection of data from Romani NGOs and other partners to establish the tuition fee for providing distinct places in the admission of young Romani at the faculties in the academic year 2016-2017.

Compared to the academic year 2015-2016 when 611 places were provided (representing 1% of the total number of budgeted places for the bachelor’s degree cycle, in state education), for the academic year 2016-2017, they were provided with 622 places for Romani within 48 state higher education institutions, to which- **as a novelty** - other 265 places were added for the 1st year of master’s degree courses. For the academic year 2017-2018, **1000 places** were granted (world first time occurrence), being distributed as follows: 637 (Bachelor’s degree), 293 (Master’s degree) and - **other novelty** - 62 Doctor’s degree. And for the admission in the academic year 2018-2019, 636 places are for bachelor’s degree, 257 for master’s degree and 60 for Doctor’s degree.

2. Taking the required steps to continue the initial training of future Romani teachers and specialists in the Romani language field at higher education level, within the Faculty of Foreign Languages and Literature of the University of Bucharest.

For the academic year 2017-2018, MNE assigned 15 places, supplemented by the University of Bucharest, by another 6, for future Romani teachers and specialists. Ten graduates attended the master’s degree courses in the Romani language profile, 5 obtained the Doctor’s degree in the Romani language profile and Romani schooling and another 6 are currently Ph.D. Students in the 2nd and 3rd year, in the same field.

The Romani language was not taught only at the University of Bucharest - Faculty of Foreign Languages and Literature (FFLL since 1992) -, but also in Cluj Napoca Babeş-Bolyai University (optional course since 2016) and Petru Maior University in Tg. Mureş, since 2014). The University of Bucharest, Romani language and literature department (as first specialisation) annually enlists 21 Romani students who study another language as a second specialisation.

3. Informing the school network and Romani communities about the continuation of the initial facility by MNE regarding the provision of distinct places for the admission to high schools of Romani pupils in different specialisations for the academic year 2017-2018.

On an annual basis, around 2700-3200 Romani pupils are enrolled in the 9th grade, on such places, the pupils coming from: 1/4 from Bucharest, 1/2 from other towns, 1/4 from the rural area.

4. Establishing the framework to continue the traditional summer courses on Romani language and teaching methodology.

These courses were held on three modules (from 23 August to 3 September 2016 in Costineşti) for Romani teachers and potential teachers, educators and elementary teachers who teach or shall teach in the maternal language Romani (promoter: Minorities Directorate, partners: Constanţa Teaching Staff Department, Ruhama Foundation in

Oradea, Costinești School, REF RO, Divers, Romtext). Four students abroad also took part in them besides 47 people in Romania (it reached the 36th edition). From 1999 to 2015, 1-3 summer schools per summer and 1-3 intensive Romani language and teaching methodology courses were organised, around 30-90 Romani students taking part in them each summer (most of them being organized by MNE and UNICEF - from 2001 to 2013), training a total of 1500 teachers who teach Romani language/in Romani maternal language and/or potential Romani language and Romani history teachers, translators, etc.

5. Continuous training

According to the provisions of *the Romanian Government's Strategy for inclusion of Romanian citizens belonging to the Romani minorities for the period 2016-2020*, activities for continuously training the teaching staff of Romani language/in Romani language within which the partners (Department for Interethnic Relations and MNE - MD) ensured the training of over 40 teachers who teach Romani language/in Romani language, Romani history and traditions on an annual basis.

6. Continued measures to preserve the Romani language, history and culture in the teaching context

The teaching is further ensured as **3-4 hours/week of Romani maternal language**, for the 1st-12th grades, respectively **1 hour/week of Romani history and traditions** in the 6th and 7th grades, in almost all counties. About 26,000 - 31,000 pupils (11-13% of 39 counties) study entirely in Romani maternal language (a number of 300-420 pupils) or study Romani language and history.

7. Continued measures to teach in the Romani maternal language, in pre-school education

The teaching in Romani maternal language is continued by bilingual approaches (Romani-Romanian, Romani-Hungarian) and in the last three years there were about 7-10 kindergarten groups of this type on an annual basis (AB, BH, BZ, CJ, CL, IS, OLT, TM).

8. Continued measures to teach in the Romani maternal language, in preparatory classes and in the 1st and 4th grades (4 hours/week of Romanian language and literature being mandatory)

Annually, about 300-420 Romani pupils chose to study in Romani language in the preparatory classes and in the 1st - 4th grades (in the school year 2017-2018 in the following counties: Alba, Bihor, Cluj, Hunedoara, Ialomița, Mureș, Timiș). For the lower secondary education, the programme is carried out entirely in Romani, at national level, in only one school unit, namely School no. 12 Măguri - Lugoj, Timiș County (between 75 and 90 pupils, on an annual basis).

9. Continued efforts to provide jobs for Romani language and history teachers, elementary teachers and educators teaching Romani.

In the last two years, there were between 350 and 420 teachers providing both the teaching of Romani language/in Romani language, and the teaching of Romani history and traditions in almost three hundred school units with predominantly Romani pupils.

10. Continued training efforts through initial training classes organized by MNE for potential Romani school mediators

From 2014 to 2017, the Ministry of National Education and its partners increased the number of school mediators trained in various courses. For example, in 2016, 138 new school mediators were trained (60 by UNICEF representative office in Romania, together with Bacău County School Inspectorate and Minorities Directorate within MNE, in February and April 2016; 23 by MNE and Constanța Teaching Staff Department in June 2016, in Costinești; 30 by "Divers" Tg. Mureș, July 2016, Mureș Teaching Staff Department and MNE;

25 By “Save the Children”, in august 2016, Constanța Teaching Staff Department and MNE. In 2017, MNE and Constanța Teaching Staff Department trained another 30 students and MNE, together with Bacău Teaching Staff Department - another 45, so that they reached a number of **1360**, 80% of whom being Romani. They continue the efforts **so that MNE can maintain and fund the jobs of Romani school mediators**. A total of **420-440** of the **1360** trained school mediators (between 2003 and 2017) worked and work annually in the education system.

11. Continued funding by the Ministry of National Education (MEN) allocated for a number of national competitions on Romani language and history

In **2016**, the following events took place: National School Olympics for Romani language (17th edition, in Eforie Nord/Agigea for 74 competitors in the national phase of the competition); National Contest for Roma history and tradition (9th edition in Braila), the national contest entitled “Diversity” (January-December: 290 persons in the final stage of the competition, 900 persons during the initial stage); National Competition on literary creation in Romani language “Ștefan Fuli” (5th edition, in Carei). In **2017**, the Roma school competitions were organized as explained below: National School Olympics for Romani language (18th edition, in Baia Mare for 74 competitors in the national phase of the competition); National Contest for Roma history and tradition (10th edition in Brașov), the national contest “Diversity” (January-December: 290 persons in the final stage of the competition, 900 persons during the initial stage); National Competition on literary creation in Romani language “Ștefan Fuli” (6th edition, in Buzau).

12. Continued funding for school handbooks edited on a yearly basis by the MEN for the purpose of teaching Romani language, history and traditions, as well as ancillary educational materials for the Romani language, inter-cultural education and diversity etc., together with its partners.

In Romania, MEN makes available an entire batch of handbooks for the Romani language and literature, Roma history and traditions, for the compulsory education (grades 1-10), as well as for university education. In **2013**, four Mathematics handbooks in Roma language for primary school education levels were edited by UNICEF and MEN, during the “Hai la scoala” (Come to school) campaign, while in **2014**, the “Rromanipen educational” support materials were edited, in order to be used during the training programmes reserved for school-based mediators, for the non-Roma teaching staff, undertaking their activity in classrooms with Roma pupils. After having designed, in 2013-2015, the new school curricula for preschool and primary school, MEN initiated and started publishing the new Romani language handbooks, accompanied by the digital version (the handbook for the 1st grade /1St year of study has already been published).

13. Breakdown of the schooling plan

Taking into consideration the provisions of the Government Decision no. 18/2015, *for the approval of the Romanian Government Strategy for inclusion of Romanian citizens of the Roma minority group for 2015-2020*, as subsequently amended and supplemented, we stipulate that the Ministry of National Education will be assigning distinctively a number of educational grants/tuition fees covered by the state budget, reserved for the following areas: Roma, priority development areas for Romania, graduates of higher secondary educational institutions from the rural areas and places reserved for the initial training of the future teaching staff. The following issues were taken into consideration:

- 1) Places reserved for Roma students comply with the requests of the universities;
- 2) Places for priority areas rely on data reporting as of 1 January 2018, matching directly the number of students budgeted for the existing study programmes within the priority development areas for Romania;

- 3) Places for graduates of the higher secondary educational institutions situated in the rural area are distributed so that equal opportunities are provided for the university study programmes.

14. Statistical data

Data extracted from the ANS Report (January 2018) on the number of Roma students divided per educational cycles, as well as the number of students from socially disadvantaged backgrounds divided per educational cycles:

- In January 2018, based on the data reported by 51 higher education institutions, of which 48 state-owned higher education institutions, 1 military higher education institution and 4 accredited higher education institutions, the number of enrolled Roma students is 1197, of whom 83.46% at bachelor's degree level, 14.79% at master's degree level and 1.75% at PhD degree level.
- As regards the number of students from socially disadvantaged backgrounds, in January 2018, based on the data reported by 61 higher education institutions, of which 46 state-owned higher education institutions, 4 military higher education institutions and 11 accredited privately-owned higher education institutions, the number of enrolled students coming from socially disadvantaged backgrounds is 137,190, of whom 79.31 % at Bachelor degree level, 19.34 % at Master's degree level and 1.35 % at PhD degree level.

Paragraph 4

According to art. 265 para. 1 of the republished Labour Code, as amended and supplemented, failure to comply with the legal age condition for employment of a minor or using a minor to perform some activities by not complying with the legal provisions on the employment status of minors shall be deemed an offence and shall be punishable by a custodial sentence of no less than 3 months and no more than 2 years or by a fine.

Consequently, the Territorial Labour Inspectorates have notified the criminal investigation bodies for violations of the above mentioned provisions of the law, and the figures associated with the reporting period are the following:

No.	INDICATOR	2014	2015	2016	2017
0	1	3	4	5	6
	No. of offences related to employment of minors by non-complying with the legal age conditions in or with the legal provisions on the employment status of minors	25	60	49	60

Paragraph 5

Pursuant to art. 159 para. 3 of the Labour Code, republished, subsequently amended and supplemented, when the pay for the employee's work is determined and awarded, any discrimination based on criteria related to gender, sexual orientation, genetic features, age, nationality, race, colour, ethnicity, religion, political affiliation, social origin, disability, family situation or responsibility, affiliation to or trade union activity is prohibited.

The minimum wage level is determined on a yearly basis through a Government Decision.

During 2014-2017, the minimum gross domestic wage had evolved as follows:

Year	Starting from day month	Minimum wage (LEI)	Implemented through
2014	1 January	850	Government Decision 871/14.11.2013
	1 July	900	
2015	1 January	975	Government Decision 1091/10.12.2014
	1 July	1,050	
2016	1 May	1,250	Government Decision 1,017/30.12.2015
2017	1 February	1,450	Government Decision 1/06.01.2017
2018	1 January	1,900	Government Decision 846/29.11.2017

Pursuant to art. 260 para. 1 a) of Law no. 53/2003 - the Labour Code, as amended and supplemented, failure to comply with the provisions on the payment of the minimum gross domestic wage represents a misdemeanour and is punishable by a fine.

During the reporting period, the employer's failure to comply with the legal provisions guaranteeing the payment the minimum gross domestic wage was sanctioned as follows:

No.	INDICATOR	2014	2015	2016	2017
0	1	3	4	5	6
	No. of fines applied for failure to comply with the provisions on guaranteed payment of the minimum gross domestic wage	309	221	183	140

Average net wage-based income per total of the economy and per genders

YEAR	Average net wage-based income per total of the economy and per genders (LEI/employee)		
	Total	Women	Men
2014	1697	1627	1761
2015	1859	1783	1928
2016	2046	1968	2116
2017	2338	2288	2383

Data source: NSI, Annual Statistical Research on the cost of labour

For more details, see the TEMPO database:

<http://statistici.insse.ro:8077/tempo-online/#!/pages/tables/insse-table>

Year	Period of the year	Government Decision (G.D.)	Minimum gross domestic wage (LEI)	Nominal (gross) average income per economy - LEI (annual average)	Share of the minimum gross domestic wage from the nominal (gross) average income per economy (Column 3/column 4)
0	1	2	3	4	5
2013	January	GD No 1225/2011	700	2163 *)	32.4 %
	Starting from 1 February	GD No 23/ 2013	750		34.7 %
	Starting from 1 July	GD No 23/ 2013	800		37.0 %
2014	Starting from 1 January	GD No 871/2013	850	2328 *)	36.5 %
	Starting from 1 July	GD No 871/2013	900		38.7 %
2015	Starting from 1 January	GD No 1091/2014	975	2555 *)	38.2 %
	Starting from 1 July	GD No 1091/2014	1050		41.1 %
2016	Starting from 1 May	GD No 1017/2015	1250	2809 *)	44,5 %
2017	Starting from 1 February	GD No 1/2017	1450	3223 *)	45,0%

*) annual average, final data;

Based on the data presented above, the **share** of the minimum **gross** domestic wage from the nominal (**gross**) average income per economy **was of**:

- In December 2013: **37.0%**
- In December 2014: **38.7%**
- In December 2015: **41.1%**
- In December 2016: **44,5%**
- In December 2017: **45,0%**

Year	Period of the year	Minimum domestic wage (LEI) -- NET (with zero maintenance expenses allocated for other members of the family)	Nominal average income per economy -- NET (annual average)	Share of the minimum net wage per economy (with zero maintenance expenses allocated for other members of the family) from the nominal average income per economy (annual average) (Column 3/Column 4)
0	1	3	4	5
2013	January	538	1579 *)	34.1 %
	Starting from 1 February	574		36.4 %
	Starting from 1 July	609		38.6 %
2014	Starting from 1 January	644	1697 *)	37.9 %
	Starting from 1 July	678		40.0 %
2015	Starting from 1 January	732	1859 *)	39.4 %
	Starting from 1 July	785		42.2 %
2016	Starting from 1 May	925	2046 *)	45,2 %
2017	Starting from 1 February	1065	2338 *)	45,5%

*) annual average, final data;

Based on the data presented above, the *share* of the minimum net domestic wage from the nominal (net) average income per economy *was of*:

- In December 2013: 38.6%
- In December 2014: 40.0%
- In December 2015: 42.2%
- In December 2016: 45,2%
- In December 2017: 45,5%

Apprenticeship

Regarding the highlights of legislative changes occurred during the reporting period:

Law no.279/2005 on apprenticeship at the workplace, as subsequently amended and supplemented, was amended in 2017 and the amendments are as follows:

- the increase of the amount granted to the employer concluding an apprenticeship contract, so the employer that concludes an apprenticeship contract benefits, on demand, throughout the duration of the apprenticeship contract, from an amount of lei 1,125/month (the equivalent in lei of euro 250/month), granted from the unemployment insurance budget, within the limits of the funds allocated for this purpose;
- correlation between the qualification levels for which the apprenticeship programs are organized and the National Framework of Qualifications approved by GD no. 918 /2013.

Taking into account that in the text of the Committee's conclusions of 2015, on page 11, it is mentioned that apprenticeship is intended for persons aged over 16, but not more than 25, we mention that apprenticeship at the workplace is intended for interested persons aged over 16, without imposing a maximum age threshold, in accordance with art. 3:

“ART. 3 Apprenticeship at the workplace is intended for:

- a) interested persons aged over 16, who want to focus on learning, starting from actual, concrete professional situations, required by practicing a job directly at the workplace;*
- b) employers who want to organize apprenticeship activities at the workplace, according to their activity fields, for the workplaces declared vacant.”*

According to art. 6 par. (1) of Law no. 279/2005 on apprenticeship at the workplace, republished, amended and supplemented, the apprenticeship contract is an individual employment contract of a particular type, concluded for a definite term, pursuant to which an individual, called apprentice, undertakes to prepare himself/herself professionally and to work for and under the authority of a legal entity or of an individual, called employer, who undertakes to ensure the payment of his/her salary and all necessary conditions for professional training. According to par. 2 of the same article, the apprenticeship contract shall be concluded, implemented, changed, suspended and terminated provided that the provisions of Law no. 53/2003 - Labour Code, republished, as subsequently amended and supplemented, regarding apprenticeship and the individual employment contract are observed.

According to art. 9 par. (5) and 6 of Law no. 279/2005 regarding the apprenticeship at the workplace, republished, as amended and supplemented, the monthly base salary, established by the apprenticeship contract at the workplace is at least equal to the minimum gross national salary, in force for a program 8 hours per day and 40 hours per week on average respectively

Paragraph 6

Art. 194 of the Law no. 53/2003 - Labour Code, as amended and supplemented, provides that the employers have the obligation to ensure the participation of all employees in professional training programs at least every 2 years if they have at least 21 employees or at least every 3 years if they have less than 21 employees.

The participation in the professional training may take place at the initiative of the employer or at the initiative of the employee (art. 196 (1) of the Labour Code, republished, amended and supplemented).

If the participation in the professional training courses or stages is initiated by the employer, all expenses generated by this participation are paid by them (art.197 par. 1 of the Labour Code, republished, amended and supplemented).

If the employee is the one who has the initiative to participate in a form of professional training without performing his/her normal work tasks, the employer will analyse the employee's request with the trade union or, as applicable, with the representatives of the employees. The employer will take a decision about the application made by the employee within 15 days after having received the request. At the same time, the employer will decide on the conditions in which the employee will be allowed to participate in the professional training, including whether he/she will pay all cost generated by it or only part of this cost (art. 199 of the Labour Code, republished, amended and supplemented).

Regarding the monitoring of the time spent for the professional training during the normal work time and the remuneration for young workers, our institution does not have any statistical data on this issue.

Paragraph 7

The right to paid annual leave is guaranteed for all employees, in accordance with the provisions of art. 144 of Law no. 53/2003 - Labour Code, as subsequently amended and supplemented. Thus, once the individual employment contract is concluded, the employee acquires the rights provided at art. 39 of the aforementioned normative document, among which the one at art. 39 letter c) the annual paid right for rest. We also specify that the actual duration of the annual leave is set forth in the individual employment contract, by observing applicable law and the collective employment contracts and it is granted proportionally to the work performed throughout a calendar year.

Thus, the right to paid annual leave is guaranteed **for all employees, including young people aged 15-18**. The right to annual leave may not be subject to any assignment, renunciation or limitation.

According to the provisions of art. 147 par. 1 of the Labour Code, republished, as subsequently amended and supplemented, young people under 18 years of age benefit from an additional leave of at least 3 working days.

Through their control activities, the labour inspectors have also checked how employers observe the legal provisions on the leave of employees, including of young workers. If an infringement of these legal provisions is found, mandatory measures with concrete deadlines for implementation are decided. The Labour Code does not provide any contravention sanctions for failure to observe the provisions on employees' leave.

Paragraph 8

The provisions of the Labour Code prohibit persons under the age of 18 from performing work at night, as regulated at art. 128 of the Labour Code: *“(1) Young people under the age of 18 are not allowed to work at night. (2) Pregnant women, women who have just given birth and nursing mothers may not be required to perform work at night”*.

As mentioned above, according to art. 265 par. 1 of the Labour Code republished, amended and supplemented, the employment of a minor by failure to observe the legal conditions of age or his/her use for performing activities infringing the legal provisions regarding the minors' working regime constitutes a crime and is punished by imprisonment from 3 months to 2 years or by fine.

At the same time, G.D. no. 600/2007 on the protection of young people at work **does not provide any exceptions** to the provisions of art. 12 regulating work at night.

„ART. 12

(1) Young people are not allowed to perform work at night.

(2) Children employed in the conditions provided at art. 5 par. (2) and (3) are not allowed to work between 20.00 and 6.00.”

Paragraph 9

According to the provisions of art. 39, par. (4) of the Law on Occupational Health and Safety no. 319/2006, as subsequently amended, the infringement of the provisions regarding the medical examination and the periodical medical examinations provided at art. 13 letter j) of Law no. 319/2006 constitutes a contravention and is sanctioned by a fine ranging between lei 4,000 and lei 8,000.

Within the inspections carried out by the labour inspectors in business units, a priority point in the examination themes is the verification whether the legal provisions regarding workers' medical examination are observed, following the way the medical examination is performed for persons having special needs or for young people.

The Labour Inspection Department does not have at present any individual statistics on the number of sanctions applied for failure to observe the performance of medical examinations for young people, but only a general one covering all professional categories, regardless of age.

Between 2014 and 2017 a number of 252,256 inspections were performed for checking the observance by employers of the occupational health and safety legislation and a no. of 953 contravention sanctions were applied for non-compliance situations identified on how the medical examination was performed when the employee was hired or periodically.

Paragraph 10

Protection against sexual exploitation

Law no. 286/2009 on the Criminal Code² was amended through the Government Emergency Ordinance no. 18/2016, which transposed the Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA³ into the national legislation.

Currently, the Criminal Code criminalizes the following actions, as follows:

- **Art. 182 Exploitation of a person**
“*Exploitation of a person means:*
(...);

² Published in the Official Journal no. 510 of 24 July 2009.

³ Published in the EU Official Journal no. 335 L of 17 December 2011.

c) forcing persons into prostitution, pornography, in view of obtaining and distributing pornographic material or any other types of sexual exploitation; (...).”

➤ **Art. 211 Trafficking in underage persons**

“(1) Recruitment, transportation, transfer, harbouring or receipt of a juvenile for the purpose of their exploitation shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(2) The offence is punishable by no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights when:

- a) the offence had been committed under the terms of art. 210 para. (1);
- b) the offence had been committed by a public civil servant while in the exercise of their professional duties and prerogatives;
- c) the offence endangered the underage person’s life;
- d) the offence had been committed by a family member of the underage person;
- e) the offence had been committed by a person who was entrusted with the underage person’s care, protection, education, guardianship or treatment or by a person who abused his/her recognised position of trust or authority exercised over the underage person.

(3) The consent expressed by an individual who is a victim of trafficking does not represent a justified cause.”

➤ **Art. 213 Pandering**

(1) Causing or facilitating the practice of prostitution or obtaining financial benefits from the practice of prostitution by one or more individuals shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(2) In the event that a person was determined to engage in or continue the practice of prostitution through coercion, the penalty shall be no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(3) If such acts are committed against an underage person, the special limits of the penalty shall be increased by one-half.

(4) Practicing prostitution means having sexual intercourse with various individuals for the purpose obtaining financial benefits for oneself or for others,”

➤ **Art. 216 CP Use of services rendered by an exploited person**

The action of using the services listed under art. 182, provided by a person about whom the beneficiary knows that they are a victim of (...) trafficking of underage persons, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine, unless such action represents a more serious offence.”

➤ **Art. 216¹ Use of child prostitution**

“Entertaining any actions of sexual nature with a minor who has undertaken prostitution activities is punishable by no less than 3 and no more than 2 years of imprisonment or a fine, unless such action represents a more serious offence.”

➤ **Art. 217 Punishment for the attempt**

“The attempt to commit the offences set forth by art. 209-211, art. 213 para. (2), art. 216 and 216¹ shall be punishable.”

➤ **Art. 374 Child pornography**

“(1) The production, possession for display or distribution, the purchase, storage, display, promotion, distribution and supplying, in any manner, of child pornography shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(1¹) The punishment stipulated under para. (1) is also applicable to prompting or recruitment of underage persons in order to involve them in a pornography shows, gaining proceeds from organizing such a show attended by underage persons or the exploitation of an underage person in any other manner for the delivery of pornography shows.

(1²) Viewing of pornography shows which are attended by underage persons is punishable by no less than 3 months and no more than 3 years of imprisonment or a fine.

(2) If the actions set out in para. (1) are committed using a computer system or other means of data storage, it shall be punishable by no less than 2 and no more than 7 years of imprisonment.

(3) The act of unlawfully accessing child pornography through computer systems or other means of electronic communication shall be punishable by no less than 3 months and no more than 3 years of imprisonment or by a fine.

(3¹) Should the actions stipulated under para. (1), (1¹), (1²) and (2) be committed under the following circumstances:

a) by a family member;

b) by a person who was entrusted with the underage person’s care, protection, education, guardianship or treatment or by a person who abused his/her recognised position of trust or authority exercised over the underage person;

c) when the action endangered the underage person, the special limits for the above mentioned penalties are to be increased by one-third.

(4) Child pornography means any material that presents a juvenile or an adult posing as a juvenile, displaying a sexually explicit behaviour or, even if it does not display a real person, that simulates a juvenile displaying such behaviour in a credible manner, as well as any representation of a child’s genitals with a sexual purpose.

(4¹) A pornography show represents live exposure addressed to an audience, including the use of information and communications technology, of a child involved in an explicit sexual behaviour or of a child’s genitals, with a sexual purpose.”

Protection against the misuse of information technology

Regarding the protection of children against the misuse of information technology, the Ministry of Communications and Information Society (MCSI) has undertaken the following actions:

- MCSI has supported the CEF Telecom - Safer Internet 2014-2020 programme, which continues the activities of Safer Internet Plus, aimed at transforming the internet into a safer environment for children through actions that protect them when navigating the online environment. In this respect, the safe use of the Internet and other communication technologies, the education of users, especially children, but also parents and educators, and the fight against illegal and harmful online content have been encouraged.
- MCSI has developed, together with CERT.ro, a guide for parents and teachers aimed at educating children who navigate online, which highlights the risks children are exposed to

when navigating the digital environment. The guide presents a range of protective measures for the hazardous situations children may be exposed to, as well as a series of tips to help children deal with the dangers of digital life and of the social media. The guide uses a very friendly and interactive approach and contains messages that are easy to understand by children and not only.

In accordance with the provisions of art. 11⁴ of Law no. 196/2003 on preventing and fighting pornography, republished, the National Regulatory Authority in Communications (ANCOM) has certain legal competencies which may indirectly impact, through its effects, the field of child protection (i.e. the access to a certain category of content available on the Internet).

Thus, considering the above-mentioned attributions and the need to identify effective measures to protect children in the virtual environment, especially by preventing their access to illegal or harmful content, on 23 November 2009 ANCOM concluded a collaboration protocol with the Romanian Centre for Missing and Sexually Exploited Children (CRCDES). This protocol was renewed in September 2015.

Protection from other forms of exploitation

The identification of child victims of trafficking in human beings, the reporting of these cases, the means of intervention and the protection of child victims of trafficking in secondary victimization and the prevention of trauma associated with the participation in criminal proceedings against perpetrators are governed by Government Decision no. 49 of 19 January 2011 for the approval of the Framework Methodology for the Multidisciplinary Prevention and Intervention Units and Networks on cases of Violence against Children and Domestic Violence and the Methodology of Multidisciplinary and Interinstitutional Intervention on Children Exploited or under Risk of Labour Exploitation, human trafficking, as well as Romanian migrant children victims of other forms of violence on the territory of other states.

This normative act sets a common methodological framework for the authorities responsible for child and family protection against violence, trafficking and labour exploitation, for the service providers in this field and the professionals working directly with children, addressing child and family protection professionals, social assistance in general, as well as other professionals who come in direct contact with the child.

Being designed as a working tool for all professionals involved in preventing and treating cases of child violence, trafficking and labour exploitation, the legislative document has a complex structure, regulates the identification of child victims of trafficking in human beings, the notification of these cases, the intervention method, as well as the protection of child victims of trafficking in secondary victimisation and preventing traumas associated with the participation in criminal proceedings against perpetrators.

Thus, the identification of child victims of trafficking in human beings is made by professionals interacting with the child in various fields of activity, in the public or private system: child protection, social assistance, health care, education, police, justice, etc.

In support of professionals who come into contact with the child, the above-mentioned government decision provides complete lists of symptoms of abuse, labour exploitation,

⁴ (1) The National Regulatory Authority in Communications receives notifications regarding the non-observance of the provisions of art. 7. (2) In the event of a notification and after the verification of the site content, the National Regulatory Authority in Communications requests the Internet service providers to block the access to the site in question. (3) The non-compliance of the Internet service providers of the obligation to block access to the websites that do not observe the provisions of Art. 7, within 48 hours of receiving the request referred to in paragraph (2) from the National Regulatory Authority in Communications represents an offence which is sanctioned by a fine from 10,000 lei to 50,000 lei.

labour exploitation consequences, as well as intolerable forms of child labour.

Suspected or confirmed cases of child trafficking can be reported to DGASPC either by the child victim or by any person who comes in contact with the child, in the family, in the community or professional environment. As a consequence, this person may be a family member, a relative, a neighbour or a family friend, a witness, but also a professional from different fields of activity, such as: healthcare professionals (family doctor, paediatrician, community nurse, etc.), psychologists, psychotherapists, teachers (nursery, kindergartens, primary school teachers, high schools, vocational schools teachers etc.), policemen, gendarmes, personnel from various institutions (home services for children, rehabilitation centres and penitentiaries for minors and young adults), social assistants within the SPAS, staff with social service responsibilities in villages, priests, media representatives, etc.

If there is any doubt as to the veracity of the facts and the opportunity of the case reporting, this obstacle may be overcome by communicating with other professionals, especially with the experts within DGASPC. Any presumption of danger to the child should trigger a reporting process to the competent authorities, even if it is not confirmed.

The case reporting can be done: directly - the person reporting the case, including the child / adult victim, goes directly to one of the competent authorities; by phone - in this situation, the following types of telephone services can be used: the usual landlines of authorized authorities, the special child helpline at DGASPC level (e.g. 983, 9852); to the Child Helpline Association, which is licensed to implement the single European Child Support Number (116.111), which, on the basis of the concluded protocols, reports the cases of child violence or trafficking to the competent authorities; through self-enforcement by competent authorities - professionals within competent authorities who may encounter situations that reveal or raise suspicion of a child victim of trafficking should initiate the procedures commonly used in such situations.

The intervention in the cases of child victims of trafficking in human beings is done through the case management method. Due to the fact that the situation of a child victim of violence or trafficking in human beings can present complex issues related to the child, the family and the alleged perpetrator / aggressor, the evaluation done by a single professional is not sufficient and not advisable, this being the reason why GD 49/2011 provides for intervention of a multidisciplinary and interinstitutional team.

The multidisciplinary and interinstitutional team can intervene both in the evaluation process and in the provision of specialized services.

ANPDCA is the institution responsible for coordinating and monitoring public policies on the protection of children's rights, including with regard to victims of trafficking in minors. DGASPC, institutions operating in each county of Romania, and in each of the 6 sectors of the capital city are the institutions responsible for implementing policies and assisting children in difficulty, including minor victims of trafficking in human beings.

The provision of services meant to ensure the protection of child victims of trafficking is a responsibility belonging to the General Direction for Social Assistance and Child Protection in accordance with the legal provisions in the field. Up until the start of the direct process of assistance and social protection for the victims, a key institution is the National Agency against Human Trafficking which, through its Regional Centres, ensures the case referral to specialized assistance institutions, after the assessment of the victim's individual needs.

When ANITP identifies the child victim of trafficking in human beings, irrespective of his / her country of origin, it notifies the DGASPC representative or the Specialized Service for the child victim of abuse, neglect and trafficking in human beings, in order to ensure special protection measures. If the child victim is a foreign citizen, he/she will benefit, without discrimination, of the same measures of assistance and protection as all children, victims of trafficking in human beings. If there are more victims of the same nationality /

citizenship, including children, it is recommended that they are assisted by the same social service provider. In the case of unaccompanied minors, victims of trafficking in human beings, in order to establish the legal status applicable to them, the IGI cooperates with other institutions, as well as with national and international organizations specialized in the field of child protection, under the conditions stipulated by GEO no. 194/2002 on the status of aliens in Romania.

There is no distinct mechanism for the **identification and referral of juvenile victims of trafficking**, this stage of intervention being detailed in the national MNIR. At the same time, the repatriation of minors (Romanian citizens) who are victims of trafficking in human beings, identified on the territory of other states, is carried out in compliance with the provisions of GD 1443/2004 on the repatriation of unaccompanied minors and / or victims of trafficking in human beings.

An important measure in identifying victims of trafficking in human beings is the onset (in 2017) of a review process of MNIR, which aims to improve the conceptual and procedural aspects of the mechanism. A training process for professionals with attributions in the field of prevention and combating of trafficking in human beings and assistance to its victims is also planned for the period 2018 - 2019.

With regard to the **assistance to minor victims** of trafficking, the statistical data held by ANITP for 2017 show the following:

⁵ Assistance to victims of human trafficking identified in 2017					
Types of assistance	Total no. of victims	Distribution by age and gender			
		MINORS		ADULTS	
		female	male	female	male
Assisted victims	307	130	55	91	31
Assistance provided by public institutions	215	101	51	42	21
Assistance provided by NGOs	48	11	2	29	6
Assistance provided through a public-private partnership	44	18	2	20	4
Assistance provided by PUBLIC INSTITUTIONS	259	119	53	62	25
Accommodation	61	36	16	7	2
assistance centres for victims of trafficking in human beings	7	1	2	3	1
other types of residential centres	54	35	14	4	1
Health care	62	32	11	16	3
Psychological counselling	205	103	48	45	9
Financial support	21	13	2	5	1
Material support (clothing, medicine, food, hygiene products)	42	26	8	7	1
Legal counselling/assistance	14	4	5	4	1
School reintegration	38	27	7	4	0
Professional counselling	34	0	0	23	11
Professional retraining	2	0	0	2	0
Reintegration on the labour market	8	0	0	3	5

⁵ Source: ANITP.

Assistance provided by NGOs	92	29	4	49	10
Accommodation	21	4	0	15	2
assistance centres for victims of trafficking in human beings	10	2	0	8	0
other types of residential centres	11	2	0	7	2
Health care	32	10	0	21	1
Psychological counselling	48	16	1	28	3
Financial support	69	19	0	42	8
Material support (clothing, medicine, food, hygiene products)	39	12	0	23	4
Legal counselling/assistance	9	3	2	4	0
School reintegration	5	4	1	0	0
Professional counselling	13	0	0	11	2
Professional retraining	3	0	0	3	0
Reintegration on the labour market	8	0	0	0	0

Preventing trafficking in human beings

In the context of the objectives of the National Strategy against Trafficking in Persons for the period 2018-2022, the strategic approach of A.N.I.T.P. on the prevention of trafficking in human beings and on the combating and reduction of the demand which favours trafficking in human beings involves working on the essential causes of trafficking, by using complex and diversified preventive mechanisms, adapted to the needs of intervention, highlighted by the norms, recommendations, studies and researches in the field.

Between 2014 and 2017, ANITP and its governmental and non-governmental partners implemented a series of prevention activities at local, regional and national level, which aimed at informing children and young people and raising their awareness on the human trafficking phenomenon. These activities were focused on covering all forms of exploitation of victims (sexual exploitation, labour exploitation, forced begging).

The approach in spreading the anti-trafficking message has involved the use of new and extremely different means of communication, ranging from direct meetings with the target group and the distribution of information and promotional materials, to advertising campaigns in public transport, audio spots, video spots, documentaries, flash mobs, online campaigns, mass-media promotion etc.

The high number of campaigns to prevent trafficking in human beings, the diversity of preventive means used, and the total number of beneficiaries of these anti-trafficking measures, highlight the fact that the level of understanding and awareness of the population has increased, along with a better control of the risk factors leading to victimization.

Examples: Advertising campaigns with minors as the main target group or as one of the main target groups:

- The National Prevention Campaign "Ignorance makes us accomplices"
- The NO Project powered by Bancpost Bank
- YOU can be a victim of trafficking yourself
- "Freedom Tour/* National project
- "Don't beg and ask for money, ask for help!"
- "Beggars don't get help, but money for traffickers!"
- "Don't ignore the invisible face ...! Its story can also become your story! "
- "Happy little hands, NOT exploited little hands!" /

The National Prevention Campaign, "*Ignorance makes us accomplices*", was implemented in Romania by Caritas Bucharest Association and the National Agency Against Human Trafficking, aiming at increasing the awareness of the European public opinion on the violation of human rights through sexual tourism and trafficking in human beings with the purpose of sexual exploitation.

The campaign included the organization of direct meetings with representatives of the target group: pupils, students, young people in the social protection system, teachers, parents, governmental and non-governmental actors.

The total number of campaign beneficiaries was approximately 46,500.

Within the RO 20 "Models of good practice in the field of assistance services provided to victims of trafficking" project, A.N.I.T.P. has carried out a campaign to prevent trafficking in human beings for the purpose of exploitation through begging. Project partners: the General Police Inspectorate, the Association for the Development of Alternative Practices for Reintegration and Education (ADPARE), the Child Helpline Association, the Angels Smile Association and the Ecumenical Association of Churches of Romania (AIDRom). The message of the campaign's, "*Beggars don't get help, but money for traffickers!*" was targeted for **minors aged 8-18**, in vulnerable situations, the adult representatives of vulnerable groups (parents, informal leaders, etc.), representatives of institutions involved in preventing and combating trafficking in human beings (local authorities, police, school inspectorates, public social assistance services, etc.) as well as to the general public.

The campaign included the development of information and promotional materials: posters, leaflets, roll-ups, pens, shirts, caps, silicone bracelets and backpacks equipped with school supplies.

The campaign also included a documentary film on the issue of trafficking in human beings for the purposes of exploitation through begging, with an emphasis on child victims, moderated by Mr. Călin GOIA, the singer of Voltaj music band. In order to streamline the anti-trafficking message of the campaign, a short 30-second version of the documentary film was produced, to be used on its own, uploaded and broadcasted live as a video spot on TV channels. At the same time, the audio version of the 30 second video has been made, which can be streamed to radio stations.

Although the campaign's objectives were not primarily focused on discouraging and reducing actions that favoured human trafficking for exploitation through begging purposes, the 30-second radio and TV spots sent a strong message of discouragement to the citizens who support the phenomenon of street begging by offering money and benefits to beggars. The streaming of the video and the audio spot was the central element of the media component of the campaign, with a number of 8,587 broadcasts of the audio spot (at various radio stations, shopping centres etc.) and 182,937 broadcasts of the video spot (at local/regional TV stations, closed-circuit TV channels in airports, public institutions, public transport, public transport stops, shopping malls, etc.).

In 2016, ANITP implemented the national prevention campaign "**Don't ignore the invisible face!... Their story may also become your story!**". The campaign was the result of a public-private partnership active in the field of trafficking in human beings, with the support of the pop singer Brighitta GHEORGHE (known as BRIGHI) and of S.C. Cat Music S.R.L., and aimed at preventing trafficking in human beings for the purpose of sexual exploitation.

The central element of the campaign was the song "Invisible", launched by BRIGHI at the end of 2015, a song illustrating the tragedy of a sexually exploited youngster and providing the public with a full and emotional picture of trafficking in human beings. In just a few weeks, the video of the song registered over 900,000 views on YouTube.

The objectives of the campaign were to increase the awareness of vulnerable categories, on the risks associated with sexual exploitation, and to inform and raise awareness of the public on the implications of trafficking in human beings, with the purpose of reducing the demand for services provided by human traffic victims.

Approximately 25,800 people benefited from the campaign activities, **most of them minors and young people**, as well as specialists in the field of trafficking in human beings, teachers, the general public, representatives of different socio-professional categories, etc. There were also over 530,000 indirect beneficiaries of the campaign, the people who received the campaign message.

A series of **training programs** for different categories of professionals (social workers, psychologists, police officers, magistrates, teachers, etc.) was implemented between 2014 and 2017, one of the topics being the identification of victims of trafficking, adults and children.

Examples:

1. At the level of police schools, the curriculum includes subjects in the field of human rights, namely: "Victim Protection" (description and typology of victims, communication in victimization, prevention of victimization, victim protection, protection and self-protection against victimization, informing the victim of their rights), "Legal protection of vulnerable groups" (minors, women, people with disabilities).
2. Prevention of victimization is carried out through educational units, by informing teachers on the risks of trafficking in human beings, in collaboration with ISJ and CR ANITP. For example, in the first semester of the school year 2013-2014, 1,000 local and regional activities, involving 155,000 students, 6,700 teachers and 2,200 parents were organized.
3. Within the transnational project *Mario "Joint Action to Protect Central and South Eastern European Migrant Children from Abuse, Exploitation and Trafficking in Europe"*, implemented in Romania by *Terre des Hommes* organisation, the seminar "**Country Entry and Exit Conditions for Romanian minors. Prevention of Trafficking in Children**" was organized, attended by 30 notary publics. The project aimed at improving the level of protection of CE / SEE vulnerable migrant children from abuse, exploitation and/or trafficking, as well as at informing and training public notaries in identifying possible trafficking in human beings when preparing the specific documents for minors traveling abroad. Such training and capacity building of public notaries can support and improve victim identification and prevent trafficking in human beings.

Article 8 - The right of workers to maternity protection

Paragraph 1

The right to maternity leave is granted to **all persons insured** for medical leaves and social health insurance payments within the health insurance system, regardless of the **field of work, public or private**.

In accordance with Art. 1 par. (1) of GEO no. 158/2005 on medical leaves and health insurance allowances, as subsequently amended and supplemented, the persons insured for medical leaves and health insurance allowances within the social health insurance system have the right, during the period of their domicile or residence on the territory Romania, to medical leaves and health insurance allowances, if: they **perform activities based on an individual employment contract or on the basis of a service relationship**, as well as any other dependent activities; they carry out elective activities or are appointed within the executive, legislative or judicial authority, during their term of office, as well as cooperative members of a craft cooperative organization, whose rights and obligations are

assimilated, under the present law, to persons who performs activities on the basis of an individual employment contract or on the basis of a service relationship; they benefit from monthly money entitlements that are covered from the unemployment insurance budget, according to the law.

The same rights are also granted to people who do not find themselves in one of the situations listed above but are: associates, partners or shareholders; members of the family association; authorized to carry out independent activities; persons who enter into a social insurance contract for maternity leave and allowances, paid leave and indemnity for the care of a sick child, provided that the contribution period begins on 1 January 2006; the spouse of the individual enterprise / authorized natural person who, without being registered / registered in the trade register and authorized / authorized to operate himself / herself as the holder of the individual enterprise / authorized person or without being employed / employed , usually takes part in the work of the individual enterprise, carrying out the same tasks or complementary tasks.

Thus, the only condition provided by the legislator is that the persons are insured for medical leaves and allowances, the rights provided by GEO no. 158/2005, as subsequently amended and supplemented being granted regardless of the field of activity of the respective persons, public or private.

As a result, female employees in the public sector who work on an individual employment contract or based on a service relationship are also entitled to maternity leave.

Insured persons are entitled to a pregnancy and post-natal leave, for a period of 126 calendar days, for which they receive maternity allowance.

The same rights are also granted to women who, for reasons beyond their control, are not in one of the situations described above, if they give birth within 9 months from the date they lost their insured person status. The reasons beyond control which lead to the loss of the insured person status shall be proved by official documents issued by the employers or their assimilated persons and the allowance shall be paid out of the National Social Health Insurance Fund budget by the health insurance houses the family doctor of the insured person has concluded a convention with.

All female insured persons (including all public sector employees) who have a minimum contribution of one month during the last 12 months preceding the month for which the medical leave is granted are entitled to the maternity allowance.

The contribution period in the social health insurance system is calculated by summing up the periods for which the contribution for medical leaves and allowances was paid by the employer or, as the case may be, by the insured, respectively by the insurance fund for accidents at work and occupational diseases or by the unemployment insurance budget.

The periods during which the insured person benefits from the medical leave and allowances provided by GEO no. 158/2005, as amended and supplemented, are assimilated to the contribution period to the social health insurance system.

The following periods are also assimilated to the contribution period to the social health insurance system: the period during which the insured person benefited from disability benefits, attended the courses of the university education, organized according to the law, during the normal period of the respective studies, provided they graduated; has benefited from parental leave and indemnity up to 2 years or, in the case of a disabled child, up to 3 years, according to Government Emergency Ordinance no. 148/2005 on the support of the

family for the purpose of raising the child, approved with amendments and supplements by Law no. 7/2007, with the subsequent amendments and supplements, as well as the periods during which the insured persons benefited from the rights provided by art. 12 paragraph (1) lit. b) of Law no. 448/2006 on the protection and promotion of the rights of disabled persons, republished, as subsequently amended and supplemented.

The periods mentioned above are assimilated to the contribution period only if during these periods the insured has not achieved a minimum contribution of one month during the last 12 months preceding the respective month.

The basis for calculating allowances is determined as the average of the monthly incomes during the last 6 months out of the 12 months from which the contribution period is constituted, up to the limit of 12 gross monthly salaries at national level, based on which the contribution for leaves and allowances is determined.

The gross monthly amount of the maternity allowance is 85% of the established calculation basis. The maternity allowance is fully covered by the budget of the National Social Health Insurance Fund.

Paragraph 2

Prohibition of dismissal

According to art. 21 of GEO no. 96 / 2003 on the protection of maternity at work, as subsequently amended and supplemented:

"(1) It is forbidden for the employer to order the termination of employment or service relationships for:

- a) the employees referred to in art. 2 lit. c) - e), for reasons directly related to her condition;*
- b) the employee who is on maternal risk leave;*
- c) the employee who is on maternity leave;*
- d) the employee who is on parental leave up to 2 years of age or, in the case of the disabled child, up to 3 years of age;*
- e) the employee who is on leave for the care of a sick child up to the age of 7 years or, in the case of a child with disabilities with intermittent diseases, until the age of 18 years.*

(2) The prohibition provided in paragraph (1) letter b) extends only once, up to 6 months after the employee returns to work.

(3) The provisions of paragraph (1) shall not apply to dismissal for reasons arising from the judicial reorganization, dissolution or bankruptcy of the employer, under the law. "

According to Article 1, paragraph (1), letter a) of GEO no. 96/2003, the provisions of GEO no. 96/2003 apply to pregnant workers and to mothers, women during postpartum period or women who breastfeed, **who have work or service relationships with an employer.**

According to Article 1, paragraph (1) of the Law no. 188/1999 on the Statute of Civil Servants, as subsequently amended and supplemented, **the service relations** are the legal relations between civil servants and the state or local public administration, through autonomous administrative authorities or public authorities and institutions of central and local public administration.

Therefore, the provisions of Article 21 of GEO no. 96/2003 also apply to public sector employees working on the basis of service relationships with an employer.

Redress in case of unlawful dismissal

According to art. 22 of GEO no.96 / 2003 regarding the protection of maternity at work, subsequently amended and supplemented:

"(1) The employees referred to in art. 21 para. (1), whose employment relationships or service relationships have ceased for reasons they consider to be related to their condition, have the right to appeal against the decision of the employer to the competent court within 30 days from the date of its communication, according to the law.

(2) The legal action of the employee referred to in para. (1) is exempt from judicial stamp duty and court stamping fees".

Paragraph 3

According to Article 17 of GEO no. 96/2003, as subsequently amended and supplemented:

„(1) Employers are obliged to give breastfeeding workers two breastfeeding breaks of one hour each during their working hours until the child reaches 1 year of age. These breaks also include the time needed to travel to the place where the child is and return to the workplace.

(2) At the request of the mother, breastfeeding breaks shall be replaced by a reduction in the normal working time of 2 hours a day. "

The provisions of Article 17 of GEO no. 96/2003, as subsequently amended and supplemented, **apply also to public sector employees working on the basis of employment relationships with an employer. See the reasoning in Article 8, paragraph 2, on the application of the provisions of Law no.188 / 1999.**

Government Emergency Ordinance no. 96/2003 does not contain provisions regarding the part-time employees or the length of working time they must carry out in order to benefit from breastfeeding breaks.

According to art.134 paragraph (1) of the Labour Code, if the daily working time is longer than 6 hours, **employees have the right to a meal break and other breaks**, under the conditions laid down in the collective labour agreement applicable or by internal regulation. Therefore, employees have the right to breaks only if the working time duration exceeds 6 hours.

Paragraph 4

The provisions of Article 17 of GEO no. 96/2003, as subsequently amended and supplemented, **apply also to public sector employees working on the basis of employment relationships with an employer. See the reasoning in Article 8, paragraph 2, on the application of the provisions of Law no.188 / 1999.**

Paragraph 5

The Committee asks whether other dangerous activities, such as those involving exposure to benzene, ionizing radiation or vibration are also prohibited or strictly regulated for the categories of women concerned.

According to art. 5 of GEO no.96 / 2003, as subsequently amended and supplemented, for all activities that may present a specific risk of exposure to agents, processes or working conditions, **the non-exhaustive list of which is given in Annex no. 1**, the employer must assess the nature, extent and duration of the exposure of the employees provided in art. 2 letters c) - e) in the concerned company and / or unit.

In accordance with art. 9 of GEO no. 96 / 2003, as subsequently amended and supplemented, **if the results of the assessment referred to in Art. 5 and 6 show a risk to**

the safety or health of the employees provided in art. 2 letter (c) to (e) or a repercussion on pregnancy or lactation, the employer shall take the necessary measures to avoid, by means of a temporary change in the working conditions and/or working hours of the employee concerned, the exposure of the worker to the highlighted risks, as recommended by the occupational health physician or family doctor, with the maintenance of the same level of salary incomes.

Annex No. 1 to Government Emergency Ordinance no. 96 / 2003, as subsequently amended and supplemented, presents a non-exhaustive list of agents and processes that may present a specific risk of exposure, namely:

1. Physical agents considered to cause foetal damage and/or placental abruption, in particular:

- a) Shocks, vibrations or sudden movements;
- b) manual handling of heavy loads, involving especially risks of back injury;
- c) noise;
- d) ionizing radiation;
- e) non-ionizing radiation;
- f) Extreme cold or hot thermal environments;
- g) work movements and positions, travelling (either inside or outside the unit), mental or physical fatigue, other physical efforts related to the activity of the employees referred to in art. 2 letters c) - e).

2. Biological agents

The biological agents of risk groups 2, 3 and 4, within the meaning of art. 5 letters b) - d) of the Government Decision no. 1.092/2006 on the protection of workers from the risks related to exposure to biological agents at work, given that these agents or the therapeutic measures they require endanger the health of pregnant women and of their future child and if they are not listed in Annex no. 2.

3. Chemical agents

The following chemical agents, if they are known to endanger the health of the pregnant woman and of their future child and if they are not listed in Annex no. 2:

(a) substances and mixtures meeting the criteria for classification in accordance with Regulation (EC) 1.272/2008 of the European Parliament and of the Council in one or more of the following hazard classes and hazard categories, with one or more of the following hazard statements, if they are not yet listed in Annex no. 2:

- germ cell mutagenicity, hazard category 1A, 1B or 2 (H340, H341);
- carcinogenicity, hazard category 1A, 1B or 2 (H350, H350i, H351);
- reproductive toxicity, hazard category 1A, B or 2 or the additional category for effects on or via lactation (H360, H360D, H360FD, H360Fd, H360Df, H361, H361d, H361fd, H362);
- specific target organ toxicity after single exposure, hazard category 1 or 2 (H370, H371);

b) chemical agents included in Annex no. 1 to Government Decision no. 1.093/2006 laying down minimum health and safety requirements for the protection of workers from the risks related to exposure to carcinogens or mutagens at work, as subsequently amended.

- c) mercury and its derivatives;
- d) antimitotic drugs;
- e) carbon monoxide;
- f) hazardous chemical agents with a dermal absorption route.

Processes

The industrial processes listed in Annex no. 1 to Government Decision no. 1.093/2006, as subsequently amended.

It furthermore asks whether the same protection applies to domestic workers which are pregnant, have recently given birth or are nursing their infant.

According to Article 1, paragraph (1), letter a) of GEO no. 96/2003, the provisions of GEO no. 96/2003 apply to pregnant workers and to mothers, women during postpartum period or women who breastfeed, **who have work or service relationships with an employer.**

All employees with employment relationships are subject to the provisions of the Law no. 53/2003, as subsequently amended and supplemented, the Labour Code.

All employees with employment relationships are subject to the provisions of the Law no. 53/2003, the Labour Code, as subsequently amended and supplemented.

Therefore, the same level of protection provided by GEO no. 96/2003 also applies to domestic workers who have working relations with an employer, relations governed by the provisions of Law no. 53/2003, as subsequently amended and supplemented.

The Committee previously noted that the risk maternity benefit represented 75% of her average salary over the last ten months and asked how the notion of "objectively justified reasons" was construed in the case law of domestic courts. It furthermore asked whether the same status applies to women employed in the public sector.

According to art.10 of GEO no. 96/2003, as subsequently amended and supplemented:

"(1) If the employer, for objectively justified reasons, cannot fulfil the obligation stipulated in art. 9 para. (2), the employees referred to in art. 2 letters c) - e) have the right to maternal risk leave, as follows:

a) before the date of maternity leave request, determined according to the provisions of Government Emergency Ordinance no. 158/2005 on sickness leave and healthcare indemnities, approved as further amended and supplemented by Law no. 399/2006, as subsequently amended and supplemented, the employees referred to in art. 2 letter c);

b) after the date of return from compulsory post-partum leave, the employees referred to in art. 2 letters d) and e), if they do not request maternity leave and childcare allowance up to the age of 2 years or, in the case of a child with disabilities, up to 3 years. "

The provisions of Article 10 of GEO no. 96/2003, as subsequently amended and supplemented, apply also to public sector employees working on the basis of employment relationships with an employer. See the reasoning in Article 8, paragraph 2, on the application of the provisions of Law no.188 / 1999.

It furthermore asks the next report to indicate whether, in case of temporary transfer to another position the woman concerned retains the right to return to her previous employment at the end of the protected period.

In accordance with art. 9 of GEO no. 96/2003, as subsequently amended and supplemented, *"if the results of the assessment referred to in Art. 5 and 6 show a risk to the safety or health of the employees provided in art. 2 letter (c) to (e) or a repercussion on pregnancy or lactation, the employer shall take the necessary measures to avoid, by means of a temporary change in the working conditions and/or working hours of the employee concerned, the exposure of the worker to the highlighted risks, as recommended by the occupational health physician or family doctor, with the maintenance of the same level of salary incomes. "*

Therefore, the change in the working conditions or the assignment to another job position is temporary, the employee having the right to return to the previously occupied job.

Article 16 - The right of the family to social, legal and economic protection

Social protection of families

Housing for families

Regarding the request on the number of social housing beneficiaries and the number of eligible persons who can access social housing, we mention that the Ministry of Regional Development and Public Administration (MDRAP) does not collect data on the actual number of beneficiaries of social housing and the number of eligible persons is impossible to estimate in the absence of applicants' files, given the categories of beneficiaries and the criteria for accessing social housing.

Thus, we draw attention to the fact that, according to the provisions of art. 42 of the Housing Law no. 114/1996, republished, as subsequently amended and supplemented, *those who have access to social housing for rent are families or persons with a net average monthly income within the last 12 months below the net average monthly wage per total economy*, communicated by the National Institute of Statistics in the last statistical bulletin prior to the month in which the application is analysed, as well as prior to the month in which the social dwelling is allocated.

According to art. 43 of the same law, the social housings shall be distributed by the local public administration authorities, in charge with their management, *according to the criteria established annually by them, under the provisions of the present chapter, in the order of priority established according to the law, only to the following categories of persons*: persons and families evicted or to be evacuated from the dwellings returned to former owners, young people up to 35 years of age, young people from social care institutions who have reached the age of 18, 1st and 2nd degree invalids, people with disabilities, retired people, veterans and war widows, beneficiaries of the provisions of the Law no. 341/2004 on the gratitude for the hero-martyrs and fighters who contributed to the victory of the Romanian Revolution of December 1989, as well as to the persons who sacrificed their life or suffered from the workers' anti-communist uprising in Brasov in November 1987, as subsequently amended and supplemented, and the provisions of the Decree-Law no. 118/1990 regarding the granting of certain rights to persons persecuted on political grounds by the dictatorship set up as from March 6, 1945, as well as to those deported abroad or imprisoned, republished, as subsequently amended or supplemented, other entitled persons or families.

In this context, we draw attention to the provisions of the special law on young people, on the protection and promotion of the rights of people with disabilities, on the protection and promotion of children's rights and of similar laws, which establish special measures for the protection of certain categories of people, including in regard to access to housing.

Based on the provisions of art. 48 of Law no. 114/1996, the following categories of persons or families cannot benefit from social housing: people who own a dwelling; people who sold a house after January 1, 1990; people who benefited from state support in loans and for the building of a house; people who, as tenants, have another dwelling in the state housing stock.

According to the provisions of art. 21 para. (1) - (3) of the Methodological Norms for the implementation of the provisions of the Housing Law no. 114/1996, approved by the Government Decision no. 1275/2000, as subsequently amended and supplemented, in order to manage the requests for social housing, *local public administration authorities will determine the necessary measures for the registration and analysis of the received requests*. For this purpose, the local councils shall issue decisions for the establishment of special commissions for analysing the requests for social housing. At the same time, they shall establish and advertise (by displaying them at the municipality headquarters) *the*

criteria for the allocation of social housing, the necessary supporting documents accompanying the application and the place where the applications are registered,

We draw attention to the provisions of paragraph (3) of the same article, according to which, *the provisions of art. 42 and 43 of the law shall be observed when establishing the criteria. Within each criterion, when determining the order of priority, one should consider: the accommodation conditions of the applicants; the number of children and of other people living with the applicants; the state of health of the applicants or of their family members; the date of the request.*

According to art. 22 of the Methodological Norms for the implementation of the provisions of the Housing Law no. 114/1996, approved by GD no. 1275/2000, within the limit of the number and structure of the social housing available, *the local councils will issue distribution decisions according to the order established in the final list of priorities. The distribution of the temporary dwellings will be made on the basis of the criteria and under the conditions established by the local councils according to the law.*

Considering the above, we think that art. 42 of Law no. 114/1996 establishes the *main and compulsory condition of access to social housing, applicable to all categories of beneficiaries provided by the law.*

At the same time, art. 43 of Law no. 114/1996 lists *the categories of people who can benefit from social housing*, in the order of priority established according to the law, on the basis of the criteria established annually by local public administration authorities in charge with their administration. We mention that the list provided in art. 43 is not limitative, stipulating that *other entitled persons or families can also benefit from social housing.*

In this respect, for example, referring to the category of people who can benefit from social housing, i.e. young people up to 35 years of age, we mention that the people in this category must meet the requirements provided both by art. 42 of Law no. 114/1996, as well as by the other legal provisions. At the same time, as mentioned above, these categories must meet the requirements provided by the legislation in force.

We also want to reiterate the distinction between the categories of people who can access social housing (e.g. young people up to 35 years of age) and the criteria for accessing social housing, as regulated by art. 21 para. (3) of the Methodological Norms for the implementation of the provisions of the Housing Law no. 114/1996, approved by GD no. nr. 1275/2000. Thus, the order of priority for the distribution of social housing is determined on the basis of the access criteria according to art. 21 of the Methodological Norms for the implementation of the provisions of the Housing Law no. 114/1996, applied to the categories of beneficiaries according to art. 43 of Law no. 114/1996, and the fulfilment of the other legal provisions in force.

At the same time, we draw attention to the fact that the categories of beneficiaries provided for in art. 43 of Law no. 114/1996 should not be interpreted as an enumeration in the priority order of access to social housing⁶.

Considering the above, we reiterate that at this time, considering the legal provisions in force and the competencies of MDRAP, the number of people eligible for accessing social housing cannot be approximated.

⁶ Strictly within the meaning of art. 43 of Law no. 114/1996, the category "people evicted or to be evacuated from the dwellings returned to the former owners", even if stated at the beginning of the enumeration, does not mean that it is a priority category compared to the category "young people up to 35 years of age" or to any another category provided for in that article, the priority being determined by applying the criteria according to the provisions of Art. 21 of the Methodological Norms for the implementation of the provisions of the Housing Law no. 114/1996.

In order to substantiate the strategic documents developed by MDRAP, during September and November 2014, a questionnaire (developed, applied and interpreted with the support of the World Bank) was circulated to all Romanian urban-administrative territorial units (217 cities and 103 municipalities) received with the purpose of obtaining an overview of the publicly owned housing units in Romania and at the same time data for the development and substantiation of the National Housing Strategy. The overall response rate was high at 93%, with the highest response rates in South East (97%) and Centre (96%) Regions, and the lowest response in Bucharest-Ilfov (79%). The findings reveal interesting facts on the distribution of social housing, as well as the challenges of local authorities with respect to social housing. However, the data needs to be interpreted with caution in the context of the varying interpretations of "social housing" on the part of local public administration authorities. Thus, there was a notable difference between responses, whereby in many cases "social housing" was perceived in a purely legal sense, that is social housing units built via specific programs and complying with the current legal regulations; in other cases, it was reported by local authorities to include all "housing of social character " (i.e. public housing units rented to different vulnerable groups). However, certain types of public housing, such as housing for young people, necessity housing, etc., have been mistakenly classified as social housing, since they are not just social housing from a strictly legal point of view or the source of funding. The reported stock of social housing in the responding municipalities is 29,167 social housing units (in legal terms), and 47,507 units, if also including public housing units with social character.

Less than two thirds of responding municipalities (57%) report having a stock of social housing. There are also significant inter-regional disparities, with a higher proportion of cities with social housing being located in South-East, North-West and Centre Regions (62-68%) as compared to the South-Muntenia Region (53% of cities).

Less social housing is registered in smaller cities. The share of cities with social housing increases from 39% in very small cities (under 10,000 population) to 49% in small cities (10,000-20,000 population), and 79% in medium cities (20,000-50,000 population). Virtually, all respondent cities with 50,000 or more inhabitants report having some social housing stock⁷.

The presence of social housing is correlated with the level of development of the respondent cities. The share of cities with social housing increases incrementally from 25% of the least developed ones (the lowest local human development index 2011) to over 86% of the most developed cities. At the same time, only 30% of cities with high rates of poor population benefit from social housing, while the share reaches 81% in cities with low poverty rate among population.

This reflects that social housing stock may be triggered more by implementation capacity (i.e. in more developed cities) rather than severity of need.

A large part of all social housing units (38%) is concentrated in two regions, South-East and Centre, whereas small numbers are located in North-East, South-Muntenia, South-West (8%) and especially Bucharest-Ilfov (5%). More than half (54%) of existing social housing are situated in cities with 50,000 or more inhabitants. Together, all 134 cities with less than 10,000 inhabitants constitute only 9.2% of all social housing units (2,693 units). Among the small towns, the 51 newly declared ones (between 2002 and 2006) are the most disadvantaged and comprise only 0.5% of all social housing units (a total of 139 units). In the 65 cities with the highest income poverty in population, there are available only 2% of all social housing units in urban Romania (a total of 592 units).

In general, social housing are fully occupied (the total occupancy rate being 96-97%). Beneficiaries of social housing consist mainly of people with low income: 56-57% are rented

⁷ <http://mdrap.ro/hg-pentru-aprobarea-strategiei-nationale-a-locuirii>

to low-income families. However, the other 40% are rented to other target groups (according to art. 43 of the Housing Law no. 114/1996 - the persons and families evicted or to be evacuated from the dwellings returned to the former owners, the young people up to the age of 35 years, the young people from the social protection institutions who have reached the age of 18,), 1st and 2nd degree invalids, people with disabilities, retired people, veterans and war widows etc.

An important aspect in the distribution and management of social housing concerns those housing for families in extreme poverty, without any income, for which an integrated approach from the point of view of social assistance is needed. The issue of providing minimum public services and the way maintenance costs are covered so that these homes do not degrade requires a detailed analysis at local level and, implicitly, appropriate social accompanying measures for each case.

About 87% of all local authorities that participated in the afore-mentioned social housing survey consider that more investment in social housing is necessary in their localities. The large majority offer also an estimation of the need, between 10 and 6,000 units, with an average number of 233 units. However, the average number of units varies widely from around 70 units in very small cities (less than 10,000 inhabitants) to almost 150 units in small towns (10,000-20,000 inhabitants), 230-250 units in medium-size cities (20,000-50,000 inhabitants), and approximately 900 units in large cities (more than 50,00 inhabitants).

In order to continue the measures for the social inclusion of Romanian citizens of Roma ethnicity, the Romanian Government adopted the Decision no. 18/2015 for the approval of the Strategy for the Inclusion of Romanian Citizens belonging to the Roma minority for the period 2015-2020 (Strategy). The process was based on dialogue with both the competent public institutions in Romania, the European partners, as well as the civil society.

The strategy is accompanied by action plans for each major area of interest (education, employment, health, housing), provides funding sources as well as a monitoring and reporting system.

As regards access to housing, it is necessary to mention the following programs:

At the MDRAP level, the National Housing Agency (ANL) is running the "*Pilot Programme Social Housing for Roma Communities*". It is an experimental component for the implementation of the Strategy of the Romanian Government to improve the situation of Roma.

The program aims to implement pilot projects for the construction of 300 housing units (social housing) distributed in the 8 development regions of Romania, at locations established by the Ministry of Regional Development and Public Administration, following proposals received from The National Agency for Roma and local public administration authorities. The construction of social housing provided in the program is achieved through public investment objectives promoted and carried out by the National Housing Agency, *financed from state budget sources*, allocated for this destination through the MDRAP budget.

The stage of the **Social Housing for Roma Communities Programme** is as follows:

No.	County	City	No. of units	Stage of investment
<i>Investments completed between 2015-2017</i>				
1	Arad	Pecica	49	Works completed in 2016

No.	County	City	No. of units	Stage of investment
2	Bihor	Com Tăuteu	14	Works completed in 2016
3	Bistrița-Năsăud	Com Budacu de Jos, Budacu de Jos village	14	Works completed in 2016
4	Bistrița-Năsăud	Com Budacu de Jos, Jelna village	7	Works completed in 2016
5	Brașov	Hălchiu	21	Works completed in 2017
6	Mehedinti	Baia de Aramă	28	Works completed in 2015
7	Olt	Corabia	28	Works completed in 2016
8	Sibiu	Nochrich	28	Works completed in 2016
TOTAL			189	
<i>Investments contracted in 2017</i>				
1	Bihor	Oșorhei	14	Ongoing
2	Constanța	Mircea Vodă	28	Ongoing
3	Dambovita	Potlogi	21	Ongoing
4	Ilfov	1 Decembrie	21	Technical-economic indicators to be approved by MDRAP
TOTAL			84	
No.	County	City	No. of units	Stage of investment
<i>Investments included in the program and for which the works could not be started</i>				
1	Iasi	Mironeasa	21	The municipality did not present the documentation for the transfer of the land for gratuitous use of ANL. On 20.07.2017, ANL requested MDRAP to replace this site
TOTAL			294	

At the same time, in order to increase the housing stock, the following programs are implemented:

- Social housing program;
- Youth housing program;
- The housing program for the evicted tenants.

Regarding the access of Roma communities to social housing, we mention that access to social housing is not conditioned or restrictive towards a particular ethnic group or the belonging to one of the minority groups. In view of the above and taking into account the provisions of the Constitution of Romania, the Housing Law no. 114/1996 and the Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination, as subsequently amended and supplemented, we do not consider that the legislation in force allows for discrimination against Roma citizens, and they are not discriminated against as regards access to housing.

Moreover, it should be borne in mind that ethnicity is not a social category and the current social housing legislation refers to disadvantaged social categories and not to ethnic groups.

Regarding the legislative changes in between 2014-2017, on the Housing Law no. 114/1996, republished, as subsequently amended and supplemented, as well as the methodological norms for its implementation, we mention the following:

- Amendments to the Housing Law no. 114/1996, republished, as subsequently amended and supplemented:

By Law no. 143/2017 supplementing the Housing Law no. 114/1996, a new category of dwelling was introduced, *the support dwelling, defined as follows:*

"f¹) Support dwelling - A dwelling with a useful surface of no more than 100 sq. m., which is attributed by renting to persons or families who have been evicted by forced execution procedures from their personal homes, following the non-payment of the contractual obligations stipulated in mortgage contracts, and whose economic situation does not allow them to buy or rent a dwelling, at market prices."

According to the provisions of art. 56¹ of the Housing Law no. 114/1996, republished, as subsequently amended and supplemented, the affordable housing units belong to the public domain of the administrative-territorial units and cannot be alienated by them. Art. 56² of the same normative act stipulates that the affordable housing units are distributed by the local public administration authorities, which bought them through a public tender, based on the criteria established annually by a decision of the local council. These homes can be accessed by people and families who are about to be evacuated or evacuated through forced housing enforcement procedures, following the non-payment of obligations derived from mortgage loans contracts.

At the same time, art. 563³ para. (1) provides that *the lease contract is concluded between the mayor or a person authorized by the mayor and the beneficiaries decided by the local council for a 5-year, with the possibility of extension based on the income statement and the necessary supporting documents according to the legal provisions.* According to the provisions of para. (2) of the same article, *the rent shall not exceed 10% of the net monthly income, calculated over the last 12 months, per family. The difference up to the nominal value of the rent will be subsidized from the local budget of the administrative-territorial unit where the housing is located. According to art. 567 para. (1), if the support home is not required by the former owner of the dwelling, it will be allocated to other people whose housing was subject of forced execution as a result of not paying a mortgage loan agreement.*

- Amendments to the Government Decision no. 1.275 / 2000 approving the Methodological Norms for the implementation of the provisions of the Housing Law no. 114/1996:

By approving the Government Decision no. 457/2017 amending and supplementing the Methodological Norms for the implementation of the provisions of the Housing Law no. 114/1996, approved by the Government Decision no. 1.275 / 2000, Art. 1 has been supplemented with a new paragraph, paragraph (11), with the following content:

"(1¹) The local public administration authorities shall publish by displaying on the institution's site or display in an accessible place, as the case may be, updated data on the number of dwellings which they own and/or they administer, depending on their destination, the degree of their occupation, as well as the decisions approving the lists of applicants who benefit from such dwellings."

Thus, increased transparency has been envisaged with regard to information on the housing stock held by local public administration authorities in their property and / or

administration in order to inform potential beneficiaries of the possibility of applying for a dwelling from the fund managed by them as well as their use and how they are assigned.

From the perspective of European funds, housing is also addressed through integrated interventions for marginalized urban communities within the Innovative Community Local Development Mechanism (DLRC) funded both from the European Regional Development Fund (ROP) through the Regional Operational Program and the European Social Fund through the Human Capital Operational Program.

The DLRC instrument aims at social inclusion of people at risk of poverty or social exclusion, focusing on the most marginalized communities, including Roma, facilitating the resolution of serious problems such as poor housing conditions or lack of living space, limited access to education, low employment, lack of professional qualifications, limited access to socio-medical services, etc.

We note that 40 Local Development Strategies (SDLs) have been selected for funding, 37 of which target marginalized urban communities in less developed regions. Interventions funded under these strategies also include improving living spaces through building / rehabilitation / modernization of social housing (funding granted through ROP, a programme coordinated by MDRAP).

The projects proposed within SDL will be implemented with the active involvement of the members of the target communities and of a Local Action Group, thus ensuring the addressing of the real needs of people in a vulnerable situation.

According to the governance program, the issue of the Roma community is a special one, requiring both internal efforts as well as European efforts to eliminate the gaps in society. In this respect, authorities focus on a more effective application of the national strategy (GD no. 18/2015) and the reorientation of this strategy towards specific programs meant to ensure the substantial improvement of the Roma situation, with a special emphasis on the Roma communities in a situation of extreme poverty as a whole.

The main policy document on social inclusion of Roma is the Strategy of the Government of Romania for the improvement of the Roma situation, adopted by GD 430/2001, the first governmental initiative addressing the vicious circle of social exclusion of the Roma minority, updated by GD no. 522/2006, GD no. 1221/2011 and GD no. 18/2015 - Strategy of the Romanian Government for the inclusion of the Romanian citizens belonging to the Roma minority for the period 2015-2020.

The implementation vision of strategy envisages intervention in order to ensure justice and social protection, and to capitalize, support and develop the potential of the human capital represented by the Romanian citizens belonging to the Roma minority. Also, intervention measures will be adapted, combined and integrated to ensure their effectiveness; a real importance being the partnership with civil society in the implementation, monitoring and evaluation stages.

Taking into account the public policy documents adopted by the Romanian Government in the field of housing, as well as the complexity of the eviction situations of the Roma citizens from the buildings built on the public or private domain, the National Agency for Roma, a governmental institution with the role of developing the policies and strategies of the Romanian Government in the field of Roma minority protection, proposes the establishment of a Task Force in the field of housing, having as main task, on the one hand, the identification and implementation of effective solutions to solve the problem of Roma housing and on the other hand, the development of working methodologies and the

implementation of a prevention system for the negative effects due to eviction processes initiated by the competent bodies.

Being aware of the fact that Roma housing issues (eviction from social housing, demolitions of houses built on public or private land, lack of housing for young people or the state of roads and the lack of infrastructure at Community level, limited access to adequate housing) is a manifestation of the social exclusion of the vulnerable Roma population, ANR proposes the conclusion of a Memorandum of Cooperation between the General Secretariat of the Government, the Ministry of Regional Development and Public Administration, the Ministry of European Funds, the Ministry of Home Affairs, the National Agency for Roma.

The purpose and objectives of the Memorandum of Cooperation is to develop and implement joint actions that will contribute to streamlining the process of implementing the measures in the area of housing of vulnerable communities in accordance with the public policy papers addressing the process of social inclusion of Romanian citizens of Roma ethnicity.

Considering the need to ensure communication with all social actors involved in the social inclusion process of the Roma and being aware of the need to develop public policies based on the knowledge of the real problems faced by many Roma communities, the National Agency for Roma in Partnership with the National Contact Point for Roma within MDRAPFE, the body responsible for monitoring and evaluating the implementation of the measures included in the Romanian Government Strategy for Inclusion of Romanian Citizens belonging to the Roma minority for the period 2015-2020, between September and November 2017, ANR organized a number of 7 regional meetings with the participation of all local/county/regional stakeholders (representatives of local institutions, prefects institutions, local authorities, Roma and non-Roma civil society, formal and informal leaders of Roma, workers for the benefit of the Roma communities), responsible for the implementation of the measures included in the action plan of GD 18/2015.

In order to ensure an effective and differentiated consultation process with the civil society of Roma at all levels, ANR reactivated the Consultative Council as a consultation body made up of specialists from non-governmental organizations, Roma and non-Roma, traditional and non-traditional, with experience of intervention in the communities with Roma population.

Based on the results of the sociological study titled "Identifying the formal and non-formal barriers at community level affecting the social inclusion process of vulnerable Roma communities in Harghita County", developed by the National Agency for Roma in June-September 2017, ANR has drawn-up a recommendation for the county public policy, which aims at contributing, on one hand, to the process of social inclusion of the vulnerable Roma population and, on the other hand, to the improvement of inter-ethnic cohabitation relations in order to prevent conflicts based on racial hatred.

Between September and December 2015, ANR conducted a series of information campaigns on the right to free movement within the EU in 21 counties. The events took place during the working meetings of the County Offices for Roma, as well as the local meetings related to the launching of ANR-funded projects from the non-reimbursable funds of the state budget through the "Internal transfers" chapter. The 1,542 participants benefited from information materials on EU citizenship, associated rights and obligations, the right to free movement and the right of residence in the EU Member States, the Schengen rules, the benefits of equal treatment, restrictions and procedural safeguards, increased protection for permanent and juvenile residents, access to appeals, expulsion, abuse and fraud, as well as official sources of information on the rights of European citizens.

Regional debates on "the obstacles and opportunities existing in the development of projects for the inclusion of Roma communities with European funding in the financial year 2014-2020" - In July 2015, in the counties of Arad, Buzau, Cluj, Prahova, Vaslui and

Bucharest a series of 6 regional debates were organized. They were hosted by the prefectures of the afore-mentioned counties, being organized in partnership with the Community Development Agency Foundation "Together" and with the participation of ANR representatives. The purpose of the debates was to give the opportunity to all stakeholders, local authorities, local experts, civil society representatives and government representatives to identify concrete and sustainable solutions of overcoming the obstacles encountered by local authorities and NGOs in accessing European funds under the 2014 - 2020 operational programmes.

Campaign in the field of social justice "Ghetto pensions (Ghettorenten) for Roma survivors of deportations in Transnistria during the Second World War" - Campaign run by the National Agency for Roma with the support of the Embassy of the Federal Republic of Germany and in partnership with the Resource Centre for Community, aims at identifying, advising and providing specific advice to Roma survivors of deportations in Transnistria in order to obtain ghetto pensions granted by the German state for their work in the ghettos during 1942-1945.

Actions and results: From February to December 2015, ANR carried out the following activities: - information through ANR website www.anr.gov.ro - section "Press Releases" (Press Release 12 February 2015 - The right to pension for the work carried out in a ghetto - 1,786 views); - direct information for more than 800 Roma families in Romania (phone calls, petitions answers, audiences at the ANR headquarters, local meetings); - specialist advice to potential beneficiaries: More than 200 applications were analysed for eligibility, in accordance with rules imposed by the German pension houses; - A number of 60 applications, drawn up by ANR during the reporting period and submitted by the beneficiaries to the German pension institutions, were sent to the German authorities.

Information campaign on the prevention of victimization of minors, on the consequences of non-compliance with traffic rules and of smoking and alcohol consumption. The campaign was carried out in May 2015 with the support of the Sibiu County Police Inspectorate in schools in Sibiu County.

Awareness and information campaign on the observance of children's rights, organized together with DGASPC Neamț.

Building an inclusive society is vital to achieving the objectives of the European Union on sustainable growth, qualitative and quantitative improvement of jobs and greater social cohesion - inherent elements of the European Social Model.

Our analysis shows that for the Roma community, the population with the highest risk among the vulnerable groups, it is necessary to strictly implement the system of policy development, coordination and planning at the level of the central public administration, aiming to improve the quality of the government actions and of public policy management. There is a need for a good collaboration between the political and executive levels of the public administration and the Roma civil society, as well as the development of the knowledge and skills of all the key actors involved in the process of policy development and implementation.

Law No. 134/2010 on the Civil Proceedings Code, as subsequently amended⁸, sets a new special procedure, namely: eviction from premises held or occupied without legal grounds, which may concern:

- (i.) the former lodger, who occupied the premises based on a legal title or
- (ii.) the third party who occupies the premises without legal grounds.

⁸ Published in the Official Gazette of Romania no. 485 of July 15, 2010.

The scope of the procedure addresses various situations that may arise in practice, namely:

- i. the cases in which the person to be evicted has legitimately occupied the property under a title giving him a right of use the premises (but whose right ceased to exist); and
- ii. the assumptions in which the person to be evicted occupies the property without any right.

We mention that the special eviction procedure is jurisdictional. Thus, according to Law no. 287/2009 on the Civil Code⁹, republished, as subsequently amended and supplemented, art. 1.831 para. (1) in the case of tenants¹⁰, the eviction can be made only by court order. Moreover, in order to give tenants the possibility of voluntarily releasing the occupied premise, judicial eviction is preceded by a prior notification procedure.

With regard to the notice period of the former lodger/third party, we specify that:

- (i.) The notification of the former lodger for vacating the property can be made within a longer period of time, that is within 30 days from the date of receipt of notification¹¹,
- (ii.) in the case of a third party who unreasonably occupies the property, the latter is obliged to vacate the property within 5 days of receipt of the notice¹².

Among the peculiarities of the special eviction procedure we mention:

- the request for eviction is usually tried with the summoning of the parties; by way of exception, the request for eviction shall be tried without summoning (i.e. if the eviction of the property for non-payment of rent or lease is required on the basis of a contract which constitutes an enforceable title, according to the law¹³);
- the eviction order may be appealed¹⁴, according to the law, against the first instance court decision, thus ensuring 2 decisions on the merits of the case that is, the double degree of jurisdiction¹⁵;
- against the eviction decision issued by the court, the interested parties may file an appeal against enforcement, according to the law¹⁶.

For humanitarian and social protection reasons and given the different legal status of the evicted persons (irrespective of the procedural path followed - special or common law),

⁹ Published in the Official Gazette of Romania no. 511 of July 24, 2009.

¹⁰ It should read the former lodger/the third party - emphasis added

¹¹ art. 1.038 para. 1 of the Civil Proceedings Code.

¹² art. 1.039 of the Civil Proceedings Code.

¹³ art. 1.042 para. 1 of the Civil Proceedings Code.

¹⁴ art. 1.042 para. 5 of the Civil Proceedings Code.

¹⁵ See V.M. Ciobanu, in V.M. Ciobanu, M. Nicolae (*coordinator*), *New Civil Proceedings Code with comments and notes*, vol. I, Universul Juridic Publishing House, Bucharest, 2013, comment on the art. 466 NCPC, page 1052.

¹⁶ art. 1.044 of the Civil Proceedings Code.

the legislator has instituted a series of measures for the protection of these persons¹⁷, which are stipulated in the secondary legislation in this field¹⁸.

From the point of view of **providing legal assistance for persons who cannot afford a lawyer**, and thus of defending their rights, including in the eviction procedure, we mention that, starting with 2008, Romania established by *Government Emergency Ordinance no. 51/2008*¹⁹ a public *legal assistance system in civil matters* to ensure *real access to justice* by ensuring a better qualification of lawyers²⁰.

Therefore, according to Section 2 of GEO no. 51/2008, the types of legal assistance provided to all persons that don't afford a lawyer, and therefore to the above-mentioned persons are:

- assistance through lawyer;
- the payment of the fees of the experts, translators or interpreters used during the trial, by writ of assistance, if such payment falls on the applicant;
- payment of the bailiff's fees;
- exemptions, reductions, phasing or accepted delays in the payment of judicial fees provided by law, including the fees to be paid during the execution stage.

Family counselling services

Law No. 292/2011 on social assistance, as subsequently amended and supplemented, provides as follows:

- Obligation of central and local public administration authorities and civil society to intervene in the national social assistance system to prevent, limit or eliminate the temporary or permanent effects of situations that may lead to marginalization or social exclusion of the person, family, groups or communities (Article 2); Social assistance, through specific measures and actions, aims at developing individual, group or collective capacities to ensure social needs, increase the quality of life and promote the principles of cohesion and social inclusion.

- The national social assistance system intervenes as a subsidiary or, as the case may be, complementary to social security systems and consists of the social assistance benefits system and the social services system.

ART. 3

(1) Responsibility for developing their own social integration capacities and active involvement in resolving situations of difficulty rests with each person and his/her family, as state authorities intervene by creating equal opportunities and, also, by providing social assistance benefits and adequate social services.

¹⁷ We refer to *the evicted tenants/tenants to be evicted from the buildings nationalized by the Romanian state and returned to the former owners through administrative / legal*.

¹⁸ Government Emergency Ordinance no. 40/1999 on the protection of tenants and the establishment of rent for the dwellings; Government Emergency Ordinance no. 68/2006 on measures for the development of activities in the field of home constructions through national programs; Government Emergency Ordinance no. 74/2007 regarding the insurance of the social housing fund for the tenants evicted or to be evicted from the dwellings returned to former owners; *as to the situation of persons or families whose economic situation does not allow to buy or rent a dwelling*, see, for example: Housing Law no. 114/1996; Law no. 152/1998 on the establishment of the National Housing Agency; *even with regard to the situation of the persons concerned in the letter*, see also for example: Government Decision no. 1237/2008 on the approval of the "Social housing for Roma communities" Pilot Program..

¹⁹ GEO no.51/2008 on public legal assistance in civil matters, published in the Official Gazette no. 327/2008

²⁰ This system meets the requirements provided in the Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.

(2) The state, through the central and local public administration authorities, assumes responsibility for implementing the measures and actions stipulated in the normative acts on social assistance benefits and social services.

(3) The State, through public policies in the field of social services, contributes to promoting, respecting and guaranteeing the beneficiaries' rights to an independent, fulfilled and dignified life, as well as facilitating their participation in social, economic, political and cultural life.

(4) The central public administration authorities ensure the development of the legal framework in the field of social assistance, the support of disadvantaged groups, fight against poverty and social exclusion, development of family support policies throughout the life cycle of its members, and transfer to local public administration authorities and civil society, including the cult institutions recognized by law, the powers and financial means necessary for the social assistance actions provided by the special laws.

Responsibility for the development of social services rests with public and private social services providers (public social assistance services).

At the same time, the national social assistance system is based on general values and principles (Article 5), such as:

- subsidiarity, according to which, if the person or family cannot fully cover their social needs, the local community and its associative structures and, in addition, the state, must intervene;
- non-discrimination, according to which vulnerable persons benefit from social protection measures and actions without restriction or preference for race, nationality, ethnic origin, language, religion, social category, opinion, sex or sexual orientation, age, political affiliation, disability, non-contagious chronic illness, HIV infection or belonging to a disadvantaged category;
- equal opportunities.

The process of providing social services has the following mandatory steps (Article 46):

- a) initial assessment;
- b) development of the intervention plan;
- c) complex assessment;
- d) development of the individualized assistance and care plan;
- e) implementing the measures provided for in the intervention plan and in the individualized plan;
- f) monitoring and evaluating the service delivery.

ART. 47

(1) Initial assessment and intervention plan are carried out by the social assistant or, in the absence thereof, by the staff with social assistance competencies within the public social assistance service subordinated to the local public administration authorities.

(2) The initial evaluation aims at identifying the individual and family needs, based on which the intervention plan is developed.

(3) The intervention plan developed under para. (2) addresses the person and, where appropriate, his/her family and includes the social assistance measures, namely the services recommended to address the identified needs or social risks situations and the social assistance benefits to which the person is entitled.

(4) In the initial assessment process, the person receives free of charge the information on the social risks and social protection rights he/she is entitled to, as well as, where appropriate, the necessary counselling services to overcome the difficult situations.

(5) The initial assessment may also include a social diagnosis at group and community level and developing the community service plan.

In accordance with the provisions of art. 47, **all accredited social services** (which are certified as fulfilling the minimum standards of quality in social services) - **currently 3,625 at the national level, comply with the obligation to inform/advise the beneficiaries/ their families about their rights to social assistance.**

Regarding the area of child rights protection, according to the data centralized at national level based on the information provided by the General Directorates for Social Assistance and Child Protection, the number of counselling centres functioning at national level is the following:

YEAR	No. of counselling services
2014	73
2015	74
2016	67
2017	76

Participation of associations representing families

All legislative or strategic initiatives are based on a process of consultation with the main institutional actors or civil society partners operating in the respective fields.

They have been permanently consulted and involved in the process of drafting and finalizing normative or strategic documents.

As an example, with regard to the ANPDCA activity, an important role in this respect has been played by the main associative structure of children - the Students' Council, which brings together representatives of pupils from all school units at national level, as well as organizations representing the interests of parents/families, when the issues under discussion concerned their areas of interest (e.g. draft laws on adoption, the framework legislation on the protection and promotion of children's rights, etc.).

Legal protection of families

Mediation services

At the level of the Ministry of Justice, the ECRIS Judicial Statistics module shows the statistical data referring exclusively to the activity of the courts. Alternatively, there is no information available on the possibility of parties involved in the *minors and families* law cases to use mediation services to resolve conflicts.

However, given that the statistical objects classification used by the courts for the introduction of cases in the ECRIS system, includes, as part of the list of objects related to *minors and families* law, the mediation agreement, in order to address your request, we present in the table below, the situation of the cases judged on the merits by the courts of appeal and the courts thereof, between 1 January 2014 and 31 December 2017, as follows:

Reference year	Main subject of the case	Total number of cases, out of	No. of new cases registered in the reference	No. of solved cases, out of which:	(Totally of partially) admitted causes
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		which:	period		
2014	Mediation agreement (minors and families)	1256	1256	881	677
2015		1296	921	1072	798
2016		955	731	762	587
2017		759	566	608	456

Domestic violence against women

1. Social services offered to victims

Law No. 217/2003, for the prevention and combating of domestic violence, provides several types of services. From the statistical data perspective, compared to 2016, the number of shelters for victims of domestic violence increased to a total of 92 social services, as follows:

- 60 accommodation services (residential), out of which: 45 Emergency centres (shelters); 15 Recovery centres for domestic violence victims; shelter houses.
- 32 services without accommodation (day-care services), out of which: 25 Counselling Centres for the Prevention and Combating of Domestic Violence; 7 Information and awareness raising centres.

According to the law, assistance services for aggressors are also available. At the moment, there are only 2 such day centres available.

All these services at local level can be provided by local councils, the County Directorates for Social Assistance and Child Protection or by private entities.

The total number of cases of domestic violence (women, men and children) who received social services on request, centralized between 2014 and 2016 at ANES, is presented below:

- 2014 - 11,598 cases;
- 2015 - 12,273 cases;
- 2016 - 13,019 cases.

2. Protection Order

Starting 2012, the possibility of issuing a protection order (Law 25/2012) was regulated in Romania and the Applications for its issuance are tried as a matter of urgency and, in any situation, their settlement cannot exceed a deadline of 72 hours after filing the application.

The results extracted from the centralization of the case files pending before courts of law in recent years, concerning applications for the issuing of protection orders are as follows:

- Year 2015: 3,947 incoming casefiles, 4,024 settled casefiles;
- Year 2016: 3,989 incoming files, 4226 settled casefiles (January-September);

One can note that the number of applications for issuing protection orders is increasing from one year to another and this reveals that more and more victims of domestic violence are seeking support and their access to information, advice and legal assistance is ensured and this measure is increasingly known and used by them.

3. Harmonization of national legislation with the provisions of the Istanbul Convention

Over the past 3 years, Romania has taken upon itself an ambitious and complex initiative of reforming domestic violence legislation and has consistently made efforts with a view to

ratifying and preparing the implementation of the Istanbul Convention. Our cooperation with Norway (two study visits in Norway) and Spain (bilateral meetings and partnership actions with the Spanish Embassy in Romania and study visits in Spain) represented the guidelines for the steps to be taken in order to improve the national legislation and the public policies in the area of domestic violence.

Through Law no. 30/2016, Romania ratified the Istanbul Convention, and the harmonization of the internal legislation with the provisions of the Istanbul Convention is one of the priorities of the current Government.

Romania has reached an advanced stage of progress as regards the implementation of the Convention and, in this respect, we underline that a package has been developed, including the following regulatory documents:

- Bill of Law amending and supplementing Law no. 202/2002 on equal opportunities for men and women (introduction of the definition of gender violence);
- Bill of Law amending and supplementing Law no. 217/2003 on for the prevention and combating of domestic violence;
- Bill of Law amending and supplementing Law no. 286/2009 on the Criminal Code;
- Bill of Law amending and supplementing Law no. 135/2010 on the Criminal Proceedings Code;
- Bill of a Joint Order on the setting up and operation of integrated emergency centres in the event of sexual violence.

Besides amending primary legislation, Romania has focused its efforts on the development of secondary and tertiary legislation to provide actual working tools, procedures and methodologies to support the accomplishment of tasks and responsibilities for all specialists in the field of prevention and combating domestic violence.

4. Measures complementary to the ones developed over the past 3 years

The Government of Romania has become aware of the importance of inter-institutional cooperation and of equal involvement of civil society and from this perspective, on October 5th, 2016, as a result of a Memorandum approval, **the Inter-Ministerial Committee for the Prevention and Combating of Domestic Violence** was created as a body that must facilitate the implementation of the Istanbul Convention through the cohesion of all relevant actors in the field.

At national level, a free hotline for domestic violence victims, using a single number, 0800 500 333, is operational. Thus, the domestic violence victims, as well as potential witnesses or other persons who are aware of violence acts of this kind and who need support, information and counselling, can make free calls, both from the Romanian territory and from abroad, to the unique number available 24-hours per day. The operators communicate to the caller information on what types of actions they can carry out, depending on the typology of the domestic violence facts described and, as appropriate, refer the cases to empowered local structures, depending on the victim's domicile, in order to be able to take appropriate action. Since the establishment (December 2015) and until the end of the first semester of 2017, a total number of 3,222 calls were recorded, out of which in 2016 - 1,887 calls and in S1 2017 - 1,335 calls.

We are aware that police officers face multiple difficulties and that they have a great responsibility in the field of domestic violence and that is why the National Agency for Equal Opportunities for men and women (ANES) actively participates in the initial and continuous training of police officers, through the constant partnership with the Institute for Public Order Studies, focusing on two training modules addressing domestic violence

and equal opportunities for men and women. During these training programs, the focus moves towards the practical side, by proposing case studies and exercises.

Campaigns raising awareness among the general population and targeting youth education:

- Between 2014 and 2015, ANES implemented the START - A safe quality life! project, funded from the European Social Fund, initially targeting a target group of 11,150 persons, out of which: 5,050 persons in vulnerable groups (4,000 victims of domestic violence, 1,000 children at risk, 50 victims of trafficking in human beings), 1,000 women (informed about the issue of prevention and combating domestic violence and trafficking in human beings that should become support persons for the DV/THB victims), 4,000 experts within public structures, having responsibilities in prevention and combating domestic violence and trafficking in human beings and/or interacting with victims, 1,100 specialists within public authorities who should be trained as experts in equal opportunities.
- Between April 2015 and April 2017, ANES ran the "National Campaign for Public Awareness and Information on Domestic Violence" project, financed by the Norwegian Financial Mechanism 2009-2014, designed to ensure as wide coverage as possible, centred on the existence and the utility of the hotline intended for combating domestic violence as an information vector for public opinion.
- Between May 4th and 11th, 2016, the National Agency for Equal Opportunities for men and women (ANES) organized the "Equal Opportunities Week", in order to celebrate May 8th, declared by law in 2015 as "The day of equal opportunities for men and women". Over 1,200 pupils and students participated in debates organized in 11 high schools in Bucharest, where they could interact with successful women, participated in film projections and debates on domestic violence, on trafficking in human beings or in interactive theatre plays (forum theatre).
- In 2016, on the occasion of the "International day for the eliminating violence against women", marked annually on November 25th, messages for condemning violence against women were displayed during the training match that the Romanian rugby team played with the Uruguayan representative. Also, before the game, in the official photo, the two representative teams displayed banners including the messages "Rugby says NO to violence against women" and "Rugby says NO to violence against women". About 4,000 spectators attended the match and 200,000 persons watched it on TV.
- Between May 8th and 12th, 2017, ANES organized a series of events under the aegis of "Week of equal opportunities for men and women" During this week, in collaboration with the "Friends for Friends" Foundation, the "Save the Children" Organization and the Foundation for Civil Society Development, ANES organized meetings with pupils from 5 high schools in Bucharest about physical and language violence, about couple violence and about relationships between teenagers, about discrimination and bullying and about and about sexist language in online environment. The debates covered a number of about 300 high school students.

Economic protection of families

Family benefits

The family benefits granted for supporting families having children, between January 1st, 2014 and December 31st, 2017:

1. **The state child allowance** is a universal right granted by the state for all children until the age of 18, without discrimination. Young people who have reached the age of 18 and who attend high school or vocational education are entitled to being granted the state child

allowance until its completion. The state child allowance is granted in different amounts as follows:

- **Lei 84** for children aged between 2 and 18, as well as for the young people who have reached the age of 18, who attend the high school or vocational education, until its completion;
- **Lei 200** for children aged up to 2 or up to 18, for disabled children.

Type of benefit	Age of children	2014 (lei)	2015 (lei)	2016-2017 (lei)
The state child allowance (the amounts were increased starting July 2015)	children aged > 2	42	42/84 (June 2015)	84
	disabled child aged > 3	84	84/200 (June 2015)	200
	children aged <2	200	200	200

2. **Child raising leave and benefit** (GEO no. 111/2010) is a categorical program, which was modified by Law no. 66/2016, which established new eligibility criteria for granting the parental leave and the child raising benefit or, as appropriate, the monthly insertion incentive.

Starting **June 2016**, the child-raising benefit and the monthly insertion incentive are granted to people who, in the last two years prior to their child's birth, had earned taxable income for at least 12 months subject to income tax, according to the provisions of the Fiscal Code.

According to the provisions of GEO no. 111/2010, all employment forms are taken into account when establishing the right to child raising leave and benefit, as well as all income categories, namely those from salary activities, income from self-employment, as well as income from agricultural activities.

Currently, there is only one variant of the child raising leave and the child raising benefit represents a compensation ensured from the state budget for parents who decide to discontinue their professional activity and apply for child raising leave until the age of 2 and 3 years respectively, in case of disabled child.

During the reference period between 2014 and 2017, the minimum amount for the child raising benefit was increased from lei 600 to **85% of the minimum gross salary guaranteed for payment, whose value was lei 1,450 (lei 1,233 starting February 2017)**. The maximum amount of the child raising benefit was set at 85% of the average net income obtained by the parent, without any limitation to a certain threshold starting July 2016 and limited to lei 8,500 starting September 2017.

Any of the natural parents of the child as well as one of the persons who adopted the child who was entrusted with the child for adoption or who has the child into foster care or into emergency foster care, except for the professional maternal assistant, as well as the person who has been appointed guardian are entitled to the monthly benefit and to the insertion incentive, optionally. These two benefits are granted for each birth or, as applicable, for each of the situations mentioned above.

Also, according to the provisions of GEO no. 111/2010 on child raising leave and on monthly child raising benefit, as subsequently amended and supplemented, the right to child raising leave is granted on a non-transferable basis, provided that both parents of

the respective family meet the conditions for granting it. Thus, at least one month of the total duration of the child raising leave is assigned to one of the persons who did not ask for this right. If the person entitled to this month does not claim the right for the leave to which he/she is entitled, the other parent cannot benefit from the right to leave instead of him/her.

Therefore, the father is entitled to one month of child raising leave on a non-transferable basis.

According to the provisions of the Labour Code (Law no. 53/2003), the employee has the right to request that the individual employment contract should be suspended in order to be able to benefit from the child raising leave. According to the provisions of GEO no. 111/2010, the child raising leave is approved by the employer at the request of the entitled person and the employer has the obligation to approve the time period for the leave by mutual agreement with the employee.

The legislation on granting the child raising leave also provides other job protection measures for those entitled to this leave. These measures take into account the following aspects:

- it is forbidden for employers to decide upon the termination of the employment or service relationship for the employee who is on child raising leave or who is paid the insertion incentive. This interdiction is extended by 6 months after the person returns to work.
- at the end of the leave, the worker has the right to return to the latest work place or to an equivalent work place, having equivalent working conditions and also to benefit from any improvement of the working conditions to which he/she would have been entitled during his/her absence.

Persons who are entitled to benefit from the child-raising benefit and who carry out professional activities and obtain taxable income are entitled to a monthly insertion incentive.

The monthly insertion incentive is granted until the child reaches the age of 3, amounting to 50% of the minimum benefit, lei 532 respectively, starting July 2016 and 616 lei until the March 2017, if the parent decides to resume his/her professional activity 60 days before the child reaches the age of 2. This incentive is a measure to stimulate parents to come back to their work before the child reaches the age of 2 and 3 respectively, for disabled children. Starting April 2017, the insertion incentive to insert in granted as a fixed amount, lei 650/month.

Benefits and aids for raising disabled child (articles 31 and 32 of GEO no. 111/2010 on child raising leave and benefits, as subsequently amended and supplemented). Granted to persons who take care of disabled children aged up to 7 or to disabled persons who become parents and have children under their care. According to the provisions of Law no.66/2016, the amount of the benefit for raising disabled children, granted to parents who take care of a disabled child aged 3 to 7 and who are entitled to the child raising leave was increased from lei 450 to lei 1,233, starting February 2017. Also, the amounts of the benefits and aids granted to persons/parents who take care of disabled children as well as to disabled persons who take care of children were also increased. Their amounts range from lei 185 to lei 555 in 2017.

- **monthly benefit for raising disabled children**, amounting to lei 1,233,, which is granted to persons who take care of disabled children aged between 3 and 7 and who benefited from the rights established by GEO no. 111/2010 and who want to benefit from child raising leave until the child reaches the age of 7;

- monthly support for raising disabled children, amounting to lei 555 (45% of the amount for the minimum benefit - lei 1,233), granted to persons suffering from severe or accentuated disability, who take care of disabled children aged between 0 and 3 and who do not obtain any other income, except for the benefits of social assistance granted to disabled people.
- monthly support for raising disabled children, amounting to lei 432 (35% of the amount of minimum benefit - lei 1,233), granted to persons suffering from severe or accentuated disability, who take care of disabled children aged between 3 and 7 and who do not obtain any other income, except for the benefits of social assistance granted to disabled people.
- monthly support for raising disabled children, amounting to lei 432 (35% of the amount of minimum benefit - lei 1,233), granted to the person who takes care of disabled children aged between 0 and 3 and who does not meet the conditions provided by GEO no. 111/2010 for granting the leave and the monthly benefit for raising children.
- monthly support for raising disabled children, amounting to lei 185 (15% of the amount of minimum benefit - lei 1,233), granted to the person who takes care of disabled children aged between 3 and 7 and who does not meet the conditions provided by GEO no. 111/2010 for granting the leave and the monthly benefit for raising children.
- monthly support for raising children, amounting to lei 555 (45% of the amount of minimum benefit - lei 1,233), granted to a person suffering from severe or accentuated disability, who takes care of disabled children aged between 0 and 2 and who does not meet the conditions provided by GEO no. 111/2010 for granting the leave and the monthly benefit for raising children.
- monthly support for raising children, amounting to lei 185 (15% of the amount of minimum benefit - lei 1,233), granted to a person suffering from severe or accentuated disability, who takes care of disabled children aged between 2 and 7 and who does not meet the conditions provided by GEO no. 111/2010 for granting the leave and the monthly benefit for raising children.

The new legal provision establishes a new type of benefit granted to persons who take care of a disabled child and who are professionally active or who want to return to work, having concluded a part-time employment contract. They receive a benefit equal to 50% of the minimum amount of the benefit (lei 616 in 2017), amount that can be cumulated with the salary of that person.

Type of benefit	2014 - June 2016 (lei)	July 2016 -January 2017 (lei)	February 2017 (lei)
Child Raising Benefit	85% of the average net income earned in the last 12 months preceding the date when the child was born, which cannot be either less than lei 600 or more than lei 1,200 or lei 3,400.	85% of the average net income earned in the last 12 months preceding the date when the child was born, which cannot be less than 85% of the amount of the minimum national gross salary guaranteed for payment. (lei 1,063)	85% of the average net income earned in the last 12 months preceding the date when the child was born, which cannot be less than 85% of the amount of the minimum national gross salary guaranteed for payment (lei 1,233) The maximum amount of the benefit was set to lei 8,500, starting September 2017.

<u>Benefits and aids for raising disabled children</u> (granted to persons who take care of disabled children or to disabled persons who take care of children)	150/300/450	159/372/478/532	185/432/555
Insertion incentive	500/532	532/616	616/650 from April 1st, 2017

Benefits for supporting the child and his/her family	2014 Average monthly number of beneficiaries	2015 Average monthly number of beneficiaries	2016 Average monthly number of beneficiaries	2017 Average monthly number of beneficiaries
State child allowance Total, out of which :	3,727,859	3,691,195	3,662,793	3,635,792
Lei 200 < 2 years of age (3 years of age for disabled child)	337.951	335.576	339.183	340.468
Lei 200 disability > 3 years of age	55.216	55.976	58.266	58.824
RON 84 >2 years of age	3,334,692	3,299,643	3,265,344	3,236,501
Child Raising Benefit	139.572	138.350	141.151	159.369
Insertion incentive	33.659	37.384	41.334	74.539
Special benefits for taking care of disabled children Total, out of which:	8.497	8.566	8.644	8.999
Benefit for raising disabled children, for children aged between 3 and 7;	4.291	4.059	3.858	4.087
Monthly support granted to persons suffering from severe or accentuated disability, who takes care of disabled children aged between 0 and 3 and who do not obtain any other income;	38	46	71	104
Monthly support granted to persons suffering from severe or accentuated disability, who takes care of disabled children aged between 3 and 7 and who do not obtain any other income;	99	102	153	122
Monthly support granted to the person who takes care of disabled children aged between 0 and 3 and who does not meet the conditions for granting the leave and the monthly benefit for raising children.	211	269	186	158
Monthly support granted to the person who takes care of disabled children aged between 3 and 7 and who does not meet the conditions for granting the leave and the monthly benefit for raising children.	575	591	647	737
Monthly support granted to the person suffering from severe or accentuated disability who takes care of disabled children aged between 0 and 2 and who does not meet the conditions for granting the leave and the monthly benefit for raising children.	1.192	1.237	1.132	919
Monthly support granted to the person suffering from severe or accentuated disability who takes care of disabled children aged between 2 and 7 and who	2.091		2.573	2.774

does not meet the conditions for granting the leave and the monthly benefit for raising children.		2.262		
Monthly benefit granted to persons who take care of a disabled child and who are active, having concluded a part-time employment contract.	-	-	24	98

Benefits for supporting the child and his/her family	2014 Amounts paid	2015 Amounts paid	2016 Amounts paid	2017 Amounts paid
State child allowance	2,684,862,102	3,541,590,789	4,415,501,616	4,396,915,235
Child Raising Benefit	1,552,480,562	1,578,924,746	2,060,258,501	3,409,347,828
Insertion incentive	207,880,985	230,358,988	263,932,900	575,599,491
Special benefits for taking care of disabled children	37,356,001	36,238,816	48,060,642	77,321,616

Vulnerable families

The benefits of social assistance granted to vulnerable families in order to prevent and combat poverty and the risk for social exclusion, between January 1st, 2014 and December 31st, 2017:

In Romania, the fight against poverty and social exclusion continues to be a national priority.

The measures to prevent and combat poverty and the risk for social exclusion are part of the general framework of multidimensional actions of the social inclusion process, by which opportunities and necessary resources are ensured for the full participation of vulnerable persons in the economic, social and cultural life of the society, as well as in the decision-making process that concerns their lives and their access to fundamental rights.

The Social inclusion policy of the Government of Romania has the general objective of increasing the standard of living of the population and of stimulating earnings obtained from work by facilitating employment and promoting public policies addressing all vulnerable groups, including the Roma population, disabled people, women, children living in the streets, young people aged 18, who leave the state protection institutions, elderly people etc.

The right to social assistance benefits is guaranteed in Romania, without any discrimination, for all Romanian citizens and for citizens of other states or for stateless citizens who have their domicile or residence in Romania, according to the provisions of Law no. 292/2011 on social assistance. According to this principle, the vulnerable persons benefit from social protection measures and actions, without any restriction or any preference of race, nationality, ethnic origin, language, religion, social category, opinion, gender or sexual orientation, age, political affiliation, disability, chronic disease or belonging to a disadvantaged category.

Thus, the programs being currently run by the Ministry of Labour and Social Justice for the prevention and combating of poverty and of the risk of social exclusion are as follows:

1. Social aid (VMG). It is granted based on Law no. 416/2001 on minimum income guaranteed, as subsequently amended and supplemented, **to all families and single persons having low income or having no income, who are in difficulty, in order to help them overcome this situation.** The social support is calculated as a difference between the monthly net income of the family or of the single person and the monthly level of the minimum income guaranteed provided by law. Thus, the monthly level of the minimum income guaranteed **increased starting January 2014:**

The monthly level of the minimum income guaranteed between 2014 and 2017:

Type of family	2014 - 2017 (lei) (lei)
Single person	142
Family made up of 2 persons	255
Family made up of 3 persons	357
Family made up of 4 persons	442
Family made up of 5 persons	527
For each other person over the number of 5	37

The right to social aid is established taking into account the family income and taking into account the movable and immovable property owned.

The families and the single persons having monthly net income up to the level of the minimum income guaranteed benefit from a 15% increase of the amount of the social aid per family if at least one family member proves that he/she works under an individual employment contract, has the status of public officer or performs an activity, obtaining salary income.

The social aid is conditioned by the active search for a job and the beneficiary is obliged to provide community service for a number of hours equivalent to the amount of social aid, in relation to the minimum wage for the economy. Thus, for the amounts granted as social aid, one of the major persons able to work of the beneficiary family has the obligation to perform on a monthly basis, at the request of the mayor, actions or works of local interest, without exceeding the normal working regime and observing the norms of occupational health and safety. Exceptions are the families for which the social aid resulted from the calculation is up to lei 50/month and for these the working hours are set quarterly and are carried out in the first month of payment.

The persons able to work who do not obtain any income from salaries or from other activities are taken into account when establishing the number of family members, in order to determine the level of family income only if they prove that they are registered with the territorial employment agency for employment and did not refuse any job or participation in the services for stimulating employment and for training provided by these agencies.

Exceptions to the above-mentioned obligations are the persons able to work who are in one of the following situations:

- a) raise and take care of one or more children aged up to 7 years and up to 18 in the case of the child suffering from severe or accentuated disability;
- b) take care of one or more persons suffering from severe or accentuated disability or of dependent elderly persons who do not benefit from a personal assistant or from a home caretaker;
- c) participate in a vocational training program;
- d) are employed.

Also, the families and the single persons having monthly net income up to the level of the minimum income guaranteed benefit from a 15% increase of the amount of the social aid per family if at least one family member proves that he/she works under an individual employment contract, has the status of public officer or performs an activity, obtaining salary income.

2. Family allowance according to the provisions of Law no. 277/2010, republished, as subsequently amended and supplemented.

The family allowance is a form of support for families having low-income and raising and taking care of children up to 18 years of age. Granting the allowance aims at adding to families' income, in order to provide better conditions for raising, taking care of and educating children and at stimulating as well attendance of an education form courses by school-aged children who are taken care of by families having low-income. The family allowance is benefitted by the family made up of husband, wife and the children who are taken care by them, who live together and by the family as well made up of a single person and the children taken care by him/her and who live together with him/her.

The right to receive the family allowance is established by taking into account all family's income and its assets as well, but also depending on the number of the children in the family.

The Family Allowance stimulates the increase of the children's education level by granting the family allowance only if the school-aged children in the beneficiary families attend education courses; the amount of the allowance may be diminished proportionally to absence from school (based on the reports sent by the territorial school inspectorates).

The family allowance is granted to the families that have children and whose monthly average net income per family member is up to lei 530, inclusively.

The family allowance is also granted to single-parent families and the amounts are different from those granted to biparental families. As a result of the approval of the **Government Emergency Ordinance no.65/2014 amending and supplementing some normative documents**, the family allowance was increased as follows:

	Family type, income level and number of children	2014 - 2017 (lei)
Family allowance	Allowance for biparental families whose income is ≤ lei 200	
	Family having 1 child	82
	Family having 2 children	164
	Family having 3 children	246
	Family having 4 or more children	328
	Allowance for biparental families whose income is between lei 201 and lei 370 and between lei 201 and lei 530 (starting July 2013)	
	Family having 1 child	75
	Family having 2 children	150
	Family having 3 children	225
	Family having 4 or more children	300
	Allowance for single-parent families whose income is ≤ lei 200	
	Family having 1 child	107
	Family having 2 children	214
	Family having 3 children	321
	Family having 4 or more children	428
	Allowance for single-parent families whose income is between lei 201 and lei 370 and between lei 201 and lei 530 lei (starting July 2013)	
	Family having 1 child	102
	Family having 2 children	204
	Family having 3 children	306
	Family having 4 or more children	408

3. The home heating aid: this aid is granted based on the Government Emergency Ordinance no.70/2011 on social protection measures during cold season, as subsequently amended and supplemented, in order to supply part of the home heating expenses during cold season. These social protection measures are granted to single persons or to families whose monthly net average income per family member is below a certain threshold provided by law. The right to home heating aid is established taking into account the family income and the movable and immovable property owned as well. The income levels and the amounts of aid between 2014 and 2017 are as follows:

DISTRICT HEATING				NATURAL GAS			WOOD, COALS, OIL-BASED FUEL			ELECTRIC POWER		
INCOME LIMITS		PERCENTAGE COMPENSATION		INCOME LIMITS		AMOUNT	INCOME LIMITS		AMOUNT	INCOME LIMITS		AMOUNT
VMG + single person		100%	0%	< 155		262	GMI		58	< 155		240
< 155		90%	0 - 7%				< 155		54			
155.1	210	80%	0 - 14%	155.1	210	190	155.1	210	48	155.1	210	216
210.1	260	70%	0 - 20%	210.1	260	150	210.1	260	44	210.1	260	192
260.1	310	60%	0 - 27%	260.1	310	120	260.1	310	39	260.1	310	168
310.1	355	50%	0 - 33%	310.1	355	90	310.1	355	34	310.1	355	144
355.1	425	40%	0 - 40%	355.1	425	70	355.1	425	30	355.1	425	120
425.1	480	30%	0 - 46%	425.1	480	45	425.1	480	26	425.1	480	96
480.1	540	20%	0 - 53%	480.1	540	35	480.1	540	20	480.1	540	72
540.1	615	10%	0 - 59%	540.1	615	20	540.1	615	16	540.1	615	48
615.1	786	5%	0 - 61%									
786.1	1082	0%	0 - 63%									

This aid is granted to families and people (vulnerable consumers) who use the following sources for heating their homes, as applicable: thermal power supplied in a centralized system, natural gas, electric power or wood, coal, oil fuels.

The vulnerable consumers who use thermal power supplied in a centralized system for heating their homes benefit from monthly aid for home heating, granted from the state budget, if the monthly average net income per family member is up to lei 786 for families and up to lei 1,082 for single persons. The aid for district heating is granted through the percentage compensation applied to the value of the district heating consumed monthly by the vulnerable consumer, within the limit of an average monthly consumption. For the families and for the single persons benefiting from social aid, the percentage compensation is granted 100%.

Depending on the average net income per family member, the families and the single persons who use district heating in order to heat their homes may benefit from an additional percentage compensation of the invoice, as aid received from the local budget.

The vulnerable consumers who use natural gas for heating their homes benefit from monthly aid for home heating during cold season amounting to lei 20 if the monthly average net income per family member or for single persons respectively is between lei 540,1 and lei 615 or from a monthly aid of 262 lei if the monthly average net income per family member or for single persons respectively is up to 155 lei.

The vulnerable consumers who use electric power for heating their homes benefit from monthly aid for home heating during cold season amounting to lei 48 if the monthly average net income per family member or for single persons respectively is between lei

540,1 and lei 615 or from a monthly aid of **240 lei** if the monthly average net income per family member or for single persons respectively is up to 155 lei.

The families and single persons having low income and who use wood, coal, oil fuels for heating their homes benefit from monthly aid for home heating during cold season amounting to **lei 16** if the monthly average net income per family member or for single persons respectively is between lei 540,1 and lei 615 or from a monthly aid of **58 lei** if the monthly average net income per family member or for single persons respectively is up to 155 lei.

4. Educational incentive: is another program intended for children from disadvantaged families that was established by **Law no. 248/2015 on stimulating the participation in pre-school education for children from disadvantaged families**. By means of this law, an **educational incentive was established as social vouchers, in order to stimulate the participation in pre-school education for children from disadvantaged families** and to increase their access to education. The educational incentive is funded from the state budget through amounts recouped from the value added tax, allocated to the local budgets for this purpose. These educational incentives are granted for children from disadvantaged families, provided that the following criteria are cumulatively met:

- the child is enrolled in a pre-school education unit, according to the National Education Law no. 1/2011;
- the monthly income per family member is up to twice the level of the minimum guaranteed income for a single person, provided by Law no. 416/2001 on minimum guaranteed income, lei 284 respectively.

The minimum monthly nominal value of the educational incentive is **lei 50** for each child enrolled in the kindergarten, beneficiary of the educational incentive.

In order to run the program, in **2016** amounts were allocated from the state budget to the local budgets amounting to **lei 55.5 million**, according to the provisions of the **Government Decision no. 36/2016 regarding the distribution by counties and Bucharest city of the amounts recouped from the value added tax for financing the rights established by Law no. 248/2015 on stimulating the participation of children from disadvantaged families in pre-school education for 2016**.

For **2017**, amounts were distributed from the state budget to local budgets, amounting to **lei 214.4 million**, for a number of approximately **356,000** pre-school children.

By Government Decisions, **emergency aids** may be granted to families and people in necessity situations because of natural disasters, fires, accidents and for other special situations caused by health condition or by other causes that could lead to the risk of social exclusion. These emergency aids are granted based on Law no. 416/2001 on minimum guaranteed Income.

At the same time, mayors may provide other emergency aids from the local budget to families and people in necessity situations caused by natural disasters, fires, accidents, and for other special situations as well, established by the decision of the local council.

Average monthly number of beneficiaries and amounts granted from the state budget between 2014 and 2017:

Benefits based on income testing	2014		2015		2016		2017	
	Average monthly number of beneficiaries	Amounts paid -lei-	Average monthly number of beneficiaries	Amounts paid -lei-	Average monthly number of beneficiaries	Amounts paid -lei-	Average monthly number of beneficiaries	Amounts paid -lei-

Minimum guaranteed income	240.617	663,894,250	245.545	673,411,053	244.814	811,680,726	233.966	781,129,846
Contributions for social health insurance related to social aid for ensuring the minimum guaranteed income	240.617	36,361,834	255.220	37,112,869	244.761	44,614,672	233.966	43,064,082
Contributions for ensuring the mandatory home insurance for social aid beneficiaries	11.974	650.123	52.700	3,075,005	52.434	3,055,137	45.610	2,746,167
Family allowance	247.620	260,682,745	277.624	535,518,000	273.337	525,919,920	257.538	501,271,395
Aid for home heating, out of which:	1,027,950	226,603,345	692.000	197,784,075	569.581	148,565,951		
Thermal power	267.757	50,383,876	118.697	42,904,969	87.193	26,538,635	71.012	22,942,914
Natural gas	265.091	80,588,652	157.971	72,019,403	115.475	50,994,126	90.782	42,651,904
Electric power	12.599	4,465,526	8.838	4,559,277	8.370	3,835,468	6.774	3,175,225
Wood, coals and oil fuels	482.503	91,165,291	406.494	78,300,426	358.543	67,197,722	288.274	52,807,849
Emergency aid (state budget)	1.655	3,866,050	2.409	7,885,103	1.779	9,499,395	1.507	6,604,787

Social assistance benefits in order to help people having special needs, between January 1st, 2014 and December 31st, 2017:

Special benefits for disabled children between 2014 and 2017 (art. 58 of Law no. 448/2006):

The family or the legal representative of the child suffering from severe, accentuated or average disability benefit from a monthly supplementary personal budget, regardless of the income they have, during the time when they take care of, supervise and support the disabled child.

The amounts are differentiated, depending on child's disability degree. For 2017, the following amounts were established:

- a) lei 106, for the family or the legal representative of the child suffering from severe disability, regardless of income;
- b) lei 79, for the family or the legal representative of the child suffering from accentuated disability, regardless of income;
- c) lei 39, for the family or the legal representative of the child suffering from average disability, regardless of income;

Type of benefit	2014-2015 (lei)	2016 - 2017 (lei)
Supplementary	91/68/35.5	106/79/39

monthly budget (the amounts have increased since January 2015)		
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Supplementary monthly budget	2014	2015	2016	2017
Average monthly number of beneficiaries, total out of which:	59.068	60.276	61.361	61.326
Child suffering from severe disability	31.970	32.760	33.476	37.163
Child suffering from accentuated disability	12.176	12.793	13.146	9.701
Child suffering from average disability	14.922	14.723	14.739	14.462
Amounts paid	50,845,500	59,975,749	61,941,732	63,236,100

By Government Emergency Ordinance no. 60/2017 amending and supplementing Law no. 448/2006 on the protection and promotion of the disabled persons' rights, the amounts of social benefits granted to the persons in charge with raising and taking care of the disabled child were increased. The increased amounts shall be granted starting January 1st, 2018.

Equal treatment of foreign nationals and stateless persons with regard to family benefits

Social assistance benefits granted to foreign citizens or to stateless persons, between January 1st, 2014 and December 31st, 2017:

According to the provisions of the national legislation, art. 4 of Law no. 292/2011 respectively, **the right to social assistance benefits is guaranteed in Romania, without any discrimination, for all Romanian citizens and for citizens of other states or for stateless persons as well, having their domicile or residence in Romania** According to this principle, the vulnerable persons benefit from social protection measures and actions, without any restriction or any preference of race, nationality, ethnic origin, language, religion, social category, opinion, gender or sexual orientation, age, political affiliation, disability, chronic disease or belonging to a disadvantaged category.

At the same time, according to the provisions of art. 17 par. (1) letter n¹ of Law no. 122/2006 on asylum in Romania, as subsequently amended and supplemented, during the asylum procedure, the foreign person who applies for a form of protection is entitled to receive social assistance in the conditions provided by the Social Assistance Law no. 292/2011, as subsequently amended. Also, according to the provisions of art. 20 par. (1) letters g) and m) of Law no. 122/2006, the recognition of refugee status or the granting of subsidiary protection gives the beneficiary the right to benefit from social assistance in the conditions provided by the law for Romanian citizens and the right as well to benefit, on demand, from a monthly non-reimbursable aid for 9 months if, for objective reasons, the person lacks the necessary means for living. This aid may be additionally extended for maximum 3 months. The amount of the monthly non-reimbursable aid is lei 540 per person. The money needed to provide the monthly aid is ensured from the budget of the Ministry of Labour and Social Justice through the National Agency for Payments and Social Inspection and the county agencies for payments and social inspection.

Also, according to the provisions of art. 8 of the Government Ordinance no. 44/2004 on the social integration of aliens who were granted a form of protection in Romania, as well as citizens of the Member States of the European Union and the European

Economic Area, as subsequently amended and supplemented, foreigners who were granted international protection in Romania have access to the public pension system and other social security rights and to the national social assistance system under the conditions stipulated by the law for Romanian citizens.

According to the provisions of art. 22 of GO no. 44/2004, *aliens who were granted a form of protection in Romania who participate in the integration program, who fail to meet the conditions for receiving reimbursable aid, and who lack the material means for their upkeep, shall be offered support in order to fulfil the legal conditions for obtaining the minimum guaranteed income. Also, until the first month of non-reimbursable aid payment, foreigners receiving international protection in Romania who have no means of subsistence receive from the General Inspectorate for Immigration a material allowance equal to that granted to applicants for refugee status, within the limits of the available funds, but not more than two months*

As regards the monthly non-reimbursable aid, this is granted for a period of maximum 12 months, in the amount of 540 lei/month for each person in the family, regardless of age. After that period the right ceases.

According to art. 2 of Law no. 61/1993 children of foreign citizens and of resident persons without citizenship also benefit from the state allowance for children, according to the Romanian law, if they live in Romania together with their parents.

According to art. 1 paragraph (2) of the Methodological Norms for the application of the provisions of Law no. 277/2010 regarding the family support allowance, approved by the Government Decision no. 38/2011, **the family allowance is also granted to families and single persons who do not have Romanian citizenship if they are in one of the following situations:**

- are citizens of a Member State of the European Union, of the European Economic Area, of the Swiss Confederation or of other states, during the period of their domicile or, as the case may be, residing in Romania, under the law;
- are foreign citizens or stateless persons who have been granted, under the law, a form of protection;
- are stateless persons who have their domicile or, as the case may be, reside in Romania, according to the law.

Thus, refugees and foreigners who have acquired an international form of protection or a right of residence in Romania can claim any social benefit/family benefit without discrimination compared to Romanian citizens.

Refugee benefits	2014		2015		2016		2017	
	Monthly Average number of beneficiaries	Amounts paid -lei-	Monthly Average number of beneficiaries	Amounts paid -lei-	Monthly Average number of beneficiaries	Amounts paid -lei-	Monthly Average number of beneficiaries	Amounts paid -lei-
Non-reimbursable aid for refugees	295	1,836,000	222	1,273,860	202	1,194,480	256	1,490,400

Article 17 - The right of children and teenagers to social, legal and economic protection

Paragraph 1

The legal status of the child

According to the Romanian legislation in this field, the right of persons adopted to know their origins and their own past is a right guaranteed by Law 273/2004 on adoption procedure, republished, as subsequently amended and supplemented.

In order to fulfil and facilitate this right, in 2017 the Government of Romania issued the Government Decision 448/2017 for the approval of the **Methodology regarding the contact of natural parents or biological relatives, the access of the adopted to information about his origins and his own past as well and the access of the natural parents or biological relatives of the adopted persons to information about the latter.**

It regulates the administrative procedure by which the adopted persons can obtain the requested information, but also indicated the institutions responsible for supporting them in this regard.

Thus, according to the working methodology approved by the GD above "for the purpose of exercising the right to know their origins and their own past, the adopted person receives support for:

- a) obtaining information linked to the adoption procedure, related to the place of birth, forename and surname of the adopted person prior to adoption, personal history and institutional path, information on the identity of the natural parents;
- b) searching for natural parents or biological relatives;
- c) facilitating contact with natural parents or biological relatives;
- d) organizing and preparing the meeting with natural parents or biological relatives".

This information can be provided by the National Authority for Child's Rights Protection and Adoption, as the central authority for the protection of children's rights, only to persons who have acquired full exercise capacity.

Adopted persons who **have not turned 18** but want to know this information may make such a request "in their own name or through their legal representative" but shall get the information only after participating in at least one counselling session which shows that he is psycho-emotionally balanced.

At the same time, the national legislation stipulates that, in the case of adopted persons who have not turned 18, the disclosure of the identity of natural parents or biological relatives is carried out by A.N.P.D.C.A. only for medical reasons, at the request of the persons mentioned in the law.

A.N.P.D.C.A. shall give information on the surname and forenames of the natural parents valid at the time of adoption, the date and place of their birth and, if the medical situation requires, A.N.P.D.C.A. also takes the necessary steps to contact the natural parents or the biological relatives of the adopted person.

If disclosure of the identity of natural parents or biological relatives is required for medical emergency interventions, A.N.P.D.C.A. shall request the legal or public legal entities the necessary information and documents for the application of the legal provisions, these institutions being obliged to make them available within 3 working days from the date when the application was registered.

Rights of the children placed in foster care

According to national centralized data based on the information provided by the General Directorates for Social Assistance and Child Protection, the number of children placed in foster care, i.e. family placement, at national level for the indicated period is the following

No.	Nr. total children in the special protection system	Family placement (AMP / relatives / other families / persons)	Residential placement (public and private)
2014	58178	36638	21540
2015	57279	36988	20291
2016	56866	37497	19369
2017	55302	37105	18197

Young offenders

Concerning the third paragraph at page 38 of ECSR Conclusions 2015, which refers to art. 160 of the Penal Code (in force before 2014), we mention the following:

- in the elaboration of the document underlying the updating of the contribution of the Ministry of Justice, a material error was made, as it refers in fact to articles 160^e-160^h of Section IV¹, “*Special provisions for minors*” in the **Criminal Proceedings Code** (in force before 2014) and not to art. 160 of the Criminal Code.

As regards to the minor who, at the time of the offense, is aged between 14 and 18, a non-custodial educational measure is taken, according to art. 114 paragraph (1) of Law no. 286/2009 on the Criminal Code, as subsequently amended and supplemented, effective from 01.02.2014.

According to art. 114 para. (2) of the same law, the minor may be subject to a custodial educational measure in the following cases:

- a) if the juvenile committed another offense for which an educational measure was taken and served or the service of which started before the commission of the offense for which the juvenile is subject to trial;
- b) the penalty required by law for the committed offense is a term of imprisonment of 7 years or more, or life imprisonment.

Regarding the duration of the custodial educational measures, we mention the following:

- according to art.124 of Law no. 286/2009 the educational measure of internment in educational centre is ordered for a period of one to three years;
- according to art. 125 of Law no. 286/2009, the educational measure of internment in a detention centre is ordered for a time period between 2 and 5 years, except for the case when the punishment stipulated by law for the committed offense is 20 years or more, or life imprisonment, in which case internment is ordered for a period of between 5 and 15 years.

With regard to the preventive measures that may be applied to minors, we mention that according to art. 243 paragraph (1) of Law no. 135/2010 on the Criminal Proceedings Code, as subsequently amended and supplemented, the same precautionary measures applicable to the adult persons may be provided for the minor suspect and defendant.

However, art. 243 paragraph (2) of Law no. 135/2010 provides that the custody and pre-trial arrest may be ordered exceptionally against an underage defendant, only if the

effects of their deprivation of freedom on their personality and development are not disproportionate to the objective pursued by such measure.

Regarding the duration of preventive measures, Law no. 135/2010 does not distinguish between adults and minors.

However, according to art. 243 paragraph (3) in determining the duration of a pre-trial arrest measure, the defendant's age at the date of ordering, extending or maintaining such measure shall be considered.

Therefore, with regard to the duration of the preventive measures, we mention that:

- the detention measure may be ordered for a maximum of 24 hours;
- judicial control and judicial control on bail may be ordered for a maximum of 60 days;
- house arrest can be ordered for up to 30 days;
- preventive arrest may not exceed 30 days.

The preventive measures listed above can be extended according the law, but their total duration cannot exceed:

- the judicial control and judicial control on bail, during criminal investigation, can be extended for 1 year if the punishment provided by the law is a fine or imprisonment not exceeding 5 years or 2 years, if the punishment provided by the law is life imprisonment or imprisonment for more than 5 years.
- During the first instance trial, the total duration of judicial control may not exceed a reasonable period and, in any case, cannot exceed 5 years from the time of the referral;
- in the case of house arrest, the maximum duration during criminal investigation is 180 days, and during the first instance trial it cannot exceed a reasonable period.

The status of minors in detention

Each system or model of justice has, as a final objective, the social reintegration of the person who committed the offense and, in this respect, promotes the maintenance of a relationship with the community, including during the execution of a preventive measure or a custodial penalty, as social relations represent a post-release support factor.

The Romanian system guarantees certain special legal rights for minors, which allow for a closer relationship with the family and the community, by the number and long duration of visits granted to the child.

Minors are a special category for which the legislator provided for certain regulations designed to facilitate their social reintegration, taking into account both the stage of psychological development and the initial impact of imprisonment in pre-trial detention and detention centres.

According to art. 117 (Status of Arrested Minors) of Law no. 254/2013 on the execution of sentences and detention measures ordered by the judicial bodies during the criminal trial, as subsequently amended and supplemented (in force on 1 February 2014), the detained or preventively arrested persons are normally accommodated in common rooms, separate from adults. In each centre there is at least one room intended exclusively for accommodating minors.

Compared to adults who are deprived of their liberty, minors are given psychological assistance as well as the possibility of maintaining contact with persons with whom they have family relationships or strong emotional relations (6 open visits compared to 4

granted to adults), telephone or on-line calls, as provided by art. 117 of Law no. 254/2013, in order to diminish the negative effects on the physical, mental or moral development, rights that can be supplemented according to the provisions of the Regulation for the application of this law.

One last point we have to mention is that, in most cases, juveniles execute the preventive arrest measure in pre-trial detention and detention centres, according to the age-related conditions, providing the necessary psycho-social assistance in order not to impair their physical, mental or moral development for a limited time, aiming at transferring them to penitentiary units.

Paragraph 2

Access to education for unaccompanied children is allowed in the form of their acceptance at school, together with the necessary steps to legalize their situation. There is also the solution of their inclusion in the Integrated Information System of Education in Romania (SIIR) with a provisional code instead of PIN, in order to allow them to be included in the statistics.

For the refugees, Law no. 122/2006 on asylum in Romania stipulates at Article 17 point p): "(1) The right of the minor asylum seekers to have access to compulsory school education under the same conditions as minor Romanian citizens.

(2) If the asylum seeker is accommodated in the admission and accommodation centres of the Ministry of Administration and Interior Affairs, the amount stipulated in paragraph (1) letter j) shall not be given.

(3) The funds required to secure the rights provided for in paragraph (1) letters c), f), g), h), i), k), l), m) and n) shall be borne by the state budget through the budget of the Ministry of Administration and Interior Affairs.

(4) Unaccompanied minors shall benefit from the same protection, provided under the law, as the one provided to Romanian minors in difficulty.

(5) If the applicant does not have any material means, the General Inspectorate for Immigration may establish a place of residence and provide him/her the necessary material support for subsistence during the entire duration of the asylum procedure.

(6) For reasons justified by the public interest, national security, order, public health and morals, the protection of the rights and freedoms of others - even if the alien has the necessary material means of subsistence - the General Inspectorate for Immigration, throughout the asylum procedure, may establish a place of residence and may order the transfer of the minor with an attendant to that place, at the request of the competent authorities.

(7) The asylum procedure provided for in paragraph (1) shall be finalized, except for the applications under accelerated procedure or in border proceedings where the asylum procedure is completed immediately within 7 days from the date of communication of the decision for case closing, from the date of communication of the decision of the General Inspectorate for Immigration who have granted the refugee status, from the expiry of the legal deadline for the filing of the complaint or, as the case may be, of the appeal or the date of the judgment of the court of appeal."

Article 19 - The right of migrant workers and their families to protection and assistance

Paragraph 7

- As regards **the legal assistance to be provided by the legal counsels during the criminal proceedings** and the coverage of such expenses, the Criminal Proceedings Code stipulates that the court expenses, including the
 - **Art. 272 Covering judicial expenses**
“(1) Expenses required by (...) counsel fees (...) shall be covered from amounts provided by the State or paid by the parties
(2) The judicial expenses stipulated at para. (1) that are covered from amounts provided by the State shall be listed distinctly, as the case may be, in the income and expenditures budget of the Ministry of Justice, Public Ministry, and other concerned Ministries.”
 - **Art. 274 Reimbursing expenses covered by the State in advance, in case of dropping charges, conviction, postponement of penalty enforcement or waiving penalty enforcement**
“(1) In case of dropping charges, conviction, postponement of penalty enforcement or waiving penalty enforcement the defendant shall be compelled to cover the judicial expenses paid by the State, except for public defender fees and the fees for interpreters appointed by the judicial bodies, which will remain the charge of the State.
(2) In case of multiple suspects or, as applicable, multiple defendants, the prosecutor or the Court, as the case may be, shall establish the share of judicial expenses each defendant shall owe. In calculating that share consideration shall be given to the extent to which each suspect, or, as applicable, each defendant caused judicial expenditures.
(3) The tortfeasors, insofar as they and the defendant are jointly responsible to make redress, shall be compelled jointly with the defendant to pay judicial expenses paid in advance by the State.”
 - **Art. 275 Reimbursing expenses covered by the State in advance, in the other situations**
“(...)”
(6) Expenses for the fees owed to court appointed counsels and interpreters appointed by the judicial bodies shall lawfully remain the State’s charge.
(7) When complaints are submitted to the prison management, in such cases as stipulated by Law no. 254/2013 on enforcement of custodial sentences and detention measures taken by judicial bodies during the criminal trial, as subsequently amended and supplemented, the judicial expenses shall lawfully remain the State’s charge.”

Also, **the legal assistance to be provided by the legal counsels during the criminal proceedings** and their coverage are also stipulated by the *“Agreement on determining counsels’ fees for legal assistance provide in criminal matters, for providing legal assistance and/or legal representation services or extra-judicial assistance outside the public legal aid system, as well as for providing legal assistance services for international access to justice in civil matters and for the international judicial cooperation in criminal matters”*, concluded between the Ministry of Justice and the National Union of Bar Associations of Romania.

Pursuant to art. 1 para. 1 b) of the above mentioned Agreement: *“The amount and the payment method is to be determined for: b) fees for legal counsels providing legal*

assistance in criminal matters” and according to para. (2) “The payment of the fees indicated under para. (1) is to be covered from the amounts distinctively included in the Ministry of Justice revenues and expenses budget under the chapter “Public Order and National Security”, under the title “Goods and services”, item “Public legal aid” in order to finance the public legal aid system and the legal assistance system.”

As regards the judicial expenses paid in advance by the State for the legal counsels’ fees, we stipulate that these amounts are distinctively included in the Ministry of Justice revenues and expenses budget under the Chapter 54.01 - “Other general public services” - budget item 20.28 - “Public legal aid”.

Thus, during the reporting period, the following amounts were included in the above mentioned chapter for the public legal aid (legal counsels’ fees), as indicated below:

- In 2014 - an overall amount of 42,627,550 lei;
- In 2015 - an overall amount of 39,925,992 lei;
- In 2016 - an overall amount of 46,199,427 lei;
- In 2017 - an overall amount of 46,420,898 lei;
- During 1 January - 31 May 2018 - an overall amount of 22,323,782 lei.

- The Criminal Proceedings Code regulates the legal assistance provided to defendants under art. 83 and art. 88-92, as well as for the cases of publicly appointed counsels:

“Art. 83 Rights of defendants

“(…)

c) to have a retained counsel and, if they cannot afford one , in cases of mandatory legal assistance, the right to have a court-appointed counsel (…)”

Art. 88 Counsels

“(1) Counsels assist or represent parties or main subjects in criminal proceedings, under the law.

(…)

(3) A retained or court-appointed counsel is under an obligation to provide legal assistance to parties or to main subjects.

(4) Parties or main subjects who have conflicting interests may not be assisted or represented by the same counsel.”

Art. 89 Legal assistance provided to a suspect or defendant

“(1) A suspect or a defendant has the right to be assisted by one or more counsels all along the criminal investigation, the preliminary chamber procedure and the trial, and judicial bodies are under an obligation to inform them on such right. Legal assistance is ensured when at least one of the counsels is present.

(2) A person detained or arrested has the right to contact their counsel, and confidentiality of communications shall be ensured to them, in compliance with necessary measures of visual supervision, guard and security, and the conversations between them shall not be wiretapped or recorded. Evidence obtained in breach of this paragraph shall be inadmissible.

Art. 90) Mandatory legal assistance provided to a suspect or defendant*

“Legal assistance is mandatory:

a) when a suspect or defendant is underage, is admitted to a detention centre or an educational centre, when they are detained or arrested, even in a different case, and

when in respect of such person a safety measure was ordered remanding them to a medical facility, even in a different case, as well as in other situations established by law;

b) when a judicial body believes that a suspect or defendant could not prepare their defence on their own;

c) during the proceedings in front of the preliminary Chamber and during the course of trial, in cases where the law establishes life detention or an imprisonment penalty exceeding 5 years for the committed offense.”

Art. 91 Court appointed counsels

“(1) In the situations listed under Art. 90, if a suspect or defendant did not select a counsel, the judicial body shall take steps to provide them with a court appointed counsel.

(2) During the entire course of criminal proceedings, when legal assistance is mandatory, if a retained counsel is unjustifiably absent, does not ensure a replacement or refuses unjustifiably to ensure the defence, even though the use of all procedural rights was ensured, the judicial body shall take steps to obtain appointment by the court of a counsel to replace them, by providing such replacement with a reasonable term and with facilities required for the preparation of an effective defence. This aspect shall be mentioned in a report or, as applicable, in the hearing report. During the course of the trial, when legal assistance is mandatory, if a retained counsel is unjustifiably absent from the hearing term, does not ensure a replacement or unjustifiably refuses to defend, even though the use of all procedural rights was ensured, the court shall take steps to appoint an ex officio counsel to replace them, by providing such replacement with a minimum term of 3 days to prepare the defence.

(3) The court appointed counsel is under an obligation to appear whenever they are called by the judicial body, by ensuring a specific and effective defence in the case.

(4) The mandate of an ex officio counsel ceases when the retained counsel appears in court.

(5) If during the trial the counsel is absent and cannot be replaced under the terms of para. (2), the case shall be postponed.”

Art. 92 Rights of the suspect’s and defendant’s counsels

(1) During the course of the criminal investigation, the suspect’s and defendant’s counsels have the right to witness the performance of any criminal investigation act, except for:

a) in the situation where special surveillance or investigation methods, set by Chapter IV of Title IV are used;

b) bodily or vehicle searches, in case of red-handed offenses.

(2) The counsel for the suspect or the defendant may ask to be notified on the date and hour of the prosecution act by the prosecution body or on the hearing held by the judge for Human Rights and Freedoms. The notification shall be made by phone, fax, e-mail or by other such means, and a report shall be concluded to this end.

(3) Absence of the counsel shall not prevent performance of a criminal investigation act or the hearing, if there is proof that they was informed under the terms of para. (2).

(4) A suspect’s or defendant’s counsel has also the right to participate in any hearing of any person conducted by the Judge for Human Rights and Freedoms, to file complaints, applications and memoranda.

(5) *In case of a home search, the information set by par. (2) can also be transmitted after the criminal investigation body appears at the domicile of the person to be subject of the search.*

(6) *If a suspect's or defendant's counsel is present at the moment when a criminal investigation is performed, this aspect, as well as any possible objections raised, shall be recorded, and such document shall also be signed by the counsel.*

(7) *During the course of preliminary chamber procedure and of the trial, a counsel has the right to consult documents of the case file, to assist the defendant, to make use of the defendant's procedural rights, to file complaints, applications, motions, raise exceptions and pleas.*

(8) *A suspect's or defendant's counsel has the right to benefit from the time and facilities necessary for the preparation and implementation of an effective defence."*

As regards the legal assistance provided to refugees, Law no. 122/2006²¹ on asylum in Romania, as subsequently amended and supplemented, stipulates the following:

i. Art. 17 Rights:

"(1) During an asylum procedure, the alien who is seeking a form of protection has the following rights: (...) b) the right to be aided by legal counsel in any phase of the asylum procedure (...)"

ii. Art. 59 Exercise of procedural rights

"Exercising procedural rights is (...) done (...) with the assistance of a defender."

iii. Art. 87 Housing asylum seekers at state border checkpoints

"(...)"

(6) Throughout the period in which the asylum seeker is found at the state border checkpoints, he/she has the right to legal-social assistance and humanitarian aid from non-governmental organizations which are tasked with refugee matters, as well as from the representation in Romania of the United Nations High Commissioner for Refugees (UNHCR) and, also he/she has the rights and obligations stipulated under articles 17-19, except for those which contradict the provisions of this procedure."

Pursuant to art. 85 para. (6) of GEO no. 194 on the status of aliens in Romania, republished, as subsequently amended and supplemented, the alien who appeals against the return decision must benefit from the provisions of GEO no. 51/2008 on the legal public aid in civil matters, approved as subsequently amended and supplemented through Law no. 193/2008, with further amendments and supplements, without having to comply with the conditions stipulated under art. 2, 2¹ and 8¹ of that Emergency Ordinance.

Also, pursuant to art. 17 para. (1) s) of Law no. 122/2006 on asylum in Romania, as subsequently amended and supplemented, during the asylum procedure, the alien who is seeking a form of protection has the right to be provided, based on a request, with legal and procedural information, including information on the procedure organized under administrative rules, pursuant to the legislation on public legal aid in civil matters, by taking into consideration the personal situation of the alien.

The asylum seekers and the aliens enjoying a form of protection may benefit from legal assistance, as specified below:

1. The asylum seekers - throughout the entire asylum procedure, according to the rights specified in Law no. 122/2006 on asylum in Romania, as subsequently amended and supplemented, under:

²¹ Published in the Official Journal no.428 of 18 May 2006.

- Art. 17 b) - The right to be aided by legal counsel in any phase of the asylum procedure, within the terms of the law stipulated for Romanian citizens;
 - Art. 17 c) - The right to be supplied, free of charge, with an interpreter during any phase of the asylum procedure, who must be able to ensure proper communication;
 - Art. 17 d) - The right to contact and be assisted by an official of the United Nations High Commissioner for Refugees (UNHCR), in any phase of the asylum procedure;
 - Art. 17 e) - The right to be counselled and assisted by a representative of Romanian or foreign non-governmental agencies in any phase of the asylum procedure;
2. Aliens enjoying a form of protection in Romania - have free access to courts and to administrative support, pursuant to art. 20 m) of *Law no. 122/2006 on asylum in Romania, as subsequently amended and supplemented.*

As regards the assistance provided in criminal proceedings, art. 90 of Law no. 135/2010 stipulates the cases when the legal assistance for the suspect or the defendant is mandatory, and the contents of art. 93 para. (4) and para. (5) of the same law presents the cases when legal assistance is mandatory for the victim/the tortfeasor/the civil subject of the criminal trial. In such cases where no legal counsel was appointed, the judicial body must take steps in order for the court to appoint a counsel.

Also, pursuant to art.12 para. (3) Law no.135/2010, the parties²² and the subjects of the criminal trial²³ who do not speak or understand Romanian or who cannot express themselves, are provided, free of charge, with the possibility to acknowledge the documents in the file, to talk and also to state their own conclusion in court, through the aid of an interpreter. In cases where legal assistance is mandatory, the suspect or the defendant is provided, free of charge, with the possibility to communicate, through an interpreter, with his/her lawyer in order to prepare for the hearing, to lodge an appeal or any other claim related to the case.

Pursuant to art. 13 para, (2) of the above mentioned law, this applies to all documents and measures taken on Romanian soil, with the exceptions stipulated by the law, without making any distinction depending on citizenship.

Paragraph 8

As a general rule, pursuant to art. 67 para. (1) of Law 286/2009, the ancillary penalty of banning a number of rights²⁴ can be applied as long as the main penalty determined by the court is a custodial sentence or a fine and the court deems it necessary, due to the substance and the serious nature of the offence, the circumstances of the case and the personal circumstances of the offender.

Pursuant to art. 67 para. (2) of the same law, however, the penalty of banning the exercise a number of rights²⁵ becomes mandatory when the law stipulates this penalty specifically for the offence that had been committed.

As regards the additional penalty of banning the exercise of the alien to stay on the Romanian territory, Law no. 286/2009 established two exceptions, as follows:

- Pursuant to art. 66 para. (4), this penalty shall not be imposed when there is probable cause to believe the person's life might be at risk or that the person might be subjected to torture or other inhuman or degrading treatment in the country they are to be expelled;

²² The defendant, the tortfeasor and the civil subject of the criminal trial - art.32 para.(2)

²³ The main subjects of the criminal trial are the suspect and the victim - art.33 para. (1)

Other subjects of the trial are: the witness, the expert, the interpreter, the bailiff, the special reporting bodies as well as any other persons or bodies stipulated by the law as having certain rights, obligations or tasks throughout the criminal proceedings - art. 34.

²⁴ Among which the right of the alien to stay on the Romanian territory, pursuant to art.66 para.(1) c) of Law no. 289/2009

²⁵ Idem

- Pursuant to art. 67 para. (3), the penalty shall not be imposed either in the case when the sentence is to be suspended under probation.

Pursuant to art. 81 of GEO no. 194/2002, the situations when a return order may be issued against the aliens who are found to have been staying illegally in Romania are the following:

- the alien entered or attempted entering the Romanian state border illegally;
- the alien entered Romania during a previously ordered period of the interdiction to enter Romania;
- the alien does not fulfil anymore the conditions for entry and/or stay;
- the alien's right of stay, based on a visa, on agreements to remove visas or, as applicable, on a stay permit or a border crossing permit, has ceased;
- the alien whose asylum procedure was finalised or who abandoned it and who did not comply with his/her obligation to leave the territory of Romania, ordered according to the legislation on asylum;
- the alien has been deemed as undesirable.

As regards the avenues of appeal, GEO no. 194/2002 stipulates, under art. 85, the possibility for the alien to challenge the return decision stipulated under art. 83 para. (1)²⁶ within 10 days since the decision was served to the court of appeal which has jurisdiction over the General Inspectorate for Immigration which issued the return order.

As regards the aliens' expulsion, we stipulate the following:

- The expulsion is ordered by the court against the alien as an ancillary penalty of banning the exercise of a number of rights (art. 66* para. 1 c) of the Criminal Code), following his/her conviction for any of the offences stipulated under chapter IV *Offences and misdemeanours* of Law no. 535/2004 on prevention and fight against terrorism²⁷, as subsequently amended and supplemented or for any offences against national security included under Title X *Offences against national security*, art.394 - 412 of the Criminal Code;
- The decision which ordered such a measure may be challenged at the same time when the merits of the case are appealed against, depending on the subject-matter jurisdiction of the court which determined the case on its merits;
- The actual expulsion is performed by the General Inspectorate for Immigration within the Ministry of Home Affairs by removing the alien under escort, within the terms of the provisions of the Government Emergency Ordinance no. 194/2002 of 12 December 2002 on the status of aliens in Romania, republished²⁸.

Article 27 - The right of workers with family responsibilities to equal opportunities and equal treatment

Paragraph 2

Any of the natural parents of the child, as well as one of the persons adopting the child, who was entrusted with the child in view of adoption, or who has received the child in placement or in emergency placement, have the right to a monthly allowance and the insertion incentive, optionally, except for the professional maternity care assistant and also for the person who was appointed as guardian.

²⁶The administrative document based on which the General Inspectorate for Immigration finds that an alien has stayed illegally on the Romanian territory and orders his/her return, as well as the deadline for the voluntary departure of the alien.

²⁷ Published in the Official Journal no. 1161 of 8 December 2004.

²⁸ Published in the Official Journal no. 955 of 27 December 2002.

These two types of benefits are awarded for each birth or, as applicable, for each of the above mentioned situations.

Also, pursuant to the provisions of GEO no. 111/2010 on parental leave and child care monthly allowance, as subsequently amended and supplemented, the right to parental leave is awarded on a non-transferable basis, as long as both parents within the family fulfil the conditions to be awarded with this right.

Thus, at least one month from the total period of the parental leave is allocated to one of the persons who did not apply for this right. Should the person who is entitled to this period not apply for the right to this type of leave, the other parent may not take his/her place, in exercising this right.

Thus, the father has the right to one month of parental leave awarded on a non-transferable basis.