



European  
Social  
Charter

Charte  
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COUNCIL OF EUROPE  
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## **EUROPEAN SOCIAL CHARTER**

11<sup>th</sup> National Report on the implementation of  
the European Social Charter

submitted by

**THE GOVERNMENT OF ROMANIA**

(Articles 1, 9, 15, 18, 20, 24 and 25  
for the period 01/01/2007 – 31/12/2010)

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Report registered by the Secretariat on 12 December 2011

**CYCLE 2012**

**THE 11<sup>th</sup> NATIONAL REPORT  
ON APPLICATION  
OF THE EUROPEAN SOCIAL CHARTER REVISED**

**submitted by  
THE GOVERNMENT OF ROMANIA**

**for the period 1 January 2007 - December 31, 2010**

referring to the Group of articles on the Revised European Social Charter,  
” Employment, professional training and equal opportunities “: 1, 9, 15 (para.1 and 2), 18  
(paragraph 3 and 4), 20, 24, 25

In accordance with Article C of the Revised European Social Charter and Article 21 of the European Social Charter, the measures taken to implement the provisions accepted of the revised European Social Charter , ratified on May 7, 1999,

In accordance with Article C of the Revised European Social Charter and Article 23 of the European Social Charter, copies of this report shall be communicated to:

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the trade union organizations nationally representative

## ARTICLE 1 - RIGHT TO WORK

### ANOFM CONTRIBUTION

#### Article 1§1

National Agency for Employment according to the provisions of Law 76/2002 on the unemployment insurance system and employment stimulation, implement annually the,, ***National Programme for Employment***", a program which seeks the implementation of policies and strategies in the field of workforce employment.

Among the **objectives** of the employment program we may list primarily: ***ensuring equal opportunities in employment for all categories of persons seeking employment and eliminate any discrimination in employment***, social inclusion of vulnerable groups on the labour market, providing professional skills necessary for enrollment or re-enrollment.

Employment program is designed so that the implemented measures to be oriented towards balanced representation of all categories of persons seeking employment, (women, men, long-term unemployed, young or adults, people with disabilities, Roma people, persons released from detention, foreigners, immigrants, refugees, returnees, people at risk of being trafficked) focusing on measures of mediation, information and counseling / career guidance, advice and assistance for starting self-employment or starting a business, providing customized packages for active employment measures, strengthening relations with social partners.

According to Law No. 76/2002 on the unemployment insurance system and employment stimulation, with subsequent amendments, the measures for stimulating employment aims both at increasing employment opportunities for persons seeking employment and stimulate employers to employ unemployed and create new jobs.

Increasing employment opportunities for people looking for a job is realizing by the National Agency for Employment (NAE) mainly by:

- providing free information services and professional counseling for the persons seeking employment by providing information on labour market and the evolution of occupations, personality self-evaluation for vocational guidance, develop the ability and confidence of people in job search and training in methods and techniques for finding a job,
- providing free mediation services for vacancies or newly created jobs by providing information on available jobs and linking people seeking work with employers, preparing an individual mediation plan for each person.
- organizing training courses, by including an increased number of unemployed in introductory, training, retraining and specialization courses, so that at graduation, the success rate, otherwise employment is high,
- providing free consulting and assistance for starting self-employment or starting a business in order to increase employment by setting up own business,

- stimulating labour mobility through employment or installation bonuses, if necessary,
- providing benefits for the unemployed who find jobs before the end of unemployment, by avoiding the situation of unemployment for more than 6 months or 12 months

Measures aimed at stimulating employers for employing unemployed is achieved through measures such as employment subsidies and loans to create new jobs, as follows:

- providing subsidies to employers for employment of persons over 45 years, which are single family, single parent families, single parents who support single-parent families, or for employment of persons who have three years until the conditions of retirement, thus reducing unemployment among people with special needs and extending the working life of people with difficulties to reintegrate into the labour market after a certain age,
- stimulate employers to hire graduates and graduates of educational forms, correlated with a quality professional counselling to young people,
- providing subsidies to employers for employment of persons with disabilities,
- providing personalized accompaniment for young people with social exclusion risk through solidarity contracts and providing specific services, including subsidies for insertion employers who hire people in this category,
- subsidizing labour costs for temporary employment in local development works, giving opportunities for long-term unemployed people to rejoin the labour market even for a limited period of time
- providing low interest loans, differentiated, leading to the development of entrepreneurship, to reduce regional disparities and the development of SMEs and thus to create new sustainable jobs, resulting in economic development.

In the period 2007-2010 through the implementation of employment programmes were employed a total number of 1,602,086 people, as follows:

Year/ Number of people	Total number of employed people, of which:	Young people (under 25 years old)	Long-term unemployed (adults and young people)
2007	506.804	113.924	27.127
2008	412.922	92.829	19.292
2009	304.588	59.805	12.836
2010	377.772	68.899	26.012

In 2007, the performance management contract between MMFPS and ANOFM was introduced the **indicator “Participation rate of long-term unemployed in active measures for adults and young people”**.

The main objective was to reduce the long-term unemployment by providing alternative employment for young people before 6 months since registration and 12 months for adults, using incentive measures to boost employment.

In 2007 were included in active measures 16,758 long-term unemployed of which 4005 young people long-term unemployed and 12,753 adults long-term unemployed. The total number of young people long-term unemployed was 14,687 while the total number of adults long-term unemployed was 61,276 thus, the participation rate of long-term unemployed in active measures was 27.27% for youth and 20.81% for adults.

At the end of 2008, in active measures were included 3729 young people long-term unemployed and 13,160 adults long-term unemployed. The total number of young people long-term unemployed was 14,385 while the total number of adults long-term unemployed was 65,716 thus, the participation rate of long-term unemployed in active measures was 25,92% for youth and 20,03% for adults.

In 2009 were included in active measures 21,526 long-term unemployed of which 5005 young people long-term unemployed and 16,521 adults long-term unemployed. The total number of young people long-term unemployed was 20,006 while the total number of adults long-term unemployed was 84,613, thus, the participation rate of long-term unemployed in active measures was 25,02% for youth and 19,53% for adults.

At the end of 2010, in active measures were included 32,164 long-term unemployed, while the total number of long-term unemployed was 142,705, thus, the participation rate of long-term unemployed in active measures was 22,54% .

In 2007 a total of 46,999 people benefited from professional training programmes offered by the ANOFM through its territorial structures, of which 3104 people are from long-term unemployed category. 618,527 people were provided information, counseling and vocational guidance, of which 94,169 people from long-term unemployed category.

In 2008 a total of 43,915 people benefited from professional training programmes offered by the ANOFM through its territorial structures, of which 2691 people are from long-term unemployed category. 610,597 people were provided information, counseling and vocational guidance, of which 85,046 people from long-term unemployed category.

In 2009, 36,378 people benefited from professional training programmes offered by the ANOFM through its territorial structures, of which 1537 people are from long-term unemployed category. 762,164 people were provided information, counseling and vocational guidance, of which 103,006 people from long-term unemployed category.

In 2010, 35,454 people benefited from professional training programmes offered by the ANOFM through its territorial structures, of which 2221 people are from long-term unemployed category. 947,560 people were provided information, counseling and vocational guidance, of which 168,639 people from long-term unemployed category.

Regarding the share of expenditure to finance active measures in GDP, in 2007 there was a rate of 0.08% of GDP, in 2008, a percentage of 0,06% of GDPPIB, in 2009, a percentage of 0,04% of GDP and in 2010 was maintained the level of 0.04% of GDP. Expenses related to passive measures, ie unemployment benefits, allocated from the unemployment fund, represented 0.24% of GDP in 2007, 0.18% of GDP in 2008, 0.33% of GDP, in 2009 and 0.44% of GDP in 2010.

- Romania's priorities in the field of employment is established by the *National Reform Programme 2007-2010* and refers to *increasing employment and labour market participation rate by creating a labour market encouraging jobs creation, improving adaptability businesses and workers, boosting employment and improving the quality of human resources.*

The priority goals are:

- **Strengthening the labour market** through:
  - improving access to labour market,
  - flexible labour market,
  - longer working lives,
  - enabling rural workforce.
- **Improving the quality of human resources**, through:
  - Development of education and professional training,
  - Improving the quality of higher education,
  - Promotion of continuing education.

The set of labour market policies is aiming at:

- **on short term**, current difficult situation caused by financial and economic crisis on employment business enterprises,
- **on medium and long term** improvement of employment and participation in professional training.

Policies promoted by the Ministry of Labour, Family and Social Protection aim at achieving the objectives contained in Chapter 7– *Labour Market in the Government Programme 2009-2012*, namely:

- balancing the labour market and increased employment,
- increase of labour market flexibility,
- strengthening the social dialogue at all levels in order to increase its contribution to economic and social development.

At national level there is **specific legislation related to stimulate employment**, that is **Law no. 76/2002 on the unemployment insurance system and employment stimulation**, with subsequent amendments that regulate **active measures** for the implementation of strategies and policies designed to protect people for risk of unemployment, provide a high level of employment and workforce adjustment to the labour market.

These measures are given to those people looking for a job, registered with the National Agency for Employment and focus on:

➤ **information and professional guidance** – a set of services given to individuals seeking employment, by specialized centers organized within employment agencies and other service providers in the public or private sector accredited in this regard.

➤ **Labour Mediation** – linking employers with people looking for a job in order to establish employment or service relationship offered by employment agencies that are required to identify job vacancies from employers and make them known to persons seeking employment.

➤ **Professional training** – participation in professional training programmes of persons seeking employment, to ensure growth and diversification of professional skills in order to ensure mobility and their reintegration into the labour market.

➤ **Counselling and assistance for starting self-employment or starting a business** – provide to persons, upon request, legal, marketing, financial services, management methods and effective techniques and other counselling services for employment.

➤ **Encouraging labour mobility by providing material incentives to the unemployed who find a job:** in other places than those where they live through change of their address ( installation bonus - equal to seven times the reference value of social indicator into force on the date of installation) or at a distance greater than 50 km from home (employment allowance - equal to twice the reference value of social indicator in force on grant date).

➤ **Providing loans on favorable terms to create new jobs through the establishment or development of small and medium-sized cooperative units, family associations and independent activities carried out by authorized individuals.** Loans are granted in proportion to the number of new jobs created, including unemployed and students who meet the requirements of law.

➤ **Income supplement** for people who were entitled to unemployment benefits established by law and are employed for normal hours of work, according to legal provisions, and as a result of employment, cease to receive unemployment benefits. These people benefit from the date of employment until the end of time for which they were entitled to unemployment benefits, a monthly amount, representing 30% of unemployment benefit amount established and, where appropriate, updated according to the law.

**Provide grants** to create new jobs for the establishment or development of small and medium-sized cooperative units, family associations and independent activities carried out by authorized individuals, operating in localities confronted with the phenomena of poverty and social exclusion because of high unemployment.

According to Law no.76/2002, as supplemented and amended, **employers are encouraged to employ the unemployed people and create new jobs** through the following measures:

➤ **Exemption, for a period of at least six months, to employers who employ unemployed people by reducing the amount of their contribution due to the unemployment insurance budget.**

➤ **exemption to employers who employ with permanent contract, graduates** of educational institutions for a period of 12 months, from payment of contribution due to the unemployment insurance budget, related to graduates employed, and provide on a monthly basis in this period, for each graduate, an allowance of:

- an amount equal to the reference social indicator into effect on employment date for graduates of junior high schools or of arts and crafts schools;
- an amount equal to 1.2 times the reference social indicator in effect on employment date for graduates of upper secondary or post-secondary education;
- an amount equal to 1.5 times the reference social indicator into effect on employment date for graduates of higher education.

➤ **exemption to employers who employ with permanent contract, unemployed people aged over 45 or unemployed who are sole parents providers of single-parent families, over a period of 12 months** from payment of contribution due to the unemployment insurance budget, related to persons included in these categories, and provide on a monthly basis in this period, for each person employed included in these categories, an allowance representing an amount equal to the reference current social indicator.

➤ **Stimulate employers to create jobs and hire the out of a job people within the disabled persons category** by providing on a monthly basis for 12 months in support of each person employed, an allowance representing an amount of a grant equal to the social indicator reference in force.

➤ Stimulate employers who employ unemployed people who within 3 years from date of employment shall, by law, fulfill the conditions for partial early retirement or for old-age pension, unless they meet the conditions to apply for partial early retirement pension by providing on a monthly basis during their employment an amount equal to the reference current social indicator in force, until fulfilment of such conditions,

Romania aims to achieve future economic growth based on the employment of highly qualified workforce in the context of ensuring economic, social and territorial cohesion with a sustainable future.

To increase employment at national level the purpose is the application of integrated measures that are focused on removing constraints in the way of employment growth, aiming to: *a better functioning of labour market, facilitating the transition from unemployment or inactivity to employment and strengthening of the professional skills of the workforce.*

Annually, the National Agency for Employment draws up the ***Programme of Workforce Employment*** given the powers conferred by legislation in force, which implements active measures to stimulate employment, as provided by Law no. 76/2002, as amended and supplemented.



Thus, taking into account developments in the ANOFM records of registered unemployed, input and output flows of unemployment in recent years, the estimates of the National Commission of Prognosis on unemployment for 2010, the Agency has proposed for 2010, enrollment in the programmes for active measures at national level, a minimum of **885,000** people. Following the implementation of the Programme of Work Employment in 2010, **by the end of this year a number of 377,772 people were employed**, representing **111.77%** of what was scheduled for 2010.

For 2010 ANOFM included in the Programme of Work Employment the following: Pentru anul 2010 ANOFM a inclus în *Programul de ocupare a forței de muncă*: **Program 155, especially for 155 rural localities (which estimated the employment of 4,000 people) and Program 25, especially for 25 urban localities (which estimated the employment of 4,800 people) .**

Thus, by implementing **Programme 25 especially for urban localities were employed 18,316** people, representing a rate of **381.58%** from the original programme, as follows.:

- **mediation services – 15,351 people (560.26%), of which:**
  - ✓ 11 771 people with open ended contract;
  - ✓ 3,580 people with fixed-term contract;
- **information and counselling services – 923 people (201,97 %);**
- **organizing professional training courses - 282 people (148,42 %);**
- **providing benefits for the unemployed who find a job before the end of unemployment – 474 people (138,60 %);**
- **hiring unemployed over 45 years or sole providers of single-parent families – 555 people (370,00 %);**
- **hiring unemployed who have three years until retirement – 12 people (171,43 %);**
- **employment by encouraging labour mobility – 118 people (126,88 %), of which:**
  - ✓ 27 people employed in a locality at a distance greater than 50 km from home (people received an employment bonus);
  - ✓ 91 people employed in another town with the change of address;
- **hiring graduates of educational institutions, by subsidizing employment – 59 people (45,74 %);**
- **graduates receiving employment bonus – 49 people (79,03 %);**
- **employment of people with disabilities, by subsidizing the employment – 1 person;**
- **employment by providing consulting services and assistance for starting self-employment or starting a business - 14 people (280,0 %);**
- **temporary workforce employment in public works of community interest – 449 people (75,46 %);**
- **concluding solidarity contracts, based on Law no. 116/2002 – 29 people (96,67 %).**

Având în vedere că una din prioritățile ANOFM este ocuparea peoplelor de etnie romă, pentru anul 2010 s-a propus **Programul 155, special pentru comunități cu număr mare de etnici romă.**

Prin **Programul 155 special pentru localități din mediul rural** au fost încadrate în anul 2010 **9.730 people**, reprezentând un procent de **243,25 %** față de programatul inițial.

Most people were employed by the following proactive measures::

- **mediation services – 7.522 people (319,54 %)**, din care:
    - ✓ 5.207 people with open ended contract;
    - ✓ 2.315 people with fixed-term contract;
  - **information and counselling services – 792 people (309,38 %)**;
  - **organizing professional training courses - 69 people (116,95 %)**;
  - **providing benefits for the unemployed who find a job before the end of unemployment – 104 people (212,24 %)**;
  - **hiring unemployed over 45 years or sole providers of single-parent families – 302 people (479,37 %)**;
  - **hiring unemployed who have three years until retirement – 3 people**;
  - **employment by encouraging labour mobility – 76 people (1520,00 %)**, of which:
    - ✓ 22 people employed in a locality at a distance greater than 50 km from home (people received an employment bonus);
    - ✓ 54 people employed in another town with the change of address;
  - **hiring graduates of educational institutions, by subsidizing employment – 25 people (43,10 %)**;
  - **graduates receiving employment bonus – 17 people (283,33 %)**;
  - **temporary workforce employment in public works of community interest – 699 people (64,42 %)**;
  - **concluding solidarity contracts, based on Law no. 116/2002 – 122 people (187,69 %)**.
- Professional training is one of active measures to be granted to all registered persons with the National Agency for Employment, which have the capacity of people looking for a job.
- Through the **National Professional Training Programme**, developed annually by the National Agency for Employment according to Art. 65 of *Law no. 76/2002, as amended and supplemented*, shall ensure initiation, (re)qualification, training, specialization courses organized both by a network of centers subordinated to the National Agency for Employment (regional professional training centers for adults and the 22 own training centers of the county agencies of employment) and by authorized training providers (public and private).
- The overall objective of the National Professional Training Plan for 2010 is to increase and diversify the skills of persons seeking employment and in particular of those from vulnerable groups so that they lead to the jobs maintenance by increasing productivity, and avoid long-term unemployment.

**In order to fulfill course of action related to increased participation in professional training at least 7% of the population of working age between 25-64 years and to support the establishment and operation of sectoral committees**, as provided in the Government Programme, the Ministry of Labour, Family and Social Protection has proposed to amend the Government Ordinance no. 129/2000 on adult vocational training, as amended and supplemented. The purpose of legislative changes aimed at:

- Adapt legislation on professional training of adults in the current labour market conditions and needs,
- Ensuring consistency with the policies of education and
- Improve the quality of the programmes of continuing vocational training.

To provide the same course of action, the Ministry of Labour, Family and Social Protection has made changes and additions to *Law no. 132/1999, republished, on the establishment, organization and functioning of the National Council for Adults Vocational Training*, as amended and supplemented by **the Government Emergency Ordinance no. 28/2009 on the regulation of social protection measures**.

Sectoral Committees plays a key role in developing, updating and validation of national qualifications, and in building the National Qualifications Framework, as an essential tool of correspondence between the national and European qualifications used in the qualifications analysis and planning. Government Emergency Ordinance no. 28/2009 establishes sectoral committees organization **as social dialogue institutions of public utility**, with legal personality, at the branches of activity level and defined by the *collective labour contract at national level, in force*.

Also the legal regulations introduced provide both the financing sources of sectoral committees and the rights and obligations arising from the quality of social dialogue institutions of public utility.

These legislative changes have established both a uniform procedure for obtaining legal personality by the sectoral committees and the main tasks of the sectoral committees.

We note that to effectively respond to the challenges of the labour market in Romania, in the future, the Ministry of Labour, Family and Social Protection is considering amending the legal framework aiming to stimulate employment and to simplify and make flexible the implementation of the measures to stimulate employment, so that they become more attractive for the two categories of beneficiaries - people seeking employment and employers - and their development and improvement, in order to make a quick adjustment of active measures in the context of economic and labour market requirements.

In this respect, we promote permanently active measures provided by specific legislation to stimulate employment, namely *Law no. 76/2002 on the unemployment insurance system and employment stimulation, with subsequent amendments*, which provide the necessary framework for achieving strategies and policies designed to protect people for risk of unemployment,

provide a high level of employment and workforce adjustment to the labour market requirements and to stimulate employers to hire unemployed people.

## **Article 1§2**

**According to national legislation, namely *Law no. 76 of 16 January 2002 on the unemployment insurance system and employment stimulation, with subsequent amendments and changes*, in Romania each people are guaranteed the right to choose freely their profession and workplace, and the right to unemployment insurance .**

Considering the great difficulties caused by economic and financial crisis, the Romanian Government came to support employees and employers to overcome successfully this time. In this respect, it was adopted the **Emergency Ordinance no. 28/2009 on the regulation of social protection measures.**

The Emergency Ordinance no.28/2009 provided **the extension of unemployment benefits by three months** for people whose employment or service relationship stopped after the entry into force of the Emergency Ordinance (March 25, 2009), but not later than 31 December 2009. Also, for the unemployed enjoying unemployment benefits on the entry into force of this emergency ordinance, grant period is extended by three months from the date when that right was established.

According to data from the National Agency for Employment, between March and December 2009, a total of 262,777 people benefited from the provisions of this act.

Due to the fact that in 2009 this measure had a positive impact on companies that were forced to temporarily suspend their work, was adopted **Emergency Ordinance no. 4 / 2010 on the regulation of social protection measures for 2010.**

In accordance with the provisions of this ordinance, the employer supports only 75% of basic salary related to the job as provided in art. 53 para. (1) of *Law no.53/2003 - Labour Code, as amended and supplemented*, as these benefits, paid from the payroll during the temporary interruption of business of the employer are not included in wages income and are not taxable, as to income tax required by Law no. 571/2003 regarding the Fiscal Code, as amended and supplemented.

And in 2010, as in the previous, the period for which the individual employees whose contracts of employment are suspended and employers of these employees are exempt from paying social security contributions due by law, is considered a contribution period without payment.

Measures under the Government Emergency Ordinance no. 4 / 2010 were applied since February 2010 to December 2010, exemption from social security contributions was for a maximum 90 days in 2010.

It should be noted that, unlike 2009, this year employers were required to submit to the territorial labour inspectorate within whose jurisdiction they were based, an affidavit showing that they were in one of the situations under Article 52 para. (1) d) of Law nr.53/2003, as amended and supplemented (i.e. *for interruption of business particularly for economic, technological, structural reasons or similar*) at the time they found the respective situations. Emergency Ordinance 4 / 2010 expressly provide that, in accordance with their legal competence, Labour Inspection and the National Tax Administration Agency, through their territorial subordinated institutions regularly check employers receiving social protection measures.

According to data recorded by the Ministry of Labour, Family and Social Protection, in 2010 there were 13,459 employers that have suspended business activities, benefiting from the measures provided by the Emergency Ordinance No.4/2010 , and a total of 548,999 employees whose individual employment contracts were suspended, received the same ordinance provisions.

**To support the creation of new jobs and reduce unemployment** was adopted another bill, including measures designed to assist employers by reducing partially the work force costs in the unemployed category. It's **the Emergency Ordinance no. 13 of 23.02.2010 on the regulation of measures to stimulate the creation of new jobs and reduce unemployment in 2010**, which was intended, on the one hand, to reduce the tax burden on employers and on the other, focus on incentives measures to hire unemployed people, a category severely affected by this crisis.

According to this legislation employers who, in 2010, employed unemployed benefited from exemption from social security contributions for employing the unemployed for six months.

Employers had to hire in the new jobs created, regardless of the contract type, unemployed persons, and maintain them in activity for at least 12 months since the employment date. Also, employers could take advantage of this advantage only if they employ people from the unemployed people registered at employment agencies for at least 3 months before the hiring decision.

Another compulsory condition requires that between employers and unemployed workers do not exist employment relationships in the last 6 months prior to their employment.

Employers who qualify for exemption from paying social security contributions and, in the period between the entry into force of this legislation and the expiry of those 12 months, operating other dismissals, reasons not attributable to the employee, were required to pay social security contributions that have been exempted.

Employers benefited from this advantage only if the jobs envisaged to establish a work relationship were new jobs created and no available jobs.

Also, a condition that the employer had to meet refers to the fact that the jobs did not have to be the result of the termination of employment relationship in the last 6 months prior to the establishment of employment relation under the provisions of that ordinance.

To ensure an adequate level of protection for workers employed under the present law, the period during which employers paid social security contributions represented a contribution period without employer's contribution payment.

Thus, employers were exempt from social security contributions, unemployment insurance contribution, the contribution of insurance for work accidents and occupational diseases, the contribution to the guarantee fund for payment of wage claims, the contribution for health insurance, including contribution for holidays and health insurance benefits due by employers under the law.

According to data from the National Agency for Employment in 2010 benefited from this law number of 3625 employers, which led to the employment of 6072 people..

### **Article 1§3**

The number of vacancies registered by the agency in 2007 through its own effort was 635.613. *Employment indicator by own effort, of the vacancies notified by employers and registered by the ANOFM* recorded a value of 75.14%, by 0.14 percentage points more than 75%.

*Employment indicator of all persons seeking a job in the ANOFM records*, as an expression of the relationship between the number of employed people through actions in the employment programme of work of the ANOFM (506,804 people) and number of people recorded seeking employment (1,083,491 people, respectively the initial stock at the beginning of the year, plus inflows in the reporting period) reached at the end of 2007, the level of 46.78%. Of the total number of 729 469 vacancies recorded in databases and made available to job seekers in the agency's records, 106,262 jobs have been repeatedly declared because they could not be filled.

The number of vacancies registered by the agency in **2008** through own effort was 531,369. *Employment indicator, by own efforts, of the vacancies notified by employers and registered by the ANOFM* reached a value of 73.88%.

*Employment indicator of all persons looking for a job in the ANOFM records*, as an expression of the relationship between the number of employed people through actions in the employment programme of work of the ANOFM (412.922 people) and the number of people recorded seeking employment (973.168 people, respectively the initial stock at the beginning of the year, plus inflows in the reporting period) reached at the end of 2008, the level of 42,43%. Of the total number of 531.369 vacancies recorded in databases and made available to job seekers in the agency's records, 127.383 jobs have been repeatedly declared because they could not be filled.

The number of vacancies registered by the agency in **2009** through own effort was 358.062. *Indicatorul Employment indicator, by own efforts, of the vacancies notified by employers and registered by the ANOFM* reached a value of 80,52%.

*Employment indicator of all persons looking for a job in the ANOFM records*, as an expression of the relationship between the number of employed people through actions in the employment programme of work of the ANOFM (304.588 people) and the number of people recorded seeking employment (1.206.125 people, respectively the initial stock at the beginning of the year, plus inflows in the reporting period) reached at the end of 2009, the level of 25,25%. Of the total number of 418.301 vacancies recorded in databases and made available to job seekers in the agency's records, 66.105 jobs have been repeatedly declared because they could not be filled.

The number of vacancies registered by the agency in **2010** through own effort was 437.082. *Employment indicator, by own efforts, of the vacancies notified by employers and registered by the ANOFM* reached a value of 81,37%.

*Employment indicator of all persons looking for a job in the ANOFM records*, as an expression of the relationship between the number of employed people through actions in the employment programme of work of the ANOFM (377.772 people) and the number of people recorded seeking employment (1.437.050 people, respectively the initial stock at the beginning of the year, plus inflows in the reporting period) reached in 2010, the level of 26,29%. Of the total number of 474.078 vacancies recorded in databases and made available to job seekers in the agency's records, 40.583 jobs have been repeatedly declared because they could not be filled.

In 2007-2010, the categories of people who have benefited from information, advice and guidance, were hired directly as a result of this active measures, as follows:

<i>YEAR</i>	<i>TOTAL PEOPLE INFORMED/ADVISED</i>	<i>PEOPLE HIRED EXCLUSIVELY THROUGH COUNCELLING SERVICES</i>
2007	618527	62866
2008	610597	66265
2009	762164	53683
2010	947560	64784

**All measures provided by Law 76/2002 on the unemployment insurance system and employment stimulation, with subsequent amendments, are given free to all people** seeking for a job on equal terms, excluding any discrimination, based on political, racial, nationality, ethnic origin, language, religion, social class, sex and age.

**According to Law no. 76/2002**, above, through measures meant to stimulate employment, addressing both employers and people looking for a job, are taken into consideration the following:

- a) increase employment opportunities of people looking for a job;
- b) stimulate employers to employ the unemployed people and create new jobs.

National Agency for Employment implemented through local agencies, and personalized service, measures above, to increase employment opportunities of people looking for a job, on Article 1, paragraph 1 of the European Social Charter Revised.

- a) information and professional advice;**
- b) labour mediation;**
- c) professional training;**
- d) advice and assistance for starting self-employment or starting a business;**
- e) supplement wages of employees;**
- f) stimulate labour mobility.**

**Information and professional advice** is a set of services provided free of charge to people seeking for employment, aiming at:

- a) providing information on labour market and on occupations evolution;
- b) personality assessment and self-assessment for professional orientation;
- c) develop the ability and self confidence of people looking for a job in order to enable them take a decision on their own career;
- d) training on methods and techniques for finding a job.

### **Labour mediation**

Mediation services are **given free** by AJOFMs and consist of:

- a) information on job vacancies and employment conditions by publishing, posting, organizing job fairs;
- b) electronic mediation aimed at making automatic mailing applications and job offers through computers;
- c) pre-selection of candidates suitable to requirements of employment offered and in accordance with their training, skills, experience and interests.

**Advice and assistance for starting self-employment or starting a business** is granted in the form of legal services of marketing, financial, management methods and effective techniques and other consulting services.

These services are **given free** once, each time the person is looking for a job. Services may be provided by AJOFMs or, where appropriate, private companies, professional organizations, foundations and associations specializing in these areas that have contracts with AJOFMS, under the law provisions.



## **Employees' supplement wages**

People who were entitled to unemployment benefits established by law and are employed with normal hours working, according to legal provisions, and as a consequence of employment, the payment of their unemployment benefit ceases since employment by the end of the period for which they were entitled to unemployment benefits, are given a monthly amount from the unemployment insurance budget, accounting for 30% of the unemployment benefit determined and, where appropriate, updated according to the law.

## **Stimulate labour mobility**

People receiving unemployment benefits and find a job for a period exceeding 12 months, are entitled to::

- **An employment bonus** equal to twice the reference value of social indicator in force at the grant date if the job place is in a town situated at a distance greater than 50 km from the town in which they reside;
- **An employment bonus** equal to seven times the reference value of the social indicator into force on the date of installation, if the job is in another town and therefore they moved house.

## **Professional training**

Improving workforce skills is a priority and a necessity of the Government, as reflected by the reform measures adopted in education and on lifelong learning. One of the challenges facing our country is on adaptability of human resources dynamic to the requirements of the economy and labour market.

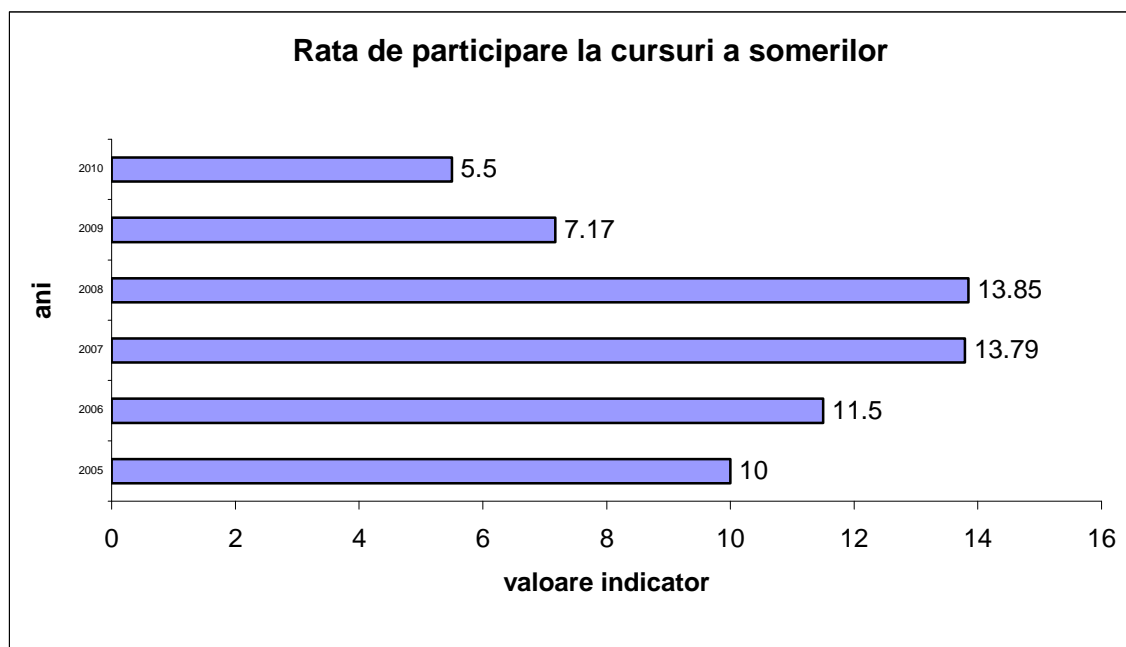
In this context we attach great importance to training programmes that ensure initiation, qualification, development and specialization of peopler looking for a job. Training activity takes place according to the national training plan developed annually by the National Agency for Employment, based on proposals and studies prepared by county agencies for employment, and approved by the Ministry of Labour, Family and Social Protection.

Professional training is taking into account the current and future labour market requirements to be according to individual skills and options of people looking for a job.

**People looking for a job and people operating in rural areas and do not earn a monthly income or an income lower than the reference social indicator in force and which are registered in employment agencies shall benefit of free professional training services.**

## **Article 1§4**

According to the annual management performance contract concluded between the Ministry of Labour, Family and Social Protection and the National Agency for Employment since 2008 for professional training was set a performance indicator "rate of participation in vocational training of unemployed " whose value was 15%, however, it can be seen from the diagram below, that the level of this indicator has not reached the level set..



Participation rate in training courses of the unemployed

Indicator value

The cause of this indicator failure is represented by factors related to management and internal organization:

- the different capacity of each agency to turn to the requirements of employers, resulted in differences from one county to another, regarding the execution of the training plan; there are local agencies that have achieved and even exceeded the approved training plan, but there are also agencies whose performance was well below expectations,
- Insufficient budgetary allocation for training activities, implementation of the budget at the end of 2009 was 98.4%, which is reflected in the rate of the plan completion, only 83%;
- companies preferred to employ and train in their own facilities the staff they needed, leading to lower participation rate in professional training;
- Massive labourforce migration abroad;
- Reduced demand from economic agents to train professionally their employees on the ground largely excessive bureaucracy in accessing facilities offered by the legislation in force (art.48<sup>1</sup> of Law 76/2002);
- Low interest of economic agents to form their own employees, training them is considered to be a cost burden and not as a medium and long term investment;
- Insufficient staff at the territorial agencies for employment as a result of staff cuts over the past two years, which led to a situation where the same person has to manage several activities.

For 2011 it was an attempt to establish a more realistic indicator, its value being between 7% and 10%.

To improve training activity is trying to implement the following measures:

- A more accurate assessment of needs, offers sizing a better qualification and structuring of training programmes of each regional agencies;
- Increasing the number of permits to assess the skills obtained in other ways than formal;
- Intensification of economic relations with territorial agencies for a better match of demand and supply of labourforce;
- Increasing the number of participants looking for a job to attend courses funded by the ESF.

**Article 48<sup>1</sup> of the same Law no.76/2002 on the unemployment insurance system and employment stimulation, with subsequent amendments,** provides that "the purpose of preventing unemployment and jobs consolidation by increasing and diversification of the professional skills of people employed, employers who organize, based on the annual training plan, training programmes for their employees, conducted by providers of service training, authorized by law, shall be granted an amount from the unemployment insurance budget, representing 50% of the cost of training services held for a maximum 20% of the employed personnel."

Employers can benefit from this amount **to run a single training programme in a year.**

The respective amount will be provided from the unemployment insurance budget, from chapter "Educational expenses", up to at least 15%, to employers selected annually by the Agency for Employment.

According to Article 66<sup>1</sup> of the same Law, people seeking for a job, **receiving services for free training**, have the following rights:

- a) receive theoretical and practical training throughout the course and support free of charge up to twice the graduation exam to its completion;
- b) to receive supplies and training materials and manuals;
- c) benefit, if appropriate, of protective equipment during practical training;
- d) benefit, to travel from home to training unit, of free transport subscription or, where appropriate, reimbursement of travel expenses for up to four trips a month, if they can not travel daily to the training unit, as provided by regulations in force for employees of public institutions and autonomous administrations that are highly specific, during temporary work in another town, and for the movement inside the locality, in the interest of service and a free subscription for the public transport company, from the accommodation place to the training unit;
- e) to receive medical consultations, medical tests and tests required to attend the course.

According to *Law no. 233 of 7 December 2010 amending and supplementing Law no. 76/2002 on the unemployment insurance system and employment stimulation*, **people receiving unemployment benefits, except those participating in training programmes organized under the law, which receive irredeemable funding from financial assistance granted to Romania, as EU member state, through the European Regional Development Fund (ERDF), European Social Fund (ESF) and Cohesion Fund (CF), while they participate in these training programmes**, if, prior to inclusion in such training programmes were not included in the services to boost employment and training offered by the agency for employment, **are required to attend training programmes offered and organized by employment agencies and to pass the final examination**

The existence of the possibility of participation in training other than those funded from the unemployment insurance budget has led to the introduction of legislation details to stipulate that those participating in courses funded by the ESF, ERDF, CF be exempted from further participation in training provided by the agency for employment, if people do not already participate in employment and professional training courses funded from the unemployment insurance budget, a relief for this budget, by encouraging participation in professional training supported from alternative sources of financing, having as effect both an increased attraction of European irredeemable fund and participation in adult vocational training

Development of professional skills of the unemployed is a prerequisite for rapid finding of a new job, so that the in an attempt to make the unemployed realize the benefits of vocational training, providing passive support (unemployment benefits) is conditioned by requiring participation in training courses funded from the Unemployment Insurance Budget, and in the final examination, for those people who do not participate in courses organized by other funds.

## **ARTICLE 9 – RIGHT TO VOCATIONAL GUIDANCE**

Nationally, in the period 2007-2010 disabled people received free information services, advice and guidance as follows:

YEAR	DISABLED PEOPLE
2007	1868
2008	1661
2009	1888
2010	1322

Information, advice and guidance services were provided by their own local structures and external suppliers, with which agents have signed contracts and have received financial support for providing these services from the unemployment insurance budget.

We appreciate that training is of great benefit in terms of increasing employment opportunities, ensuring people mobility on labour market .

Because the waiting time for finding a new job is so low, an unemployed person can quickly take up a job, if that person has previously attended a training course which led to his acquiring the necessary skills to receive the job.

Thus, people looking for a job and the unemployed can receive free training to ensure their growth and diversification of professional skills and ensure mobility and reintegration into the labour market.

Training funding is provided from the unemployment insurance budget and is done by employment agencies through training centers in their jurisdiction and regional centers for training of adults within the National Agency for Employment, as well as by suppliers of training services, public or private, authorized by law.

Thus, for 2010, the National Training Plan prepared by the National Agency for Employment proposed the training programmes coverage, at national level, of a number of 47,423 people, of which 1,662 people were to pay the equivalent training services, and 45,761 were to be beneficiaries of free training services.

By 31/12/2010, in the training programmes organized by the National Agency for Employment, starting in January 2010, 35,454 people were included, of which:

- 33.682 unemployed,
- 666 people among the beneficiaries of free services training, other than the unemployed,
- 1.106 people among those who do not benefit from free services.

Regarding *stimulation through fiscal measures, participation in continuing vocational training* of employees, a priority for action set by the Government Programme 2009-2012, should be mentioned that the draft-bill amending and supplementing Law no. 76/2002 focuses on simplifying implementation measure of co-financing from the unemployment insurance budget the expenses for employees' professional training.

At this point, the law gives the opportunity to employers that organize, based on the annual training plan, training programmes for their employees, to receive from the unemployment insurance budget, an amount representing 50% of the cost of training services held for a maximum of 20% of staff. In the future, we want an increase of the coverage rate of this measure in terms of number of employees who may participate in training programmes organized by employers who accesses the unemployment insurance budget, subsidies to cover the costs of these programmes.

Labour Ministry has also proposed, the amendment of *Law no. 279/2005 on apprenticeship in the workplace*. Legislative changes aimed primarily at:

- Increasing the attractiveness of this way of training and labour market insertion,
- Simplification of licensing and certification of apprentice master and employers,

- Providing access of young and other people categories at risk of becoming unemployed, to the apprenticeship scheme (eliminating age limits of recipients).

In order to fulfill course of action related *to increased participation in training of at least 7% of the population of working age between 25-64 years and supporting the establishment and operation of sectoral committees*, included in the Government Programme, the Ministry of Labour, Family and Social Protection elaborated draft law amending *Government Ordinance no. 129/2000 on adult vocational training*, with subsequent amendments, aimed at:

- Adapting legislation on professional training of adults for the current needs and labour market conditions,
- Ensuring consistency with the policies of education and
- Improve the quality of vocational training programmes.

Legislative programme to meet the Government Programme for 2009 - 2012 provides the amendment of Law 76/2002 on the unemployment insurance system and employment stimulation in order to diversify employment incentives and simplify the of certain implementation conditions. One aspect considered is to provide financial support during the unemployed not paid, during their participating in a training course.

### **Information on geographical coverage of public employment services of the ANOFM and subordinated units during 2007 – 2011.**

National Agency for Employment (ANOFM) is organized and functions according to Law 202/2006 and its own statute, approved by Government decision. Organizational Structure and the maximum number of positions are established by its statute. Currently, the total number of posts in the ANOFM and subordinated units is **2162 jobs of which 154 positions are for the central body.**

County agencies for employment and the Bucharest agency ensure measures implementation to prevent unemployment, social protection of unemployed people, by organizing and coordinating the employment and workforce training. In order to accomplish their tasks, with the approval of the board, county agencies are set up, subordinated to local agencies for employment, training centers and also work points. There are currently 67 local agencies and 160 work points which function with 721 posts.

Regional training centers for adults (CRFPA) organize and performe at county level subordinated, by decisions of the board, the professional training activity of people looking for a job. CRFPA has a total number of **95** posts..

National professional Training Center of personnel in Rasnov (CNFPPP) ensures, based on strategies and annual staff training programmes approved by the board, training and development of ANOFM and subordinated units staff . For Rasnov CNFPPP operation **10** positions were funded.

On public expenditure allocated to professional training, as to law No.12 / 2010 on the unemployment insurance budget, heading 68.04. Article 13 "Professional training" were not provided amounts for 2010.

Evolution of the number of staff of the National Agency for Employment, since 2007 to the present as well as due explanations on staff turnover recorded over time is presented in Appendix.

### **Contribution of the Ministry of Education, Youth and Sports**

In terms of education and staff working in this field, the rights related to Article 9 and 15, are regulated for the reference period, by **Education Law 84/1995, Law 128/1997 on Teaching Staff and Law 448/2006 on the protection and promotion of disabled people, as amended and supplemented**. These laws are supplemented by government decisions or orders of the Minister (which approve methodologies, regulations, etc.).

We should specify that education is governed since January 2011 by a new law, Law of National Education, no. 1 / 2011 (which repealed laws 84/1995 - Education Law and Law 128/1997 - on Teaching Staff Statute)<sup>1</sup>

### **School and professional orientation**

Educational and vocational guidance services in schools are provided equally free to all pupils and students enrolled in the national educational system without discrimination.

### **For the undergraduate education**

Law 84/1995 provides in Article 49, the competent institutions:

*(1) In counties and in Bucharest function pedagogical assistance centers or offices; they also provide the educational and vocational guidance.*

*(2) Rules of operation of these centers or offices shall be established by the Minister of Education and Research decision..*

Regulation referred to in the law was approved by OMEdC no. 5418/2005, Annex 3– *Framework Regulation on organization and operation of centers and psycho-pedagogical assistance offices* (Regulation 3)

Psycho-pedagogical support centers and psycho-pedagogical school offices are under the coordination of County Centers / Municipality of Bucharest for Resources and Educational Assistant (CJRAE/CMBRAE)<sup>2</sup>.

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<sup>1</sup> Under the new law, art. Article 361 (6) "Within eight months after the entry into force of this Law, the Ministry of Education, Youth and Sports shall develop methodologies, regulations and other regulations deriving from this law and shall determine its application."

<sup>2</sup> Rules of Organization and Functioning of County Centers / Municipality of Bucharest for Resources and Educational Assistant are in Annex 1 to the same Decision no. 5418/2005 (axnex 1)

In accordance with this Regulation, *centers of psycho-pedagogical assistance*, are units related to school education, which operates in each county, and the Municipality of Bucharest, organizing:<sup>3</sup>

- Actions of acquaintance and pedagogical counseling of students, individually and collectively,
- Actions with parents by individual and collective consultations, actions of collaboration with local communities, for
  - educational and vocational guidance,
  - students' career orientation, based on
    - information,
    - documentation,
    - counseling,which are regularly monitored and evaluated by the County School Inspectorate / Municipality of Bucharest.

Under the coordination of psycho pedagogical assistance centers are psycho pedagogical assistance offices<sup>4</sup> operating in schools where are at least 800 students enrolled. Schools with fewer than 800 students are subordinated to an office of psycho-pedagogical assistance, depending on the qualified human resources and specific material facilities. The psycho-pedagogical assistance offices in schools ensure on a regular basis<sup>5</sup>:

- information,
- acquaintance and
- psycho pedagogical counseling of students, through
  - individual and group counseling,
  - guidance actions for parents, and collaborative activities with local communities, for students school, training and career orientation.

Psycho-pedagogical assistance centers are working with schools and educational institutions, with the county department for child protection, county employment and training agencies, with other governmental and nongovernmental organizations, the County Police Inspectorate (prevention compartment ) and other legal people who have responsibilities in education field.<sup>6</sup>

Educational and vocational guidance services are performed by specialized teachers who work in the units mentioned. These services are complemented by the private system in which psychologists certified by the College of Psychologists of Romania make psychological assessments and recommendations regarding career choice.

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<sup>3</sup> Art. 3 para. 1 of Regulation 3

<sup>4</sup> Art. 1 para. 2 of Regulation 3

<sup>5</sup> Art. 3 para.. 2 of Regulation 3

<sup>6</sup> Art. 5 Regulation 3



According to the same *Rules of organization and operation of county centers /Municipality of Bucharest for resources and educational assistance*, the teaching positions of these centers are: Professor pedagogue, professor psychologist, sociologist professor, social pedagogue professor .

Funding of CJAPP and school cabinets for psycho-pedagogical are made from funds of the county councils / local councils.

County personnel structure of psycho-pedagogical assistance centers and psycho-pedagogical assistance school offices – 2010

No.	County	SPECIALITY							No.of positions		Auxiliary personnel CJAPP
		ped	psih.	soc.	ped soc	fil. ist	psih ped	other	CJA PP	Cabinet e școlare	
1	Alba	14	19	7	5	-	-	4pps	5	44	1as
2	Arad	4	24	7		-	-	1pps	4	32	-
3	Argeș	11	36	33	-	2	-	-	3	79	-
4	Bacău	19	35	10	-	2	-	2pps	5	63	1as
5	Bihor	16	28	12	-	-	-	4pps	6	54	1as
6	Bistrița Năsăud	9	18	1	1	1	-	7pps	4	33	-
7	Botoșani	14	26	1	-	3	-	2pps	4	42	-
8	Brașov	8	72	8	-	1	-	-	5	84	-
9	Brăila	9	14	3	-	-	-	1pps	8	19	1s
10	Buzău	10	21	2	-	1	1	-	4	31	-
11	Caraș-Severin	7	16	4	-	-	-	2pps	3	26	1as
12	Călărași	9	19	4	-	1	-	2pps	6	29	-
13	Cluj	14	67	5	5	1	-	1pps	4	89	-
14	Constanța	16	51	6	-	-	-	9pps	6	75	21ab.
15	Covasna	5	15	2	-	-	-	-	5	17	1s
16	Dâmbovița	8	33	8	-	-	-	2pps	3	48	-
17	Dolj	10	13	16	-	2	-	2pps	5	38	1s, 1lab., 1 inf.
18	Galați	20	37	10	-	-	-	2pps	7	62	1s, 1lab.1 inf.
19	Giurgiu	3	5	2	-	-	-	-	2	8	-
20	Gorj	8	12	2	-	2	-	2pps	4	22	1s
21	Harghita	14	36	2	1	-	4	3pps	5	56	1s
22	Hunedoara	11	16	13	-	1	2	4pps	6	41	1s,1as,1lab
23	Ialomița	12	17	2	-	-	-	1pps	4	28	-
24	Iași	24	36	3	-	4	-	4pps	4	67	-
25	Ilfov	8	21	5	-	-	-	3pps	5	32	-

26	Maramureș	10	34	6	-	2	-	5pps	4	53	-
27	Mehedinți	10	18	9	1	1	-	3pps	4	38	1as
28	Mureș	10	51	3	-	-	-	-	6	58	1s
29	Neamț	11	19	5	-	1	"	-	4	32	1as
30	Olt	14	19	12	-	1	-	5pps	5	46	-
31	Prahova	12	15	3	-	-	-	3pps	6	27	-
32	Satu mare	14	36	10	10	-	5	3pps	3	75	1s
33	Sălaj	12	13	2	1	-	-	11pps	4	35	1s,
34	Sibiu	14	22	3	5	-	-	-	3	41	1s
35	Suceava	12	28	2	-	4	1	1pps	2	46	1lab
36	Teleorman	4	12	5	-	1	-	1pps	4	19	1s
37	Timiș	8	52	2	-	-	-	3pps	7	58	1as
38	Tulcea	5	12	7	-	3	2	-	4	25	1as
39	Vaslui	11	18	3	1	2	-	3pps	5	33	1s,1as
40	Vâlcea	11	15	4	1	-	2	-	3	30	1s
41	Vrancea	14	22	2	-	2	2	-	4	38	1s
42	Bucharest	82	99	29	-	-	-	-	5	205	-
	TOTAL = 2.168 (without auxiliary personnel)	537	1172	275	31	3 8	19	96	190	1978	12 as, 5 lab. 15s. 2inf.

#### LEGEND

ped.= pedagogy

psih. = psychology

soc. = sociology

ped. soc. = social pedagogy

fil. ist = filology-history

psih. ped. = psiho-pedagogy

alte spec. = other specialties

pps = special psycho-pedagogy

s = secretary

as = social assistant

lab = labouratory analyst

inf = informatician

Along with the work of psycho-pedagogical assistance county centers operate educational counseling and career guidance provided by classroom tutors. In terms of legislation, the latest act is **OMECI no. 5132/2009 on the specific activities of tutor function**. In the Annex to this order Art. 3 para. 1 states: „ *Tutors support educational activities, counseling and career guidance for the students of the class that he/she coordinates* ”

According to these duties, the classroom tutors organize a series of activities with educational and vocational guidance role, both in class and outside school. Programmes for master classes / counseling include **dedicated topics**. School programmes, as part of the curriculum were adopted by the orders of Minister in 2006: no. 5286 for primary education, no. 5287 for secondary education and no. 5288 for high school.

The education institutions, especially high schools, include in their extracurricular activities, the participation in educational fairs providing offers, organize "open doors" days.

A great involvement has, for example, the organization **Junior Achievement Romania** - a nonprofit organization founded in 1993, part of Junior Achievement Worldwide® SUA and Junior Achievement - Young Enterprise Europe. Some successful actions in recent years have included (as an example) **International Programme Job Shadow Day (JSD)** offering students a true picture of the business community and jobs offer, helping them to find more easily an answer to the questions: "What do I do after I finish school? Where I want to work? What can be the best job for me? ".

By participating in the programme, students spend several hours in the "shadow" of an employee of a company / institution, having the opportunity to learn more about the activities, duties and responsibilities at work. During the time spent in the company, students will better understand the company and employees activity.

For 2010, the organizers announced a participation of more than 200 educational institutions in the country and 10 000 pupils (7-19 years) in the cities: Alba Iulia, Baia Mare, Bârlad, Braşov, Bucharest, Constanţa, Craiova, Iaşi, Oradea, Piatra Neamţ, Piteşti, Timișoara. 1500 students of the 12th grade will stay for a day in the "shadow" of a professional in an area where students would like to work, and another over 8500 students in grades 1-11 will go to the place of work of one of the parents.<sup>7</sup>

### **Higher education**

Arrangements for counseling of students are different. It organizes various events on the educational offer in terms of employment of graduates of higher education institutions. However, in the same sense, universities publish brochures, use the media etc. In addition, specialized departments of the universities provide counseling to those interested.

Advisory work is done by each institution of higher education independently. Under current regulations in the undergraduate university studies the component of counseling, guidance and information should become a niche that beneficiaries of educational services can use to receive various useful resources:

- academic route,
- University practice,
- information about various job opportunities and internships.

Provisions of **OMEdC no. 3235/2005** on the organization of undergraduate studies are still in force. Article 11 stipulates: „ universities set up counseling and career guidance centers to assist students to take appropriate decisions in structuring their training course”.<sup>8</sup>

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<sup>7</sup> <http://www.jobshadow.ro/media/vizualizeaza/jsd-2010/0/0/0>

<sup>8</sup> Examples of such centers that exist in each university and in Romania:

<http://www.ccoc.pub.ro/> - Polytechnic University of Bucharest

[http://www.unibuc.ro/ro/centrul\\_de\\_informare\\_orientare\\_i\\_consiliere\\_profesional](http://www.unibuc.ro/ro/centrul_de_informare_orientare_i_consiliere_profesional) - University of Bucharest

[http://www.univagro-iasi.ro/index.php?lang=ro&pagina=pagini/10\\_ruta.html](http://www.univagro-iasi.ro/index.php?lang=ro&pagina=pagini/10_ruta.html) - University of Agricultural Sciences and Veterinary Medicine "Ion Ionescu de la Brad" Iasi

<http://www.ccoc.usv.ro/> - University „Stefan cel Mare” in Suceava

<http://www.artifex.org.ro/ccoc/> - University „Artifex” Bucharest (private education institution)

<http://centre.ubbcluj.ro/cariera/> - University Babes-Bolyai - Cluj Napoca

**Counseling and career guidance centers** in universities aim at supplementing the education instrument through efficient intermediation and functional relationships of their own university communities with other local and foreign academic communities, with the institutions which train specialists and other interested institutions and organizations.

**Consequently, the objectives of these centers are:**

- providing professional guidance and counseling services (including educational) for students;
- improving employment opportunities for graduates;
- increase academic performance and better integration into national and international academic life;
- facilitating access to student internship programmes, voluntary activity in various institutions and partner and interested organizations;
- inform students on the formal, non-formal and informal activities within their countries and abroad;
- promoting the university's offer and its academic image to the public but also to close educational institutions.

**Activity strategy of these centers is built on three levels:**

### **Tier 1: Professional Counseling**

Activities include market research to obtain a feedback about skills, knowledge and specializations required on the labour market:

1. Create a database with information about:
  - a) activities compatible with the training activities within the university;
  - b) graduates who have been and / or are employed in those structures.
2. Hold regular meetings with alumni and students working in these structures, the personnel managers and employers;
3. Organizing job fairs bringing together the main employers of labour specialized market;

### **Tier 2. Academic counselling**

Activities focus on improving the integration of university students in academic and international life:

1. Permanent information of students on study opportunities in the country and abroad (courses, summer schools, seminars, conferences, workshops, funding);
2. Students' counseling at any level of study in choosing and building quality professional profiles, in accordance with the request of specialized work, and the preferences and skills of students;
3. Creating a database of all educational institutions and research institutes which offer can improve students' specialized training;

4. Attract academic offers (study and research) of the Romanian and foreign research and academic institutions.

### **Tier 3. Promotion and information**

Activities focus on promoting academic offer and university's image within the public and close education institutions - graduate and post-graduate offer, by:

1. Hold regular meetings with high school and final year of high school graduates within the university and / or high schools they attended ( "Open Doors" events);
2. Organizing educational fairs that offer the University the opportunity to submit educational tender.

Regarding police officers schools subordinated to the Romanian Police, students' advising is carried out by classroom tutors based on a programme established by the methodical commission of tutors, one hour per week outside the 30 hours of educational activities, according to the education provision of the school Director.

According to the approved curriculum for police officers schools - advice / tutoring module, advice / tutoring class is an activity of a classroom teacher to organize its formal and informal coordination activities, counseling for personal and social development of pupils. The activities' content support the development of key skills (communication, cooperation and teamwork) and provides conditions for the development of tools and systemic abilities.

Personal and professional counseling conducted in a modular form generate the development of following competencies:

- Personal and social development (self-awareness, effective learning, work ergonomics, time management);
- Development and evaluation of projects and social programmes;
- Development of professional work quality.

### **Article 15 – Right of people with physical or mental disabilities to training and to social and vocational re-adaptation**

#### **Article 15§1**

In 2007 benefited from training programmes offered by the ANOFM through its territorial structures, a total of 106 people with disabilities.

In 2008 benefited from training programmes offered by ANOFM through its territorial structures, a total of 94 people, 40 people through the own pilot-centers network of counseling for people with disabilities.

In 2009 benefited from training programmes offered by ANOFM through its territorial structures, a total of 79 with disabilities.

In 2010 benefited from training programmes offered by ANOFM through its territorial structures, a total of 98 people, of which 89 people through the own pilot-centers network of counseling for people with disabilities.

Current legislation provides incentives to increase employment opportunities of people seeking for a job including people with disabilities and in particular, facilities only for disabled people, as follows:

In accordance with art. 80 of *Law no. 76/2002 on the unemployment insurance system and employment stimulation*, as supplemented and amended, **employers who employ on an indefinite period people among graduates with disabilities are exempted from paying the contribution due to the unemployment insurance budget, related to graduates employed and receive on a monthly basis over a period of 18 months for each graduate:**

- an amount equal to the reference social indicator into effect on employment date, for graduates of lower cycle of high school or schools of arts and crafts;
- an amount equal to 1.2 times the reference social indicator into effect on employment date, for graduates of upper secondary or post-secondary education;
- an amount equal to 1.5 times the reference social indicator into effect on employment date, for graduates of higher education.

Employers that have fulfilled their obligation by law to employ people with disabilities, as compared to the number of their employees and also employers who do not have this legal obligation, if they employ people with disabilities for an indefinite period and maintain the employment relations or job at least two years, receive on a monthly basis, during that period, for each person employed included in these categories, an amount equal to the reference current social indicator, with the obligation to maintain the labour relations or job at least 2 years.

Acknowledging the problems disabled people are facing in their efforts to work integration, ANOFM has proposed to develop the capacity of employment agencies to provide counseling and mediation services to this target group with special needs.

*Thus, between 2004 - December 2008 ANOFM implemented the project "Advisory Services for disabled people" developed under the World Bank loan (Ro 4616), Thus, 2004 - December 2008 NEA implemented the project "Advisory Services for disabled people" developed based on loan from the World Bank, whose aim is to develop the capacity of employment agencies to provide counseling and mediation of target groups with special needs, paying attention simultaneously to the work with economic agents that are to employ people in this category, addressing thus both segments of the labour market: supply and demand.*

Among the results of this project, we mention the following:

- *establishment of 20 mediation and counseling centers for people with disabilities*, within the county agencies for employment;
- *make accessible spaces* within the 20 centres;
- *instruirea personalului* care furnizează servicii de consiliere și mediere pentru peoplele cu dizabilități în cadrul celor 20 de centre pilot de consiliere;
- organizing a course in sign language interpreter;
- development, locally, of *local networks of collaboration between different public or private institutions* engaged in activities related to protection of people with disabilities, or who might support these activities;
- *purchase of special equipment* for accessibility and adapting workplaces for disabled people;
- *purchase a package of blended learning* purchase of a blended learning package for staff offering service to people with disabilities, consisting of: implementation of e-learning platform and provision of training for staff in these centers.

One of the essential components of this project was to achieve *Campaign of public awareness* on counseling and mediation services for disabled people in order to increase the visibility of the services provided by the National Agency for Employment for this category of beneficiaries at risk of social exclusion.

Year/Number of people	Number of people who received information and counseling services	Number of people with disabilities employed
2007	938	365
2008	974	406
2009	1467	291
2010	767	298

**General framework** is represented by:

- National Strategy for protection, integration and social inclusion of disabled people, " Equal opportunities for disabled people - towards a society without discrimination " 2006-2013, approved by Decision no.1175/2005, continues to support education at any age, including primary education, training and appropriate lifelong learning opportunities in all stages of life, increasing the chances of integration and social inclusion.
- Law no.448 /2006 on the protection and promotion of disabled people, republished, amended and supplemented, a normative act that stipulates in Chapter II - Rights of people with disabilities, Section 2, Education:

art. 13. – (1) People with disabilities have free and equal access to any form of education, regardless of age, according to the type, degree of disability and their educational needs.

(2) People with disabilities are entitled to receive continuous education and training throughout their life.

- Law no.84/1995 - Education Act, as amended and supplemented, the bill was replaced from 1 January 2011 with Law no. 1 / 2011 - National Education Law.

### **Legislative changes:**

- Ordinance no.84/2010 on amending and supplementing for amending and supplementing Law no. 448/2006 on the protection and promotion of rights for disabled people replaced the definition of disabled people, as follows: *People with disabilities are those people whose social environment, inadequate to their physical, sensory, physical, mental deficiencies and / or associated, prevents them totally or partially to have equal opportunities in society, requiring protective measures in support of integration and social inclusion.*" Thus, the definition of disabled people is in accordance with International Classification of Functioning and Disability (World Health Organization, 2001) and the Convention on the Rights of Disabled People.

### **Measures taken:**

- conclusion of a cooperation protocol with the National Agency of Employment regarding measures to facilitate integration on labour market of people with disabilities seeking for a job: counseling and vocational guidance, employment mediation, training and assistance to start self-employment.

- Development in 20 counties, information and counseling centers for disabled people, centers that are in the locations of County Employment Agencies in which the specialized personnel of AJOFM, in collaboration with representatives of the general SPC Assistance identify jobs and draw the applicant's vocational profile against job offer.

- Local cooperation agreements were signed between AJOFM and DGASPC, according to the protocol signed at national level, aimed at exchanging information of interest on disabled people and joint participation in job fairs for disabled people.

- implementation of **projects in the field of disabled people protection** (with funding from the state budget), after public selection of projects, projects funded to develop services for people with disabilities and aims: counseling services performed in day care centers, establishment of protected housing as a solution to reduce the number of people assisted in the centers. Funding was granted to NGOs working in the disability field and have specialized personnel to integrate the employment of disabled people

- implementation of implementation of **Social Inclusion Programme**, funded by the Romanian Government through the World Bank loan under the Loan Agreement no. L4825RO between Romania and IBRD, signed at Bucharest on 04.07.2006 and ratified by Law nr.40/2007, is the natural continuation of Romania's efforts to continue the reform process, with the general objectives to implement the priority measures undertaken in the Government Programme and to promote social inclusion of vulnerable population.



The specific objectives of the programme are restructuring / closing of state institutions of higher residential capacity to diminish / close their capacity and increase quality of life people institutionalized and community diversification and development of alternative services offered to people with disabilities, with particular emphasis on promoting work enrollment and professional integration of disabled people.

The **Programme for people with disabilities** (part of Social Inclusion Programme) is aimed at supporting the Ministry of Labour, Family and Social Protection (MMFPS) to raise the quality of care in residential centres:

- (i) financing on a competitive basis of sub-projects for people with disabilities;
- (ii) providing training of professional staff that will apply new standards of care;
- (iii) developing a monitoring and evaluation system for DGPPH;
- (iv) providing employment counseling services.

- projects implementation **post-accession programmes financed projects**:

- COMBAT Project – Counseling, employment, changing attitudes, removing barriers, accessibility, and General Training. Objective: To facilitate access to employment for disabled people Source of funding: POSDRU, DMI 6.2
- The project First step towards an independent life. General Objective: Development and promotion of social economy structures (sheltered workshops / occupational therapy workshops / units protected) to help socially excluded young people at risk of social exclusion to integrate on the labour market. Source of funding: POSDRU, DMI 6.1
- The Project Alliance for Social Economic Development. General Objective: Promotion of social economy structures as flexible and sustainable tools for economic development and job creation at national level for people at risk of social exclusion. Source of funding: POSDRU, DMI 6.1
- The Project Create and implement an integrated model of assessment, training and employability of the disabled people in Romania. General Objective: Creating and implementing an integrative model of assessment and training to support increasing participation and inclusion on the labour market of people with physical and mental in Romania. Source of funding: POSDRU, DMI 6.2
- The Project Integrated social services and vocational training for people with disabilities. General Objective: Increasing access to employment for people with disabilities by creating a formal scientifically framework of EVALUATION, ACTIVATION, ACCREDITATION AND ACCESSIBILITY. For this objective, the project develops a three-way approach that we call "concept Triple - A" (Activation, Accreditation, Accesibility). Source of funding: POSDRU, DMI 6.2

## **Statistics**

### **Estimated number of people with disabilities in Romania**

According to the statistics fo General Directorate for Disabled People Protection (DGPPH), source is the General Directorates for Social Assistance and Child Protection, the total number of registered disabled people:

- At the end of 2009: **681.558 people**, of which: **61.516** children with disability (0 – 18 years) and **620.042** disabled adults (18 years and over).

Din numărul total al peoplelor cu handicap:

- **664.409** people are non-institutionalized, of which: **61.458** children and **602.951** adults
- **17.149** people are institutionalized.

After living area:

- **51 %** urban area
- **49 %** rural area

In terms of gender distribution:

- **54,4 %** female gender
- **45,6 %** male gender

As compared to the general population, Romania has a rate of 3.17% people with disabilities, the European average is between 8-10%.

- At the end of 2010, total number of people with disabilities was **689.680 people**, of which: **61.287** children with disability (0 – 18 years) and **628.393** disabled adults (18 years and over).

Of the total number of disabled people:

- **672.644** are non-institutionalized, of which: **61.254** children and **611.390** adults;
- **17.036** people are institutionalized.

After living area:

- **52 %** urban area
- **48 %** rural area

In terms of gender distribution:

- **54,3 %** female gender
- **45,7 %** male gender

As compared to general population, Romania has a rate of 3.21% people with disabilities, the European average is between 8-10%.

### **Data on schooling for disabled people**

In the school year 2008 - 2009 the number of children with disabilities attending mainstream education: **23.261 people**.

- Children who attend special education **26.313 people**.

In the school year 2009 - 2010 the number of children with disabilities attending mainstream education: **24.410 people**.

- Children who attend special education **23.971 people**.

There is a decrease in the number of children in special education and an increase in the number of children with disabilities integrated in mainstream education. One of the reasons why some children with disabilities drop out school is familie ,low income especially in rural areas.

In order to form healthy eating habits in children, the Romanian Government initiated a national program called „Milk and roll Programme” approved by the **Emergency Ordinance no. 95/2008** for amending and completing Government Emergency Ordinance no. 96/2002 concerning the provision of dairy and bakery for students of classes I-VIII of the state and private education and preschool children in private kindergartens with a normal programme of 4:00 hours.

In terms of the education system, each special education unit has in its personal structure one psychological diagnostician and one school counselor teacher who assesses all students with disabilities and make recommendations on school and professional orientation of people evaluated. Criteria for assessing children and adults with handicap / disabilities are provided in specific legislation.

Education of disabled people is organized as follows:

- In units of mainstream education – children with disabilities receive support services through support / itinerant teachers.

Forms of integration in mainstream education are:

- Integration of individual children with disabilities in regular class;
  - Integration with group of 2-3 students with disabilities in regular class;
  - Special class integrated into regular school.
- in special schools, depending on the type of disability.

At the end of 2010, in Romania there were 106 special education units and were enrolled **23 971** students with various disabilities (usually severe disabilities). **24 410** students with are enrolled in mainstream schools and receive educational assistance.

- All graduates 8<sup>th</sup> grade are directed to an educational establishment in the secondary education regardless of type and degree of disability (school or college of arts and crafts). According to the National Education Law evaluation to guide school children is done by committees subordinated to County School Inspectorates. This provision changes **Decision no. 1437/2004** on the organization and methodology of operation of the child protection commission for child protection committee functioning.

- professional training for children with disabilities is similar to all children.

- there are no restrictions on the specialization on training of young people with disabilities. Access to certain qualifications may be limited only by the recommendation of the Commission of work capacity expertise and by the occupational physician.

- professional retraining is free and is done by AJOFM.

Vocational evaluation is one component under evaluation made by the Complex Evaluation Service (SEC) to place the degree of disability. In the absence of specialists, this assessment is made by the psychologist member of the SEC, but he can not give solution for

rehabilitation. Thus, it is considering implementing a training programme for personnel involved in assessment and vocational rehabilitation of people with disabilities.

The main piece of legislation in this area is **Law. 448 of 6 December 2006 on protection and promotion of disabled people**. During the reference period for this report **nine acts** have made changes and additions, **HG no. 268/2007** which approved also its implementing rules.

This law makes direct reference (see Art. 4) to the provisions of CSER and establishes that children and adults with disabilities, Romanian citizens, foreign citizens or stateless persons benefit by its provisions during the period in which, by law, have domicile or residence in Romania,<sup>9</sup> providing also the rights to education and professional training and employment and adaptation of the workplace, guidance and professional retraining.

Provisions for education of people with disabilities are included in Section II of the law and they have not undergone any change in the reference period for reporting.

Law no.84/1995 also includes an entire chapter dedicated to education for children and youth with special educational needs (Articles 41-46).

Please note that, currently is in force the National Education Law no.1/2011, published in the Official Gazette, Part I, no.18.01.2011, which refers to children and adults with disabilities (this bill exceeds the reporting period).

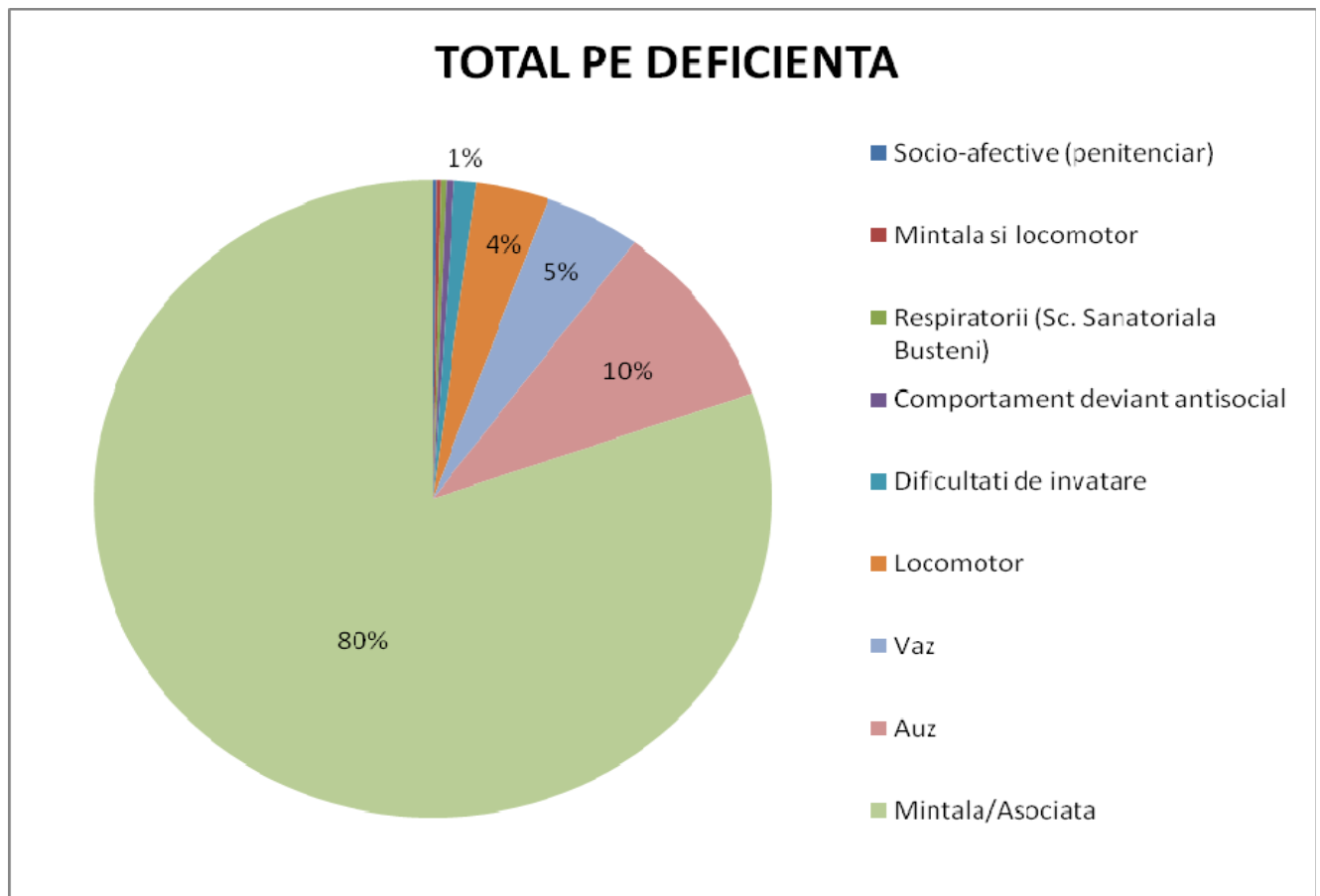
OMEDC no. 5418/2005, in its annexes 2 and 4 approves:

- *Framework Regulation on the establishment, organization and operation of school centers for inclusive education* (Regulation 2)
- *Framework Regulation on the establishment, organization and operation of speech centres and cabinets* (Regulation 4)

School years		Total	Preschool	Primary and secondary	High school	Vocational and apprenticeship	Post-secondary and
2006-2007	Schools	<b>174</b>	9	125	12	28	0
	Students enrolled	<b>30.163</b>	1.767	18.079	626	9.459	232
	Of which: female	<b>11.851</b>	779	6.980	301	3.688	103
	Teachers	<b>8.157</b>	453	6.225	201	1.278	0
	Of which: female	<b>6.539</b>	443	5.159	133	804	0
2007-2008	Schools	<b>176</b>	13	122	13	28	0
	Students enrolled	<b>28.828</b>	2.080	16.861	662	8.990	235
	Of which:	<b>11.216</b>	912	6.433	320	3.444	107

<sup>9</sup> Art. 2, para. 2 of Law no. 448/2006

	female						
	Teachers	<b>8.068</b>	523	6.151	169	1.225	0
	Of which: female	<b>6.447</b>	508	5.038	114	787	0
2008-2009	Schools	<b>172</b>	14	113	14	31	0
	Students enrolled	<b>27.654</b>	2.156	16.048	1.020	8.206	224
	Of which: female	<b>10.702</b>	881	6.077	527	3.109	108
	Teachers	<b>8.150</b>	583	6.183	228	1.147	9
	Of which: female	<b>6.612</b>	567	5.166	157	717	5



**Total Efficiency**

## Article 15§2

In the period 2007-2010 through the implementation of employment programmes were employed 3433 people with disabilities, from a total of 1,602,086, as follows:

Year / number of people	Total people employed, Of which:	People with disabilities
2007	506.804	1.072
2008	412.922	1.061
2009	304.588	582
2010	377.772	718

The degree of employment of disabled people is given by the absorption of the labour market and the specificity of this category of people. We mention that the existence and functioning of counseling and mediation to people with disabilities provides conditions for employability of people with disabilities by providing specific information and advice, and mediation, but the last word in hiring these people belong to employers. Law No. 76/2002, as amended and supplemented, provides specific measures to boost enrollment of disabled people, these measures are included in the action programmes of ANOFM.

We mention that the evolution of labour market employment of people with disabilities is similar to people looking for a job, the trend is a reduction in 2007-2009 and growth in 2010.

To assist people with disabilities, the legal framework for the unemployment insurance system and employment stimulation provides stimulation **for employers employing disabled people:**

According to **art. 80** para. (1) and (2) of Law no.76/2002, employers who employ permanent graduates of educational institutions among **people disabled** are exempt for a period of 18 months, from payment of contribution due to the unemployment insurance budget, paid for graduates employed, and receive monthly, in this period, for each graduate:

a) an amount equal to the reference social indicator into effect on employment date, for graduates of lower cycle of high school or schools of arts and crafts;

b) an amount equal to 1.2 times the reference social indicator into effect on employment date, for graduates of upper secondary or post-secondary education;

c) an amount equal to 1.5 times the reference social indicator into effect on employment date, for graduates of higher education.

Graduates can be employed in accordance with Art. 80, once for each form of education within 12 months after graduation.

Do not enjoy the provisions of Art. 80 para. (1) and (2) employers who are required by law, to employ graduates of education institutions, for graduates in this category.

According to art. 83 para. (1), employers who hire graduates in terms of art. 80 are required to maintain the relationship of their employment or service at least 3 years after completion.

Employers who terminate the graduates employment or service contract before 3 years, are obliged to reimburse, in full, to employment agencies amounts collected for each graduate plus the reference interest of the National Bank of Romania into force, on termination of employment or service for each graduate, if it was terminated for the reasons set out in art. 83 para. (2) of the Law.

According to art. 84, during the 3 years mentioned in Art. 83 para. (1), graduates can pursue a form of training, organized by the employer, under the law. Necessary expenses for training will be supported, at the request of employers, from the unemployment insurance budget.

Employers who, after fulfilling the obligation under Art. 83 para. (1), maintain employment or service relationships with graduates employed in accordance with Art. 80, continue to receive for each year of work relationship or service, a financial aid equal to the amount of social contributions paid by employers for these people and paid according to law. The financial assistance referred to above may be granted for a period of 2 years from the date the requirement of art. 83 para. (1) is fulfilled - see art. 84 ^ 1.

According to **art. 85** para. (1) and (2), employers that have fulfilled their obligation by law to employ people with disabilities, and also employers who do not have this legal obligation, if they employ people with disabilities for an indefinite period and maintain the employment relations or job at least two years, receive on a monthly basis, during that period, for each person employed included in these categories, an amount equal to the reference current social indicator, with the obligation to maintain the labour relations or job at least 2 years.

Do not benefit from these facilities employers that, over the past two years, have been in employment relationships or service with disabled people employed in the category of disabled people.

**Employers who receive subsidized employment** under art. 80 or art. 85 para. (1) and (2) and terminate the employment or service of the people employed in these jobs, for the reasons set out in art. 83 para. (2) prior to the time limits provided by law, can not benefit from a new grant of unemployment insurance for a period of two years from the date of termination of employment or service.

However, people with disabilities as people seeking work or unemployed, are eligible, according to Law no. 76/2002, as amended and supplemented, for the following **active measures**:

- a) **information and professional advice** – a set of services provided to people seeking for a job, by specialized centers, organized as part of employment agencies and other service providers public or private sector, accredited in this regard.

**Labour Mediation** – linking employers with people looking for a job in order to establish relations of employment or service by employment agencies that are required to identify job vacancies from employers and make them known to people looking for a job.

Also, the National Agency for Employment organizes in each county through the county agencies for employment, job fairs, events aiming at facilitating access to labour market of people looking for a job.

- b) **Professional training** – participation in training programmes of people seeking employment, to ensure growth and diversification of their professional skills in order to ensure mobility and labour market reintegration.
- c) **Advice and assistance for starting self-employment or starting a business** – providing, at the request to people seeking employment, legal, marketing, financial, management services, methods and effective techniques and other consulting services.
- d) **To encourage labour mobility by providing incentives to unemployed people that find a job:** in other places than those where they live, by change of address (installation bonus) or at a distance greater than 50 km from home (employment bonus - equal to twice the reference value of social indicator in force, on granting date).
- e) **Income supplement** for people who are entitled to unemployment benefits established by law and are employed with normal working hours, according to legal provisions, and as a consequence of employment, the payment of their unemployment benefit ceases since employment by the end of the period for which they were entitled to unemployment benefits, are given a monthly amount from the unemployment insurance budget, accounting for 30% of the unemployment benefit determined and, where appropriate, updated according to the law.
- f) **Graduates of educational institutions**, registered with employment agencies, when engaging with normal hours of work for a period exceeding 12 months, benefit from the unemployment insurance budget for an installation bonus equal to the reference value of employment social indicator in force on installation date.
- g) **Graduates who were entitled to unemployment benefits** established by law and, during the award of compensation, engages with normal hours of work for more than 12 months receive an amount equal to unemployment benefits that would have been entitled to, from the unemployment insurance budget, under the law, until the expiration of its grant, as if they wouldn't be employed. These rights are granted to graduates who retain employment or service relationship for a period of at least 12 months from the date of employment.

### **General legal framework:**

The National Strategy for protection, integration and social inclusion of people with disabilities, "Equal opportunities for disabled people - towards a society without discrimination", reiterate the following key issues:

- occupation and employment contribute greatly to the full participation of people with disabilities in the economic, cultural and social life and personal development;



- Providing facilities to employers in the process of employment people with disabilities based on legislative provisions to increase employment;
- facilitate access of people with disabilities to new information and communication technologies creates the preconditions to improve prospects for participation;
- better access to work, in institutions of education, culture and entertainment and public transportation is especially important for affirming people with disabilities in community life.

Law no.448/2006 on the protection and promotion of disabled people, republished, with subsequent amendments, strongly stimulates interest of people with disabilities to seek a job, since the monthly allowance amounting to 202 lei and 166 lei (depending on degree of disability , severe or accentuated) is received in full, regardless of income.

To this allowance is added also the complementary personal monthly budget worth 91, 68, 33.5 lei (depending on disability degree severe, accentuated or medium), the budget is given regardless of income.

Romanian Fiscal Code, approved by Law 571/2003, with subsequent amendments stipulates in Article 55, lit. a paragraph. k1 the following: “nu sunt supuse impozitării.....veniturile din salarii realizate de către peoplele fizice cu handicap grav sau accentuat, la funcția de bază, at the basic function “

*Annual evolution* of the number of people with disabilities employed in the period 2008 - 2010:

Year	2008	2009	2010
Total	25.705	28.826	29.163

Currently the percentage of people with disabilities employed (of all adults with disabilities aged 18-60 years, living in family care, except adults with disability pensioners, I and II degree, who are not entitled by law to conduct paid activity, having lost their ability to work) is: **12,52%**.

### **Disabilities as discrimination mentioned in the Labour Code - the prevention and punishment of this ground of discrimination**

Labour Code, adopted by Law no. 53/2003, as amended and supplemented, in Chapter II referred to Fundamental principles of art. 5 stipulates the following:

(1) In the working relationship there is the principle of equal treatment for all employees and employers.

(2) Any direct or indirect discrimination against an employee based on gender, sexual orientation, genetic characteristics, age, national affiliation, race, color, religion, political option, social origin, **disability**, family situation or responsibility, membership or union activity is prohibited.

(3) Constitutes direct discrimination acts and deeds of exclusion, distinction, restriction or preference based on one or more of the criteria set out in para. (2), which have the purpose or effect of non granting, restriction or elimination of recognition, use or rights exercise under the labour laws.

(4) Is indirect discrimination acts and deeds apparently founded on criteria other than those referred to in para. (2), but produce the effects of a direct discrimination.

## **Statistics**

### **Number of people with disabilities in employment**

Statistical summary of the number of disabled people in employment reveals that the number of adults employed by 31.12.2010 in individual employment contract was **29.163**, of which **1.476 people in protected units** and **27.687 people on the free labour market**.

The total number of disabled people aged between 18 and 60 years (working age) is **346.844 people**, of which a number of **118.577** are retired on invalidity and are not entitled by law to perform paid work. Thus, the number of people with disabilities with the legal age to work is **228.267 people**.

### **Number of protected units**

At the end of 2010 MMFPS authorized a total of **485** protected units which employ **1476** people with disabilities.

Increasing the number of protected units is a direct effect of the Law 448/2006 on the protection and promotion of disabled people, republished, with subsequent amendments.

The normative act has encouraged the sales market of protected units products by allowing authorities and institutions, legal people, public or private to purchase products or services from authorized protected units, based on partnership, in amount equivalent to the amount due the state budget.

People with disabilities who are engaged in protected units perform activities in different fields of activity: manufacturing of cardboard packaging, making of brushes, brooms, tailoring, carpentry, locksmith, furniture production, furniture upholstery, glass processing, manufacturing of modular prostheses, production of wheelchairs, agriculture, bakery, production of cocoa, chocolate and sugar confectionery, secretarial and primary accounting activities .

**The legal basis of the rule that operators are obliged to respect is to ensure that at least 4% of their workforce is represented by people with disabilities.**

- Law no.448/2006 on privind protecția și promovarea drepturilor peoplelor cu handicap, republicată, cu modificările și completările ulterioare;
- HG 268/2007 to approve Methodological Norms for applying Law no. 448/2006 on the protection and promotion of disabled people, as amended and supplemented.

Law no. 448/2006 stipulates the following:

Art. 77. - (1) People with disabilities have the right to work and earn income in accordance with labour laws and the special provisions of this Law.

(2) In this law, and only in the context of employment, disabled people means also a disabled person of degree III.

Art. 78. - (1) People with disabilities can be employed according to their professional training and work capacity, certified by the certificate of admission to a disability degree , issued by the evaluation commissions of the county or Bucharest Municipality.

(2) Authorities and public institutions, legal people, public or private, with at least 50 employees are obliged to employ people with disabilities at a rate of at least 4% of the total number of employees.

(3) Authorities and public institutions, legal people, public or private use, that do not employ people with disabilities as provided in par. (2) may choose to fulfill one of the following obligations:

a) monthly pay to the state budget an amount representing 50% of basic minimum gross salary multiplied by the number of jobs they have not employed people with disabilities;\*\*\*

b) to purchase products or services made by own activity of people with disabilities engaged in the permitted protected units, on a partnership basis, in an amount equivalent to the amount due to the state budget, in accordance with provisions of letter (a).

(4) Are exempted from the provisions of par. (2) public institutions of national defense, public order and national security.

\*\* A clarification of the concept on products made by disabled people and country minimum gross basic pay was made by modifying GD **268/2007 on rules of application of Law 448/2006, namely:**

Art. 42. - Minimum gross wage in the country referred to in art. 78 para. (3). a) of the law is the minimum gross salary guaranteed payment established by Government decision, in force in the month to be paid the amount due to the state budget if not hiring people with disabilities."

**Terms and conditions of employment, including wage for people with disabilities in normal working conditions are those applied to labour force, in general.**

Law no.448/2006 on the protection and promotion of disabled people, republished, with subsequent amendments, provides the following:

Art. 76. - (1) People with disabilities have the right to work and earn income in accordance with labour laws and the special provisions of this Law.

Art. 77. - (1) People with disabilities can be employed according to their professional training and work capacity, certified by the certificate of admission to a disability degree, issued by the evaluation commissions of the county or Bucharest Municipality.

Art. 78. - (1) Hiring people with disabilities in the work is done in the following forms:

a) on free labour market;

b) at home;

c) in protected forms.

(2) Protected forms of employment are:

a) job-protected;

b) authorized protected unit.

Art. 82. - (1) People with disabilities seeking employment or employed, have the following rights:

a) professional training courses;

b) reasonable adapting of the workplace;

c) advice during pre-employment and during employment and during the trial period, from a counselor specialized in labour mediation;

d) a trial period at employment, paid, at least 45 working days;

e) a paid notice, at least 30 working days, given in case of the individual labour contract termination, following the initiative of the employer, for reasons not attributable to him;

f) opportunity to work more than 8 hours a day, according to the law, if the evaluation committee makes recommendation in this regard;

g) payroll tax exemption.

### **Employment of disabled persons in public institutions**

Law no.448/2006 on the protection and promotion of disabled people, republished, with subsequent amendments provides:

Art. 77. - (2) Authorities and public institutions, legal people, public and private, with at least 50 employees are obliged to employ people with disabilities at a rate of at least 4% of the total number of employees.

(3) Authorities and public institutions, legal people, public or private use, that do not employ people with disabilities as provided in par. (2) may choose to fulfill one of the following obligations:

a) monthly pay to the state budget an amount representing 50% of basic minimum gross salary multiplied by the number of jobs they have not employed people with disabilities;\*\*\*

b) to purchase products or services made by own activity of people with disabilities engaged in the permitted protected units, on a partnership basis, in an amount equivalent to the amount due to the state budget, in accordance with provisions of letter (a).

(4) Are exempted from the provisions of par. (2) public institutions of national defense, public order and national security.

### **Measures to promote employment of disabled people**

Art. 83. - Employers of disabled people enjoy the following rights:

a) deduction in calculating taxable income, the amount for adjusting the protected work place and for purchasing machinery and equipment used in production by the disabled person;

- b) deduction in calculating taxable income, of travel expenses for disabled people from home at work place and transport costs of raw materials and finished products to and from home for disabled people, hired to work at home;
- c) reimburse from the unemployment insurance budget expenditure for specific training, professional training and vocational guidance and employment of disabled people;
- d) a grant from the state, as provided by Law no. 76/2002 on the unemployment insurance system and employment stimulation, as amended and supplemented.

### **Developing the concept of reasonable adjustment of the workplace for disabled people**

In 2007 – 2008, the *Twinning Project of the European Union "Support the employment of people with disabilities" were established reasonable guidelines on adapting workplaces to facilitate the professional integration of disabled people*.

These guidelines are intended to facilitate the integration of disabled people by providing reasonable adjustment at work.

This concept of **reasonable adjustment**, introduced by Council Directive 2000/78, "must align the needs of people with disabilities with those of employers to ensure equal opportunities for disabled people who are looking for a job"

These guidelines provide "analysis and best practice models of reasonable adjustment" and propose "methods and procedures as a standard for adapting workplaces for disabled people". They constitute "a basis for developing integrated strategies and regulations that will be applied by employers across the country."

Within this project was developed a guide on *Guidelines on reasonable adjustment of jobs in order to facilitate vocational integration of people with disabilities*, guide locally spread within the, AJOFM, DGASPC and NGOs.

### **Measures to make accessible physical, information and communication environment**

Law no. 448/2006 on the protection and promotion of disabled people, republished, with subsequent amendments, stipulates in Chapter VI-Accessibility:

Art. 60. - To ensure people with disabilities access to the physical , information and communication, environment, public authorities shall take the following specific measures:

- a) promote and implement the concept of Access for all, to prevent creation of new barriers and new sources of discrimination;
- b) to support research, development and production of new information and communication technologies and assistive technologies;
- c) to recommend and support the introduction in the initial preparation of pupils and students of courses on disability issues and their needs and the diversification on achieving accessibility;
- d) to facilitate access of people with disabilities to new technologies;
- e) to ensure the access to public information of people with disabilities;
- f) to provide interpreters of sign language and specific language of deafblind people;

g) to design and conduct, in collaboration or partnership with legal people, public or private, accessibility or awareness programmes on its importance.

MMFPS has ongoing *The project amending NP-051/2001 Norms for adapting civil buildings and urban space to the needs of disabled people.*

Through the General Directorate of the Social Inspection within MMFS to monitor progress in achieving social accessibility to the following public institutions: schools and university, prefectures and county councils, mayors, general direction of social assistance and child protection, public health units (clinics, hospitals, health centers, etc..) financial administration, courts, and intersections and pedestrian crossings; public phones (their space adjustment).

### **Participation of NGOs in policy formulation and social integration measures for disabled people**

Develop partnerships with NGOs operating in the field of disabled people, is one of the priority actions supported by the National Authority for People with Disabilities.

Is facilitated continued dialogue and consultation between authorities and NGOs in order to participate in decisions on policies and legislative rules concerning the protection of disabled people.

In 2010 was promulgated **Law no. 221/2010 ratifying the Convention on the Rights of Disabled people** and were deposited instruments of ratification with the Secretary General of the United Nations. UN recognized the ratification by Romania on January 31, 2011 of the Convention on the Rights of disabled people..

### **Article 18- The right to engage in a gainful occupation on the other side territory**

#### **Art. 18 paragraph 3**

#### **Question A**

**Please indicate if foreign workers can and, if so, under what conditions:**

- a. change the place where they carry out their professional activity;**
- b. change their professional activity;**
- c. claim authorization renewal.**

According to the regulations contained in the Government Emergency Ordinance no. 56 of 20 June 2007 on employment and secondment of aliens on the Romanian territory, as amended and supplemented - OUG 56/2007, foreign workers operating in Romania lucrative work are issued permits for periods of up to one year.

Furthermore, in accordance with Art. 15 of GEO 56/2007, work authorization is automatically extended for further periods of up to one year in case of continuation of employment with the same employer based on the individual employment contract concluded for an indefinite period, by extending the right of residence for work , and attested by the residence permit issued for this purpose.

In case of individual contracts of employment concluded for a limited period, work authorization is extended for the period requested that can not be greater than one year and the validity of the contract. For renewal of license validity over the initial contract period, is required the written consent of the parties on the renewal of the contract concluded according to Law no. 53/2003 - Labour Code, as amended and supplemented.

Regarding the extension of temporary stay right for aliens employed in relation to the provisions of art. 56 of Government Emergency Ordinance no.194/2002 on the legal status of foreign citizens in Romania, republished with subsequent amendments - Ordinance 194/2002, foreigners entered Romania for employment are extended their temporary right of residence if holding a valid work permit.

The request for extension of temporary stay right shall be submitted by foreign, to the territorial units of the Romanian Immigration Office at the place of residence no later than the date of termination of the right of residence, and can obtain an extension of this right for a period equal to validity of the work permit or, where appropriate, the period for which its validity is extended.

If foreigners can be employed to physical or legal people in Romania, without working authorization, according to the law, they may extend the right of residence without fulfilling the condition relating to possession / obtaining a valid work permit.

Article 69 of GEO 194/2002 provides that the foreign workers on secondment in Romania on the basis of long-stay visa for other purposes, may request an extension of temporary stay right with the condition of submission of the work permit issued as to the law. Right of residence for this purpose may be extended for the whole period of validity of employment authorization, for further extensions being applicable legal provisions regarding extension of the stay of foreigners employed in work.

### **Question B**

**Please, indicate situation of a recipient of a work permit if he loses his job or ceases activity during this permit.**

According to GEO no. 56/2007, art. 21, work authorization is canceled by the Romanian Immigration Office within 5 working days in the following situations:

- at the request of the employer as a result of termination, of his initiative, of the employment relation with the alien or in case the individual employment contract is terminated due to the agreement of the parties;

- at the employer or the alien's request following the termination of the period of secondment in Romania;
- at the request of foreigner as a result of employment contract termination, of his initiative;
- notification to the competent bodies, as to the laws in force, if the alien has been declared undesirable, was canceled or revoked the right of residence in Romania or if he/she no longer meets the conditions of employment;
- If the employer does not appear to raise employment authorization from the Romanian Immigration Office within 30 days after demand settlement.

If the work permit is canceled due to termination of employment contract, foreign worker can work with another employer only if is issued a new work permit, as determined by GEO no. 56/2007.

With the cancellation of the employment authorization of the foreign worker, terminates also his/her right to stay in Romania.

In such a situation, that employee must leave Romania and obtain, as to the conditions determined by Ordinance no.194/2002 on the legal status of foreign citizens in Romania, republished with subsequent amendments, a new visa.

Romanian Immigration Office may revoke, through a reasoned decision, the temporary stay right where it is found that the alien has violated the regulations on the state border or those related to employment of aliens..

### **Question C**

**Please, indicate the measures adopted to give effect to this provision of the Charter.**

In order to complement and harmonize national legislation on aliens regime in Romania, compared to the EU regulations on migration, was adopted the Law no. 157/2011 amending and supplementing some laws on aliens regime in Romania, published in the Official Gazette, Part I, no.533 of July 28, 2011.

In accordance with the National Strategy on Immigration for 2007-2010, in force when the bill was initiated, the changes envisaged to be considered aimed at effective management of employment of foreigners, simplifying procedures for obtaining work permits, approval of foreign nationals stay to carry out an activity of work, monitoring and evaluating their impact on the labour market in Romania as well as combating illegal migration.

The main regulations regulating employment and secondment of aliens in Romania are

- **Government Emergency Ordinance no.194/2002 on aliens regime in Romania**, republished with subsequent amendments;
- **Government Ordinance no.44/2004 on the social integration of aliens who were granted a form of protection or a right of residence in Romania, as well as citizens of European Union member states and European Economic Area, approved by Law no.185 / 2004, as amended and supplemented**, sets out



regarding the foreigners who were granted a form of protection in Romania, access to employment in working conditions equivalent to those established by law for Romanian citizens;

- **Law no. 122/2006 on asylum in Romania**, as amended and supplemented, establishes for asylum seekers, after the expiration of one year from the date of application for asylum, if the applicant is still in the procedure for determining a form of protection, the right to gain access to employment, as determined for Romanian citizens..
- Access to asylum seekers on the labour market in Romania is regulated by the Order of the Minister of Interior and Administrative Reform and Minister of Labour, Family and Equal Opportunities no.392/613/2008;.
- **Government Emergency Ordinance no.56/2007 on employment and secondment of aliens on the Romanian territory**, approved with amendments by Law no. 134/2008;
- **Government Emergency Ordinance no. 55/2007 on the establishment of the Romanian Immigration Office through reorganization of the Authority for Aliens and National Office for Refugees, and amendment of certain laws**, approved with amendments by Law no. 347/2007.

The amendments proposed by the bill transposed into national law the following:

- **Council Directive 2009/50/EC concerning the conditions of entry and residence of nationals of third countries to fill highly skilled jobs** which establishes:
  - entry and residence conditions for more than three months in the Member States of third country nationals to fill a highly skilled job, as holders of an EU Blue Card and of their family members;
  - conditions of entry and residence of third country nationals and their family members in other Member States than the first Member State.
- **Directive 2009/52/EC of the European Parliament and of the Council laying down minimum standards on sanctions and measures against employers of third country nationals who are staying illegally** which establishes:
  - a prohibition of employment of third country nationals who are staying illegally in order to combat illegal immigration;
  - common minimum standards on sanctions and measures applicable in the Member States against employers who violate the provisions of this Directive.
- **Directive 2008/115/EC of the European Parliament and the Council on common standards and procedures applicable in Member States for returning third-country nationals who are staying illegally.**
- **Directiva 2003/86/CE a Consiliului privind dreptul la reîntregirea familiei**
- **Council Directive 2003/109/EC on the status of third country nationals who are long term residents**
- **Council Directive 2001/51/EC supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985.**

In terms of the amendment and completion of Government Emergency Ordinance no. 194/2002, by this draft law, submitted for analysis, with reference to the admission of foreign workers in Romania, we are concerned on the following aspects:

- transposition of Directive 2009/50/EC of the Council;
- ensuring implementation of Directive 2009/52/EC of the European Parliament and Council;
- for admission and stay of aliens for work and on secondment, we would like to provide access to the labour market in Romania for qualified personnel to protect the national labour market and prevent situations that foreigners obtain an entry visa for secondment and then not meet the legal requirements for granting of work for this purpose;
- it was introduced a new tool - visa for secondment: a category of seconded foreigners or exempted from the requirement to obtain work authorization are no longer covered by the provisions governing the granting of visas for other purposes;
- conditions of work permits in the Government Emergency Ordinance no.194/2002 can be found in the Government Emergency Ordinance no.56/2007.

Amendments and supplements of the Government Emergency Ordinance no. 56/2007, proposed by this draft law, focus on the following aspects:

- transposition of Directive 2009/50/EC of the Council;
- implementation of the Directive 2009/52/EC of the European Parliament and Council;
- conditions to be met for work authorization for workers on secondment from third countries in accordance with the laws of other Member States of the European Union;
- clear criteria for differentiating highly skilled of the poorly qualified workforce;
- simplifying procedures for obtaining work authorization;
- obligation incumbent on employers to prove payment of obligations to the state budget in the last quarter;
- conditions and documents required for issuance of employment authorization, and the categorization of people who may be issued work authorization;
- conditions and documents required to obtain work authorization for secondment;
- renewal of employment authorization when the alien continued employment with the same function and the same employer, based on the individual employment contract concluded for an indefinite period;
- Establishing competent authority in processing the application for issuance of a new work permit if the alien's employment relationship is terminated before expiry of the period for which it was issued work authorization;
- creating a more favorable legal framework for obtaining employment authorization by foreigners as beneficiaries of a temporary residence for study purposes, that are employed and continue working relationships with the same employer.

## **ARTICLE 18§3**

### FLEXIBILITY, INDIVIDUALLY OR COLLECTIVELY, OF THE RULES GOVERNING THE EMPLOYMENT OF FOREIGNERS

#### **1) General legal framework**

Current legal framework regulating the regime of aliens in Romania, and employment, including secondment of aliens on the Romanian territory is governed mainly by:

- ***Government Emergency Ordinance no.194/2002 on aliens regime in Romania, republished with subsequent amendments***, Government Emergency Ordinance 194/2002 on aliens in Romania, republished with additions, which states the national policy in this area, art.5, para. 1 of this bill stipulating that yearly, by decision of Government shall be determined (...) „ *the number of work permits that can be issued to aliens, according to special legislation on employment and secondment of aliens on the Romanian territory.*”

- The legal situation of employment authorizations for aliens with legal right to stay on the Romanian territory has been extended by adoption of ***GEO no. 56 of 20 June 2007 on employment and secondment of aliens on the Romanian territory***, by this law are regulated in detail employment and secondment of aliens on the Romanian territory.

This latter bill defines work authorization *as an official document, issued as to law provisions, that entitles the holder to be employed or seconded to Romania to one employer.*

Here are also defined the following terms and concepts: *permanent worker, probation worker, seasonal worker cross-border workers, seconded worker and highly qualified personnel.*

Government decision also provides cumulative conditions to be met by both foreigners and employers to obtain work authorization, respectively *long-stay visa for employment or, where appropriate, a residence permit for work*, as follows:

- a) vacancies can not be occupied by Romanian citizens, of other EU Member States, of the States signatory of the European Economic Area Agreement, as well as permanent residents on the territory of Romania;
- b) meet the special professional training, experience in activity and authorization, as required by the employer under the legislation in force;
- c) prove that they are medically able to perform that activity and have no criminal history to be incompatible with the activity carried on or will be carried out in Romania;
- d) fall in the annual quota approved by Government decision;
- e) the employers have paid to date their obligations to the state budget.

GEO no. 56 of 20 June 2007 establishes the following types of work permits that can be issued to aliens:

- a) work authorization for permanent workers;
- b) work authorization for seconded workers;
- c) work authorization for seasonal workers;
- d) work authorization for trainees;
- e) work authorization for sportsmen;
- f) nominal work authorization;
- g) work authorization for cross-border workers.

**Application for employment authorization** shall be settled by the Romanian Immigration Office within **30 days from** the date of its registration. In the event that, for finding the conditions for obtaining work authorization, additional checks are needed, the time to decide on the application may be extended by 15 days.

Work permit is issued for a period **not exceeding one year**, except as provided in art. 6 para. (1) letters c) and f).

Work authorization is **automatically extended for further periods of up to one year** when work relationship is continuing with the same employer based on an individual employment contract concluded for an indefinite period, by extending the right of residence for work, and this is to be certified by the residence permit to be issued for this purpose.

In case of **individual contracts** of employment concluded for a limited period, work authorization is extended for the requested period that can not be greater than one year and the validity of the contract.

Current legislation stipulates at the same time **the terms and conditions of cancellation of work permits**. Thus, the Romanian Immigration Office shall cancel the obligation to work within 5 days after the following events:

- a) request of the employer due to termination at his initiative of the employment relationship with the alien or the individual employment contract is terminated due to the agreement of the parties;
- b) request of the employer or alien as a result of termination of the secondment period in Romania;
- c) following the foreigner's request of termination employment relation of his initiative;
- d) notify the competent bodies, as to the laws in force, if the alien has been declared undesirable, was canceled or revoked the right of residence in Romania or if he/she no longer meets the conditions of employment;
- e) failure of the employer to raise the employment authorization from the Romanian Immigration Office within 30 days after settlement of demand.

Application of the **sanctioning provisions** provided in art. 26 of GEO no. 56 of June 20, 2007 belongs to labour inspectors of the Labour Inspection and the Romanian Immigration Office workers.

- 2) **Please show the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the law.**

In consideration of membership of the European Union, Romanian authorities have committed to undertake a series of measures to align national legislation with the *acquis* on migration.

This complex process of regulatory harmonization under full development, and the need to identify viable solutions to resolve malpractice arising in the implementation of the current legal framework on Aliens, made appropriate drafting a bill **amending and supplementing certain laws on aliens in Romania**, respectively, **Government Emergency Ordinance no. 55/2007 on the establishment of the Romanian Immigration Office, through the reorganization of the Authority for Aliens and the National Office for Refugees, the Government Emergency Ordinance no.194/2002 on aliens in Romania, republished with additions and Government Emergency Ordinance no.56/2007 on employment and secondment of aliens on the Romanian territory, as amended and supplemented.**

The purpose of this legislative initiative is to achieve compatibility and correlation with the Community rules, to eliminate deficiencies in practice and repealing certain provisions which have become inapplicable.

Draft law responds to the observations of the structures involved, the Ministry of Foreign Affairs, Department for European Affairs, the National Supervisory Authority for Personal Data Processing, **Ministry of Labour, Family and Social Protection**, Ministry of Health, National Insurance Health and Ministry of Justice, and the NGOs with functions in the reference field.

***Transfer of expertise in the fields of employment and secondment of aliens in Romania by the Romanian Immigration Office***, made with the adoption of *Government Emergency Ordinance no. 55/2007 on the establishment of the Romanian Immigration Office through reorganization of the Authority for Aliens and the National Office for Refugees* has led also to adapt national legislation regarding the admission and residence of aliens in order to achieve simplification of obtaining right of residence for work in Romania and removal of deficiencies occurring in practice implementing application of law in this area.

In the context of *Romania's current policy of labour migration*, the dynamic requirements of the labour market in Romania and a shortage of domestic labour it has become necessary to amend and supplement *Government Emergency Ordinance no.56/2007*.

Due to reported problems in practice and some requests for remedial actions from the unions and employers, at the initiative of the Ministry of Interior - Romanian Immigration Office, in cooperation with the Ministry of Labour, Family and Social Protection and Labour Inspectorate, was started the procedure for amending the legislation in force by organizing at MAI-ORI and MMFPS level thematic meetings in this respect.

Observations and proposals that formed the basis of these meetings have focused primarily **on amending and simplifying the procedures for obtaining work permits and the existing legal framework by an approach intended only for citizens of third countries (China, Turkey, India etc. )** as EU legislation itself is differentiated according to the citizen concerned (on the one hand acts for EU citizens, European Economic Area and Switzerland,

as well as legislation that addresses the citizens of third countries), aiming at the same time *streamlining the procedure for granting / approving the stay of foreign nationals to conduct a work activities, monitoring and evaluating their impact on the labour market in Romania.*

#### **ARTICLE 18 PAR. 4**

**Please indicate if there are any restrictions or special conditions on the right of exit in the event indicated name them.**

**Constitution of Romania, with reference to fundamental rights and freedoms of the Romanian citizens, states in art. 25 the principle of free movement under which the right to free movement within the country and abroad is guaranteed, as determined by relevant legislation and each citizen is guaranteed the right to establish his domicile or residence anywhere in the country, to emigrate, and return to the country.**

According to the provisions of art. 2 para. (1) of **Law no. 248/2005 on the free movement of Romanian citizens abroad** as amended and supplemented, on the free movement of Romanian citizens abroad as amended and supplemented, Romanian citizens, who meet the requirements of **the Act quoted at the beginning of the paragraph**, are guaranteed the right to travel abroad, to emigrate and to return any time in the country and no Romanian authority may prohibit, in any case, a Romanian citizen to return in Romania

*Also, Article 30 of the aforementioned law, determine the conditions under which border police allow leaving Romania of Romanian citizens minors.*

Law no. 248/2005 states that border police allow Romanian citizens who have reached age 18 and minors married under the law, who are holders of valid travel documents to leave the Romanian territory **if they are not in one of the situations of limitation of the right to move abroad.**

**Art. 3 para. (1), (2) and (3)** of Law no. 248/2005 on the free movement of Romanian citizens abroad, with subsequent amendments, defines the limitation of the right to move abroad as suspension or, as appropriate, to *restrict* the right to move abroad, as follows:

*„(1) Limitation of the right to free movement of Romanian citizens abroad may be only temporarily, in the cases and conditions under the present law, and is suspended or, if necessary, restrict the exercise of this right..*

*(2) Suspension of the right to move abroad is temporary prohibition to leave the territory of Romania, established by the law or, where appropriate, by the competent authorities under this law This measure has individual character, exceptions are situations where it is established by special law, if situations arise that justify the need for defense against the country or national security.*

*(3) Restriction of the right to move abroad is temporary ban on travel to certain countries, ordered by the Romanian authorities, under this law”.*

This, in accordance with the provisions of **art. 38 letter b)** of the legislative act mentioned above, the *restriction* of the right to free movement of Romanian citizens abroad may be ordered for a period not exceeding three years only for the person whose presence within a State, through the developed activity work or that he/she is going to carry out, would seriously prejudice the interests of Romania or, where appropriate, bilateral relations between Romania and that State.

In the situation described above, the measure is restricted at the request of the institution that has expertise in defense, public order or national security, which holds data or information regarding the activity that the person carries or is to perform abroad, by the court in whose jurisdiction of residence is that person, and when the person's domicile is abroad, by the Court of Bucharest.

Regarding the *suspension* of the right to move abroad, according to the provisions of **art. 40 letter a) – d)** of Law no.248/2005, this measure may be ordered when a person:

*„a) is accused or defendant in a criminal case and was ordered establishment of preventive measures under the Criminal Procedure Code;*  
*b) has been convicted and served a prison sentence;*  
*c) is admitted to a rehabilitation center or a medical-educational institute, as to criminal law;*  
*d) has not complied with the measure of restricting the exercise of the right to free movement abroad, ordered under this Law”.*

In view of enforcement by the competent authorities of the suspension of the exercise of the right to move abroad, the authorities who ordered the measures provided by art. 40 letters a)-c), are required to notify such measures to the General Directorate of Passports, and the General Inspectorate of Romanian Police and General Inspectorate of Border Police. Suspension of the right to move abroad shall automatically be terminated after the measure taken ceases under any of the art. 40 letters a)-c).

In the situation referred to in **art. 40 letter d)** *„this measure shall apply at the request of the institution with expertise in defense, public order or national security, provided in art. 39 para. (2) by the court in whose jurisdiction has the residence of the person against whom the measure was imposed the suspension of the right to move abroad, and when the person is domiciled abroad, by the Court of Bucharest for a period not to exceed three years”.*

According to provisions of **art. 27** of Methodological Norms for applying Law no.248/2005, approved by GD no.94/2006, as amended and supplemented, for the period of suspension of the right to free movement abroad, established by the court under the law, Community public service of passports record and release will temporarily refuse passport issuance, and if it was issued, shall take steps to withdraw it.

Also, we mention that in the Official Gazette no.767, Part I, of 17/11/2010 was published Law no.206/2010 to amend Law no.248/2005 on the free movement of Romanian citizens abroad, which, on the one hand, repealed provisions of Article 38 lit.a)<sup>10</sup>, art.39 para.(1)<sup>11</sup> and art.42 para.(2)<sup>12</sup> of Law no.248/2005, and on the other hand, they have ceased as by law:

a) all measures to restrict the exercise of the right of free movement of Romanian citizens abroad, ordered by the date of entry into force of the law (11/20/2010), by the competent courts in accordance with Art. 38 letter a) and Art. 39 para. (1) of Law no.248/2005, as amended and supplemented, that are being enforced;

b) all measures to suspend the exercise of the right of free movement of Romanian citizens abroad, pending execution, ordered by the competent courts at the entry into force of law, pursuant to art. 40 lit. d)<sup>13</sup> and, all measures to suspend the exercise of the right of free movement of Romanian citizens abroad, pending execution, ordered by the competent courts at the entry into force of law under Article 2 and, where appropriate, of art. 42 para. (2) of the Law no.248/2005, as amended and supplemented, for failure to comply with the restriction measure of the right to move abroad, ordered in accordance with Art. 38 letter a) and Art. 39 para. (1) of the same Law;

c) all legal proceedings that are ongoing and for whom there is no definitive and irrevocable court decision for the establishment of measures to limit the right to move abroad started under the provisions of:

- art. 38 letter. a) and art. 39 para. (1) of Law no. 248/2005, as amended and supplemented;

- art. 40 letter d) and, as appropriate, art. 42 para. (2) of Law no.248/2005, as amended and supplemented, for failure to observe the restriction measure of the right to move abroad, ordered in accordance with Article 38 letter. a) and art. 39 para. (1) of the same law.

Provisions on the obligation to refuse passport issuance by competent authority are found in the Code of Criminal Procedure, as follows:

- **art. 145 para. (2)<sup>1</sup>** [if there is an obligation not to leave the city], **art. 145<sup>1</sup>** [if there is an obligation not to leave the country];

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<sup>10</sup> before repeal, the text of **art. 38 lit. a)** provided the following: „*Restriction of the right of free movement of Romanian citizens abroad may be ordered for a period not exceeding three years only under the conditions and regarding the following categories of persons:*

*a) regarding the person who was returned from a State under a readmission agreement concluded between Romania and that State;*”

<sup>11</sup> before repeal, the text of **art. 39 alin. (1)** provided the following: „*(1) In the situation referred to in art. 38 letter (a) the measure is ordered, at the request of the General Directorate of Passports, on the State in which the person was returned, by the court in whose jurisdiction is the residence of such person, and when it is domiciled abroad, by Bucharest Court.*”

<sup>12</sup> Before repeal, the text of **art. 42 para. (2)** provided the following: „*(2) If the person, against whom was taken the measure of suspension of the right to free movement abroad, is returned under a readmission agreement, from the State for which he was restricted freedom of movement abroad, the period for which may suspend this right can be increased up to 5 years in terms of paragraph (1).*”

<sup>13</sup> before repeal, the text of **art. 40 lit. d)** provided the following: „*exercising by a person the right to free movement abroad shall be suspended only in the following situations:*

*d) failed to comply with the measure of restricting the exercise of the right to move abroad, ordered under this Law.*”



- art. 420-422 [for the enforcement of imprisonment / detention order for life and prohibition of leaving the country];
- art. 454 para. (1<sup>1</sup>) and art. 455;
- art. 493<sup>1</sup> [if institute proceceedins]

### **Regarding the free movement of Romanian citizens for work within European Union**

From 1 January 2007, Romania's accession to the European Union, the access of Romanian citizens in the labour market of EU Member States is governed by the Treaty of Accession of Bulgaria and Romania to EU. This provides the possibility for Member States to apply transitional measures for a period of seven years, according to scheme 2 +3 +2, consider the need for maintaining this regime after 2 years and 5 years after accession. If it is considered that the influx of migrant workers can cause serious disruptions in the labour market, the affected State may decide to extend the transitional arrangements for another 2 or 3 years.

In European Union Member States that do not apply restrictions to Romanian citizens on their territories for work, apply Community law in the field.

In European Union Member States that decided to impose restrictions, the access of Romanian citizens on national labour markets is determined by specific national legislation of the host Member State and bilateral agreements on workforce movements. In such cases applies the principle of Community preference that the job vacancy will be filled by a Romanian citizen if there are requests from local citizens or nationals of a EU Member State which have not applied restrictions access to the labour market. Romanian citizens have priority in employment to citizens coming from third countries.

### **1) Please describe the general legal framework. Please specify the nature, reasons and extent of any reforms.**

**Government Emergency Ordinance no. 102/2005 regarding the free movement in Romania of EU Member States and European Economic Area citizens** is the general legal reference in this area.

Thus, in art. 3 there are set out basic rights and freedoms the EU citizens and their family members who enter and reside legally in Romania may enjoy, namely:

a) shall enjoy general protection of people and proprieties, as guaranteed by the Constitution and other laws and rights under the Treaties of the European Union and other international treaties to which Romania is part;

**b) can move freely and establish their residence or, where appropriate, address anywhere in Romania;**

c) benefit from social protection measures by the State under the same conditions as Romanian citizens;

d) have the right to check personal data entered in official documents issued by the Romanian authorities and, where appropriate, request correction or deletion of data that is not real;

**e) have unrestricted access to the labour market in Romania, as well as to carry out other economic activities, under the law applicable to Romanian citizens;**

f) have unrestricted access to educational and training activities within the national education system.

**2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the law.**

Romania's EU accession resulted in substantial changes to the rules of law governing the legal status of citizens of EU Member States and the European Economic Area, to ensure compliance with European legislation on free movement of people and the right of residence.

Thus, the provisions *of Government Emergency Ordinance no.102/2005 on the free movement in Romania of citizens from EU Member States and European Economic Area*, as amended and supplemented *and the rules for the application of GEO no. 102/2005, approved by Government Decision no. 1864/2006* are aligned with the EU acquis, i.e. *Directive 2004/38/EC on the right of free movement and residence within Member States for Union of citizens and their family members, amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365 / EEC and 93/96/EEC*, published in the Official Journal of the European Union no.L158 of 30 April 2004.

*The new legal framework entered into force on January 1, 2007* and represented a major change regarding the right of free movement and residence on the Romanian territory by citizens of the European Union and European Economic Area.

It should be noted that, considering the novelty of the legislation in this area, from the entry into force of Government Emergency Ordinance no. 102/2005, the practical application of the law has highlighted certain issues that can create disturbances in their practical implementation.

However, during the implementation process were identified some issues that require the introduction of new legislative provisions to enable the effective management of records of EU citizens and their family members exercising their right of residence in Romania, and implementation of measures to restrict the right of free movement and residence.

In this respect, was developed the law amending and completing Government Emergency Ordinance no.102/2005 on the free movement of citizens in Romania of Member States of the European Union and European Economic Area citizens, published in the Official Gazette of Romania no. 443/24 Part I, June 2011, and became law no.80/2011 (this bill exceeds the reporting period).

In recent years, the EU launched a broad debate on how to implement the provisions of Directive 2004/38/EC, which resulted in the adoption of documents on the application of European reference document, including:

- Commission report to the European Parliament and the Council on implementation of Directive 2004/38/EC [COM (2008) 840 *final* - Brussels, 10.12.2008];

- European Parliament resolution of 2 April 2009 on the application of Directive 2004/38/EC on the right of free movement and residence within Member States for Union citizens and their family members [2008/2184(INI)].

For better coordination and monitoring of Member States to standardize the application of the directive, the European Commission carried out a series of actions with positive impact on all Member States, such as:

- Development of studies on how to implement the relevant provisions of the Directive into national legislation of the Member States;
- announcement publication for the European Parliament and the Council on guidelines for better transposition and application of Directive 2004/38/EC [COM(2009) 313 final - Brussels, 2.7.2009];
- establishment of the Expert Group on free movement of people, from September 2008, with representatives from all Member States;
- organization and conduct bilateral meetings with all Member States aimed to clarify issues of incorrect transposition of the provisions of Directive 2004/38/EC.

## **Art.20 – The right to equal opportunities and equal treatment in employment and occupation without discrimination by gender**

### **Equal rights**

In Romania, women and men have equal and non-discrimination access in the labour market.

**Law no. 202/2002 on equal opportunities and treatment between women and men** provides men and women workers' rights and the obligations of employers in terms of ensuring equal employment opportunities. This bill contains definitions of concepts such as: *direct discrimination, indirect discrimination, harassment, sexual harassment, multiple discrimination and affirmative action.*

The normative act contains provisions that relate to promoting the principle of equal pay for work of equal value, equal and non discriminatory access of women and men in employment, promotion, training course. It also provides maternity protection measures and the obligation of employers to include in the Organization and Functioning Regulations and Rules of Internal discipline provisions that ensure equal opportunity and treatment between women and men in the labour market.

Other laws that ensure equal opportunities and treatment between women and men in the labour market:

- Law no. 53/2003 — Labour Code, as amended and supplemented, which states that within the work relationship is functioning the principle of equal treatment of all employees and employers. Any direct or indirect discrimination against an employee based on gender, sexual orientation, genetic characteristics, age, national affiliation, race, color, religion, political option, social origin, disability, family situation or responsibility, affiliation to or activity in a union is prohibited.

- Government Emergency Ordinance no. 148/2005 on family support to raise the child, approved with amendments by Law no. 7 / 2007, as amended and supplemented, provides the right of parents (mother or father) to qualify for parental leave under the age of 2 years or, in case of a disabled child up to three years, and a monthly allowance.
- Government Emergency Ordinance no. 67/2007 on equal treatment between men and women in occupational social security schemes, approved by Law no. 44/2008.
- Government Emergency Ordinance no. 61/2008 on the implementation of the principle of equal treatment between women and men regarding access to goods and services and the supply of goods and services, approved by Law no. 62/2009.

## **Situation of women in the labour market**

### **Implement the principle of equal pay for work of equal value**

One of the ways that can be achieved de facto equality between women and men is balanced participation in economic activities to ensure autonomy and financial independence of women.

The pay gap measures the difference in average gross hourly earnings relative to women and men throughout the economy. It is one of the structural indicators for monitoring the European Strategy for economic growth and jobs.

There are situations where women are paid less than men, despite providing the same type of work. Pay gap between women and men may in part reflect objective differences in terms of individual characteristics (age, education level, experience), labour (profession, type of contract or working conditions) or company (sector activity or size).

Wage gap between women and men in the 2008 -2010 period varied between 12% and 8%.

According to data provided by the National Institute of Statistics, According to data provided by the National Institute of Statistics study "Statistical Research on the Household Labour Force in the fourth quarter of 2010", the employment rate of working age population (15-64 years) was 57.9%. This level is higher than in same period of 2009 (+ 0.5% percentage points), but is lower than the third quarter of 2010 (-2.3 percentage points).

Employment was higher for men (64.7% vs. 51% for women).

The ILO unemployment rate was 7.3%, up from third quarter in 2010 (6.9%) and down from the corresponding quarter of 2009 (7.5%).

The gender gap between the two ILO unemployment rate was 1.4% percentage points (7.9% for men compared to 6.5% for women).

### **Measures to promote equal opportunities between women and men**

As a result of developments in economic and social crisis across Europe in Romania have been taken measures to rationalize public spending, particularly by reorganizing the work of public institutions and authorities.

In this context, the National Agency for Equal Opportunities between Women and Men (ANES), as specialized body of public administration with responsibilities in promoting the active integration of gender perspective in all policies and programmes, was closed down.

Based on GEO. no. 68/2010 was approved by Government Decision no. 728/2010 amending and supplementing Government Decision no. 11/2009 on the organization and functioning of the Ministry of Labour, Family and Social Protection, was established the Directorate of equality between women and men (DESF). This specialized technical structure of the Ministry of Labour, Family and Social Protection took over the tasks and staff of former ANES.

According to GD no. 728/2010, DESFB has the following **duties**:

- Develop policies and national action plans of the Government in the field of equality between women and men and coordinate their implementation.
- Receive complaints / claims on violation of legislation relating to equal opportunity and treatment between women and men and gender-based discrimination from physical people, legal people, public and private institutions and their transmission to the competent institutions for settlement and to apply sanctions.
- Approval of draft legislation initiated by other ministries and other bodies of central government, to integrate and respect the principle of equal opportunity and treatment between women and men.

### **Status of implementation of the National Strategy for equal opportunities between women and men for 2006-2009**

National Strategy for Equal Opportunities between Women and Men for 2006-2009 was approved by Government Decision no. 319 / March 8, 2006.

This strategic document has proposed a series of specific measures designed to eliminate any direct or indirect discrimination and allow citizens freedom and fundamental rights regardless of gender.

### ***Socio-economic analysis of the situation of women in rural and urban areas***

To identify the most effective implementing tools and methods of the campaign proposed for 2008, ANES conducted two tests in rural and urban areas on women's participation in decision-making process in family and community life.

The results revealed the need to intensify efforts to promote women's role in society.

The analysis was conducted in February 2008, through ANES territorial departments and was based on a questionnaire applied to a number of 900 urban women aged between 18 and 55 years and 1046 rural women aged 18 and 55 years. The questionnaires were applied in each county of Romania.

The main issues that emerged from this analysis are those related to: occupational status, participation in decision-making regarding the financial costs of family, community participation in community decision and in politics, areas of interest and how to obtain this information.

### Conclusions from the processing of questionnaires, for rural area

National professional situation reflects the fact that women in this area of residence are oriented mainly to areas such as public administration, health, agriculture, social work or education.

In terms of domestic responsibilities, they are generally assumed by women. Thus, in such counties as Botosani, Bacau, Suceava and Vaslui women assume these responsibilities at a rate of 98%.

The survey also reflects that the majority of rural women have incomes below 500 RON, with the exception of the western region of the country where the average monthly income ranges between 500 and 1,000 Ron.

In terms of balanced participation in decision making, the study shows that women do not involve in decision-making in their communities, although female participation rate is high enough to vote. For example, in the north-east of the country, women vote in 90% but get involved in decision-making only 19%. Imbalance persists in other regions, greater participation of women in the decision-making being in Cluj County.

In Romania, television remains the preferred medium of information for rural women who rarely call to print papers and do not use Internet. Also, about one third of women surveyed said they do not use any means of information. Over 50% of women surveyed expressed their interest to get more information on the rights of the labour market, being also concerned to obtain information on how to start a business or information on healthy reproduction. To obtain these data are preferred informative materials and information points obtained from local authorities.

### Conclusions from processing questionnaires for urban area

Most women surveyed said they are employed full time and have a monthly income of between 500 -1000 RON.

In the division of household tasks, the analysis showed that a large percentage of women surveyed (80%) are responsible for tasks related to household and childcare. Tasks related to household repairs and small shopping belong mostly to men.

Over 90% of women surveyed say they vote, but do not engage when it comes to making decisions in the community.

Internet and television are the main information media for urban women. Women in urban areas are particularly interested in obtaining information on employment rights (60%) and how to start a business (50%). They want to obtain such information through information materials (70%), internet (60%) and media campaigns (50%).

### ***Information campaign on anti-discrimination legislation on gender.***

During the periods July-August 2008 and August-September 2009 ANES began national information campaigns through the media, aimed at informing the general public on the legislative provisions concerning equality of opportunity and treatment between women and men.

An important aspect revealed by analysis of ANES conducted in early 2008 is the failure to inform people about anti-discrimination legislation. More than 60% of women surveyed nationally want to have access to information about their rights in the labour market.

### ***The information campaign of family and family planning physicians.***

During 2008, according to ANES objectives on reconciling family and professional life, this institution has developed through its territorial departments, a campaign among family physicians. Within this campaign were developed and disseminated information materials on the protection of motherhood and family life and counseling on family and professional life..

### **The measures proposed for 2010-2012**

Government of Romania adopted by Government Decision no. 237 / 24 March 2010, *Government of Romania adopted by Government Decision no. 237/24 March 2010 National Strategy for equality of opportunities between women and men for 2010-2012 and General Plan of Action for implementing the Strategy.*

The main activities underlying the Strategy are:

- Establish training programmes in the field of gender equality for teaching staff of non-formal education.
- Organize information and awareness campaigns in the field of gender equality for high school students.
- Organizing national conferences conducted with the participation of social partners and government representatives to identify measures to reduce the wage gap between women and men.
- Making a diagnosis on the impact of video media on the construction and dissemination of gender roles and stereotypes.
- The introduction of national legislative affirmative measures to encourage balanced representation of women and men in political decision-making process.

Labour Inspectorate checks under Law no. 202/2002 on equal opportunities and treatment between women and men (republished in the Official Gazette no. 150 from 01.03.2007) had the following results:

<b>INDICATORS</b>	<b>Period 2007-2010</b>
Number of employees checked	136.204
Number of employers checked	11.731
The total amount of fines imposed (lei)	359.500

Employers have been sanctioned for:

- Failure to prohibit discrimination provisions based on gender in internal regulations of units;
- no permanent employees information on the rights they have in terms of equal opportunities;
- lack of maternity protection at work;
- Failure to mention in the internal regulations of disciplinary sanctions for employees who violate the dignity of other employees.

Regarding applying the principle of equal opportunity and treatment between women and men, *7957 women are working within the Romanian Police, of which 2032 police officers, 4045 police agents and 1880 agents on contract.*

#### **Article 24 - Right to protection in cases of dismissal**

According to the Labour Code dismissal (individual termination of employment contract of the employer's initiative) may be ordered for reasons related to the employee (art. 61 letters .a-d) and for reasons not related to the employee (art. 65 para. 1). It is prohibited to dismiss employees on grounds of discrimination, it should be noted that to exercise under the law, the right to strike and trade union rights can not constitute grounds for dismissal.

Whatever the reason for the dismissal - excluding reorganization and bankruptcy of the employer - it can not be ordered:

- a) during temporary disability, established by medical certificate according to law provisions;
- b) during quarantine leave ;
- c) throughout the period employed woman is pregnant, to the extent that the employer became aware of this issue before the decision to dismiss;
- d) during maternity leave;
- e) throughout the period of parental leave under the child's age of 2 years or, if a disabled child up to age 3 years;
- f) throughout the period of sick leave to take care for children aged up to 7 years or, if a disabled child, for intercurrent disease before the age of 18 years;
- g) during military service;
- h) while exercising an eligible function in an trade union body, unless the dismissal is ordered for serious misconduct or repeated disciplinary violations committed by that employee;
- i) during performance of the holiday leave.



A. Dismissal for reasons related to the employee may happen:

- as a disciplinary sanction when the employee commits a serious or repeated violations of labour discipline rules;
- if the employee is taken into preventive custody for more than 60 days;
- in case of physical or mental unfitness of the employee who no longer allowed him/her to perform the duties, a situation found by the medical expertise competent authorities;
- for professional inadequacy.

To protect the employee from unfair dismissal, for the last two cases of dismissal, the Labour Code establishes a measure that the employer must undertake before issuing dismissal decision: preliminary investigation.

Also as a measure of protection for these two dismissal situations as well as the case when the employment contract has ceased as a result of the request for reinstatement to the position occupied by a person wrongfully dismissed, the employer shall, before dismissal, to propose the employee other suitable job according to his/her profession or, where appropriate, his/her work capacity. If the unit has not such employment, the employer is required to address local employment agency to identify jobs appropriate to professional skills and health; the solutions proposed by the agency will be communicated to the employee. If the employee does not like any of the jobs that the employer recommends then the employer may decide to his dismissal.

The dismissal decision shall be issued in writing within 30 calendar days from the date of finding the case of dismissal and it must necessarily include the reasons for dismissal and the legal ground and court where that dismissal decision may be appealed. Lack of any of these elements determine absolute nullity of the dismissal decision.

B. Dismissal for reasons not related to the employee is to do away with the job occupied by an employee of one or more reasons not related to his person (art. 65 para. 1 Labour Code), and may be individual, affecting one or a small group of employees, or collective when affecting a number of employees, expressly set in the Labour Code.

In the case of collective redundancies employer shall draw up a social action plan, propose training programmes so as to avoid or minimize the jobs that will dissolve and consult with union representatives or employees on methods of avoiding collective redundancies or mitigate their consequences. In this regard, the employer shall notify in writing the trade union or employee representatives and territorial labour inspectorate, with a letter (usually it is called a restructuring programme) that includes:

- a) total number and categories of employees;
- b) reasons for dismissal;
- c) number and categories of employees who will be affected by redundancy;
- d) criteria envisaged by law and / or collective agreements, for prioritizing the dismissal;
- e) measures envisaged to limit the number of redundancies;
- f) measures to mitigate the consequences of dismissal and compensation to be granted to employees subject to dismissal under the law and applicable collective labour contract;
- g) date on which or period during which there will be redundancies;

h) term the union or, where appropriate, employee representatives may make proposals to avoid or reduce the number of employees dismissed.

The trade union must submit its proposals to avoid redundancies and the employer is obliged to respond in writing and motivate these proposals.

Another protection against unfair dismissal where the employer would justify the need for collective redundancies is the express prohibition to perform new employment on the jobs of employees dismissed, for a period of 9 months of collective dismissal.

If, however, such a measure is necessary for the employer, to fill jobs lost as a result of collective dismissal the employer has the obligation to recommit the employees who were dismissed, without competition or trial period. Only if these employees do not require this then the employer can make new employments of vacancies.

Employer making redundancies for reasons of work physical unfitness / mental and professional inadequacy and for reasons not related to the employee must provide notice to affected employees that can not be less than 15 days. The employee is required to effectively continue the work for which shall receive salary.

Employees who were dismissed for reasons not attributable to them are entitled to receive unemployment benefits (Law no.76/2002).

Also, employees dismissed for reasons not related to their person, benefit from active measures to combat unemployment and qualify for compensation as provided by law and applicable collective labour contract.

The dismissal decision is a unilateral act of the employer to be established in writing and communicated to the employee, it shall take effect only after the employee has been notified. The dismissal decision must be motivated in fact and in law and must contain:

- a) reasons for dismissal;
- b) length of notice;
- c) criteria for determining the order of priority (in case of collective redundancies);
- d) list of jobs available in the unit and the period within which employees will choose to fill a job vacancy (for the situations mentioned above).

If the employer has not complied with the procedure prescribed by law to make redundancies or reason for dismissal is not thoroughly justified (and legally), the fired employee may appeal to judicial authorities for its cancellation. Under the rules of civil procedure the competent court is the court in whose district is domiciled or resident the employee fired.

If the court considers employee's action justified , it will cancel the dismissal, will require the employer to pay compensation to the employee equal to the indexed wages, increased and updated and other rights he/she would have been entitled that if he/she had not been fired.

The court may order reinstatement to the position held previously the dismissal if this was expressly requested in action formulated by the employee. If by final court decision it was

ordered reinstatement in his position and the employer refuses to execute the above court provisions, this is an offense and is punishable by imprisonment or fine.

The provisions of the Labour Code make effective protection against possible abuse of the employer. Thus, "subjective" redundancies are more limited and there is a specific penalty (absolute nullity) for those dismissals not arranged according to the law or that are not well-founded.

Collective redundancies, employees' information, consultation and procedure of collective redundancies are covered in Section 5 of the Labor Code – Law no. 53/2003, as amended and supplemented, and the Collective Unique Labour Agreement at national level 2007-2010, art. 78 - art. 82.

We mention that Labour Inspection by labor inspectorates check the intention notification of collective redundancies and of that of the final decision notification on collective redundancy to be recorded at their headquarters in the light of elements regarding:

- dismissal to be made timely;
- employers' consultations with trade union or employees' representatives;
- provision by employers of relevant information on: total number and categories of employees subject to dismissal;
- reasons for intended redundancies;
- criteria envisaged by law and / or collective agreements, for prioritizing the dismissal order;
- measures envisaged to limit the number of redundancies;
- measures to mitigate the consequences of dismissal and compensation to employees to be dismissed, according to the laws and / or applicable collective labor contract, date or period in which there will be redundancy.

Period within which the trade union or, where appropriate, the employees can make proposals to avoid or reduce the number of redundant employees.

At the reasoned request of either party, the Labor Inspectorate, in consultation with local employment agency can decide postponing decisions of dismissal issued within 10 calendar days if the issues related to collective redundancies can not be resolved by the date set in the notification of redundancies that is the date of dismissal decisions issue.

Labour inspection can determine whether the employer has complied with the law on collective redundancies, but groundless or unlawful dismissal cancellation is made by the court. The court is the only institution authorized that, through a final and irrevocable decision to oblige the employer to pay compensation equal to the waged indexed, increased and updated and other rights the employee, unlawfully dismissed, would have enjoyed.

Also, linking art. 31 para. (1) of the single national collective agreement for the years 2007 to 2010, with those of art. 27 para. (1) and (2) of Law no. 53/2003 – Labour Code, as amended and supplemented, to acquire and maintain an employee, any individual must be able to supply that work, both physically and mentally. It is therefore regulated medical

examination, not only to individual employment contract, but also periodically during its execution.

It is possible that at some point, due to illness or work accident, or other causes, employee may lose he/she work capacity or be less able to work, which no longer allows the profession exercise. Physical incapacity and / or mental can be determined only by the competent body.

Art. 61 letter c) of Labour code, as amended and supplemented, law regulate the employer's decision to order dismissal where, by decision of the competent medical expertise body, there is physical incapacity and / or mental health of the employee, which does not allow him/her to fulfill properly the tasks of the job. This is required also for protection of the employee.

In addition, according to art. 25 letter. c) of Law no. 98/1994 on the establishment and sanctioning of infringements to the rules of hygiene and public health, republished, keeping a person in a job for which health authorities have established a temporary or permanent medical contraindication is an offense.

It shall be mention that, prior to dismissal, the employer shall propose the employee other vacancies in the unit, consistent with employment capacity established by the occupational health doctor, and in case he has not such places he shall seek the support of the territorial employment agency for the employee's redistribution (art. 64 of Law no. 53/2003 – Labour Code, as amended and supplemented). The employee has a period of 3 working days from notification to manifest expressly consent to the new job offer.

According to the provisions of art. 60 para. (1) of Law no. 53/2003 – Labour Code, as amended and supplemented, employees can not be ordered dismissal during temporary disability, established by medical certificate las to law provisions.

According to the provisions of para. (1) and (2) of art. 10 of the Law of trade unions no. 54/2003, as amended and supplemented, during the mandate and within 2 years after leaving office, the elected representatives in management bodies of trade unions can not be changed or canceled the employment contract for reasons not imputable to them, which the law leaves to the discretion of the employer, without the written consent of the elected governing body of collective trade union organization.

Are forbidden to modify and / or terminate individual employment contracts, both of the elected representatives in management bodies of trade unions and their members, from the employer's initiative, for reasons relating to trade union activity.

## **Article 25- Workers' right to protection of own claims in the event of insolvency of his/her employer**

Cadrul legal general in materia dreptului lucrătorilor la protecția propriilor creanțe în caz de insolabilitate a patronului acestora este reglementat de Legea nr. 200 din 22 mai 2006 privind constituirea și utilizarea Fondului de garantare pentru plata creanțelor salariale , care a intrat în vigoare la data de 1 ianuarie 2007.

Provisions of this law regulates the conditions on the establishment, management, use and control of the Guarantee Fund for payment of wage claims.

According to art. 2 of the legislative act mentioned above, the Guarantee Fund shall ensure payment of outstanding claims arising from individual employment contracts and collective agreements concluded by employees with employers against whom have been rendered final judgments opening insolvency proceedings and to which was ordered the measure of total or partial removal of the right of administration.

Guarantee Fund management is made by the National Agency for Employment, the county and Bucharest employment agencies. In the management of the Guarantee Fund territorial agencies have the following duties:

- a) receive, examine and process applications for payment of wage claims arising from individual employment contracts and / or collective agreements;
- b) determine the amount of wage claims and makes their payments to the employees;
- c) recover debts created under this law, other than from contributions to the Guarantee Fund;
- d) represents the interests of the Guarantee Fund in relation to central and local government institutions, courts, companies or organizations;
- e) ensures the exchange of information with competent institutions of the Member States of the European Union or European Economic Area.

In accordance with the provisions of art. 13 para. (1) of Law no. 200/2006, from the Guarantee Fund resources shall be covered, within the limits and under the conditions provided in this chapter, the following categories of wage claims:

- a) outstanding wages;
- b) outstanding financial compensation, paid by employers for employees' annual leave not taken, but only for up to one year of work;
- c) outstanding compensation payments in the amount specified in the collective work and / or individual employment contract, in case of termination of employment relation;
- d) remaining compensation that employers are required to pay under the collective work and / or individual employment contract, in case of accidents or occupational diseases;
- e) outstanding wages, which employers are required by law to pay during the temporary business interruption.

The total amount of outstanding claims incurred by the Guarantee Fund may not exceed the amount of three average salaries per economy for each employee, as required by art. 14 para.

1 of Law no. 200/2006, and determining the amount of outstanding claims due to the employees and their payment is made by territorial agencies, at the written request of the employer's administrator or liquidator in case of insolvency.

Workers' right to protection of their claims in case of insolvency of their employer is contained in Law no. 200/2006, as amended and supplemented. This law regulates the conditions on the establishment, management, use and control of the guarantee fund for payment of wage claims referred to as the guarantee fund. Violations control and finding are performed by the control of territorial labour agencies.

Law no. 200 of 2006 regulates the conditions on the establishment, management, use and control of the Guarantee Fund for payment of wage claims.

Guarantee Fund's financial resources consist of:

- a) Contribution of employers;
- b) income representing interest, delay interest for overdue payment of contribution to the Guarantee Fund and other amounts from sources permitted by law;
- c) amounts from the recovery of debts created according to the law, other than from contributions to the Guarantee Fund.

Contribution that employers are required to pay to the Guarantee Fund is 0.25% of the revenue, which constitute the basis for individual contribution to unemployment insurance budget made by employees employed with individual labour contract.

Guarantee fund management is run by the National Agency for Employment.

The guarantee Fund as a percentage of GDP was 0,02% in 2009 and 0,01% in 2011.