



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION**

Periodic reports of States parties due in 1997

ROMANIA*

[18 January 2000]

* For the initial report submitted by the Government of Romania, see document CRC/C/3/Add.16, for its consideration by the Committee see documents CRC/C/SR.120-122 and for the concluding observations, see document CRC/C/15/Add.16

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I. GENERAL IMPLEMENTATION MEASURES

1. According to the provisions of paragraph 1 (b) of article 44 of the Convention on the Rights of the Child and the guidelines on the form and content of reports of States parties to the Convention, the present periodic report on the measures taken by Romania with a view to implementing the Convention and on the progress recorded between 1993 and 1998 is submitted to the United Nations Committee on the Rights of the Child.

2. Romania ratified the Convention on the Rights of the Child on 28 September 1990 by passing Law No. 18/1990 and submitted the initial report in 1993, the report being presented to the Committee on the Rights of the Child in a public meeting in the year 1994.

The Government's reform strategy regarding the legislative framework and structures involved in child protection

3. Reviewing the legislative framework in the area of child protection in the spirit of full observance of the principles and provisions contained in the Convention on the Rights of the Child has been a priority in the development and implementation of a coherent reform strategy in the field. The reform of the system of protection of the rights of the child, initiated in an emergency procedure by the Government of Romania in March 1997, is based on the following principles:

(a) The principle of the priority of the child's best interest, which represents the reason for the establishment of all measures of protection;

(b) The principle of non-discrimination, which allows every child whose development, security, and physical or moral integrity are in jeopardy to benefit from the measure of protection stipulated by law;

(c) The decentralization of decision-making power and delegation of responsibilities in the territory to local public administration;

(d) To favour family-type alternatives to residential care of children in difficulty.

4. Fully aware of the social and economic costs of the former system of child protection promoted by the abrogated Law No. 3/1970, the Government of Romania is determined to achieve fundamental changes in the field. Consequently, the Department for Child Protection was established in January 1997 as part of the Government's executive structures, as a result of reorganizing the National Committee for Child Protection.

5. In a relatively brief interval, using limited resources, the Department for Child Protection managed to introduce significant amendments to the legislative framework that make decentralization possible and support the concepts defined in the Convention on the Rights of the Child and recommendation 1286 of the Parliamentary Assembly of the Council of Europe. The above-mentioned changes were materialized in three emergency Ordinances and seven Government Decisions, as follows:

Government Decision No. 205/1997 on the reorganization of the activity of local public administration authorities in the domain of the protection of the rights of the child;

Emergency Ordinance No. 25/1997 on the legal aspects of adoption, approved by Law No. 87/1998;

Emergency Ordinance No. 26/1997 on the protection of children in difficulty, approved by Law No. 108/1998;

Government Decision No. 502/1997 on the reorganization of the Romanian Committee for Adoption;

Government Decision No. 245/1997 on the criteria for authorizing private organizations working for the protection of adopted children;

Government Decision No. 604/1997 on the criteria for authorizing private organizations working for the protection of the child;

Government Decision No. 217/1997 on the conditions for certification, procedures for certification and the status of the professional maternal assistant;

Emergency Ordinance No. 34/1998 on the reorganization of the Department for Child Protection;

Government Decision No. 875/1998 on the organization and operation of the Department for Child Protection;

Government Decision No. 117/1999 for approving the Methodological norms and transitory measures for the implementation of the provisions of Emergency Ordinance No. 26/1997 on the protection of children in difficulty, as well as the Methodology for coordinating the activities of protection and promotion of the rights of the child at a national level.

6. The strategy proposed by the Department for Child Protection and promoted in the normative acts mentioned above is focused on the protection of children in difficulty, in an approach centred on the evolution of the legislative and normative framework, the restriction of central authority and administrative and financial responsibility and its delegation to a local level, consolidating the capacity of local institutional factors in order to offer them the possibility to provide effective services, to promote alternatives to the current system of residential care and to consolidate the role of the civil society in the domain of child protection, by involving local communities and non-governmental organizations (NGOs).

7. The implementation of this strategy and the complex nature of the newly emerging activities and services revealed the necessity of expanding the mandate and functions of the Department for Child Protection from an activity mainly oriented towards protecting children in difficulty to nationwide coordination and control of activities directed towards the protection and

promotion of the rights of the child. This was the main motivation for reorganizing the Department for Child Protection in November 1998, which was meant to facilitate the effective management of all the activities performed in the domain of child protection.

8. As a consequence of the new regulations, several bodies have been established: the Commissions for Child Protection, specialized bodies of the county councils presided over by the county secretary, as well as specialized public services for the protection of the rights of the child, placed under the authority of the commissions and acting as their executive body.

9. The Commission for Child Protection is a specialized body within a county council with decision-making powers in the field of the protection of children in difficulty and adopted children. In fulfilling its functions, the Commission represents the authority of the county council and coordinates activities in the domain of tutelary authority and the protection of the rights of the child, which includes the prevention of situations jeopardizing the child's security and development, activities managed by the local councils in the administrative-territorial units on the territory of the council where they operate.

10. The public services specialized in child protection were initiated in 1997 by decisions of the county councils or local council of the municipality of Bucharest under the name of Directorates for the Protection of the Rights of the Child. They are established as legal persons, and they are county- or local-level public institutions.

11. The Department for Child Protection has supported from a methodological and financial point of view the establishment of new structures and has concluded with the county councils and the local councils in the districts of the municipality of Bucharest conventions of cooperation concerning the organization at a county or district level of activities for the protection of the rights of the child. The establishment of this partnership (which also leaves room for the involvement of the non-governmental sector) is a form of actual cooperation between the State authorities and the civil society for supporting reform in the domain of child protection.

The reform of the institutions for child protection

12. The domain fraught with the most severe problems, which required immediate intervention and that witnessed the most important changes, is the protection of children in residential care. The reform of the domain represents the most important process of decentralization in the Romanian public administration after 1989, and it involved over 30,000 employees and over 200 units.

13. At present, the residential institutions for child protection (crèches and children's homes) have been removed from the Ministry of Health and the Ministry of National Education and reorganized as part of the specialized county-level public services, which provided them with the instruments they needed to fulfil the functions assigned to them in the new legislation and, implicitly, an efficient resource management system in the counties.

14. Upon completion of the transfer, the restructuring of these institutions became a priority. They were to be reorganized as placement centres whose main function was to offer protection and care to children in an environment that was as close as possible to a natural family setting, which no longer had the obvious medical or educational nature that was dominant before the switch.

15. The reform of residential care institutions involves major difficulties, particularly in the case of large units hosting over 200 children, and in the case of counties where the decentralized directorates of the above-mentioned ministries fail to be cooperative enough. There are also difficulties in the monitoring and protection of children abandoned in hospitals.

16. Seventy residential care units have been identified that require urgent intervention in the domain of restructuring, and they have become priority targets in the work of county directorates for child protection and the future object of international financing projects (Social Development Fund, World Bank, EU/PHARE project, etc.). Among these units there are some that operate in desolate conditions and that have become the subject of attacks in the Western media.

17. In the course of the restructuring process, child protection services have also been diversified. Maternal care centres, day-care centres, and day and recovery centres for disabled children have been established with the right of children to be raised in their original families fully in mind. The newly created services provide for active participation by the civil society in child protection, they have a profoundly community-oriented character and are in line with Romania's strategy of sectoral accession to European structures.

18. In the autumn of 1998, the Government of Romania/Department for Child Protection initiated the "Project to Reform the Child Protection System for the Years 1999-2001" in partnership with the authorities of the local public administration and with the involvement of international organizations (World Bank, Social Development Fund of the Council of Europe (SDFCE), UNICEF, USAID, EU/PHARE, the Spanish and Swiss Governments, the SERA (Solidarité enfants roumains abandonnés) Foundation) whose major objective was to promote and observe the rights of the child by the restructuring and development of the service system in the field.

19. The first component of the project refers to the establishment and development in Romania of a child protection system, based on more active involvement by the local community, to prevent children being abandoned and institutionalized, to promote their removal from institutions and to stimulate the quality of care in residential institutions by changing them into family-type institutions capable of responding to the real individual needs of children.

20. The second component of the project is represented by the "Street Children Initiative", a set of complex activities whose aim is to diversify and multiply services for street children, as well as to intensify efforts towards reducing their number by family and social integration/reintegration.

21. The third component in the development of the project is to be concentrated on institutional reform, as well as on training and raising awareness among the public, monitoring and evaluation. This dimension of the project involves the improvement of central institutional capacities to reform the child protection system. It also involves the full monitoring and evaluation of the national child protection system.

22. The final aim of all the activities undertaken is to reduce the number of children in residential care units, to increase the number of children who are offered protection in natural families through adoption or placement in host families, to improve care in residential units, to reduce the number of street and abandoned children in the health-care system (maternal homes, paediatric department, division for neuro-psychomotor recovery of children, etc.)

Reform in the domain of adoption

23. The new vision on the conditions of adoption in Romania was promoted by the Department for Child Protection in Emergency Ordinance No. 25/1997, approved by Law No. 87/1998, and it is implemented by the Romanian Committee for Adoption, whose activity is coordinated by the Department for Child Protection; the President of the Romanian Committee for Adoption is the head of the Department for Child Protection.

24. The reorganization of this specialized body, established to supervise and support actions to protect adopted children, as well as to foster international cooperation in the field, was initiated in February 1997 when the Permanent Secretariat of the Romanian Committee for Adoption was transferred from the Ministry of Health to the Department for Child Protection. The new structure and functions of the Romanian Committee for Adoption are stipulated in Government Decision No. 502/1997.

25. Among the new elements introduced by this normative act, one that is particularly worth mentioning is the involvement of the authorities of the local public administration in the central decision-making process, by the inclusion of the secretaries of county councils and the general secretary of the municipality of Bucharest among the members of the Romanian Committee for Adoption.

26. Legislative reform meant the switch to a new operating method, which resulted from unifying procedures for domestic and international adoptions, an attempt being made at reducing the time spent in a residential unit and the waiting time of a child who can be adopted, and the close observance of applicable domestic and international law.

27. The Romanian Committee for Adoption has negotiated and concluded cooperation agreements with public authorities in other States that are responsible for international adoption. The agreements concluded are in line with Romanian law and the provisions of the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 29 May 1993, ratified by Romania by Law No. 84/1994. Further details on the subject are included in chapter V, section F below.

Promoting and protecting the rights of the child

28. Article 55 of Romania's Constitution establishes the institution of the Ombudsman, whose function is to protect the rights and freedoms of the citizens. The Ombudsman completes the system of democratic institutions characteristic of a rule of law State, being the main mechanism outside the legal system for the protection of human rights in the citizens' relationship with the authorities of the public administration.

29. In his/her work, the Ombudsman is independent of all public authorities and exerts the functions assigned to that institution by the law either upon the notification of citizens whose rights have been violated by the authorities of the public administration by illegal administrative acts, or ex officio. In fulfilling its functions, the Ombudsman is entitled to conduct investigations, having access to all the information held by public authorities, secret documents included, while the recommendations issued cannot be subjected to either parliamentary or judicial control.

30. In response to the requirements formulated in Recommendation No. 1286/1996 on a European strategy for children, which encourages the States members of the Council of Europe to establish an ombudsman for children or any other structure that can offer guarantees of independence and the competence necessary for a real promotion of the condition of the child, and that is accessible to the general public mainly through local contacts, a specialized department for the protection of the rights of the child was established. Being a centrally organized institution, the role of local contacts can be assumed by non-governmental organization managing programmes for children, whose main object is to promote the rights of the child.

31. The Ombudsman intervenes upon notification either by children themselves, parents, or legal guardians, or it can take action ex officio upon finding out by any other means that the rights and freedoms of a child have been violated (information in the print or electronic media, information coming from NGOs, other information or data acquired in the course of investigation). The first ex officio action taken by the Ombudsman had as an object the violation of the rights of the child, and the first notifications coming directly from children were recorded beginning in 1999.

32. From August 1998 (the time when the specialized department actually started work) to the moment when this report was drafted (July 1999), the Ombudsman intervened in 61 cases of violation of the rights of the child, out of which 13 were ex officio cases. The cases where the Ombudsman intervened refer to the violation of the rights of children to benefit from care and protection whenever they lack parental care, and to benefit from placement, the periodic assessment of the placement, a clear legal status, identification documents, material support, adequate treatment in the natural, extended, adoptive family, etc.

33. The interventions were targeted at municipalities (the tutelary authority), commissions for child protection, county councils, prosecutor's offices, the police, ministries and other specialized bodies of the Government, which usually responded within a brief interval. This allowed the Ombudsman to resolve 22 cases in a relatively short time. The situation brought to the attention of the Ombudsman was not confirmed in only 3 cases, while in 19 cases the solution was in favour of the children.

34. Having found that some administrative procedures are potential sources for the violation of the rights of the child, the Ombudsman initiated a systematic study of these procedures, with a focus on those referring to adoption. Over 300 files have been analysed so far where the courts have approved the adoption. The investigation referred exclusively to administrative acts, since the acts issued by the judicial authority are not the object of the Ombudsman's activity, the independence of the judiciary being one of the main constitutional principles of a rule of law State.

35. Some aspects of the way in which the rights of the child are violated by the authorities of the public administration, as well as some suggestion on the legislation, are to be found in the first Ombudsman's Report drafted and presented to the Parliament for debate. A report on the observance of the rights of the child is also nearing completion. It has been drafted from the perspective of the institution's general competence to monitor the activities of the public authorities to effectively support the observance of human rights.

36. Law No. 206/1998 approved the affiliation of the Ombudsman institution to the International Ombudsman Institute and the European Ombudsman Institute, which consolidated the capacity of that institution to improve its work by approaching from a scientific perspective the problems concerning human rights, the protection of civil rights, and the ombudsman institutions at a regional, national, European and international level.

37. On the other hand, with the same purpose of promoting and protecting the rights of the child, the Department for Child Protection proposes and supports the development of a community service of assistance to children in exerting their right to unhindered expression of their opinions, within the specialized public service for child protection. This service of multidisciplinary counselling is going to offer children with a power of judgement the right to express their opinions freely and to have their opinions considered in any problem or procedures that concern them, covering to a large extent the functions and responsibilities of an ombudsman for children.

38. As part of the above-mentioned service, upon the initiative of the Department for Child Protection, action has been taken to establish a "Child Hotline", which means that a three-figure phone number has been made available that children can call free of charge from anywhere in the country. It can be used by all children and teenagers wishing to express an opinion about the observance or violation of their rights in the family, at school or in society. The project is aimed at promoting and facilitating the connection between children in difficulty and the specialized personnel working within the social services made available to children.

Measures taken for disseminating the principles and provisions of the Convention on the Rights of the Child at a national level

39. In line with article 42 in the Convention, in which States parties commit themselves to making known the principles and provisions of the Convention to adults and children by using adequate active means, the following types of intervention have been made in Romania.

40. The Romanian Government's initial report referring to the measures for the implementation of the Convention, the list of problems to consider in connection with the initial report, the list of answers to the problems raised by the Committee for the Rights of the Child and the concluding observations of that committee have been all published by the Department of Public Information within the Government of Romania in Bulletin No. 4 (18) of May 1994 and distributed to all central and local authorities, international organizations, non-governmental organizations, and other specialists involved in the field.

41. The National Committee for Child Protection (reorganized in January 1997 as the Department for Child Protection) together with Save the Children and UNICEF organized from 2 to 4 June 1994 a national conference entitled "Romania and the UN Convention on the Rights of the Child". The event brought together over 220 participants, representatives of the Parliament of Romania, the Government, the county councils and the local councils of the municipality of Bucharest, residential care units, specialized institutions of the Government (the Romanian Institute for Human Rights, the Institute for the Protection of the Mother and Child, etc.), hospitals, universities with departments specializing in the field, 38 non-governmental organizations and representatives of United Nations organizations.

42. The final document of the conference - General Directions for the Future Implementation of the United Nations Convention on the Rights of the Child - was the starting point for elaborating the National Action Plan in favour of children, the first government initiative that included the principles of the Convention among its provisions, a document adopted by Government Decision No. 972/1995.

43. The Convention on the Rights of the Child was translated in Romania into the national language as early as 1990 by Save the Children, both in its complete version and in an abridged version for children. With the financial support of UNICEF, this organization has managed to publish the Convention in over 250,000 copies so far. The latest printed version included material containing a short history of the adoption of the Convention, the recommendations of the Committee and the important events that facilitated the dissemination and implementation of the Convention. Currently, the Convention is being translated into Romanian and a children's version has been published in Hungarian.

44. The text of the Convention has been published in Romania's Official Gazette as Law No. 18/1990 for the ratification of the Convention, thus becoming widely accessible to all concerned. Governmental and non-governmental institutions have published a large amount of material that includes the text of the Convention. This material has been distributed free of charge to children, teaching staff, specialists working in the field, and central and local authorities.

45. The Ministry of National Education (MNE) included civic education in the curricula (for the 3rd, 4th, 7th and 8th grades) as a compulsory subject that includes topics and chapters referring to the rights of the child. Both the MNE and other organizations have commissioned the drafting of specialized teaching materials to be used in classes on the rights of the child taught in schools, materials that are differentiated by content and age group.

46. The provisions of the Convention and their reflection in the Romanian realities have been debated at a large number of national conferences (The Rights of Institutionalized Children, The Rights of Romanian Children, The Abused Neglected Child, Street Children, Children and Labour, etc.).

47. Training courses have been organized for staff working with children and for those who are directly involved in implementing the Government's strategy for the protection of children in difficulty. The first compulsory module in these courses referred to the Convention on the Rights of the Child. These efforts need to be continued and multiplied, considering that the training programmes have been concentrated so far mainly in urban areas.

48. Both the Department for Child Protection, by means of its periodic bulletin entitled "For the Benefit of Children", and other governmental and non-governmental structures, by means of their own information materials, conduct information and education activities in the spirit of understanding and implementation of the principles of the Convention.

49. Children themselves are included in extra-curricular activities (with the support of Save the Children); they are involved in debates, case studies, local and national competitions, in the publishing of the opinion magazine "Children's Thoughts and Voices"; a Children's Forum is organized on an annual basis where children can analyse the recommendations of the Committee, they can address questions to the Government's decision-making bodies and can meet representatives thereof in order to be better informed about the measures that may affect their education, health, social protection and environment.

50. As a rule, the governmental and non-governmental sectors work together actively in the process of promoting the rights of the child, involving children and young people in information and education campaigns, as well as in advocacy and lobbying activities to the benefit of children.

51. The mass media have mainly covered the extreme cases of violation of children's rights, and they grant more attention to sensational facts to the detriment of those with an educational value. Lately the media - particularly the print media - have started presenting documented approaches that include a comparative analysis of the current situation with respect to the provisions in Romanian law and those of the Convention on the Rights of the Child.

II. THE DEFINITION OF A CHILD

(art. 1)

52. The definition of a child, contained in article 1 of the Convention on the Rights of the Child, is repeated in an identical formulation in article 1, paragraph 2, of Emergency Ordinance No. 26/1997 on the protection of children in difficulty, stipulating that "a child means every

person below the age of 18 who does not have full capacity to exert his or her rights". The new legislation promoted by the Government in 1997 replaces the term "minor" used in previous legislation (Decree No. 31/1954, Family Code, Law No. 3/1970, etc.) with the term "child", according to the current practice of international conventions and treaties.

53. In the Romanian legislation, the provisions concerning the age limits in various domains are the following:

(a) The age of majority. The age of majority stipulated in Romanian law is 18, coming of that age providing the person the full capacity to exert his or her rights. A girl who is 15 or 16 years of age and gets married acquires the full capacity to exert her rights, like any person who has come of age according to the general rule (see the section on Marriage below);

(b) Legal counselling without parental consent. Decree No. 31/1954 granted children over 14 a restricted capacity to exert their rights, upon the drafting of legal documents that include a provision saying that they can act "upon prior approval of their parents or legal guardians" (art. 9). Children over 14 can file a complaint with the authorities referring to violation of their home, violation of their mail, searching of their home, intercepting of their phone calls, and arrest. For children who are under that age, complaints shall be filed by their parents or legal guardians;

(c) Medical counselling without the parents' consent. Children can see any doctor with their parents' consent even before the age of 14. All children have the right to benefit from free medical assistance and they can go to the medical unit in the district where they live (that holds their medical records) or to the medical ward of the school they attend (if the school is provided with that facility). Beginning in 1998, children will be offered medical assistance by family doctors. If, however, the doctor considers that other information is necessary, or in case a child requires surgery, medical ethics require that the doctor also seek the parents' consent;

(d) Length of compulsory schooling. The general length of compulsory schooling is eight grades. The starting age for primary school is 7, or 6 upon the request of the child's parents or legal guardians, according to article 20, paragraphs 2 and 3, of the Education Law No. 84/1994. Attendance of the eight-grade system is no longer compulsory after the age of 16 (Law No. 84/1995, art. 6);

(e) Employment. Article 45 of the Romanian Constitution stipulates that children under 15 cannot be employed. Between the ages of 15 and 16, the law recognizes the child's partial capacity to work which results in a restricted capacity to be employed; this can be done only upon prior approval of the child's parents or legal guardians, and only for activities that are appropriate for the child's physical development, skills and knowledge. A doctor's advice is another prerequisite for the employment of a child in this category. Children over 16 can conclude a labour contract without the approval of their parents or legal guardians. In this case, children will exert on their own the rights and duties deriving from their labour contracts and

will be entitled to dispose of the amounts earned as a result of their work. The legislation currently in force contains provisions that grant special protection to children in their labour conditions (number of working hours, holidays, etc.), and it contains measures (including penal ones) that can be taken when those provisions are violated. For details see chapter VIII, “Special Protection Measures”, section C, “Children in situations of exploitation”;

(f) Marriage. The Family Code stipulates the following ages when a person can get married: males can be married only after the age of 18, while females can be married only after 16. For well-founded reasons, approval can be granted for a young female to be married at the age of 15. The approval can be issued only by the competent authorities of the county governments (prefecture) and that of the municipality of Bucharest, and only based upon a certificate issued by a medical expert (article 4 of the Family Code). The law does not require parental consent for the marriage of their children, not even when the person to be married is a young female of 16 or 15. According to the provisions of Decree No. 31/1954, a child acquires the full capacity to exert his or her rights by marriage (art. 8, para. 3). As a consequence, a differentiation by gender appears both concerning the age when persons can start a family, and the age when they acquire the full capacity to exert their rights;

(g) Agreeing to sexual relations. The legislation in force contains explicit provisions to the effect that indulging in sexual intercourse with girls under 14 is to be punished by law, while in the case of boys there are no provisions to that effect. For details see chapter VIII, “Special Protection Measures”, section C “Children in situations of exploitation”;

(h) Voluntary enrolment in the army. Voluntary enrolment in the army is only allowed to persons over 18;

(i) Regular military service. Young males shall be recruited for regular military service in the year in which they turn 19. Students in high schools or other equivalent schools shall be recruited during their last year of study, even in case they have not turned 19 (Law No. 46/1996);

(j) Participation in combat. In times of war, young males are recruited in the year in which they turn 18 (Law No. 46/1996, art. 11);

(k) Penal liability. Children under 14 shall not be held liable for penal offences. Children between 14 and 16 shall only be held liable if they are proved to have committed the offence wittingly (article 99 in the Penal Code), while children over 16 shall be held liable for the offences committed in all circumstances. Children who can be held liable for their offences can be either submitted to an educational measure (reprimand, restricted freedom under the supervision of parents or legal guardians, enrolment in a re-education centre or in a medical educational unit) or to a punishment (imprisonment, the terms being reduced by half, or fines);

(l) Capital punishment and life sentence. Capital punishment has been abolished and replaced by life sentence (Decree-Law No. 6/7.01.1990). According to the Romanian Constitution, punishment by death is forbidden (art. 22). When the law stipulates a life sentence for the offence committed, children over 16 shall be sentenced to a term of 5 to 20 years, while children between 14 and 16 shall be submitted to the same sentence, should it be proved that they have deliberately and wittingly committed the offence;

(m) Hearings in civil and penal cases. In civil cases, hearings of children will be conducted in the presence of their parents or legal guardians, or, in case they have no legal guardians, in the presence of a representative of the tutelary authority or another representative designated by the court to defend their rights. In penal cases, it is compulsory for hearings to be conducted in the presence of an ex officio or chosen defence council. If the act whose victim was a child may affect the latter's image or privacy, the hearing can be conducted separately by the members of the court in the Council Room. Statements made by children under 14 are considered by the court in penal cases, considering the concurrent existence of other evidence made available by the prosecution;

(n) Complaints and requests addressed to judicial or other authorities without the parents' consent. Children can file requests with other authorities without the prior consent of their parents or legal guardians after the age of 16. Between the ages of 14 and 16, requests can only be filed with the prior approval of parents or legal guardians. Considering that girls under age who achieve majority by marriage can file complaints and requests without the approval of another person. The tutelary authority can grant permission to a child, upon the latter's request and after the age of 14, to switch to a different form of schooling or vocational training than that decided for them by their parents, or to choose a home that is appropriate for the completion of their education or vocational training. Moreover, upon the request of children over 14 addressed to the tutelary authority, a court can amend a previous ruling concerning the entrusting of a child to a parent. It is important to underline that one of the main functions of the public authorities specializing in child protection is to determine what the position of a child capable of forming his or her opinion is concerning the protection measure proposed for him or her, and to make sure that the child is aware what its situation is de jure and de facto. At the same time, the law stipulates that children who are capable of forming their own opinion are entitled to support and assistance in exercising their right to free expression of their opinion (article 27, paragraph 2, points 8 and 9 of Government Decision No. 117/1999). Consequently, any complaint or request for the free expression of opinion can be addressed by a child who can form his or her opinion to the child assistance and support services that are organized and operate within the specialized public services for child protection (further details concerning the service are presented under chapter III, "General Principles", section D, "Considering children's opinion");

(o) Consent about a change of identity, change of name, modification of family relationships, adoption, guardianship. In the case of children, the application for changing the name can be filed either by the parents or, upon approval of the tutelary authority, by the guardian. If the parents cannot come to an agreement concerning the name change for the child, the decision shall be made by the tutelary authority. In case the child is over 14, the application shall also be signed by him/her. The application for changing a child's family name can be filed together with a similar application made by the parents or, in well-founded cases, separately. An application for changing a child's given name can be filed at any time. In case of divorce, the

decision to entrust the child to one of the parents shall be made by the court, upon hearing the child and considering its best interest, as well as considering the recommendation of the tutelary authority. Children can be heard when they are over 10. In case of adoption, the consent of children over 10 shall be sought. Children will acquire by adoption the name of the adopting parent. Adoptions can be cancelled upon the request of a child over 10 or of a commission for child protection, if cancelling the adoption serves the child's best interest. The court shall also rule concerning the name of the child following the cancelling of the adoption. In case of the establishment of guardianship, the child's consent shall not be sought, since this is a measure of protection that is taken in case both parents are deceased, unknown, have lost parental authority, are placed under interdiction, have disappeared or have been declared dead, or when an adoption is dissolved. All measures of protection shall be taken by the Commission for Child Protection with the granting of the right to the free expression of their opinion about the proposed measure to all children who can form their own opinion;

(p) Access to information concerning the blood family. Adoptive parents are under an obligation to inform children about their being adopted as soon as their age and maturity allow them to do so and to notify the Commission for Child Protection about the fulfilment of that obligation;

(q) The legal capacity to inherit and manage an estate. The Civil Code stipulates that, in order to become an heir, a person must be proved to exist at the time of the settlement of the succession, and for these purposes, a child is considered to exist upon being conceived (art. 654). Article 808 of the Civil Code contains a provision to the effect that a child conceived at the time of a donation can benefit from that donation, the same as a child conceived at the time of the testator's death can benefit from the provisions of a will. For children under 14, the parents/guardian/Commission for Child Protection have the right and duty to manage the children's estate and to represent them in legal acts. Children over 14 will exert their rights and duties independently, but only upon prior approval of their parents/guardian/Commission for Child Protection. Upon coming of age at 18 or upon acquiring full capacity to exert their rights, children can manage their estate on their own;

(r) Establishing or joining organizations. Article 3 of Law No. 54/1991 on trade unions also refers to employed children (over 15). They are free to participate in the establishment of a trade union, without any restriction or the prior consent of their parents or legal guardians. However, they cannot be elected to the managing bodies of the unions, except if they have acquired the full capacity to exert their rights before the age of 18. Children under 18 cannot participate in the establishment of political parties, since they do not have a voting right. Children over 16 can be enrolled in the youth organization of a political party without, however, acquiring the quality of party members (Law No. 27/1996, art. 6, para. 4). Further details are provided in chapter IV, "Civil Rights and Freedoms", section F, "Peaceful association and assembly";

(s) Choosing a religion or enrolling in theological schools. The minimum age for choosing a religion is the starting age of primary education (Education Law No. 84/1995, art. 9, para. 1, amended by Emergency Ordinance No. 36/1997). Religion is included among the subjects in the curriculum for primary, middle, secondary and vocational education. At that age, students can opt to study religion as a subject within a certain denomination, with the consent of

their parents or legal guardians. As far as theological schools are concerned, the law grants the denominations that are officially recognized by the State the right to apply to the Ministry of National Education for the approval to organize specific forms of education, according to the training requirements for specific personnel (article 9, paragraph 2, of the Education Law No. 84/1995, amended subsequently). The types of secondary schools stipulated in the law include theological schools (article 24, paragraph 1, of Law No. 84/1995). According to Law No. 15/1996 on the status and treatment of refugees in Romania, children are granted the liberty to practise their own religion (art. 15);

(t) Consumption of alcoholic drinks or other substances. The minimum age for the consumption of alcoholic drinks in public places is 18. Law No. 61/1991 on the punishment of offences against social norms and public order lists the serving of alcoholic drinks to children among minor offences (art. 2, point 18);

(u) The relationship between the minimum employment age and the age for leaving compulsory education. Children over 15 have the right and duty to pursue their studies in order to graduate from all the grades in the compulsory schooling system. Units employing children over 15 shall be under the obligation to support them in completing their compulsory education;

(v) Cases when the criterion of puberty is used in the interpretation of the Penal Code; differentiated use for girls and boys. Considering puberty to be the age between 11 and 14, this criterion involves the single case of differentiated treatment in the case of offences concerning sexual relations. In this context, in the case of heterosexual relations conducted with a boy at the age of puberty or below that age, the Penal Code defines the offence in the form of maltreatment applied to a minor child (an offence against family life), while sexual relationships conducted with a female person under 14 is considered to be an offence concerning sexual life (sexual relationship with a female minor).

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

Provisions in the Romanian Constitution

54. The equality of rights of all children is based on the universal character of the fundamental rights and freedoms that the Constitution of Romania guarantees for all its citizens, irrespective of race, national or ethnic origin, language, religion, sex, political opinion or affiliation, property or social origin (art. 4).

55. The principle of non-discrimination is stipulated in the Constitution without a separate provision being made for children. As far as the reasons for potential discrimination are concerned, article 4 of the Constitution, unlike article 2, paragraph 1, in the Convention, fails to refer also to "colour".

56. The concept of “birth” is stipulated separately in article 44 of the Constitution. According to that provision, children born out of wedlock shall be equal in rights with children born or conceived in wedlock; however, the article fails also to refer to adopted children whose rights are regulated by provisions that will be referred to below.

57. As far as disabled children are concerned, the Constitution stipulates (art. 46) the obligation of the State to implement a national policy for the prevention, treatment, reinsertion, education, training and social integration of disabled children, while also securing the observance of the rights and duties reverting to parents and legal guardians.

58. Concerning the concepts of “national origin” and “language”, the Constitution stipulates, under article 32, paragraph 3, the right of children belonging to national minorities to be educated and trained in their mother tongue.

Other legal provisions

59. The principle of non-discrimination among children is also reflected in other laws, such as those regulating family relationships and inheritance, relationships in international private law, the laws on education, the status of refugees or on social protection.

60. Thus, according to article 63 of the Family Code, children born out of wedlock whose consanguinity in lineal descent has been established by affiliation or by court ruling, will benefit from the same protection as children born in wedlock, which means that their situation is identical to the legal situation of children born in wedlock. In fact, by passing Law No. 101/1992, Romania has adhered to the European Convention on the Legal Status of Children Born Out of Wedlock, concluded in Strasbourg on 15 October 1975.

61. Similarly, adopted children benefit from the same treatment as children born in wedlock, and at the moment descent by adoption is established, the relationship of descent between the child and his or her natural parents is discontinued. In a parallel fashion, parental care presupposes the same rights and duties of parents towards their children whether they are born in wedlock, out of wedlock or are adopted (article 97, paragraph 1 of the Family Code).

62. According to article 8 of Decree No. 31/1954 on natural and legal persons, females under age acquire the full capacity to exert their rights when they get married, as a premise for the equal rights of spouses, irrespective of sex or age.

63. As far as the right to inheritance is concerned, children have title to inheritance for the estate of their relatives in the ascending line, irrespective of sex or of their coming from one and the same marriage, a previous marriage of one of the parents (article 669, Civil Code), their being born out of wedlock but with an affiliation established under legal conditions (article 63 of the Family Code; a definitive court ruling of affiliation can have retroactive effect to the date of birth, which means that beginning on that date, a child has the right to inherit the estate left behind by the person that fathered him or her out of wedlock), or being adopted (adopted children acquire the same rights in relationship to the adopter as a child born in wedlock does in relationship to his or her parents, and the rights implicitly include the right to inherit - article 1 of Emergency Ordinance No. 25/1997).

64. The principle of non-discrimination is also included in the Education Law No. 84/1995, subsequently amended and completed by Emergency Ordinance No. 36/1997, particularly in the articles concerning the rights of national minorities to be educated and trained in their mother tongue. Thus, article 8 of the Education Law stipulates that education at all levels is provided in the Romanian language but, in certain legal conditions, it can also be provided in the languages of national minorities and widely spoken foreign languages. This regulation is in the spirit of both the Convention on the Rights of the Child and the Framework Convention for the Protection of Minority Rights concluded in Strasbourg on 1 February 1995 and ratified by Romania by Law No. 33/1995.

65. Equal access of children to education, irrespective of nationality, is provided by the equal content of curricula and textbooks drafted in the mother tongue of nationalities with those used in classes where Romanian is the teaching language.

66. In primary education, the history of the Romanians and the geography of Romania are taught in the mother tongue, according to identical curricula and textbooks with those used in classes where Romanian is the teaching language, while in middle and secondary education, these subjects can also be taught, upon request, in the mother tongue, again according to identical curricula and textbooks with those used in classes where Romanian is the teaching language, with the requirement that the students must also transcribe and acquire Romanian place names and proper names in the Romanian language (article 120, paragraph 2 of the Education Law).

67. Similarly, students belonging to national minorities who attend schools where the teaching language is Romanian can require the school to include among the subjects taught the mother tongue and literature in the mother tongue, as well as the history and traditions of the national minority they belong to (article 121 of the Education Law).

68. In specialized vocational, secondary or post-secondary schools, teaching can be provided, upon request, in the mother tongue, students being obliged to acquire the specialized terminology in the Romanian language (art. 122). At all levels and in all forms of education, admission and graduation exams can be taken in the language in which the students studied the subjects to be tested, according to the provisions of article 124 of the Education Law.

69. In the spirit of the same principle of social and geographical non-discrimination between children in rural and urban areas, children in primary and middle schools who cannot benefit from schooling in their home villages or towns shall be enrolled in schools in other villages or towns, with the provision, as required, of transport, catering and boarding facilities (article 17 of the Education Law).

70. Orders Nos. 3577/1998 and 4562/1998 of the Minister of National Education have established measures of positive discrimination for one of the most disadvantaged groups of children - those belonging to the Roma minority - in order to support their inclusion in the education system. Measures also included the organization of school caravans for nomadic Roma or for those who, for a variety of reasons, fail to attend school.

71. Special free education is organized for the protection from discrimination of children suffering from various physical, mental or other disabilities. Education for these children is provided either in special schools or in regular schools, as well as in schools where the teaching language is one of the languages of national minorities (article 41 of the Education Law). Further details can be found under chapter VII, "Education, Leisure, Culture".

72. The mission of preventing and eliminating xenophobic attitudes towards children and young people belonging to national minorities is coordinated by the Department for the Protection of National Minorities, a governmental structure whose programmes have been focused on the involvement of minorities in the development of Romanian civil society. Almost all the programmes of the department have been financed from the budget allotted to the European Youth Campaign against Racism, Xenophobia, Anti-Semitism and Intolerance, according to the requirements involved by these types of attitudes, recommended by the Council of Europe. Representatives of the Roma population have participated, along with other minorities, in all the programmes organized in the campaign and have organized their own programmes, with the support of the National Office for the Roma established as part of the above-mentioned department. Details concerning minorities are included in several chapters of the present report.

73. As far as foreign citizens are concerned, the principle of non-discrimination is a principle of public order in Romanian international private law. In this context, first, foreign citizens benefit from "national treatment", i.e. they benefit from the civil rights of Romanian citizens, under the conditions of the law (article 2 of Law No. 105/1992 on the regulation of relationships under international private law). Second, following the connection of the principle of non-discrimination to the concept of public order, if the national law on the child, determined according to the provisions of Law No. 105/1992, contains discriminatory provisions concerning certain categories of children, the Romanian authorities shall not apply the provisions of a different country's law, but shall rather remove that law in favour of Romanian law. By means of this technical legal procedure, the authorities secure the observance of the principle of equal rights for all children, a measure that comes in the line of the observance of the fundamental rights stipulated in the Convention on the Rights of the Child.

74. As far as refugee status is concerned, article 7 of Law No. 15/1996 on the status and treatment of refugees in Romania (a law adopted in order to give concrete formulation to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol and which Romania has implemented in the national legislation by passing Law No. 46/1991) grants children over 14 the right to apply for asylum status on their own. In the case of children under 14, the procedures shall be performed by their legal guardian. Refugee status grants children access to education in the same way as for children who are Romanian nationals. Therefore, they can attend primary education in the conditions stipulated by the law for Romanian citizens, and other forms of education in the conditions stipulated for foreign citizens (art. 15 (e)). Moreover, Law No. 15/1996 grants children the freedom to practise their own religion (art. 15 (f)).

75. The principle of non-discrimination shall be observed even in case a measure of expulsion or return for reasons of national safety or public order is taken. The law stipulates that no person can be returned to a territory where his or her life or freedom would be jeopardized for reasons of race, religion, nationality, social background or political opinion (art. 15 (h)). Children are thus protected against discrimination or sanctions motivated by their legal or social status, or the political opinions of their parents or legal guardians.

76. In the domain of social protection, Law No. 61/1993 on the State allowance for children also entitles the children of foreign citizens or stateless persons residing in Romania to that allowance (art. 2). According to Law No. 119/1997 on the supplementary allowance for families with many children, the families of foreign citizens or stateless persons residing in Romania are also entitled to receive the supplementary allowance. Therefore, the provisions of article 2 of the Convention on the Rights of the Child are also observed from the point of view of this type of social protection. The observance of the same provisions is also involved in the decision to grant social aid for families or single persons who are either foreign citizens or stateless persons residing in Romania (article 2, paragraph 4 of Law No. 67/1995).

77. The principle of non-discrimination is considered to be fundamental in the Romanian legislation, and as far as children are concerned, it is granted priority in the drafting of all normative acts and in all administrative measures taken.

B. Best interests of the child (art. 3)

General considerations

78. As also stated in the list of answers to the issues raised by the Committee on the Rights of the Child upon the examination of Romania's initial report on the implementation of the provisions in the Convention, the Constitution of Romania, as well as all the legal regulations in the field, reflect the principle of the priority of the child's best interest and grants primary importance to all actions involving children. The Constitution does not mention explicitly the above-mentioned principle, but - according to article 45, paragraph 1 - children enjoy "special protection and assistance in the fulfilment of their rights".

79. Article 1, paragraph 5, of the Family Code stipulates that "parental rights shall only be exerted in the child's interest". In the chapter referring to the protection of minors, the Family Code also contains a provision to the effect that parents are entitled to request the return of their child by any person holding that child illegally. However, the court will rule against that request if "the return runs against the child's best interest" (art. 103). Therefore, in order to reject a request for return, the court must unequivocally establish whether the development and growth of the child would be jeopardized by his or her being returned.

80. Law No. 47/1993 on the legal declaration of child desertion stipulates under article 6 that the court may decide to reinstate parents in their rights if the conditions that led to declaring the desertion have ceased to exist, and only if "the reinstatement of those rights is to the child's best interest".

81. The principle of the priority of the child's best interest can be also identified in Law No. 21/1991 on Romanian citizenship, as the principle is basic in the ruling of the competent court concerning the citizenship of a child. Thus, a court shall decide on the citizenship of a child considering its best interest in case parents fail to agree on the citizenship of the child (in case Romanian citizenship is acquired by adoption, repatriation or upon request).

82. The principle of the priority of the child's best interest is formulated as such in Emergency Ordinance No. 25/1997 on adoption, as well as in Emergency Ordinance No. 26/1997 on the protection of children in difficulty. Thus, article 1, paragraph 2 of Emergency Ordinance No. 25/1997 stipulates explicitly that adoption can only be made in order "to protect the child's best interest", while article 7 of Emergency Ordinance No. 26/1997 regulates the measures of protection that can be taken by the Commission for Child Protection in order to observe "the best interest of a child in difficulty".

83. The same attention is given to this principle by the court in cases of divorce when entrusting the child to one of the parents, in case of returning a child from a person holding it illegally, or in case of adoption. In this context, there are cases of adoption where the Supreme Court has maintained the ruling of the first instance, on account of the fact that the adoption was concluded to the child's best interest and with the explicit mention of article 21 of the Convention (for instance, Decision No. 595 of 28 February 1991).

84. Article 100 of the Penal Code stipulates that correctional or punitive measures can be taken against minors holding penal liability for their acts, and severe punishment shall only be applied if the opinion of the court is that a correctional measure is insufficient to correct the minor under consideration. However, in judicial practice there is an obvious tendency towards the infliction of punishment, with the option of a short term, in total disregard of the fact the minors should be mainly punished in accordance with the specific nature of their age group.

85. Also in respect of the principle of the priority of the child's best interest, private bodies working in the domain of child protection shall be established upon obtaining an expert opinion from the Department for Child Protection. The bodies under consideration shall be allowed to operate under the authorization of the Commission for Child Protection, the authorization of the Romanian Committee for Adoption being required in adoption matters. The activity of these organizations shall be revised on an annual basis, and authorization can be withdrawn in case they fail to observe this fundamental principle in their work.

86. Government Decision No. 177/1999 stipulates the tasks of the public services specialized in child protection that are meant to provide children in difficulty with the protection and care necessary for their welfare, considering the rights and obligations their parents or legal guardians hold for them. The relevant tasks stipulated under article 27, paragraph 2 of these organizations are:

(a) To identify children in difficulty on the territory of the county or, as the case may be, of the district in Bucharest where it operates and to elaborate measures for their protection;

(b) To grant assistance and support to families or persons who have received children for placement or care, in order to secure their harmonious development;

(c) To grant assistance and support to the parents of children in difficulty in order to prepare the children's return to the family environment;

(d) To supervise the families and persons who have children in care or placement all through the duration of that arrangement, as well as the parents of children in difficulty after the latter's return to the family environment;

(e) To grant assistance and support in case of emergency to the parents of the child, checking whether they can assume responsibilities and assume obligations about the child, so as to prevent situations that may endanger the security and development of the child; for that purpose, the specialized public service for child protection organizes and operates maternal care centres, day-care centres, parent counselling and support centres, services for monitoring, assistance and support of expectant mothers predisposed towards abandoning their children, day-care and recovery centres for disabled children;

(f) To evaluate the material conditions and moral guarantees presented by the families or persons who may be potential adopters and to make suggestions to the Commission for Child Protection on the issuing of a document certifying that a family or person is capable of adopting children;

(g) To supervise the families or persons holding children in care in the perspective of adoption over the whole duration of the period stipulated by law;

(h) To monitor the evolution of children adopted in the county or the Bucharest district they are competent for, as well as the evolution of their relationships with their adoptive parents for at least two years following the approval of the adoptions they supported; to grant support to the child's adoptive parents in fulfilling their obligation to inform the child about his being adopted, as soon as the age and maturity of the child make that possible;

(i) To provide assistance and support to the persons entrusted to the public service specialized in child protection in acquiring full capacity to exert their rights in case they continue their studies, but no later than the age of 26; for that purpose, to grant specialized assistance as well as support in completing their studies and towards social integration to those persons;

(j) To take the necessary measures for protecting children in difficulty in situations of emergency, which includes finding a proper placement for the children in emergency procedures; for that purpose, the public service specialized in child protection organizes and operates child reception centres, as well as assistance and support centres for the psychological readjustment of children suffering from psychosocial disorders;

(k) To provide care and support to children who have committed one of the offences stipulated in the penal law and are placed in specially designated spaces in an emergency procedure, before their legal situation is clarified; to grant legal and specialized assistance to these children;

(l) To check the manner in which the rights of children in difficulty are observed within their natural, substitute or adoptive families, in placement centres or in other centres organized for providing protection to children in difficulty, to delinquent children, or for preventing situations that may endanger the security and development of the child and to take measures to prevent or remove any form of abuse;

(m) To check the activity of the private bodies authorized to conduct activities in the domain of protection of children in difficulty that are operating on the territory of the unit or, as the case may be, of the administrative-territorial unit they belong to, by means of the specialized personnel authorized by the Commission.

87. In order to ensure the fulfilment of the above tasks, Government Decision No. 117/1999 also includes provisions that support the activity of the public service specialized in child protection, in the sense that it gives legal force to the obligation of public institutions and other legal and natural persons to make available all the documents they hold and to allow access of the personnel of the specialized public service into their headquarters or homes (to the extent that is deemed to be necessary in order to fulfil those tasks - article 27, paragraph 4).

88. Similarly, the specialized services working as part of the local council services in the county/district where the public service specialized in child protection or other bodies working in the field of tutelary authority and the protection of the rights of the child that are subordinated to the former operate are under the obligation to grant to the public service specialized in child protection the support it needs to fulfil the obligations reverting to that service (art. 28, para. 1). In case these bodies refuse to fulfil the above-mentioned obligations, the Commission for Child Protection may address the mayor and have the measures required for fulfilling those obligations imposed by mayoral decision (art. 28, para. 2).

Actions for monitoring the implementation of legal provisions in the spirit of the observance of the principle of the priority of the child's best interest

89. By virtue of the provisions under article 1, paragraph 1, and under article 3, paragraph 1 (b), (c) and (i) of Emergency Ordinance No. 34/1998 on the reorganization of the Department for Child Protection, a national monitoring methodology was established for the activities aimed at protecting children in difficulty, performed by the authorities of the local public administration.

90. The monitoring system includes three basic elements:

(a) Monitoring the organization, operation and activities of the commissions for child protection;

(b) Monitoring the organization, operation and activities performed by the public services specialized in the protection of the rights of the child;

(c) Monitoring the situation of children in difficulty.

91. The information is forwarded on a quarterly basis to the Department for Child Protection by the Chairman of the Commission for Child Protection (first item mentioned above) or by the General Director of the public service specialized in child protection (second and third items mentioned above). The information is centralized and a synthesis is drafted by the Directorate for the Protection of the Rights of the Child within the Department for Child Protection that is responsible for the evaluation and coordination at the national level of the activities to protect children in difficulty performed by the authorities of the local public administration. Following the analysis and processing of this information, the Department for Child Protection is in a position to draft studies and synthetic reports on reform in the domain of child protection, outlining problems and the progress made, in the perspective of improving the newly established system for the protection of children in difficulty.

92. Between 1 January and 15 May 1997, the prosecutors in the General Prosecutor's Office within the Supreme Court of Justice performed 262 checks on the manner in which the rights and interests of children in residential care, children's homes, centres for minors, hospital homes, homes for disabled children and paediatric wards were observed in accordance with the provisions of article 31 H of Law No. 92/1992 on judicial organization. Several violations were identified during these actions, as listed below:

(a) Admission to/release from residential care units was performed in the absence of decisions issued by the Commission for Child Protection, which was a violation of the provisions of articles 5, 15 and 16 of Law No. 3/1970 (now abrogated). The children under consideration did benefit from the treatment usually applied to institutionalized children, without the statutory decisions having been issued either upon admission or release. These children should have been sent to the reception centres where they would have been assisted until the issuing of the legal decisions;

(b) Birth certificates or delayed birth records, as well as social investigation reports, were missing from some files of institutionalized children. In some files, social investigation reports were incomplete or outdated, which prevented an accurate assessment and identification of the situation of children in residential care that would have allowed the competent authorities to instate, maintain or discontinue their institutionalization;

(c) Some social or medical care units violated the provisions of article 2 of Law No. 47/1993 by failing to require the drafting of a legal statement on child desertion in the circumstances where the parents did not manifest any interest in their children for longer than six months. This situation was also generated by the fact that residential care institutions failed to keep accurate records of the parents' visits and actions, which could have been useful in characterizing the parents' behaviour towards their institutionalized children. The explanations offered by the managing boards of residential care units, according to which the natural parents of these children were unaware of the legal provisions in force but did visit their children at various intervals, could not exonerate the institutions under consideration from the obligation to require the drafting of a legal statement on child desertion;

(d) In some social or medical care units inappropriate conditions were identified as far as lodging, catering, sanitation, medical assistance and schooling conditions were concerned;

(e) There have been cases where the type of care and the institution designated to fulfil that purpose were not appropriate for the age group or the physical and mental health of the children, which is a violation of article 5 of Law No. 3/1970.

93. The cases of violation of legal norms subsequently became the object of 147 notifications sent by the prosecutor's offices to the institutions that had been checked or to their supervisory bodies.

94. Upon reaching the conclusion that care or supervision measures were required, in 255 cases the prosecutors notified a tutelary authority, a commission for child protection, or a school or medical unit about the situation, as appropriate. Consequently, several children were released and returned to their families, after their parents had been identified and contacted. In cooperation with the police authorities, measures were taken to investigate and clarify the situation of children who had escaped from residential care units or who had been released without a legal decision to that effect, at the mere verbal request of persons pretending to be their relatives.

Initiatives to secure adequate standards for the principle of the priority of the child's best interest in placement centres

95. The new legislation promoted by the Department of Child Protection, implemented with the support of the public services specialized in the protection of the rights of the child, which is also responsible for the activity of the placement centres, shall be further consolidated by the drafting of methodological guides concerning a modified approach to the problems of children in their care, in order to consolidate a model based on the principle of the priority of the child's best interest. For that purpose the new legislation aims mainly at changing the principles that lie at the foundation of placement centres by orienting them with priority towards the observance of children's rights. Below is a list of principles included in the provisions of the new legal framework concerning the protection of children in difficulty:

(a) The rights of every child to be recognized, respected and protected. Based on an analysis of the special needs of children in difficulty, this principle refers to the drafting of the new institutional project, the organization of space and activities, as well as the promotion of a new manner of intervention in favour of children, in order to ensure the observance and fulfilment of children's rights as stipulated in the Convention;

(b) The development of children in placement centres should follow as closely as possible a family environment. The new model for placement centres should be designed in such a way that the organization of the activities performed by groups of resident children and the staff of the centres should allow the implementation of individualized protection plans for each and every child, in which the requirements of providing a secure environment and for the psychological and emotional needs of the children are harmonized with opening up of these institutions towards society at large. The value of the care and development system provided for children in a placement centre is expressed in two types of complementary projects: the institutional project and the individualized protection plan for a child. The institutional project develops the overall organizational framework and formulates the mission of the placement centre; it defines inner and outer functional relationships within the complex of services directed

towards the protection of the child; it proposes specific activities; it defines the (material, human and financial) resources available and their utilization; it expresses the possible ways of evaluating activities. The individualized protection plans represent a formalized presentation of the actions and means applied for each child as a unique and complex subject, with his or her own identity and history, in order to provide the proper care and education that secure the child's development and (re)integration into the family, as part of the institutional project;

(c) The protection provided in placement centres is temporary in character: the individual protection project for each child provides solutions for his or her (re)integration into the family as early as possible. The principle of shortening as much as possible the duration of institutionalization is a fundamental principle for placement centres. Its implementation involves the building up of mechanisms:

- to develop relationship with the family (if possible, the extended family);
- to prepare and apply alternatives for care in substitute families (maternal assistant or adoptive family), in tight connection with the other services aimed at child protection;
- to diversify the services offered by the public service specialized in child protection (for instance the gradual shifting of focus from care to prevention services) and, in the process, to effect the professional reconversion of the staff working in placement centres;

(d) The activities performed in placement centres are open to society: by their organization and operation and by the relationship they promote, placement centres become a service integrated in the community. By definition, placement centres are part of a county-level service system for child protection provided by the public service specialized in child protection, being a community service, known and supported by the community. For actually opening up to society, the following requirements need to be fulfilled:

- (i) At the level of the institutional project: to design and apply communication strategies, strategies to promote the image of the centre, as well as to involve community structures (individuals, schools, the church, etc.) as partners in implementing the institutional project - activities coordinated by the specialized public service in child protection;
- (ii) At the level of the individualized child protection plan: to integrate children into social life in a manner similar to other children in the same age group, to support the child's direct participation in activities within the community (isolated or permanent activities);

(e) The staff of the placement centre is part of the team of the public service specialized in child protection and it is integrated in the system of human resources involved in implementing the county-level strategy for child protection. The actual implementation of the new manner of providing protection to children in difficulty presupposes the involvement of the staff that comes in direct contact with children in all the activities in a responsible, conscious and

motivating spirit. The reorganization of the institutions will involve modifications in their statutes, overcoming difficulties in communication, and understanding and assimilation of change by the staff directly involved. The main step to be taken should be the integration of the staff in placement centres in the team working for the directorates for the protection of the rights of the child. But integration should not only be on paper (that is in personnel records, payment rosters, etc.), but real, by:

- (i) The inclusion in the management of human resources at directorate level of the resources in the former institutions, in the perspective of recognizing and turning to good account the professional experience accumulated, and of actually involving staff in the implementation of reform;
- (ii) Consulting, informing and training all categories of personnel in connection with the manner of restructuring institutions on constructive bases, starting from the principles for implementing reform in the child protection system.

This ample process of restructuring of residential care units presupposes the mobilization of significant financial resources. But even where these resources are identified, they cannot be put to good use if the professionals working in the Directorate for Child Protection and in the institutions fail to be motivated and involved in the work towards reaching a common goal;

(f) The gradual reduction of the number of protected children in placement centres shall be done in parallel with the gradual diversification of services aimed at child protection, which involves a flexible institutional project, as well as the permanent information and professional training of the staff. A thorough knowledge of the local context of the specific problems in the domain of child protection will be the basis for designing the system of services offered by the Directorate for Child Protection to respond to local needs. It is essential that the organization and operation of the new services should create an integrated system at county level, meant to grant protection to children in difficulty and to prepare their reintegration into the family and society, as well as to prevent situations that may jeopardize the security and development of the children. Placement centres shall be conceived and organized as functional components integrated into the system, so as to secure:

- the complementarity of the activities and of their functions;
- clear and functional relationships across services;
- the mobility of human resources, which should be prepared to work in various components of the system;
- communication.

96. The diversification of services offered by the Directorates for Child Protection represents a guarantee of the capacity of the public service specialized in offering an adequate framework for the protection of children in difficulty in full accordance with its needs.

97. The overall activities performed within the new Directorates for the Protection of the Rights of the Child, based on the implementation of the legal framework that has recently entered into force, are mainly aimed at following up on a number of directions, listed below, in order to promote a model that places care for children and concern for promoting their rights at the centre of all activities:

(a) The definition of a clear methodology for the admission of children in placement centres (admission criteria, documents necessary for accurate assessment of each child's individual situation). Emergency Ordinance No. 26/1997 stipulates explicitly that, in order to find solutions for individual cases, the expert working for the public service dealing with the case is under the obligation to file a report on the psycho-social investigation performed with the Commission for Child Protection. The report shall include data on the personality and physical and mental condition of the child, his or her track record, the conditions under which he was raised, any other data referring to his upbringing and education that may be useful for the Commission in finding an adequate solution for the case, suggestions for the protection measures to be applied, as well as the child's position concerning the measures proposed;

(b) The introduction of a system for the compulsory periodic review of the placement/protection measures taken, with an obligatory revocation or replacement of those measures in case the circumstances that have determined them have changed and no longer match the real needs of the child (article 21, paragraphs 1 and 2, Emergency Ordinance No. 26/1997);

(c) The provision by the specialized public services of special spaces organized inside or outside placement centres, as well as of the means necessary for the personal, unmediated contact of the children with their parents, if possible, according to regulations in force (article 20 (e)) of Emergency Ordinance No. 26/1997). This is meant to respond to the parents' need to be in permanent unmediated contact with their children for the whole duration of the placement; they have the right to visit their children as well as to exchange letters with them, according to legal provisions (article 13, paragraph 3 of Emergency Ordinance No. 26/1997);

(d) As a complement to the previous point, placement centres shall keep accurate records of the parents' visits or other signs of interest towards their children in residential care, so that the process of legal declaration of desertion can be initiated at the moment stipulated by the law, and the data on record should be usable as evidence in support of the parents' lack of interest for their child.

C. Right to life, survival and development (art. 6)

98. The fundamental right of any person, including any child, to life and integrity, is guaranteed by the Constitution.

99. The death penalty was abolished in Romania and replaced with life imprisonment by Decree-Law No. 6 of 7 January, 1990 on the abolition of the death penalty, the amendment of certain provisions in the Penal Code and other normative acts.

100. Decree No. 31/1954 on natural and legal persons stipulates that the rights of the child are recognized from the moment of conception, provided it is born alive (art. 7, para. 2), the principle being known as *infans conceptus pro nato habetur quotiens de commodis eius agitur*. The legal time of conception is placed between the 300th and the 180th day before birth (article 61 of the Family Code).

101. The provisions of Emergency Ordinance No. 26/1997 have introduced a previously non-existent possibility concerning the securing of a child's right to life, survival and development: rapid intervention and removal of the child from its natural family in case of abusive exercise of parental rights or serious failure to fulfil parental duties.

102. A child's right to life is also guaranteed by the inclusion in the Penal Code of the crime of manslaughter (art. 174), wilful murder (art. 175) and violent murder (art. 176). According to article 175 (b), any murder committed while taking advantage of the victim's incapacity to protect him/herself constitutes an aggravating circumstance and this provision is also applicable to the murder of a child.

103. By characterizing the murder of an expectant mother a case of violent murder (art. 176 (e)), the law protects both the life of the woman and of the unborn child. The life of an unborn child is also protected by including among criminal offences procured abortion if it is performed in the following circumstances: outside medical institutions or medical units authorized for the purpose; by a person who is not a specialist; beyond the fourteenth week of pregnancy or without the prior consent of the expectant woman (art. 185). Similarly, article 182 of the Penal Code also sanctions criminal offences that imply damaging the bodily integrity or health of a woman, that also results in miscarriage; the life of an unborn child is therefore protected under this article as well.

104. In order to support parents in creating an environment that is favourable to the harmonious development of a child, Romanian legislation contains a provision on the granting of paid leave for attending to children up to the age of 2. Thus, Law No. 120/1997 on the paid leave for attending to children up to the age of 2 stipulates that right, which can be exerted by either of the parents (art. 6).

105. The promotion of the right stipulated under article 6 of the Convention on the Rights of the Child was the basis for including among the functions of the public services specialized in child protection of the right of the children's parents to benefit from assistance and support. Parents are monitored in their fulfilment of parental duties, so that situations that may jeopardize the child's security and development can be prevented (article 27, paragraph 21 of Government Decision No. 117/1999). In order to serve that purpose, the decentralized public services for child protection have organized the monitoring, assistance and support service for pregnant women predisposed to abandon their child. The service monitors expectant mothers for the whole duration of their pregnancy, in order to identify mothers potentially exposed to risk and to facilitate early intervention (by counselling, support, parental guidance, etc.) to prevent desertion and institutionalization of the child.

106. In cases of suicide, the Penal Code includes among criminal offences the inducement or facilitation of suicide, listing among the aggravating circumstances the perpetration of this crime against a child, the punishment being a term of imprisonment for 3-10 years (art. 179, para. 2).

107. This subject is further dealt with in chapters VI and IV.

D. Respect for the views of the child (art. 12)

108. Freedom of expression is stipulated under article 29 of the Romanian Constitution without, however, explicit reference being made to children. Article 12 of the Convention on the Rights of the Child stipulates a child's right to express his or her views freely and to have his/her views considered in all matters affecting the child. The Convention uses the notion of a child "capable of forming his or her own views". This notion, associated with the age of the child, appears as an expression of the individual's capacity to actually represent his/her own actions, the consequences of a damaging act, as well as to withstand the sanctioning intervention of society against him/her.

109. The law stipulates that, over the age of 14, a child's capacity to form an opinion has positive value. According to article 9 of Decree No. 31/1954 on natural and legal persons, children over 14 benefit from a limited freedom to exert their rights. In establishing the citizenship of a child over 14, that child's consent needs to be sought, according to the provisions of Law No. 21/1991.

110. The court is under the obligation to hear children over 10 when ruling on the custody of the child after divorce (article 42 of the Family Code). Moreover, when deciding on the future residence of the child with one of the parents after the divorce (article 100, Family Code), or when deciding on the return of a child by a person holding it illegally, the court shall be under the obligation to hear all children over 10.

111. In case of adoption, the consent of children over 10 shall be sought as a basic condition for the validation of the adoption (article 7 of Emergency Ordinance No. 25/1997 on adoption). The child's expressed option is compulsory for the court, which cannot exert censorship on the child's refusal to consent to the adoption. Moreover, adoption can be cancelled upon the request of a child over 10 if that act were to serve the child's best interest (article 22, paragraph 2, Emergency Ordinance No. 25/1997).

112. Another situation where the opinion of a child capable of forming his or her opinion needs to be sought is stipulated in Emergency Ordinance No. 26/1997 on the protection of children in difficulty, as well as in Government Decision No. 117/1999. In that context, the public service specialized in child protection or the authorized private organization that has been given custody of a child for care or placement shall provide an adequate family environment for that child. In order to serve that purpose, the above-mentioned institutions shall be under the obligation to find out and consider the opinion of a child capable of forming an opinion about the family or person proposed to receive that child for care, as well as to make that opinion known to the Commission for Child Protection. This shall be done in a report drafted as part of the psycho-social investigation conducted, the presentation of such report being compulsory in resolving the case. The report shall necessarily include the child's position on the measure

proposed (determining the position of a child capable of forming an opinion on the measure proposed, while also ensuring that the child is in full knowledge of the de jure and de facto situation he or she is in, is one of the tasks reverting to the public service specialized in child protection).

113. Another task of the public service specialized in child protection is the granting of assistance and support to a child capable of forming an opinion in exerting his or her right to the free expression of an opinion. For that purpose, the Department for Child Protection proposes and supports the development of a community assistance service for children in support of their exercise of the right to the free expression of their opinions. This multidisciplinary counselling service shall offer children with the capacity of forming an opinion the right to freely express their opinion and to have their opinions considered in all matters or procedures affecting them; it is a service whose structure includes a counselling centre, a mobile team and a hotline, all of which promote the provisions of article 12 of the Convention.

114. The activities performed by this type of service are the following:

(a) Providing the child with any pertinent information referring to his or her individualized protection project, as well as the manner in which that project is to be implemented;

(b) Determining the child's reaction (mental, emotional, verbal response, etc.) with regard to the information mentioned under the previous item;

(c) Offering explanations to the child about the possible consequences of the implementation of his or her opinions, as well as of the proposed project;

(d) participating in the decision-making process referring to the individualized protection project of the child, while also considering the conclusions derived from the activities mentioned under the previous items.

115. Moreover, the Department for Child Protection has also assumed, as part of the government programme, the task of taking the action necessary to prepare the signing and ratification of the European Convention on the Exercise of Children's Rights, with a view to harmonizing the provisions of domestic legislation with the principles and norms contained in the international instrument, including the promotion of the implementation of the principle of taking the opinion of the child into account.

116. The Family Code does stipulate the right of children over 14 to opt for a certain type of education or vocational training, as well as the right of children over 16 to conclude a labour contract without the consent of their parents or legal guardians (Family Code, article 102, Decree No. 31/1954). As far as the education and affiliation to a denomination of children in residential care is concerned, they can only be modified upon approval of the Commission for Child Protection; the consent of children over 14 shall also be sought.

117. Although the legislation in force also stipulates the inclusion of one or two students in the membership of the managing boards of high schools and vocational schools (according to article 145, paragraph 5 of the Education Law No. 84/1995), their participation and ability to influence decisions affecting them is rather void as long as the total membership is 5-11 persons, all the rest being adults (teaching staff and other persons).

118. However, there are an increasing number of cases where children can perform a number of activities in schools that are initiated and carried out by them alone or with the support of professionals where they express their views on the surrounding world. There have been reports about children who have painted the walls of the classrooms in the schools they attend in the manner they found appropriate for providing an atmosphere suitable for their age, and about children who have started a school magazine where they debated the problems they were confronted with, in which they reported on their achievements and published their own creations (drawings, poems, etc.).

119. Moreover, according to the data provided by the Ministry of National Education, the 40 secondary schools around the country - most of them enjoying the status of "national colleges" - have been equipped by the Foundation for an Open Society with PC labs; they have their own local radio stations for the students and their own publications published in Romanian, the languages of the minorities and widely spoken foreign languages.

120. There have also been reports about initiatives of non-governmental organizations involving children in a variety of civic activities. The Master Forum Association, for instance, initiated the Pal-Tin Programme, whose aim was to familiarize children and young people with participation in the life of the local public administration. Local councils were formed with children and young people as mayors and councillors in several towns and cities around the country. Non-governmental organizations have also started a hotline for children and young people that they can call to discuss the problems they are confronted with or find out more information about topics they are interested in.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7)

121. According to the provisions of article 12 of Decree No. 31/30.01.1954 on natural and legal persons, any person is entitled to bear a name established or acquired according to the law; a name includes a family name and a given name. The manner in which the documents concerning civil status are to be drafted is regulated by Law No. 119/1996 on documents concerning civil status. In that context, birth certificates shall be issued by the local public administration competent for the administrative-territorial unit where the child was born, upon one of the parents declaring the child's birth. If, for some reason or other, the parents are unable to declare the birth of their child, that obligation reverts to the doctor, the persons witnessing the birth or the staff working in the unit where the child was born, to the relatives or neighbours who have taken knowledge of the birth.

122. If in registering the birth of a child born out of wedlock, the father acknowledges paternity, the data concerning the father shall be entered under the relevant columns in the birth certificate to be issued.

123. The child's family name and given name shall be chosen by the parents, with the observance of legal provisions, as follows:

(a) A child born in wedlock shall bear the common family name of the parents; should the parents fail to hold a common family name, the child will bear the family name of only one of them or their joint family names (article 62 of the Family Code);

(b) A child born out of wedlock will bear the family name of the parent whose affiliation has been determined first; in the event that the affiliation has been subsequently determined for the other parent as well, the competent court may decide in favour of the child bearing the latter's name (article 64 of the Family Code).

124. Should the parents not have a common family name, or should there be any discrepancy between the child's given name recorded in the medical birth certificate and the declarant's verbal declaration, the birth certificate will be issued in accordance with a written declaration to be signed by both parents, which should state the family as well as the given name of the child. Should there be any disagreements between the parents, the local public administration authority of the place where the birth has been declared will decide by means of a written order. The law enables the registrar of births, marriages and deaths to reject the registration of given names made up of indecent or ridiculous words, at the same time giving the parents the opportunity to choose an appropriate name for their child.

125. The same law regarding the civil status documents includes special provisions for the issuance of the birth certificate of a child who has been abandoned by his/her mother or found in hospital, thereby guaranteeing the right of such a child to bear a name. According to article 22, paragraph 1, the birth certificate of a child who has been found will be issued within 30 days from the date of the event, by the local public administration authority in the administrative territory in which the child was found, based on a report submitted by the police, the doctor and the representative of the local public administration authority. The person who found the child will notify the police within 24 hours and will deliver the child, with all accompanying objects and documents.

126. For a child abandoned in a hospital, article 23 stipulates that the person in charge of the hospital management should notify the police within 24 hours from the moment this fact has been ascertained. In addition, according to article 23, paragraph 2, should the authorities fail to determine the mother's identity within 30 days, the birth certificate will be issued based on the medical birth statement and on the report by the police, the medical unit director and the representative of the local public administration authority, the last also being responsible for the registration of the birth.

127. Cases of childbirth aboard a ship or aircraft or in any other means of transportation are also considered by the legal provisions in force, namely Law No. 119/1996, such that the birth of no child (including those belonging to nomadic groups) will fail to be registered. The release of the child's birth certificate by the relevant authorities will be a precondition for the child's Christian baptism, since the person requesting this religious ritual will have to present the certificate to the priest.

128. According to the provisions of article 4 of Law No. 21/199, the child may obtain the right to Romanian citizenship by birth, by adoption, by repatriation or upon request, as follows:

(a) By reason of birth: all children born on Romanian territory or abroad will be Romanian, if both parents are or only one of them is a Romanian citizen. A child who has been found on Romanian territory will be declared a Romanian citizen if neither of the parents is known;

(b) By reason of adoption: Romanian citizenship will be obtained by a child holding foreign citizenship or no citizenship whatsoever by means of adoption, if the adopters are Romanian citizens and the adopted child has not yet turned 18 years of age. In the event that only one of the adoptive parents is a Romanian citizen, the minor's citizenship will be decided upon by mutual agreement by the adopters;

(c) By reason of repatriation: parents undergoing repatriation will decide upon the citizenship to be taken by their minor children;

(d) Granting citizenship upon request: the child who has been born of parents who are foreign citizens or hold no citizenship whatsoever, and who has not yet turned 18, will be granted Romanian citizenship once with his parents. In the event that only one of the parents is granted Romanian citizenship, the parents will decide by mutual agreement upon the child's citizenship.

129. Foreign citizens who are based or temporarily reside in Romania may request that their civil status documents and acts be registered under the same terms as those of Romanian citizens. Persons holding no citizenship will request the registration of their civil status documents and acts by the relevant local public administration authorities.

B. Preservation of personal identity (art. 8)

130. The child's right to maintain personal relations and direct contact with his/her family is encouraged by the legal provisions in force whenever, for any reason, the child is separated from his/her parents. On the other hand, the same right is subject to certain restrictions imposed by the provisions of Emergency Ordinance 26/1997 regarding the protection of the child in need, as follows: considering with priority the child's best interest, the latter may be separated from his/her original family and entrusted to another family, person or specialized public child protection service whenever the parents abusively exert their rights or severely neglect their parental obligations. Details related to this aspect are included in chapter V, "Family Environment and Alternative Care".

131. A child's name may be changed, at the parents'/legal guardian's or representative's request, for well-motivated reasons, in the event that the child has not come of age (18 years old). It is, however, necessary that the request be signed by a child who has turned 14. For 10-year-olds, the child's consent is a prerequisite in adoptions that involve changes of identity for the child.

132. Article 6 of the Constitution of Romania stipulates that "the State recognizes and guarantees the right to maintain, develop and express the ethnic, cultural, linguistic and religious identity of all persons belonging to the national minorities. The protection measures to be taken by the State in maintaining, developing and expressing the identity of the persons belonging to the national minorities should observe the principles of equality and non-discrimination in relation to the other Romanian citizens".

133. Perceived as a constituent part of a person's identity, citizenship may not be withdrawn from any person who has obtained it by birth (article 6 of the Constitution of Romania). The manner of obtaining Romanian citizenship has been explained above.

134. The rights stipulated in article 8 of the Convention may be altered by changes in a child's paternity. According to article 53 of the Family Code, the father of a child born in wedlock will be the mother's husband. The father of a child born after a divorce has been pronounced or a marriage declared null or otherwise dissolved is the mother's former husband, if the child has been conceived during the marriage and the birth has occurred before the mother has married again.

135. Paternity may be disclaimed, should it be impossible for the mother's husband to be the father of the child; the legal action of disclaiming paternity may only be initiated by the husband. The legal action of determining paternity out of wedlock is considered to belong to the child and it is initiated on his or her behalf by the child's mother, even if she is under age, or by his/her legal representative, within one year of the child's birth.

136. Changes in a child's paternity may also occur subsequent to the father's recognition of his child conceived and born out of wedlock. Acknowledging paternity may be made official by means of a declaration to be submitted to the registrar of births, marriages and deaths, either at the moment of registration of the birth or afterwards, by authenticated letter or testament.

C. Freedom of expression (art. 13)

137. Freedom to express one's opinions is a constitutional right in Romania, applicable to all citizens, irrespective of age, and only subject to certain legal restrictions which are deemed necessary in any democratic State. Thus, article 30, paragraph 6, of the Constitution of Romania stipulates that it is unacceptable that the freedom of expression should prejudice the dignity, honour, private life or right to personal image of any natural person. Also, articles 6 and 7 prohibit any acts of denigration of one's country or nation, any incitement to acts of aggression or war, to national, racial, social or religious hatred, to discrimination, to territorial separatism or public violence, as well as any obscene manifestations defying good morals and manners.

138. The major restrictions to the freedom of expression are listed below:

(a) In accordance with article 205 of the Penal Code, any offence made to a person's honour or reputation by verbal remarks, gestures or any other means, or by exposing that person to mockery, will be punished by one month to two years imprisonment or by a fine. Slander will also be considered an offence and a violation of personal dignity (art. 206, Penal Code), punishable by three months' to three years' imprisonment or a fine;

(b) Denigration of one's country or nation, as well as incitement to public disorder represent offences to public authority and will be punished by six months' to three years' imprisonment (art. 236, Penal Code) and by three months' to three years' imprisonment, respectively (art. 324, Penal Code);

(c) Nationalistic and chauvinistic propaganda and incitement to racist and nationalistic hatred constitute an offence to socially peaceful relations and will be punished by six months' to five years' imprisonment;

(d) The same offence mentioned above include the obstruction of the freedom of religious groups, which may be punished by one to six months' imprisonment or by fine;

(e) The distribution of obscene materials, i.e. the sale, distribution and manufacturing, or keeping with a view to the distribution of objects, drawings, printed documents or any other obscene materials is included in the category of offences to socially peaceful relations and constitutes an indecent assault on good morals and a violation of public order, and will be punished by three months' to two years' imprisonment or by a fine.

139. More and more frequently, the national radio-television as well as private radio or TV stations are inviting children and young persons, either alone or with adults, to host special broadcasts devoted to this social category, thus offering them the opportunity to express opinions related to their interests or concerns.

D. Freedom of thought, conscience and religion (art. 14)

140. Article 29 of the Constitution of Romania stipulates that freedom of thought and opinion, as well as religious freedom, may not in any event be restricted. No person will be constrained to adopt a certain opinion or adhere to a particular religion which runs counter to his or her convictions and beliefs.

141. The Constitution also guarantees freedom of conscience, which must manifest itself in the spirit of tolerance and mutual respect. Religious denominations are free and may be organized according to their own statutes, with the strict observance of the legal provisions in force. Any forms, means, acts or manifestations of religious hatred among religious denominations are prohibited. Religious denominations are autonomous in relation to the State and benefit from the State's full assistance, including support for facilitating religious assistance within military units, hospitals, detention facilities, asylums and orphanages.

142. Parents and legal guardians have the right to provide education for their under-aged children for whom they hold a legal responsibility, according to their personal convictions and beliefs (article 29, paragraph 6, of the Constitution of Romania). However, by corroborating these provisions with the provisions of article 20 of the Constitution, which stipulate that international regulations prevail in the event of existing discrepancies between the domestic legal system and international pacts and agreements regarding fundamental human rights to which Romania is party, one may consider that the premises for the priority observance of the provisions of article 14 of the Convention on the Rights of the Child have been created.

143. Emergency Ordinance No. 26/1997 regarding the protection of the child in difficulty includes the provision that, in selecting a child protection measure, the necessity of observing reasonable continuity in the child's education, as well as his ethnic, religious, cultural or linguistic origins, is to be considered. In the event that the child has been entrusted for care to a natural or legal person, the religious beliefs of the child may not be altered, except for certain exceptional cases which require the special approval of the Commission for the Protection of the Child.

144. According to the most recent legal provisions regarding religion as a school subject, religion is compulsory for elementary school and gymnasium, the child being entitled to make an option of one of the various types of religion; the child is free to change this option throughout the academic year. At the parents' request, the child may choose to stop attending the religion classes.

E. Freedom of association and peaceful assembly (art. 15)

145. The Constitution of Romania sets the legal background, in articles 36 and 37, for the freedom of public meetings and the right to freely associate, respectively, without, however, making any specific reference to children. Article 36 underlines the exclusively "peaceful, weapon-free" character of public meetings. Consequently, the right to peaceful assembly presupposes any meeting that involves expressing or exchanging ideas and opinions. Freedom of association involves a positive component, through the possibility of constituting a freely consented to, goal-achievement-oriented group, as well as a negative component, through the right to refuse membership in a certain association or organization.

146. As stipulated under article 15, paragraph 2 of the Convention, the limitations of the exercise of these rights are regulated by law, as deemed necessary in any democratic society, in the best interests of the national security, public safety and order, or for the protection of public health or morals, or of the rights and liberties of others (these limitations, as well as the penalties to be applied in the event of their violation, have been detailed under the chapter "Freedom of expression"). In this sense, article 37, paragraphs 2 and 3, of the Constitution stipulate that the parties or organizations militating against political pluralism, against legal State principles or against the sovereignty, integrity and independence of Romania are unconstitutional, and secret associations are prohibited.

147. One form of exercise of this right is the right to establish unions and to join them. Article 3 of Law No. 54/1991 regarding unions refers to child employees, stipulating that they are free to participate in the establishment of a union without any restrictions whatsoever or the prior consent of their parents or legal representatives. The child, however, may not be elected to the union management, unless he or she has already gained full capacity prior to becoming of age (18) (article 9 of Law No. 54/1991).

148. The right of the child to associate does not include the right to participate in the establishment of a political party, as the child does not have the right to vote, and, according to article 1 of Law No. 27/1996 regarding political parties, these parties are associations of Romanian citizens who have the right to vote, i.e. people who have turned 18 before (and including) the election date. Nevertheless, article 6, paragraph 4, of Law No. 27/1996 grants the child who has turned 16 the right to join a youth organization of a political party without, however, having the capacity of a party member.

149. Another issue regarding the exercise of legal rights provided by article 15 of the Convention is the participation in public meetings of the children capable of forming their own opinion, the freedom to organize and join such meetings being guaranteed by law, namely by article 1 of Law No. 60/1991 regarding the organization and development of public meetings. This law does not stipulate in an explicit manner the child's right to participate in public meetings. However, since this right has been guaranteed for everybody, it goes without saying that children capable of forming their own opinion also have the right to participate in such meetings, considering at the same time that article 3 also refers to sports, cultural-artistic and religious meetings.

150. Granting the freedom of public assembly also involves the State's obligation to offer protection to any group exercising this right peacefully, the State undertaking to take all necessary reasonable precautions to this effect (art. 3).

151. With respect to the possibility of becoming a member of an association, Law No. 21/1924 regarding legal persons does not specifically State that only persons who have acquired the full capacity to exert their rights may become members of such associations, which might mean that the under-age person who is capable of forming his or her own opinions is free to associate for purposes which are not financial or patrimonial in nature (art. 31). The child, however, may not acquire the status of member in the management or administrative bodies of the association, as this would mean that he or she would be liable for any prejudice caused by his or her acts or deeds. The rules and regulations for the enactment of legal provisions for legal persons stipulate, under article 29, paragraph 3, that the statutes of association of each legal person will specify the formalities and terms and conditions for membership, such as age, sex, occupation, etc.

152. At the same time, neither may a child be a founding member of such an association, since setting up a foundation presupposes a free decisional act, which requires the full capacity to exercise one's rights. In respect thereof, article 66 of Law No. 21/1924 stipulates that a foundation represents an official document by virtue of which a natural or legal person constitutes a legal patrimony that is completely autonomous and distinct from his or her own, and permanently dedicates it to the achievement of an ideal, to the best general interest.

F. Protection of privacy (art. 16)

153. The legal system of Romania does not include any special provisions meant to protect the child from any interference in his private life, to guarantee the inviolability of his/her home and the secrecy of personal correspondence. These rights, however, are guaranteed by the Constitution of Romania for all its citizens, under well-determined circumstances.

154. The Constitution of Romania stipulates that the public authorities shall respect and protect the intimate, family and private lives of citizens. Any natural person has the right to be self-accountable, unless by this he causes a violation of the rights and freedoms of others, of public order or morals (art. 26).

155. According to article 27 of the Constitution, the domicile and residence are inviolable. No one may enter or stay in the domicile or residence of a person without consent. Derogation from these provisions is permissible by law, under the following circumstances:

- (a) To carry into execution a warrant of arrest or a court sentence;
- (b) To remove any danger threatening a person's life, physical integrity, or assets;
- (c) To defend national security or public order; and
- (d) To prevent the spreading of any epidemics.

156. In close relation thereto, the same article 27 of the Constitution stipulates that searches may only be ordered by a magistrate, and carried out exclusively in strict observance of the legal procedures in force. Searches at night-time are prohibited, except in cases of flagrante delicto.

157. Article 28 of the Constitution of Romania relates to the secrecy of written communication, stipulating the inviolability of the secrecy of letters, telegrams, mailed parcels or other postal communications, of telephone conversations, and of any other legal means of communication.

158. In criminal law suits, in the event of an act the victim of which is a child and which affects his/her personal image or privacy, the child may benefit from a private hearing to be held separately by the court in the Council Chamber.

159. It is with the same intention of protecting the child's privacy that the meetings of the Commission for Child Protection are not made public whenever a protection measure for a child in difficulty is under discussion, and all parties whose presence is considered useful in determining the most adequate solution for the referred protection measure are heard.

160. Investigations/inquiries or measures implemented in accordance with Emergency Ordinance No. 26/1997 regarding the protection of the child in difficulty shall not be considered an interference in the child's private life. The child's best interest is always the decisive criterion, as mentioned under chapters III and V.

G. Access to appropriate information (art. 17)

161. A person's right of access to any information of public interest cannot be restricted, according to the provisions of article 31 of the Constitution. The public authorities, according to their competencies, shall be bound to provide correct information for citizens on public affairs and on matters of personal interest. Public and private media shall be bound to provide correct information to the public. The right to information shall not be prejudicial to the protection of the young or to national security.

The Media

162. To protect children from the negative impact of any information or materials broadcast on the public and private television channels, there have been created special provisions (compulsory norms and standards), within the framework of Decision No. 105/1993 of the National Audio-Visual Council, relating to any type of advertising meant for or addressing children. According to article 3 of the decision, any prejudice to the best interests of the child shall be prevented and children's extreme vulnerability and sensitivity will be at all times considered by complying with the following criteria:

(a) Advertising should not urge children to buy a certain product, to request a certain service or carry on a particular activity, by appealing to their innocence and lack of experience;

(b) Advertising should not encourage minors to persuade their parents or other persons to buy the respective goods or services for them;

(c) Advertising should not take advantage of the trust invested by children in their parents, teachers or other persons;

(d) Advertising should not make unjustified use of images of children in hazardous or seemingly vulgar situations.

163. These special provisions regarding the advertising meant for or addressed to children are seconded by the provisions of article 3 of Decision No. 105/1993, stipulating the following general guidelines for advertising with a view to protecting children and guaranteeing an adequate environment for harmonious development:

(a) To exclude any obscene manifestations violating good morals;

(b) To prevent causing any prejudice to personal dignity, honour and private life;

(c) To prevent any acts of incitement to violence, national, racial, class or religious hatred, or discrimination based on considerations of race, sex or nationality;

(d) To prevent any behaviour which might prejudice health and personal safety;

(e) To discourage any behaviour that might prejudice the protection of the environment.

164. The protection of children is also granted top priority in advertising certain products, such as tobacco, alcoholic beverages, medication and medical treatments, as well as films and shows prohibited to children. Listed below are the main regulations regarding these issues which are included in Decision No. 105/1993:

Advertising tobacco is prohibited (art. 5, para. 1);

Advertising alcoholic beverages of any kind shall not address children in particular and no one who may be considered as under-age will be associated in any commercial for alcoholic drinks (art. 5, para. 2.a);

Advertising alcoholic beverages is allowed at prime time, provided the commercial does not include the actual drinking action, but totally prohibited during children's shows or sports broadcasts (art. 5, para. 3);

Commercials regarding medication and medical treatment to be obtained only on a prescription from a doctor are prohibited.

165. Films and shows that are prohibited to children, as well as films containing shocking or extremely violent scenes, may only be shown between 12 p.m. and 5 a.m. (art. 5, para. 7). Promotional advertising for the broadcasting schedule of certain films or shows categorized as sexy or excessively violent will neither include images and sounds which might prejudice child protection measures, nor comments meant to increase children's interest in watching them. This type of advertising is allowed only between 12 p.m. and 5 a.m. These restrictions also apply to commercials advertising erotica or any other subject intended to take advantage of children's innocence and lack of experience.

Sex education

166. Sex education in schools is not compulsory by law. Sex education-related issues (including HIV/AIDS and sexually transmissible diseases (STDs)) will be tackled during civic education classes, either by the teacher in charge of the class, or by specialists to be invited by the teacher (doctors, psychologists, etc.). The large majority of schools organizing sex education classes are in urban centres, whereas in rural environments, this type of education is almost non-existent.

167. Besides the classes organized within the school institutionalized framework, there are also a number of NGOs (Societatea de Educatie Contraceptiva si Sexuala (SECS), Asociatia Romana Anti-SIDA (ARAS), "The Teenager", etc.) which develop sex educational programmes, either directly addressing the children and the young, or meant for training certain professional categories (teachers in pre- and primary school) who are currently involved in child-related activities, to enable them to convey the necessary information according to the understanding capacity of each age category. Part of these programmes are targeted at the rural population, and are among the few initiatives in this field that address this segment of the population.

H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment (art. 37 (a))

168. Article 22 of the Constitution of Romania stipulates that no one may be subjected to torture or to any kind of inhuman or degrading punishment or treatment (para. 2) and includes the specific mention that the death penalty is prohibited (para. 3); the death penalty has been abrogated in Romania by Decree-Law No. 6/1990 and replaced with life imprisonment.

169. Should the law stipulate life imprisonment for an offence committed by a minor, the child will be subjected to 5-20 years' prison confinement (art. 109, Penal Code). There is also the possibility of releasing the child on parole, according to the legal provisions in force, upon fulfilment of a certain portion of his punishment.

170. Romania has ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Punishment or Treatment, as well as Protocols Nos. 1 and 2 to the Convention.

171. The Penal Code of Romania mentions illegal arrest and investigation, torture and ill-treatment of minors as legal offences. Mention should be made of the fact that between 1994 and 1997, no one was criminally investigated or definitively convicted for torture; during the same period, however, 12 ex-policemen received a definitive sentence for abusive behaviour, illegal arrest and abusive investigation, the victims of whom had been nine children.

172. The main provision of the Romanian legal system guaranteeing the citizens' right (children included) to notify and object to any violation of rights, such as the right stipulated under article 37 of the Convention on the Rights of the Child, is the one stipulated under article 47 of the Constitution stating that Romanian citizens have the right to apply to the public authorities by petitions formulated only in the name of the signatories, the exercise of this right being tax-exempt. Additionally and more specifically, children have the right to request legal assistance through their legal representatives (parents, legal guardians, a lawyer who is either chosen by them or appointed ex officio) regarding criminal prosecutions, should these acts prejudice in any way their legitimate interests (art. 275, Penal Code).

173. These rights are reinforced by Law No. 23/1969 on the execution of penalties, which stipulates that the administration of penitentiaries and re-education centres for minors will make available everything that is deemed necessary for writing a petition, at the detained person's request, at the same time guaranteeing their confidentiality. It is strictly prohibited to alter in any way the correspondence sent or received by convicted persons (minors included) or by the minors detained in re-education centres in the exercise of their right of petition, or to reveal, without their consent, the content of their correspondence in that regard. Violation of these obligations will incur the disciplinary liability of the penitentiaries' and re-education centres' staff.

174. Below are the legislative provisions supporting the observance of the child's right not to be subjected to torture or any kind of cruel, inhuman or degrading punishment or treatment:

- (a) In supervising a criminal prosecution act, the prosecutor:
 - (i) Will direct and control the criminal investigation activity of the police and make sure that the criminal investigation documents are drawn up in full compliance with the legal provisions in force (art. 218, para. 1, Criminal Procedure Code);
 - (ii) May assist in the drawing up of any criminal investigation document or do it himself (art. 218, para. 3, Criminal Procedure Code);
 - (iii) May reject or justify any trial procedural measure whenever he considers that it runs counter to the legal provisions in force (art. 220, para. 3, Criminal Procedure Code);

(b) In the event of a complaint against the prosecution measures and acts, short time limits are established for the prosecutor handling the petition or his superior to find a solution to the complaint;

(c) It is compulsory for a child to have a lawyer, both during the prosecution and the trial, under the sanction of absolute nullity of the completed proceedings (art. 171, para. 2, Criminal Procedure Code);

(d) The participation of the prosecutor in the trial is compulsory where under-age offenders are involved, not only for sustaining the accusation, but also for supervising the observance of the law.

175. Another issue worth mentioning relates to the measures initiated for the training of the members of the judiciary who are directly involved with children. We would like to point out that efforts are being made to train specialized prosecutors and judges designated by the president of the trial court to carry out the investigation and trial of penal causes related to children, by means of training courses, seminars and colloquiums organized by the Ministry of Justice and the General Prosecutor's Office attached to the Supreme Court of Justice.

176. It is also worth considering that, during 1994-1998, the National Institute of the Magistracy devoted a certain number of hours per year to the presentation of and debate on the Convention on the Rights of the Child with respect to the legal issues involved in adoption and in court decisions on abandonment. A special module dedicated to juvenile delinquency-related issues was included in the curriculum for the academic year 1997.

177. Within the larger legislative programme of Romania, there is a pending draft law regarding the execution of penalties, as well as a pending draft proposal to alter the Criminal Procedure Code which specifically state the principles and guarantees of observance of the right of persons (minors included) not to be subjected to torture or any inhuman or degrading treatment during detention.

178. Consequently, enforcing certain inhuman or degrading disciplinary sanctions on minors (such as, for example, detention in isolation) is prohibited. It is specifically strictly prohibited to submit minors to cruel, inhuman or degrading treatment, and there is no legal possibility for re-education centre staff to invoke, under any circumstances, a situation or legal provision which may support such treatment.

179. Within the legal framework regulating disciplinary measures applicable to minors, in the event of a violation of the pre-established internal norms and regulations, there is the specific interdiction against group sanctions, corporal punishment or threat thereof, discontinuation of nourishment, medical treatment, visits or packages received by minors, as well as other types of punishment which might be considered cruel, inhuman or degrading.

180. There is also a pending draft law regarding the probationary service, which has been non-existent so far in the Romanian legal system. In view of their age and the specificity of children's personalities, the draft law stipulates that an evaluation report by the probationary departments should become compulsory for under-age offenders, and the evaluation will be jointly performed by an interdisciplinary team of medical staff, teaching staff, psychologists, sociologists, etc.

181. The training of the probationary counsellors would be carried out by the National Probationary Institute, the organization and operation of which will be established by government decision. Some of the probationary measures may also address children, such as: the measure of remaining with the parents or with the legal representative; the measure of compelling the child who is already 16 on the date of committing the criminal offence to perform social activities to the benefit of the community, such activity being performed upon termination of the daily training and educational schedule; the measure of interdiction of any direct contact or relations with persons who have inflicted bodily injury or have caused physical or psychic trauma to a child, considering at all times the latter's best interest.

182. Additional information on the juridical status of children who have violated the law will be included in Chapter VIII, "Special Protection Measures".

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance (art. 5)

183. The Constitution and the Family Code stipulate the principles of setting up and making a family work; these principles have already been mentioned in Romania's initial report. As a general remark, we might say that the paternalist tradition is still being promoted in children's education, being excessively based on paternal authority and, very often, domestic violence. Family is still considered a "taboo" environment where professional interference, focused on the best interest of the child, is discouraged.

184. There are no counselling or advisory services for young couples, more particularly for future parents, except for pre-natal medical check-ups. In the current educational system, there is no real concern for educating the younger generation in the spirit of family values, parental responsibilities and the rights of the child.

185. Family educational programmes focused on a new approach towards the child, on promoting a new vision of child protection within families and society, are at present at the stage of initiating some specialized pilot programmes. Some attempts at experimenting with parental counselling and educational centres or services within a number of educational and training institutions, pilot projects of NGOs are worth mentioning; however, their number is small and their coverage area insignificant.

186. As a consequence thereof, the Government's strategy for the reform of the child's rights protection system, primarily pursuing the child's best interest, is focused on keeping children under natural family care and on developing social services to support them. These objectives are achieved both through the specialized services within the Regional/Local Directorates for the Protection of the Rights of the Child, as well as by promoting and diversifying social child protection services. At the level of the Directorates, the departments directly involved in parent counselling and support are the following:

(a) The Department for Financial Assistance and Support, which is involved in the prevention of situations which might jeopardize the child's security and development. It is charged with specific tasks in emergency interventions, offering counselling and financial and other material support for parents so that they may be able to assume their duties towards the child;

(b) The Department for Family-Related Child Protection Issues, whose main duty is to offer assistance, counselling and support to the families or persons who have been entrusted with children for care, irrespective of whether they represent the child's natural family, to manage issues relating to fostering, caring for or adopting a child and to adapting to the specificity of each of these as well as to the timing/purpose of the intervention in favour of the child (abandonment prevention, family integration/reintegration, crisis situations, etc.);

(c) The Department for the Protection of the Delinquent Child, in charge of counselling and improving the relationships between parents and children involved in juvenile delinquency problems;

(d) The Department for Residential-Related Child Protection Issues, in charge of specific domestic activities with the child in residential-type care and, in addition, responsible for keeping in touch with the child's natural or foster family, offering counselling and support to these families with a view to achieving the child's reintegration.

187. A strategic priority, which is promoted as such, is considered to be the development of a large spectrum of community services of parental support by making use of the existent facilities and resources at the level of each local community. Listed below are the main types of diversified child protection services targeted at strengthening the family's capacity to provide the best educational and development conditions for their children:

(a) The Maternal Shelter offers a temporary shelter to unmarried mothers and their children, to prevent child abandonment by developing their affection for the child and to support them by counselling and parental education;

(b) The Day-Nursing Centre offers daytime care for children from families in risky situations, to prevent abandonment and to support the child within his or her natural family;

(c) The Parent Counselling and Support Centre offers counselling and support to families in risky situations, to improve relationships among their members with a view to keeping the family united and preventing child abandonment and institutionalization. These centres are also supposed to offer parental education, to teach young parents how to treat their children, to help them become good, trustworthy parents and to encourage parent-child relationships;

(d) The Centre for the Preparation of Child Integration and Reintegration in Families is in charge of preparing the child and his/her family for getting better adapted to each other and for getting over the initial period of re-establishing the parent-child relationship and making this experience as untraumatic for the child as possible;

(e) The Day-Care Centre for Children with Special Needs offers daytime care and therapeutic assistance for children with special needs, as well as counselling to their families, with a view to better understanding their children and their special needs;

(f) The Assistance and Support Centre for Psychological Readaptation of the Child with Psycho-Social Problems will fulfil the function of a temporary placement centre, as well as of an evaluation (therapeutic) centre, within which a multidisciplinary team will offer specialized assistance to children and their families.

188. On the other hand, mention should be made of the fact that data and information regarding child development are also included in the academic curricula of the faculties whose graduates will be directly involved in childcare activities (teachers, doctors, sociologists, psychologists, social assistants), as well as in the pre-university curricula.

189. A great number of persons who have redirected their occupational focus from other domains of activity, without any particular training in childcare and with a limited experience in and knowledge of child neuro-psycho-motor development processes, are active in the services or departments of social assistance, tutelary authority and child protection institutions. A considerable number of professional and training reconversion programmes have been initiated for the staff of the specialized services for the protection of the rights of the child, as well as for the staff of the placement centres, so as to be able to offer children adequate guidance in their individualized needs.

190. A larger involvement of the central and local authorities is anticipated in popularizing the Convention's principles at the level of the communities, groups of specialists and pre-school and school communities, as well as in promoting a particular human resource policy in childcare institutions, so that the persons to be employed have the required competency, experience and training, which should enable them to offer good quality guidance and services.

B. Priority of parental responsibilities (art. 18, paras. 1-2)

191. The basic principles regarding parental responsibility stipulated by the Romanian legal system are the following:

- Fundamental equality of both parents regarding their rights and duties towards the child;
- Promotion of the child's best interest;
- Non-discrimination between children born in wedlock, out of wedlock or adopted;
- The parents' obligation to take care of and provide for the child, according to his or her needs;
- The parents' duty to ensure all necessary conditions for the upbringing, education, instruction and vocational training of their children.

192. The Constitution of Romania stipulates that parents have the right and the obligation to ensure, in accordance with their own convictions, the education and training of the minor children whose responsibility devolves on them (art. 29, para. 6). Article 44, paragraph 1, implies that the right and obligation to ensure the upbringing, education, instruction and vocational training of their minor children is to be exerted equally by both parents. The principle according to which parents are considered first and foremost responsible for the upbringing and education of their children is not made specific by the law. The Family Code only stipulates, in article 1, that the State will protect marriage and the family, and that the State defends the interests of the mother and of the child, respectively. With the changes to be made to the Family Code, it is envisaged that parent-child family relationships would also be reconsidered in the sense of establishing the principle that the responsibility for the upbringing and education of children lies first and foremost with the parents.

193. The chapter in the Family Code dedicated to the protection of the minor child stipulates, in article 101, the parents' obligation to ensure their child's upbringing, as well as the nature and content of this obligation, i.e. care for the child's health and physical development, education, instruction and vocational training. Article 97 mentions the principle of common parental responsibilities based on the parents' full equality of rights towards their minor children.

194. In the event of a dissolution of marriage through legal divorce, the parents' rights and obligations will nevertheless be exerted unequally by each parent, since the court is compelled to entrust each child to either the mother or the father, in considering the children's best interests (article 42, paragraph 1 of the Family Code). In the event that the child should be entrusted to a third party, parental rights will only be partly exerted by the natural parents (art. 42, paras. 2 and 3).

195. According to article 43 of the Family Code, parental rights will only be exerted by the parent whom the child has been entrusted to, while the other parent is only entitled to personal relations with the minor and to watch over his or her upbringing and education. The provisions

regarding the custody of the minor children upon the conclusion of the parents' legal divorce are also applicable, by virtue of similarity, to nullified or annulled marriages (art. 24, Family Code), as well as to custody of a child born out of wedlock to one of his or her parents (art. 65, Family Code).

196. Parental responsibility presupposes the parents' responsibilities to provide for the best interest of the child. Consequently, according to article 105 of the Family Code, parents have the right and obligation to manage their minor child's estate or assets. At the same time, however, the principle of separation of assets is also operational among parents and children (art. 106). It is still the Family Code which stipulates the parents' obligation to maintain and support his or her child (art. 107), as an element of parental responsibility. In the event of disagreements between the two parents, the extent of this maintenance responsibility, as well as of the contribution of each of the two parents, will be determined by the court, where the monitoring of the tutelary authority is a compulsory procedure (art. 107, para. 3). The obligation to support and maintain the minor child will also hold valid even if a parent has been legally deprived of his/her parental rights (art. 110).

197. In the event of an abusive exercise of parental rights or in cases of severe negligence in fulfilling parental obligations, parents may be deprived of the exercise of parental rights (art. 109, Family Code). Should the circumstances giving rise to the deprivation of these rights cease to exist, such that the up-bringing, education, instruction, vocational training and patrimonial interests of the child are no longer prejudiced, the court of justice may decide that the parents should recover their rights of parenthood.

198. According to the provisions of Emergency Ordinance No. 26/1997, the responsibility for providing protection and assistance in achieving and exerting the rights of the child in difficulty (whose development or physical or moral integrity is jeopardized) lies, in the first place, with the local community the respective child belongs to, while receiving at the same time support from the State. The measures which the Commission for Child Protection may take for the protection of children in difficulty refer, first and foremost, to the child's entrustment to/placement with a person or family, granting priority to the relatives of up to the fourth degree, or putting the child up for adoption. In the event that both parents are deceased, unknown, placed under interdiction, have disappeared, have been declared dead, or have been deprived of the exercise of parental rights and no guardianship has been instated, in the event that the child should be declared abandoned by a final and binding court decision, as well as in the event that the court of justice has not yet decided the child's placement with a person or family, the parental rights towards that child will, under the terms and conditions imposed by the law, be exerted by the county council, or by the local councils of the districts of the City of Bucharest respectively, through the Commission for Child Protection.

199. Should there be no adequate families or persons to whom the child may be entrusted, the Commission for Child Protection may decide that he or she should be entrusted to a specialized child protection public service or to an authorized private institution, under the conditions of the

law in force. Natural and legal persons who have been entrusted with such children for care will only undertake the rights and obligations that parents have towards the child as a person. The child's natural parents will maintain their rights and obligations towards him/her throughout the duration of the placement period, except for those rights and obligations that are incompatible with the enforcement of this measure.

200. Natural and legal persons who have been entrusted with a child for care will secure all necessary care and conditions required for the child's harmonious development. The parents' consent for performing all current legal formalities required to carry out this obligation or to prevent any emergency situation which might jeopardize the child's security, development or moral integrity is presumed. Throughout the duration of the placement, the child's domicile will be the residence of the person to whom he or she has been entrusted.

201. In the event that the Commission for Child Protection should decide on the child's entrustment or placement, the biological family will be made liable, either by having to pay a monthly financial contribution, or by "performing unpaid services to the benefit of the community, throughout the period of entrustment or placement". At the same time, this specialized service will "supervise the families and persons to whom a child has been entrusted or placed with, throughout the duration of applicability of this measure, as well as the biological parents, after the child's return in his or her family environment" (art. 20 (f)).

202. With reference to the child's right to express thoughts and opinions and his or her involvement in an act of decision, there are clearly stated provisions, such as:

(a) The child's right to express his or her opinion, in a court of justice, in a divorce trial, starting at the age of 10 (Family Code);

(b) The right to choose the type of education and religion (article 10, Emergency Ordinance No. 26/1997 stipulates that the institutionalized child's education and religious faith may only be altered upon prior approval being obtained from the Commission for Child Protection. In the event that the child has turned 14, his or her consent is also requested);

(c) The participation of the child in a decision to take a measure of protection is guaranteed; the public service specialized in the protection of the rights of the child has the duty to determine the opinion of the child capable of forming his/her own opinions with respect to his/her own family or the person proposed for accepting his/her custody or placement, and to bring this opinion to the attention of the Commission for Child Protection. The law also stipulates the necessity of summoning before the Commission for Child Protection the parents, as well as the child who has reached the age of 10. The decision taken will be communicated to the parents and to the person, family or authorized private institution to whom the child has been entrusted or placed with of the child who has reached the age of 10.

203. Creating a legal framework with a view to increasing family responsibility, as well as rendering the child responsible by getting him/her involved in the planning of his/her future are key elements of the governmental strategy for the reform in the field of child protection.

204. A child's legal guardian is entitled to bring the child up as if he or she were his own. Parenthood liability will, therefore, be transferred to the child's legal guardian (art. 123, Family Code). Just like for natural parents, the tutelary authority will periodically check on the way the legal guardian fulfils his or her duties towards the minor child and his/her assets or estate (arts. 134, 135 and 136, Family Code). In the event that the legal guardian commits an act of abuse or severe negligence which renders him unworthy of the role of legal guardian, or in the event that he does not fulfil his duties in a satisfactory manner, he/she will be deprived of the legal rights of guardianship (art. 138, Family Code).

205. Provisions relating to parental responsibility can also be found in the Civil Code, in the chapter dedicated to civil liability in cases of misdemeanours or offences. Thus, article 1000, paragraph 2, stipulates the parents' responsibility for illicit acts inducing prejudice to their minor children. The basis for the parents' responsibility for such acts is, under the current legislation, not only their duty to supervise the child, but also the more complex obligation to provide for his or her upbringing and education. Article 1000, paragraph 2, of the Civil Code states a presumption of guilt on the part of the parents that is a relative presumption, which may be removed by proving that there was nothing that the parents could have done to prevent the prejudicial act (art. 1000, para. 5). By basing the parents' responsibility on their duty to supervise, as well as to raise and educate their minor child, proving the contrary will be a more difficult endeavour, which may increase the exigencies of fulfilling the obligations that the parents have.

206. According to Law No. 47/1993 regarding the declaration of child abandonment by a legal court, a child may be declared abandoned in the event that parental rights are only partly granted to the child's parents while the child is entrusted to a third party, and if the normal personal relationship between the parents and the child cease for a period exceeding six months (art. 1). For those children who have been placed under the specialized care of a State-owned social or medical protection institution or of a private legally constituted care institution, abandonment will not be declared if, within six months or during the trial, a sibling of up to and including the fourth degree requests that the child be entrusted to him/her for its care and education, and his/her request has been determined as being in the best interest of the child (art. 3). Therefore, if it is in the best interest of the child, his or her placement with a relative will be granted priority over the measure of abandonment.

207. Should abandonment be declared, the court will delegate the exercise of parental rights to the protection institution or the person to whom the child has been entrusted (art. 4). Also, should the circumstances having given rise to the legal declaration in court of abandonment cease, and should this be in the child's best interest, the court may decide to reinstate the exercise of parental rights.

208. Other special laws provide sanctions for the failure to carry out parental duties or for the abusive execution thereof.

209. According to the Training and Education Law No. 84/1995, the non-observance of the parent's or legal guardian's obligation to ensure the child's attendance at school constitutes an offence and will be punished by a fine (art. 178, para. 2). Other punishable offences are stipulated by Law No. 61/1991 regarding the punishment of any act of violation of certain social

cohabitation rules, of public order and peace by the parent or guardian: expelling children from their common shelter, urging minors in any way to commit offences, failure to take all necessary precautions to prevent begging, thieving, or prostitution by the child (art. 2).

210. The Penal Code incriminates family abandonment under article 305. That offence consists of abandoning, expelling or leaving a child without support, the deliberate ill-intentioned non-fulfilment of the obligation of maintenance or the deliberate failure to pay, for a period of two months, the court-determined maintenance of the child. Article 306 of the Penal Code sanctions the deliberate act of severely jeopardizing the minor's physical, intellectual and moral development by the parents or the person to whom the child has been entrusted for care and education.

C. Child maintenance expenses

211. Article 43 of the Constitution of Romania stipulates that the State shall be bound to take measures of economic development and social protection to ensure a decent living standard for its citizens. Citizens have the right to receive pensions, paid maternity leave, medical care in public health establishments, unemployment benefits and other forms of social care as provided by law.

212. Romanian legislation stipulates that the full responsibility for the maintenance of the child lies with his or her parents, legal guardians or other legal custodians.

213. Article 105 of the Family Code stipulates that "parents have the right and obligation to manage their minor children's estate or assets and to represent them in legal acts until the age of 14". After the age of 14, the minor will exert his rights and obligations independently, subject to the prior approval of his or her parents in order to protect him or her against abuse by third parties.

214. The State's support towards the family fulfilling child maintenance obligations takes the following forms and is equally valid for all children:

- State allowance for children (as per Law No. 61/1993 regarding the child State allowance), the value of which has been established at 65,000 lei, subject to re-evaluation;
- Supplementary allowance, of variable value, allocated to families starting with their second child (as per Law No. 119/1997 regarding the supplementary allowance for families with children);
- Paid leave for either of the two parents for taking care of a child until the age of 2 (as per Law No. 120/1997);
- Birth benefits starting with the birth of the second child (Law No. 67/1995);
- Interruption for the feeding and care of the child aged 9-12 months (Labour Code, art. 156);

- Prohibition on night work for pregnant or breast-feeding mothers (*ibid.*, art. 154), and on work that might expose them to bodily injury or difficult or dangerous conditions (*ibid.*, art. 152).

215. Additional forms of assistance and support are stipulated by the law in force for the families in difficulty:

- Unemployment benefits, of variable value, under the conditions stipulated by Law No. 1/1991 regarding the social protection of the unemployed and their professional reintegration, modified and completed by Law No. 65/1997;
- Social benefits for the families with no or very low income (Law No. 67/1995).

216. Details regarding the value limits and conditions for granting these forms of support will be presented under chapter VI.

217. The Family Code (art. 42) specifies that, upon legally pronouncing the divorce, the court will determine “each parent’s contribution to the expenses incurred by the upbringing, education, instruction and vocational training of their children”. The law stipulates that “the alimony will be due in accordance with the demands of the person requesting it and with the financial possibilities of the person bound to pay for it”, its value being determined by the court of justice, in accordance with the legal provisions in force. Should there be any disagreements with respect to the maintenance obligation due by the parents to the minor (i.e. its value, nature, executing modalities or personal contribution of each parent), the court will decide, subject to the prior hearing of the tutelary authority.

218. Even if, in the event of a legal divorce, the court determines the alimony value, the exercise of this right of the child will be impossible to achieve whenever the paying parent:

- Is not working, therefore does not have a stable, registered income;
- Has abandoned the family and there is no knowledge of his whereabouts;
- Frequently changes his job;
- Applies pressure and, by means of threats, intimidates the requesting parent so as to cause him or her to abandon the idea of bringing the issue to court.

219. In the event that both parents are deceased, unknown, have lost parental authority, are placed under interdiction, have disappeared or have been declared dead, the child will be placed under guardianship. The legal guardian will take good care of the child and will manage his or her estate, assets or income, under the direct supervision of the tutelary authority, by virtue of the specific regulations expressed in the Family Code and other civil legal norms in force. The legal guardian will submit annually to the tutelary authority a report, which should also include statements accounting for the administration of the child’s estate and income.

220. For the child in difficulty for whom a legal protection measure has been ordered, the Romanian law stipulates:

(a) The guaranteed observance of the respective child's right to benefit, like all other children in Romania, from the State allowance for children. In 1989, the State allowance for children represented 2.7 per cent of GDP. The introduction in 1991 of a 20 per cent tax exemption for persons with children led to a financial budgetary support increase for families with children amounting to approximately 4 per cent of GDP, as estimated by the World Bank. By eliminating the tax reduction and by diminishing the actual value of the State allowance for children, the total value of the latter had gone below 0.6 per cent of GDP in 1996. In 1997, the value of the allowance was established at a net amount of 50,000 lei/month (around 65 per cent of the 1989 value of the allowance) and further re-evaluated and increased to 65,000 lei/month, and all children, without any discrimination whatsoever, benefit from this monthly allowance. The value of the monthly allowance is double for the children with special needs;

(b) The State covers part of the expenses incurred by children's education (free education for institutionalized children, a (pre-)academic as well as a social scholarship system);

(c) The State covers all medical care-related expenses, since medical assistance is free for children.

221. In the event of entrusting/placing the child with a natural or legal person, subsequent to the adoption of a protective measure, these persons will acquire the rights and obligations that parents hold towards their children. The management of the child's estate will be performed by the Commission for Child Protection, which may delegate the specialized public service for child protection to this effect. The latter will have to submit annual reports on its performance in connection thereof.

222. Natural persons (substitute families) and legal persons (the specialized public service or the authorized private institutions) have the obligation to maintain and take care of the child throughout the protection period. For each child entrusted or placed under family care, the State offers a monthly allowance of 380,662 lei, subject to re-evaluation, as per the provisions of Governmental Decision No. 295/1999, regarding certain social protection measures.

223. The persons who have been entrusted with a child for family care having the status of maternal assistant under the provisions of Governmental Decision No. 217/1998 benefit throughout the duration of the protection period from a salary established as the equivalent of the gross monthly salary of a high school graduate social assistant, employed according to the number of years of professional experience. This period is considered as cumulative professional experience and is recorded as such in the labour books. The conditions imposed on the respective person/family are to be able to obtain the maternal assistant certificate and not to be a relative of up to the fourth degree of the child.

224. An element of innovation is represented by the provisions of article 24 of the Government's Emergency Ordinance No. 26/1997, stipulating that the decision regarding both the total value of the parents' monthly contribution to the maintenance of the child protected under the conditions stated by the Family Code and the possibility of performing certain unpaid activities for the community, will be taken by the Commission for Child Protection.

225. Among the difficulties which may impact upon the coverage of the child maintenance expenses are:

- Lack of the birth certificate due to the failure to record the child's birth in the registrar of births, marriages and deaths;
- Failure to attend compulsory education in school, which leads to an annulment of the right to the State allowance for children; this measure was taken to stimulate compulsory school attendance and to diminish school absenteeism and abandonment, but the results have been insignificant in this regard;
- Failure to offer complete coverage of the actual current needs of the ever-more-numerous communities and families affected by poverty by means of social scholarships or financial support, etc., which are relatively limited;
- The relatively expensive and strenuous procedures of appeal to the courts to require the spouse/partner who has abandoned the home/family to contribute, at least, financially to child maintenance. In most cases, these procedures are for mothers who lack the financial means, required knowledge and family support to initiate trial proceedings in order to obtain the maintenance allowance for their child/children in the event of family abandonment, divorce, etc.

D. Separation from parents (art. 9)

226. The right of children not to be separated from the parents against their will is implicitly recognized in the juridical norms regulating parent-child relations. Consequently, besides article 100 of the Family Code, dedicated to the principle that children live with their parents, article 14, paragraph 1, of Decree No. 31/1954, regarding natural and legal persons, stipulates that the minor's domicile is the same as the parents'. An identical provision is included in article 25 of Law No. 105/1996 regarding population records and the identity card.

227. The Romanian legal system envisages a number of exceptional situations where it becomes possible for a child to be separated from the parents, or only from one of them, while considering the child's best interests: subsequent to an act of divorce; to the parents' losing parental authority and rights; to arrest or detention.

228. In the event of the parents' divorce, considering the best interests of the child, the court will decide to award custody of the child to one of the parents, or, for well-justified reasons, to a

third-party. During the divorce trial, the court may also decide to separate the child from one of the parents as a temporary measure (article 613 of the Civil Procedural Code). The court's decision on custody may be legally contested. Should the original circumstances change, at the request of any of the parents, or even the child, if he has turned 14, or of the tutelary authority, or any of the child protection institutions, the court may modify its decision.

229. The child's separation from the parents subsequent to the loss of their parental authority is a decision to be taken by the court, at the request of the tutelary authority or the specialized service for the protection of the rights of the child, by virtue of article 109 of the Family Code. The court may decide on the loss of parental authority in the event that "the child's health or physical development is jeopardized by the way parental rights are being exerted, by abusive behaviour or severe negligence in fulfilling parental obligations, or if the education, instruction or vocational training of the child are not performed within the spirit of devotion towards Romania. Summoning both the parents and the tutelary authority is compulsory" (Family Code, art. 109). This legal provision is completed by article 14 of Governmental Emergency Ordinance No. 26/1997: "(1) In exceptional cases, whenever the parents, or only one of them, jeopardize(s) the child's security, development or moral integrity, by abusively exerting parental rights or by manifesting severe negligence in fulfilling parental obligations, the specialized public child-protection service may order the child's emergency placement in a shelter/centre, which is organized and operates under its direct supervision, or under the supervision of an authorized private institution, or his/her entrustment to a person or family authorized accordingly" In turn, the Commission for Child Protection will check on and re-evaluate, at least quarterly, the circumstances that have led to the child's placement (*ibid.*, art. 21).

230. Another exceptional situation where the child may be separated from the parents is stipulated by Governmental Emergency Ordinance No. 26/1997 regarding the protection of the child in difficulty. According to article 12, paragraph 1, the Commission for Child Protection may decide to place the child with a family or person who has consented to take the child, whenever the child's security, development or moral integrity is jeopardized in his or her natural family owing to reasons beyond the parents' control. Should there be no relevant family available for the child, the Commission for Child Protection may decide to place him/her with the specialized public service for child protection or with an authorized private organization (art. 12, para. 2).

231. With respect to paragraph 4 of article 9 of the Convention, the Criminal Procedure Code stipulates the possibility of providing the family (child included) with the essential information concerning any act of detention or arrest of the parent or child. With reference to the delinquency of minors, should the respective children be considered criminally liable, they will be subjected to the provisions of the penal law. In the event of a thoroughly justified punishment by imprisonment, the minor will be separated from his or her family subsequent to a court sentence. The penalty of the minors will be reduced to half the penalty enforceable on adults for the same offence, provided the minimum period of the penalty does not exceed 5 years, and that the offence is subject to 5 to 20 years' life imprisonment. The minor who has been arrested or imprisoned will maintain personal relations and direct contact with his or her biological family.

232. Although the Penal Code, completed by Law No. 140/1996, includes provisions relative to the possibility of the minor who has not committed serious offences to voluntarily engage in activities to the benefit of the community, the probationary system of other countries does not exist in Romania. There are certain initiatives to this effect, but they are sporadic.

233. In relation to the child's place of residence, the Family Code specifies "the child's right to live with his or her parents in their common residence, or in the residence of only one of them, according to the prior agreement between the two parents, in the event that they are living separately" (Family Code, art. 100).

234. Regarding the participation of the parties and the child in court proceedings, the Family Code specifies the right of all interested parties to participate in the proceedings and make their views known with respect to the separation of the minor from one of the parents. In the event of a trial to decide the loss of parental authority, it is compulsory to summon the two parents as well as the tutelary authority.

235. The right of the child aged 10 to be given a legal hearing in court is observed in custody cases (*ibid.*, art. 100, para. 3, and art. 42, para. 1). The same principle is applicable whenever the Commission for Child Protection has to take a protection measure (articles 27 and 28 of the Government's Emergency Ordinance No. 26/1997). The child who has reached the age of 10 is summoned to the Commission for Child Protection and is notified about the decision that has been taken.

236. In the event of the separation of the minors from their parents, the continuation of the relations between them is guaranteed by law. The Family Code specifies that: "the tutelary authority will allow the parent who has lost parental authority to maintain personal relations with his or her child, unless such relations may jeopardize the upbringing, education, instruction or vocational training of the child" (art. 111). Also, in the event of divorce, whenever the child's place of residence has been determined to be with one of the parents, the child has the right to be visited by and maintain personal relations and direct contact with the other parent.

237. The Government's Emergency Ordinance No. 26/1997 refers to the minor in relation to whom a protection measure has been taken, by specifying the following:

(a) Article 11 - Parents may maintain personal relations and direct contact with the child, under the terms determined by the Commission for Child Protection, if the best interests of the child are observed. The specialized child protection public service or the authorized public organization will create all necessary conditions to this effect, according to the legal provisions in force;

(b) Article 13 - Parents have the right to maintain permanent and direct contact with their child throughout the duration of the legal placement. They have the right to visit the child, under legal terms, as well as the right to send and receive letters to and from the child. Parents may visit the child at the place of residence/headquarters of the person or family with whom the child has been placed, subject only to the respective person's/family's approval and in the presence of the representatives of the specialized child protection public service.

238. As a guarantee of the observance of the right of the child who has been separated from a/both parent(s), the Penal Code sanctions, in article 307, paragraph 2, any repeated attempts by the person with whom the child has been entrusted by a court decision to obstruct the right of the parent(s) to maintain personal relations and direct contact with the minor, under the terms agreed by the parties or determined by the relevant authority. At the same time, the Penal Code (art. 307, para. 1) incriminates the retention of a minor child by a parent(s) without the consent of the other parent or of the person to whom the child has been legally entrusted.

239. These legal norms consider at all times that the child's relations with the biological parent(s) do not run contrary to the best interests of the child. In effect, the relationship of a child with a separated parent has always been achieved without any guidance, support or counselling from family counsellors or social assistants. After the enforcement of the new legislative framework in the field the entire activity will be carried out with the support and under the direct supervision of the specialized staff of the Directorates for Child Protection of each county.

240. With respect to paragraph 4 of article 9 of the Convention, the Criminal Procedure Code stipulates the possibility of providing the family (child included) with the essential information concerning any act of detention or arrest of the parent or child. According to article 137, in the event of arrest, the prosecutor or court will provide a member of the arrested person's family, or any other person designated by him/her, with all relevant information within 24 hours. Also, according to article 161 of the Criminal Procedure Code, whenever the parents are detained or arrested, all relevant authorities must be notified in order to be able to take all necessary protection measures for the child.

E. Children deprived of their family environment (art. 20)

241. Children who are temporarily or permanently deprived of their family environment shall be entitled to special protection and assistance provided by public authorities. In the event of children who have been separated from their parents subsequent to a decision taken by virtue of the most recent legislation in the domain of child protection, the specialized public child protection services will be responsible for ensuring alternative care for these children. The types of alternative care have been explained elsewhere in this report. The selection of the most appropriate type of alternative care for the child temporarily deprived of his or her family environment is governed by the paramount consideration of the best interests of the child.

F. Adoption (art. 21)

The best interests of the child

242. Under the terms of the latest legislation in the field of adoptions (Emergency Ordinance No. 25/1997, approved and confirmed by Law No. 87/1998), adoption will be considered only for the protection of the best interests of the child (art. 1, para. 2). The status of adopter may only be granted to a family or person who has proven the financial means and moral guarantees required for a harmonious development of the child (article 6, paragraph 1, of Government's Emergency Ordinance No. 25/1997). According to article 6, paragraph 2, the Commission for Child Protection responsible for the place of residence of the person or family expressing the

intention to adopt a child represents the institution authorized to assess and evaluate the existence of the necessary conditions and guarantees. The Commission may request the dissolution of any adoption, if such dissolution is in the best interests of the child (art. 22, para. 2).

243. The Commission for Child Protection will consider with priority entrusting the child to a relative of up to and including the fourth degree (art. 9, para. 7). The Commission will also consider with priority the adoption requests of Romanian citizens or families as opposed to foreign citizens. The opinion of the discerning child will first be determined before taking any decisions regarding adoption (art. 9, para. 8).

Competence and procedures

244. Article 14 of the Government's Emergency Ordinance No. 25/1997 stipulates that the court whose geographical area of competence includes the child's place of residence is the authorized institution for granting approval for adoptions (art. 16, para. 1). In the event that it is impossible to determine the relevant court, the authorized court will be the Tribunal of the City of Bucharest. The decision will be made by a court made up of two judges to be appointed by the Ministry of Justice (art. 18, para. 1).

245. The evaluation of a request to obtain the certified status of adoptive family/person will be performed by the specialized public service for the protection of the rights of the child in the area where the adoptive family or person is resident. The certificate will be issued by the relevant Commission for Child Protection.

246. The same specialized public service for the protection of the rights of the child is in charge of identifying and proposing an appropriate family from among those who have obtained the above certificate for each and every child legally declared available for adoption. The grant of custody with a view to adoption lies within the competence of the Commission for Child Protection, as does the issuance of the notification that the adoption has been authorized, upon expiry of the term of at least three months from the date of the award of custody provided by law.

247. The main duties of the Romanian Committee for Adoptions are to supervise and support any measures of protection of the rights of the child by means of legal adoption and to seek international cooperation in this domain (art. 10, para. 1). Its activity is coordinated by the Department for Child Protection. The Committee is in charge of receiving all requests filed by the persons or families whose domicile or place of residence is on the territory of Romania wishing to adopt a child. These requests are forwarded to the relevant courts, through the specialized public child protection services or the authorized private organizations. Attached to such requests will be the official confirmation of the Romanian Committee for Adoptions that the procedures and terms provided under articles 11, 12 and 13 have been fully complied with (art. 14, para. 5).

Guarantees

248. The adoption of children who are not included in the records of the Romanian Committee for Adoptions is strictly prohibited, with the exception of certain special cases, such as a spouse adopting the natural child of the other spouse, and the adopters being a sibling of up to and including the fourth degree of one of the child's parents (art. 13). The Romanian Committee for Adoptions or the Commission for Child Protection in charge of the place of residence of the adopted child will monitor the child's evolution and the personal relations between the latter and the adoptive parents, at least for the two years following the adoption. The specialized public services or the private organizations involved must submit regular reports on the evolution of the child (art. 12, para. 2).

249. According to article 9, paragraph 3, the Commission for Child Protection may also entrust a child for adoption to a person or family who does not have Romanian citizenship but whose place of residence has been on the territory of Romania for at least six months. The custody procedure will last for a period of at least three months and will be determined by the Commission for Child Protection (art. 9, para. 6). During this period, the respective family/person will be under the surveillance of the relevant specialized public service or authorized private service.

250. According to article 6, paragraphs 3 and 4, the Commission for Child Protection will release the certificate of authorized adopter on the basis of the reports and proposals of the specialized child protection public service or authorized private organization.

Consent

251. Regarding the status of the child in relation to his or her natural parents, in accordance with article 1, paragraph 4, of the Government's Emergency Ordinance No. 25/1997, the affiliation with the natural parents ceases at the moment of adoption. For the adoption, it is necessary to obtain the authenticated prior consent of the natural parents or, as the case may be, of only one of them (art. 7, para. 1 (a)). In the event that a child's parents are deceased, unknown, have lost parental authority, have been placed under interdiction, declared dead by a legal court, or are otherwise incapable of expressing their will, as well as in the event that a child has been declared legally abandoned by a court sentence which is final and binding, the natural parents' consent is no longer a prerequisite. Should only one of the parents lose parental authority, be deceased, placed under interdiction, legally declared deceased or disappeared or unknown, the other parent's consent is sufficient. It is also a prerequisite to obtain the consent of a child aged over 10 (art. 7).

The effects of adoption on the rights of the child

252. The child will acquire by adoption the name of the adopter and will have all the rights that a natural child has. A new birth certificate will be issued for the adopted child, on which the adopters will be recorded as the child's natural parents (art. 21). The adoptive parents will inform the child of the fact that he or she has been adopted, as soon as his or her age and degree of maturity allows (art. 24).

Intercountry adoption

253. The Romanian Committee for Adoptions is in charge of fulfilling the obligations stipulated by the Convention on the Protection of Children in Respect of Intercountry Adoption, concluded in The Hague on 29 May 1993 and ratified by Romania by means of Law No. 84/1994. A request for international adoption must be forwarded to the Committee via the central child protection authority operating in the State of the adopters or a private organization authorized by it, and by the Romanian Committee for Adoptions. The request must be accompanied by a document issued by the foreign authorities which should state the guarantees for the minor's entry and right to live within the respective State, for the legal acceptance of the adoption, as well as for the monitoring of the minor's post-adoption evolution. Attached to the request will also be the report of the psychosocial investigation performed by the relevant foreign authorities, as well as a document issued by the same authorities which should state that the person or family concerned is fit to adopt, in accordance with the provisions of the foreign country's national laws.

254. The parent, legal guardian, custodian or third party facilitating the adoption demanding or receiving money or any other benefits in exchange for the adoption will be punished by imprisonment (art. 26).

255. The Romanian Committee for Adoptions, with the assistance of the Romanian diplomatic representative offices, will act with respect to the relevant authorities of the State whose citizen has adopted a Romanian child such that the child will benefit from all corresponding guarantees and provisions as deemed valid for an adoption concluded on the territory of Romania.

256. The evolution of national and intercountry adoptions is presented below:

Date	Number of national adoptions	Number of intercountry adoptions
December 1994	2 792	2 038
December 1995	2 389	1 789
December 1996	1 005	1 315
December 1997	No records available	851
December 1998	840	2 017

Source: DCP-EU/PHARE Bridging Programme.

257. As at the end of 1998, the Romanian Committee for Adoptions had issued more than 8,000 certificates relating to adoption.

G. Non-compliance with decisions relating to the child (art. 11)

258. According to the provisions of article 307 of the Penal Code, a parent's act of retaining his or her minor child without the consent of the other parent or of the person to whom the child has been entrusted by a legal decision will be punished by one to three months' imprisonment, or by a fine. The same article also refers to situations in which the person to whom the child has been entrusted systematically obstructs the personal relations and direct contacts of the child

with the natural parents, such as agreed by the parties or by the competent authority. The punishment for such offence is the same. In both cases, prosecution will be initiated upon the prejudiced party's submitting a complaint, and the reconciliation of the parties will dissolve any penal liability.

259. The Penal Code also refers, within the provisions of article 189, to the offence of illegally depriving a person of his or her right to personal freedom, the punishment for this offence being one to five years' imprisonment. In the event that the victim is a minor, the law stipulates an increase of the punishment to 5-12 years' imprisonment.

260. To guarantee the enforcement of the decisions taken by the Commission for Child Protection for the children in difficulty, the latest legislation (Emergency Ordinance No. 26/1997) stipulates, in article 33, that these decisions are executory and should there be any resistance to their execution, the relevant police inspectorate will be notified with a view to carrying out its execution. These provisions are applicable to childcare both within families and within placement centres.

H. Abuse and neglect (art. 19)

261. The Constitution includes a provision according to which children and the young shall enjoy special protection and assistance in the pursuit of their rights, as well as a provision stating that the exploitation of minors or their employment in activities that might be harmful to their health or morals or endanger their life and normal development is prohibited. Article 161 of the Labour Code stipulates that employed children shall not be assigned hard or dangerous labour and that they shall not be employed in night shifts or extended schedules beyond their legal work programme.

262. The Penal Code (art. 305) provides sanctions for family abandonment, which is defined as deserting, discarding or abandoning a helpless child, thus exposing him or her to physical or moral distress; such offence will be punished by three months to two years' imprisonment or by a fine.

263. In the same category of offences against the family is also the offence provided under article 306 of the Penal Code - the ill-treatment of the minor - which punishes by 2-12 years' imprisonment the severe jeopardizing of the physical, intellectual or moral development of the child by any treatment or measure of whatever nature enforced by the parents or persons to whom the child has been entrusted. Article 184 of the Penal Code stipulates punishment of three months to two years' imprisonment for deliberate bodily harm.

264. Articles 314, 315 and 316 of the Penal Code provide a list of the offences against vulnerable persons, as well as the relevant punishments:

(a) The act of deliberately jeopardizing a disabled person by the person in charge of supervising him/her will be punished by three months to three years' imprisonment;

(b) The act of leaving in any way helpless, of failing to offer the necessary assistance or to notify the relevant authorities committed by someone who has found a person whose life, health or bodily integrity is jeopardized and who is unable to rescue him- or herself will be punished by one month to one year's imprisonment or by a fine;

(c) The act of leaving a person in any way helpless by failure to notify the authorities committed by someone who finds an abandoned or lost person who requires assistance will be punished by one to six months' imprisonment or by a fine.

265. The Penal Code also provides for detention for all acts of sexual abuse against minors (discussed further in chapter VIII).

266. The Government's Emergency Ordinance No. 26/1997 regarding the protection of the child in difficulty defines the child in difficulty as "the child whose development, security or physical or moral integrity is jeopardized". Such children shall enjoy special protection and assistance. In the spirit of the ordinance, protection measures for such children may be taken within a family environment or in an institutionalized setting. In exceptional cases, whenever both or only one of the child's parents jeopardize the security, development or moral integrity of their child by an abusive exercise of their parental rights, or by severe negligence in fulfilling parental obligations, the specialized child protection public service may decide on the immediate separation of the child from his or her family and subsequent emergency placement in a specialized centre reporting to such public service, or belonging to any authorized private institution, or with a person or family certified accordingly.

Procedures for the authorities' intervention

267. Any person who discovers a situation of a nature conducive to jeopardizing the life, integrity or development of a child shall immediately notify the specialized child protection public service, to enable the authorities to determine the necessary emergency measures to be taken. The police shall offer such support as shall be deemed necessary to this effect.

268. The specialized child protection public service will notify the Commission for Child Protection in the respective area to decide on the required protection measure. Once this protection measure has been taken, the Commission will notify the relevant court to pronounce the loss of parental rights of one or both of the parents.

Educational measures

269. At present, there are very few systematic measures conducive to providing adequate information and education of the population, the family and public opinion with respect to the consequences of abuse and violence of whatever nature on the normal development of the child. Even in cases of violence exposed in the media, mere facts would be brought to the attention of the public, deprived of any useful comments or educational conclusions relating to the incident. There are no national programmes focused on issues of abuse, violence and neglect to be used in the education of parents or other persons responsible for childcare. Neglect is not perceived as a form of abuse and there is no awareness of or adequate means to combat this phenomenon.

270. Some local NGOs have taken initiatives targeted at informing and educating the public on matters of abuse, violence and neglect (the SCOP (“PURPOSE”) organization in Timisoara, the Copiii Nostri (“Our Children”) Foundation in Bucharest, the Foundation Salvati Copiii (“Save the Children”), etc.).

Procedures for filing complaints

271. No clear procedures are defined for filing a complaint; there is no permanent service or department to which people might forward a petition. The only institutions authorized for emergency interventions in cases of violence and abuse are the police and the specialized child protection public service (such child protection public services are operative in a relatively extensive area, such as a region, a county or a district of the capital, i.e. serving some 300,000-500,000 inhabitants).

I. Periodic review of placement (art. 25)

272. The Government’s Emergency Ordinance No. 26/1997 promotes measures of redress for the children institutionalized by virtue of the superseded Law No. 3/1970 whose confinement within a child protection institution has never been re-discussed and revised. Article 40 stipulates: (1) Within six months from the enforcement of this emergency ordinance, the commissions for child protection will check and review the protection treatment determined by any pending decisions of the former commissions for the protection of minors which have operated by virtue of Law No. 3/1970 regarding the protection of certain categories of minors. (2) Upon expiry of the term provided under paragraph (1), the decisions of the commissions for the protection of the minors will cease their applicability.

273. According to the latest legislation, a child who has been placed by the competent authorities will be supervised by the employees of the specialized child protection public service or by “the authorized private organization having received the child under its protection”, who will forward reports and proposals regarding the efficiency of the respective protection treatment to the Commission for Child Protection on a quarterly basis or upon the latter’s request (art. 20.g).

274. The Commission for Child Protection shall, by virtue of the legal provisions in force, re-evaluate and review the treatment provided to the child (art. 21), i.e. will, in particular:

(a) Check and review, at least quarterly, the circumstances relevant to the child’s placement, based on the reports and proposals forwarded by the specialized child protection public service or the authorized private organization;

(b) Revoke or replace the protection measure if the circumstances relevant to the determination of such measure have changed;

(c) Place the child with another family or person, or in a specialized child protection public service or authorized private institution, should the best interests of the child so require;

(d) Notify the competent court if the circumstances that gave rise to the deprivation of parental authority ceased to exist;

(e) Subject the child's parents to a minimum 3-month probationary period in the event of the child's return to the natural family environment, to enable the specialized child protection public service to monitor the parents. The Commission for Child Protection shall, to this effect, request fortnightly reports from the public specialized service for child protection.

275. In relation to the child's estate and revenues, the Government's Emergency Ordinance No. 26/1997 stipulates the following: the Commission for Child Protection will analyse, at least once a year, the financial and accounting statements on the administration of the child's assets. Upon termination of the custody period, the Commission for Child Protection will analyse the general report regarding the management of the child's estate, subject to which the Commission will decide who shall take over the financial administration. Once the child has acquired full legal capacity, he or she will become the sole right-holder (art. 23/7).

J. Children in difficulty

276. We would like to stress that out of the total number of children aged between 0-18 years, the majority live in a family environment. This is highly significant in view of the impact of the media campaign from the beginning of the 1990s which showed mainly institutionalized children, thereby groundlessly feeding the idea that most children in Romania live in institutions. The family represents a strong value in Romanian culture and mentality, and is considered the normal and natural environment for the development of the child.

277. The situations in which minors may be deprived of their family environment are treated with specificity in Romanian legislation and administration, depending on the causes leading to such separation. This report presents information relative to the following categories of children:

- (a) Institutionalized children;
- (b) Children placed with families;
- (c) Adopted children;
- (d) Homeless children (living in the streets);
- (e) Children abandoned in paediatric hospitals;
- (f) Delinquent children confined in re-education schools, penitentiaries, etc.;
- (g) Children from single-parent families: children born of single mothers, children of divorced parents.

Institutionalized children

278. The total number of children living in institutions and in foster families was 98,872 in June 1997, representing 1.5 per cent of the minors in Romania. The great majority of institutionalized children have natural parents. The number of children who have been declared abandoned is 3,487, i.e. 1.3 per cent of the total of institutionalized children. In reality, the number of such children is much greater, as 28,938 (i.e. almost one third) of them have not been visited by their families for more than six months; 1,482 children in institutions did not even have identity cards (in June 1997).

Number of children placed in protection centres

Protection centre	1990	1991	1992	1993	1994	1995	1996
A. Number of minors in social assistance institutions:							
Crèches	8 558	8 028	7 878	8 245	10 950	8 715	8 950
Children's homes	25 870	2 550	22 582	23 859	30 559	28 955	30 891
Re-education schools	635	621	661	832	453	663	831
Total	35 063	34 149	31 121	32 936	41 962	38 333	40 672
B. Number of disabled minors in specialized units:							
Hospital homes for minors	3 354	3 617	4 204	4 349	3 940	4 586	4 180
Workshop homes for minors	594	1 073	1 020	960	678	360	496
Educational homes	2 971	3 332	2 901	2 807	3 009	2 863	2 720
Total	6 919	8 022	8 125	8 116	7 627	7 809	7 349
C. Number of disabled minors in specialized schools and educational institutions	43 504	45 484	42 080	42 835	46 557	51 663	51 154
D. Residential centres for minors	6 382	7 011	8 303	6 167	784
Grand total (A+B+C+D)	85 406	87 655	87 708	84 588	104 449	103 972	99 961

Source: National Commission for Statistics.

Distribution of children per type of institution in 1997

Type of institution	Number of children	%
Crèche	9 309	9.4
Children's home	35 165	35.6
Residential centre for minors	379	0.4
Specialized kindergarten	1 042	1.1
Specialized school	26 226	26.5
Specialized vocational school	8 885	9.0
Specialized high school	393	0.4
Specialized education group	1 320	1.3

Distribution of children per type of institution in 1997 (cont'd)

Type of institution	Number of children	%
Specialized education centre	4 452	4.5
Re-education centre	1 130	1.1
Education home	2 750	2.8
Workshop home	939	0.9
Hospital home	4 473	4.5
Other institutions	2 439	2.5
Total	98 872	100.0

Source: DPC-EU Phare Census, 1997.

Institutionalized children, by age group

< 1 yr.	1-2 yrs.	3-5 yrs.	6-8 yrs.	9-11 yrs.	12-15 yrs.	16-18 yrs.	> 18 yrs.	Total
2 264	5 219	6 633	9 862	19 781	30 303	19 341	5 469	98 872
2.3%	5.2%	6.7%	10.0%	20.0%	30.7%	19.5%	5.5%	100.0%

Source: DPC-EU Phare Census, 1997.

279. During 1997, 20,882 children left residential institutions, of whom 9,213 (40 per cent) returned to their natural families, and the remaining 60 per cent as follows:

Children leaving institutions, by destination, 1997

Child's destination	Number	Percentage
Natural family	9 213	44
Adoptive families (national adoptions)	241	1
Adoptive families (intercountry adoptions)	1 493	7
Placement families	656	3
Other institutions	5 756	28
Other destinations	3 523	17
Total	20 882	100

Source: DPC-EU Phare Census, 1997.

280. According to the results obtained by the DPC-EU/Phare Bridging Programme, the evolution of the number of children living in children's homes is as follows:

December 1995 - 33,129 children;

December 1996 - 33,768 children;

May 1997 (the moment of enforcement of the new legal framework) - 34,288 children;

June 1998 - 32,474 children.

281. With respect to the evolution of the number of children living in nurseries, the situation was the following:

December 1995 - 8,838 children;

December 1996 - 8,827 children;

May 1997 - 9,309 children;

June 1998 - 8,556 children.

Children placed with a person or family

282. Before the change in the legislative framework for the domain of child protection, 11,081 children had been placed, the great majority of them with their extended family, which would not receive any State support and whose files were not subject to further reviews until the child's coming of age (18). After 12 July 1997, according to the provisions of Emergency Ordinance No. 26/1997, these decisions have been subjected to re-evaluation and review. In accordance with the new legislative framework, all families/persons accepting custody of a child are entitled to a State allowance, irrespective of whether they are blood relatives. In addition, the legislation has introduced a new element for the Romanian child protection system: the child's placement with a professional maternal assistant, the final goal being to create a well-constituted network of such persons, who are subjected to specialized evaluation, training and subsequent certification, as a genuine alternative to the residential childcare system. On 30 June 1998, there were already 229 persons certified as professional maternal assistants.

283. According to the latest analyses on the status of the reform in June 1998, the number of children protected through placement measures rose from 11,081 in 1997 to 44,171 in 1998 in the context where:

- The number of applications for support submitted to the specialized public services increased by 12 per cent in June 1998 as compared to the same period of 1997 due to the continuous erosion of socio-economic conditions;
- The number of institutionalized children dropped from 98,872 in May 1997 to 91,785 in June 1998;
- Of 44,679 new cases in the system (after June 1997), the new public services decided on the institutionalization of 8,514 children, while the remaining 36,165 children were protected within their own families or substitute families.

Adopted children

284. The situation of adopted children is dealt with in section F of the present chapter.

Homeless children

285. These are children deprived of a family environment or whose relationship with their families is very precarious as they live practically in the streets. Despite the difficulties in keeping track of homeless children, it is estimated that their number is around 4,300 of whom some 2,000 are permanently in the street while the rest go back to their families at night or in wintertime.

286. A study by Save the Children shows that 71 per cent of the homeless children come from families, 23 per cent from children's homes and 6 per cent have always lived in the streets; 42 per cent claim they come from organized families, 35 per cent from single-parent families. The degree of education is very low: 45 per cent of the interviewed children have finished less than four grades, 35 per cent 5-8 grades, 20 per cent have never been to school. The distribution by age group shows that the majority (over 38 per cent) are aged 14-18, 35 per cent are aged 11-13, 15 per cent are aged 7-10, and some 5 per cent are under 6.

287. As for the family ties, only 40 per cent of the interviewed cases claim they still have relations with their family, 24 per cent claim they no longer have any ties with their families, 15 per cent that they never had any such ties, while the rest refused to answer. As regards the quality of the family ties, 6.8 per cent of the interviewed children claimed they have very good family relationships, 25.9 per cent have good relationships, 67 per cent say their relations with their families are very bad or they refuse to answer.

Children abandoned in hospitals

288. The real number of such children is not yet known. A study is currently under way to find out the extent of this phenomenon which was always a handy solution for families who want to rid themselves of their children. The phenomenon has flourished in recent years as a result of the pauperization of the population. In paediatric wards, children receive practically no guidance or education, except for strictly medical care. Often the identity of the children and their families is unknown, as the families use false names and addresses when they bring the children in. With the modification of the legislative framework and the establishment of specialized public services for the protection of the child, this phenomenon began to recede as the social workers aim primarily at identifying these children and their families and look for the best solutions to protect them. Whenever the identity of the children cannot be established, the priority is to register them and to initiate the process of providing shelter and protection.

Delinquent children

289. These children are usually disconnected from their family relationships as they are placed in re-education institutions, penitentiaries, etc. For the children under 14, educational measures apply which can include placement in a re-education school, which is administratively run by the Ministry of National Education. Imprisonment is in adult prisons, in separate sections. There are no judges specially trained and appointed for cases involving minors alone, nor are there

prosecutors specializing in investigations of juvenile delinquents. The legal hearing of minor defendants is in closed chambers. Parents are always invited. The minor is assisted by a lawyer and if the minor or the minor's family cannot afford to pay for a lawyer, one is appointed ex officio. The number of children involved in legal conflicts is slightly rising: +6 per cent between 1996-1997.

290. The situation of the children in re-education centres is far better than that of the children in penitentiaries. Apart from better accommodation, food and hygiene, re-education centres also run educational programmes and cultural and sporting activities suitable to the children's ages, with qualified personnel. The situation of children in penitentiaries is very precarious, with insufficient living space, no genuine educational programmes and insufficient qualified staff.

291. In both cases, there is a lack of structures and a shortage of certain categories of qualified personnel (such as social workers, psychologists, psycho-pedagogues) to look after the re-education and family and social integration of the minors and the preparation of the family to take the minor back.

Type of penalty	1991	1993	1994	1995	1996
Minors sentenced as % of all sentenced persons	6.2	8.3	9.5	9.6	10.0
Number of minors with final and binding sentences of whom:	3 784	6 940	9 121	9 783	10 377
Entrusted to the working or educational community	712	-	-	-	-
Sent to special labour and re-education schools	3 072	-	-	-	-
Fined	-	164	309	407	447
Imprisoned	-	1 772	4 167	4 557	4 677
Whose penalty execution has been suspended on parole	-	263	824	1 596	1 907
Subjected to educational measures	-	4 741	3 821	3 223	3 346

Source: National Commission for Statistics.

Children from single-parent families

292. Most children (over 80 per cent) are born within marriage. In recent years, however, the number of children born out of wedlock rose from 15 per cent in 1992 to 20.2 per cent in 1996. This phenomenon is nevertheless less extensive in Romania than in other European countries (25.8 per cent in Bulgaria, 47.6 per cent in Norway, 59.9 per cent in Sweden, 33.6 per cent in England), which reflects the traditional role played by the family institution in this country.

Number of children born to single mothers, 1992-1996

Year	Overall successful births	Successful births outside marriage	%
1992	260 393	39 059	15.0
1993	249 994	42 492	17.0
1994	246 736	45 125	18.3
1995	236 640	46 732	19.8
1996	231 348	47 919	20.7

Source: National Commission for Statistics.

293. Most of the children born out of wedlock are from the rural areas (59% in 1996). The rising number of children born out of wedlock leads to the growth of single-parent families with special problems, which involves the need for social assistance.

294. More than half the marriages ending in divorce involve one (47 per cent) or more minors at the time of the divorce. The number of children whose parents divorced was 26,800 in 1996.

Number of children affected by divorce, 1992-1996

Year	No. divorces	Without children	1 child	2 children	3 children	4 or more children	No. children whose parents divorced (thousands)
1992	29 290	13 566	9 737	4 648	925	414	23.6
1993	31 193	16 312	9 701	4 100	740	340	21.6
1994	39 663	17 172	14 672	6 089	1 220	510	32.8
1995	34 906	16 031	12 561	4 922	938	454	27.2
1996	35 586	16 808	12 653	4 802	939	384	26.8

Source: National Commission for Statistics.

VI. BASIC HEALTH AND WELFARE

A. Survival and development (art. 6, para. 2)

295. The obligation of the parents to secure the up-bringing and care of the child is one of the important elements in the child's survival and development, something we have tried to highlight in chapter V. That is where we also mentioned the programmes of social protection and the rights of the parents in achieving the right of the child to survival and development, additional details being offered in the present chapter. We have also mentioned the types of services for child protection that offer necessary assistance to the parents or assume care of the child when parents are incapable of ensuring it themselves. Medical services complement this picture and also bring a vital contribution to materializing the right of the child to survival and development as stipulated in the Convention. The present chapter provides further details regarding this issue.

296. The promotion of the right of the child to survival and development also involves measures to fight traffic accidents involving children/adolescents, which have lately been increasing as follows:

Year	No. of accidents
1993	1 277
1994	1 250
1995	1 213
1996	1 083
1997	1 049
1998	892 (in 11 months)

297. The above figures led to measures to fight these accidents and to better protect the victims. The Department of Traffic Police within the General Police Inspectorate, in cooperation with the Ministry of National Education, has elaborated a Guide on traffic education for students, which is periodically revised to reflect changes in the traffic code and to improve the quality of the educational process. To improve the theoretical learning of the code, each year mass traffic competitions are organized within the school system. Periodically, the Inter-Ministerial Council for Traffic Safety analyses the traffic education of children and establishes objectives, measures and specific actions within the strategy of traffic prevention.

298. The Institute for Research in Transportation (INCERTRANS) is designing a study (1999) regarding the level of children's involvement in traffic accidents; the results will be used to improve circulation and safety on public roads for this category of person.

299. Road safety for children is also secured by special signals on public roads frequented by children (schools, playgrounds, etc.) as follows: special warning indicators ("Children" signs), road axis marking with a continuous line on the road portion between the two "Children" indicators to prevent overtaking, pedestrian crossing markings also preceded and followed by a continuous line.

300. Also aimed at the exercise of the right of the child to survival and development, the Office for Consumer Protection, a specialized body of the central public administration, is in charge of coordinating and carrying out the policy of the Government in regard to the protection of the life, health and safety of consumers and their special interests. Government Ordinance No. 23/1992, a fundamental law in this field, guarantees the active promotion of the rights and interests of consumers, including children.

301. In protecting child consumers, the Office for Consumer Protection runs regular checks at regional and national levels of the living and eating arrangements in crèches, kindergartens, children's homes, school semi-dormitories and dormitories, as well as of the security and safety of games and toys for children. Verifications are also run on the identifying and characterizing elements of products for children, their instructions and conditions for use, security conditions, and the risks in the case of non-compliance with mandatory rules stipulated by the legislation in force.

B. Children with special needs (art. 23)

302. The situation and solution to the specific problems of children with physical and mental disabilities are the object of the Government's policy and the explicit aim of over 100 active NGOs, components of the civil society militating for addressing and observing their rights.

303. The strategy in the field designed by the State Secretariat for Disabled Persons and debated by the Government includes the following objectives:

- Reducing birth defects by at least 20 per cent by the year 2002;
- Integrating disabled children in the regular education system by up to at least 20 per cent by the year 2002 and by 50 per cent by 2005;
- Developing recovery and rehabilitation centres such that by the year 2002 all disabled children have access to these centres for individual programmes of recovery and social integration;
- Decreasing the number of disabled children and increasing the number of disabled children who are protected through adoption and family placement;
- Developing a network of day centres with a national intake of at least 2,000 by the year 2003.

304. The funds allocated by the Romanian Government through the SSPH (State Secretariat for the Disabled) for the rights, services and facilities for children with special needs in 1998 were distributed according to the following types of expenditures:

- State allowance for the disabled children (double that for regular children): 82 billion lei;
- Salary for the medical assistance staff: 148 billion lei;
- Urban transportation gratuity: 21 billion lei.

Additional expenditures are involved to ensure training in special schools and medical assistance and recovery activities.

305. On the legislative level, the rights of the children with special needs are guaranteed by the Romanian Constitution, and the State has the obligation to design and implement a national policy for the prevention, treatment, readaptation, education and social integration of disabled persons, while observing the parents' rights and obligations. This fundamental law also acknowledges the necessity of providing for special protection for disabled persons, and it underlines the fact that by virtue of their rights, children must benefit from special care and assistance.

306. Less than a year after the promulgation of the Constitution, the rights of children with special needs and the measures benefiting them were included in Law No. 53/1992 on the special protection of disabled persons. After five years of implementation, the estimation is that the provisions of this law largely correspond to the specific needs of disabled children.

307. The law on the special protection of disabled children includes specific provisions which are meant to gradually remove the architectural, administrative, transportation, educational, economic and social barriers and to gradually build an environment in which disabled children are accepted among children of the same age group, in which they should be involved in similar activities and which should facilitate their insertion into the life of the community.

308. As an addition to the specific laws, in 1995, the Law on National Education and the Rules and Regulations for the Organization and Operation of Specialized Education stipulated the rights of disabled children of pre-school and school age to a regular as well as a specialized education.

309. The legal framework is meant to guarantee a decent life for disabled children, respect for their dignity and their relative autonomy, but the enforcement of the legal provisions is hindered by the mentality of certain members of the community, and very often by the mentality of parents, authorities, and even teachers. It is difficult to assess how long it will take to solve this problem, since it involves sensitizing the community to this issue and fostering favourable and supportive attitudes towards those in difficulty. Nevertheless, the number of disabled children integrated into the normal educational system has been increasing, with the exception of HIV-positive children.

310. The access to educational, health and functional recovery services is increasingly wider, as the number of specialized public or private institutions has increased and the services have diversified. During the past four years, through the efforts made by the State and by the organizations of the civil society, the number of ambulatory or home services has increased, and the number of hospitalized patients or hospitalization days has decreased.

311. Educational services as well as preventive medical care and treatment and recovery services are free of charge. Schoolchildren with special needs integrated into the ordinary education system benefit from medical grants, irrespective of their performance in school.

312. The identification and assessment of physical and mental challenges fall under the responsibility of the territorial commissions made up of professionals. These commissions also develop and recommend the recovery plan, and identify the institutions and services that should secure the readaptation and subsequent integration of the disabled children into the community. However, their recommendations are not always followed.

313. The training of the personnel specializing in special education, recovery and social assistance is in colleges and universities, but the number of annual graduates does not cover the actual needs. Their training is based on seminars, workshops, scientific sessions, domestic or international study tours, as well as on grants to developed countries. The cost of the training is supported by the Government and by various projects developed under the PHARE programme, by non-governmental organizations and by the UNICEF office in Bucharest.

314. The authorities concerned with securing decent living conditions for disabled children and with initiating specific measures in connection therewith are the State Secretariat for the Disabled, the Ministry of Public Health, The Ministry of National Education, the Ministry of Labour and Social Protection, and the Child Protection Department. Locally, the institutions that have general or specific responsibilities to initiate various measures or to provide services within specialized institutional or non-institutional contexts are the local commissions within city halls, and the decentralized offices dealing with health, social protection and the rights of the child.

315. The past five years have witnessed the development of the assistance and counselling services provided to families with disabled children and of educational and recovery alternatives, including the services provided at home to children who cannot move, with a view to avoiding their isolation and to integrating them into the society, as much as possible.

316. Non-governmental organizations established at the initiative of parents with disabled children have played an increasingly important role. Such associations, most of which were set up after 1990, have gained expertise and have developed projects and activities that have been really useful for children affected by various diseases or disabilities, and they have consequently become genuine partners of the public administration system.

317. From among the NGOs that have developed projects or programmes for disabled children, special note should be made of the following: the Association for the Support of the Physically Challenged Children in Romania (ASCHF), the TREBUIE ("It's a Must") organization for children and adults with special needs, the Romanian Association for the Mentally Challenged, Save the Children, the Our Children Foundation, the SERA Foundation, ARAS, the Association of the Blind, the Association of the Deaf, the Organization of the Romanian Orphanages "For Our Children", the Ratiu Foundation for Children and Young People Affected by Leukaemia.

318. Between 1994 and 1997, on an annual basis, over 80,000 children with various disabilities have benefited from protection, education, treatment and recovery within various residential or open institutions, public or private, as follows:

Year	1994	1995	1996	1997
Total	82 006	89 453	87 463	86 034
Hospital homes	3 940	4 586	4 180	4 025
Educational homes	3 009	2 863	2 720	2 846
Specialized nurseries	2 741	2 137	1 727	1 042
Specialized primary schools	28 783	32 188	32 577	32 680
Specialized vocational schools	13 461	13 455	13 186	13 105
Specialized high schools	713	778	653	782
Special education and recovery centres	639	2 905	2 161	1 028
Curative education and social therapy centres	220	200	252	263

Year	1994	1995	1996	1997
Centres of social, medical, and educational services provided at home to children with severe disabilities	-	-	63	98
Workshop homes	318	341	338	360
Special re-education schools and preventive education centres	453	663	831	1 158
Educational services provided at home	16	31	33	48
Centres for dystrophic children	3 342	2 829	2 682	2 559
Centres for infantile neuro-psychiatry	18 366	19 655	19 606	
HIV centres	3 136	3 727	2 605	2 513
Day care centres, centres for recovery, curative education and social therapy, and for other services provided at home by NGOs	2 887	3 012	3 800	3 921

319. In 1998, the total number of disabled children registered by local State inspectorates for the disabled throughout the territory of Romania amounted to 61,291, of whom 57,798 were non-institutionalized children and 3,493 were institutionalized. If the number of institutionalized children transferred to other health units or who were on leave with their families is added to this number, the total figure would amount to 61,378 disabled children.

320. The table below shows the distribution of disabled children by age groups in 1998

Age group	Non-institutionalized children (%)	Institutionalized children (%)	% of all children
0-3 years	6.88	0.04	6.92
3-7 years	14.56	0.68	15.24
7-11 years	23.92	1.57	25.49
11-15 years	24.48	1.74	26.22
15-17 years	14.27	1.03	15.30
17-18 years	10.20	0.63	11.83
Total	94.30	5.70	100

Source: SSPH Statistical Report.

321. Apart from these, 21,739 children with severe disabilities are attended at home by specialized employees (personal assistants). Special efforts are made for the training of such employees in medical, educational and social fields, with a view to securing adequate assistance that should meet the needs of such children.

322. Comparing 1997 with 1998, one sees an increase of 8.5 per cent in the number of non-institutionalized disabled children and a slight decrease in the number of institutionalized children from 3,656 in 1997 to 3,493 at the end of 1998.

323. Specialized institutions focus more and more on medical, educational, and social recovery, with a view to an ad hoc or subsequent integration of the children with special needs into the life of the community.

324. The main constraints on the modalities of improving the situation of children with special needs are generated by the low level of funding provided by an austerity budget, by the lack of specialized personnel, especially of personnel attending to and supervising children with severe disabilities on a permanent basis, as well as by the attitude towards the genuine potential of these children when exposed to early specialized programmes of complex social, medical and psycho-educational recovery.

Legislative initiatives on the protection of children with special needs

325. During the Government's meeting on 24 June 1999, the State Secretariat for the Disabled (SSPH) defended the draft Emergency Ordinance on the special care and employment of disabled persons, which was meant to complete the legal framework and to eliminate any discrimination. Under chapter IV, section I, this draft lists the rights of the disabled children as follows:

- (a) Free and equal access to any ordinary educational institution, depending on the recovery potential, in accordance with the legal provisions in the field of education;
- (b) Education at home for the disabled children who cannot move, during the mandatory education period provided by the law;
- (c) State allowance for disabled children under the terms and in the amount provided by the law, and increased by 100 per cent;
- (d) Living allowance for disabled children placed in a foster family or entrusted to a person or authorized private organization, in the amount provided by the law, and increased by 50 per cent;
- (e) A personal assistant for each child with severe disabilities;
- (f) Free annual vacations for disabled children, and in accordance with the agreements concluded between the SSPH and the Ministry of National Education.

326. The person caring for, supervising and maintaining a disabled child has the following rights:

- (a) Paid vacation for caring for a disabled child until the child turns 3;
- (b) Medical leaves for caring for severely disabled children who need treatment until the child turns 18;
- (c) Free hotel services for the member of the family accompanying the child for treatment.

327. According to the law, children who need special care fall into several categories, according to certain criteria which define slight disabilities, medium disabilities, marked disabilities, and severe disabilities. These categories are confirmed in a certificate to be issued by the Commissions for the Medical Examination of the Disabled, which is subordinate to the SSPH. Once they issue a certificate for a particular category of disability, the Commissions are under the obligation to develop an individual recovery and social integration programme. In order to develop such a programme the Commissions shall consult the disabled person or the persons who maintain that person, as well as the experts in various fields. SSPH and the central and local public authorities are under an obligation to secure the environment required for the implementation of the individual recovery and social integration programme, in accordance with the legal provisions in force and within the limits of their resources.

328. Among the programmes initiated and coordinated by the SSPH in 1999 and which are relevant for the special care of children with special needs, particular note should be made of the following:

- (a) The programme for the prevention of disabilities in families or social environments with a high risk of having disabled children;
- (b) The programme for the monitoring, guidance and employment of the disabled persons graduating from special schools;
- (c) The programme for the prevention of abandonment in families with disabled children;
- (d) The programme for the creation of special care units and jobs;
- (e) The programme for transferring the institutions for the protection of the disabled from rural areas to cities that are county capitals or other municipalities.

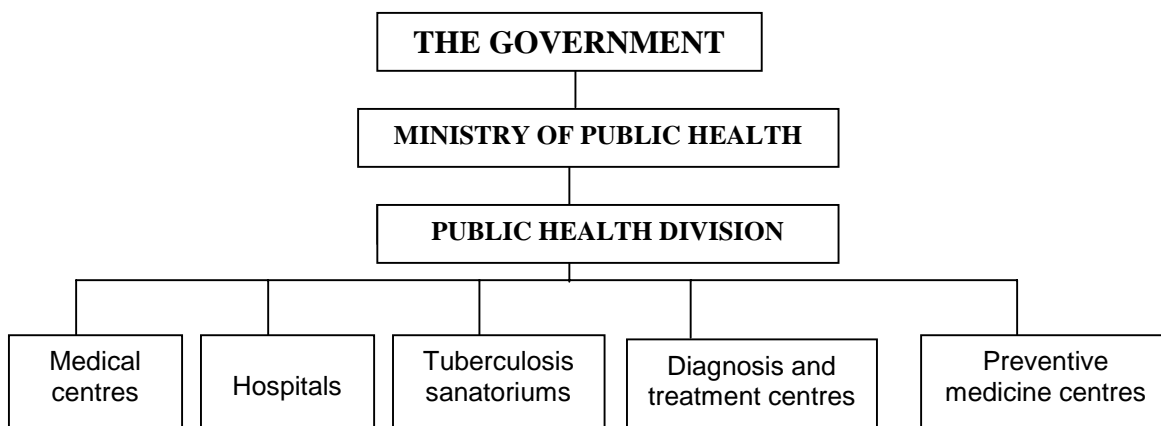
C. General issues concerning health care of children in Romania

329. In Romania, the public health assistance is provided, according to Law No.100/ 1998, by the Ministry of Public Health, through its own or other private specialized units, with the observance of the legal provisions in force.

330. Public health assistance includes the activities that are carried out for the prevention of diseases and for the preservation of public health through national public health programmes. Curative medical assistance is provided within a more general system of social assistance for health.

331. Public health assistance is guaranteed by the State and is financed out of the State budget. Curative medical assistance is financed out of the budget of social assistance for health (Law No. 145/1997), which provides free of charge services and medication for children suffering from any affliction, within the limits of existing funds.

332. The sanitary system in Romania is shown below:



Source: Ministry of Health.

333. The system includes 3,970 local medical centres, 416 hospitals (166,411 beds), 13 tuberculosis sanatoriums (4,245 beds) and 14 tuberculosis prevention centres (1,618 beds); the system also includes 464 crèches with 28,590 beds for pre-school children (0-3 years).

334. The Division for Assistance Programmes for Women and Children within the Ministry of Health is mainly concerned with the coordination of medical assistance for mothers and children. The needs of these two categories have been assessed and a National Programme for Family Planning and for the Protection of the Mother and Child Health has been developed. This programme focuses on the supervision of the health condition of pregnant women and on decreasing the infant rate mortality. The main objectives of the programme are the following:

- (a) To develop a strategy for the supervision of the health condition of pregnant women at the level of primary assistance and specialized assistance;
- (b) To assess the specific predominant risks leading to infant mortality at the level of primary and specialized assistance; to develop feasible proposals for the decrease in or avoidance of infant mortality;
- (c) To render health and family planning services more efficient and to expand the population base for specific services.

335. There are also 26 other national health programmes developed by the Ministry of Public Health which are focused on children's health problems, especially for chronic diseases, irrespective of the age.

336. According to the statistics published by the Ministry of Public Health, in 1997, 29,033,800 medical consultations for children took place, 16,970,300 treatments for children, 4,705,100 vaccinations and revaccinations, and the number of hospitalized children was 713,392. Such information and services were offered by 10,987 paediatricians, with an average of 395 children per doctor (including doctors in local medical centres and the clinic paediatricians) and 558 inhabitants per doctor, respectively.

337. In order to facilitate and stimulate the relations between parents and children, in the event that a child requires hospitalization for a long or short period, parents have been allowed to be hospitalized as well as accompanying persons in the event of an emergency, when a baby is being breastfed, or in case a child otherwise requires the presence of the parent. Throughout the hospitalization period, education is provided jointly by hospitals and county school inspectorates, either within the hospital or in the kindergartens and schools in the immediate vicinity of the hospital. In addition, NGOs have fitted up playgrounds for children who need prolonged hospitalization.

338. Apart from the national health programmes, the Ministry of Public Health is involved in securing adequate health for children, together with the Institute for the Protection of Mothers and Children "Alfred Rusescu". Among the programmes run by the latter, in cooperation with UNICEF, mention should be made of the nutritional programmes for children under 5 years of age:

- The National Programme for the Nutritional Supervision of children under 5;
- The child-friendly hospital programme, carried out in many maternity centres in the country;
- The analysis of the nutritional conditions of children in crèches (mainly the prevalence of anaemia) which has led to important practical conclusions regarding the nursing of institutionalized children;
- The release and publication in 1998 of certain protocols for child nursing (nutrition, rickets, anaemia, diarrhoea, respiratory infections of infants).

D. Health care in schools

339. According to Order No. 512/1995, issued by the Minister of Public Health, medical care in primary schools and in high schools in urban areas is provided by the school medical network made up of medical doctors, dentists and sanitary agents. This personnel operates in medical and dental consulting rooms placed within the educational institution. In the rural areas, medical care of pupils is provided by local medical centres.

340. Subsequent to the short-term implementation of Law No. 145/1997 regarding social and medical insurance, the medical assistance in primary schools and high schools shall be provided according to regulations which are currently under development. Currently, the school medical

network has a reduced number of employees, which calls for urgent measures for the optimization of this network. Such measures are stipulated within the framework of Emergency Ordinance No. 972/1995. The statistics published by the Ministry of Public Health show that in 1997, 48 student medical centres, 3 student hospitals with 185 beds, and 3 student prevention centres with 220 beds were operational.

341. The medical personnel employed in the school medical network carry out the following types of activities:

- (a) Educational health courses, including sex and reproductive education;
- (b) Training of educational and administrative staff regarding sanitary and hygienic measures;
- (c) Conferences for teachers and pupils;
- (d) Involving schools in programmes such as "Schools Promoting Health";
- (e) Involving families in health education activities, especially for the prevention of drug, tobacco and alcohol consumption;
- (f) Organization of various shows and contests on health problems;
- (g) Training for sanitary groups with a view to providing first aid.

342. To the above, one can add other responsibilities of the medical personnel in schools which are mainly prophylactic: health examinations, epidemiological tests after vacations, epidemiological supervision of schools, the identification, isolation and diagnosis of infectious diseases, monitoring of the observance of hygienic norms, etc.

E. The health condition of children

343. The evolution of the health condition of children in recent years may be characterized by the following:

- (a) There is a rising tendency of premature birth among children who were born alive, from 2.3-2.4 per cent in 1994 to 3.8 per cent in 1996;
- (b) The ratio of premature birth of children under 2,500 g increased from about 7 per cent between 1980 and 1990 to 9 per cent in 1996 (even to 10.9 per cent in 1993).

344. The number of babies born alive, by certain characteristics, is shown below:

Year	Number of babies born alive	Of which					
		Under 2 500 g	(%)	Born to mothers under 20	%	Born out of wedlock	(%)
1994	246 736	21 255	8.6	44 229	17.9	45 125	18.3
1995	236 640	20 807	8.8	40 829	17.3	46 732	19.8
1996	231 348	20 586	9.0	37 962	16.4	47 919	20.7
1997	236 891	21 746	9.2	36 599	18.7	52 692	22.2
1998	237 297	21 260	8.96	35 641	15.02	54 507	22.97

345. From the point of view of the medical assistance offered at birth, 1 per cent of the children born alive in 1996 were not assisted at birth by medical personnel (as compared to about 2 per cent during 1985-1990). The lack of medical assistance at birth was more frequent in the rural areas than in the urban areas, due to difficulties in accessing the specialized sanitary network.

346. The nutrition of infants has caused increased mortality. Mortality is also due to infectious and parasitic diseases, to tuberculosis, and even neoplasm (mainly leukaemia).

347. Another negative tendency for the age group 0-17 years is the increase of the number of cases of tuberculosis, especially during the past few years. In 1996, there were about 22 children aged between 0-14 suffering from tuberculosis for every 100,000 children in the same age group, which represents an increase of over 200 per cent as compared to a decade ago.

348. An increase in mortality due to certain diseases affecting children under 3 has been noticed, despite the fact that in Romania the level of immunization of children against childhood diseases is relatively high:

Vaccination of children between 1 and 2 years, 1990-1996 (%)

	1990	1991	1992	1993	1994	1995	1996
Diphtheria	75.5	77.3	86.8	97.6	97.6	98.3	98.0
Polio	80.5	83.5	92.5	90.7	91.0	94.6	96.8
Rubella	93.0	87.6	90.2	90.2	90.1	93.8	94.5

349. The higher level of incidence of certain diseases in children (especially those under 5) is mainly due to malnutrition and to a lower degree of availability of medical care, especially in rural areas.

F. Child mortality by age group/maternal mortality

Infant mortality

350. The following table indicates the main factors that characterize the tendency of the infant mortality rate (the number of deaths of infants under 1 for every 1,000 infants born alive):

Indicator	1994	1995	1996	1997	1998
Number of infant deaths	5 894	5 027	5 158	5 209	4 868
Infant mortality	23.9	21.2	22.3	22.0	20.5
Neonatal mortality	9.3	9.4	8.8	9.3	9.4
Post-neonatal mortality	14.6	11.8	13.5	12.7	11.1

351. Even though the number of deaths during the first year of life has decreased in Romania during the past few years, the rates of infant mortality are still high as compared to other European countries.

352. During 1994-1996, infant mortality decreased due to a reduction in post-neonatal mortality. The neonatal mortality rate registered a rising tendency after 1990, due mainly to an increase in precocious mortality (during the first week of life). The main causes of the latter are perinatal death and congenital anomalies (as a positive tendency, the increase in neonatal mortality rate has been statistically matched by a decrease in post-neonatal mortality).

353. Although, as a general tendency, the number of boys born is larger than the number of girls (106 boys for every 100 girls), mortality affects boys to a larger extent from the very moment of their birth. There are, in general, 125 deaths among boys for every 100 deaths among girls.

354. Unlike in certain European countries, where mortality mainly occurs during the first month of life (because of perinatal causes and congenital anomalies), in Romania infant mortality is caused mainly by diseases of the respiratory system, which affect infants under 1 in rural areas twice as often as in urban areas. However, there has been a decreasing tendency during the last seven years (by one fifth as compared to 1990). Bronchial pneumonia is the main cause of death (more than 40 per cent), followed by perinatal causes and congenital anomalies.

355. More favourable tendencies are registered for under-1 mortality, caused by infectious and parasitic diseases of the digestive tract and by accidents.

Mortality rate among 1- to 4-year-olds

356. For the age group 1-4, mortality (number of deaths for every 1,000 children in the same age group) is mainly due to accidents, poisoning and other external causes, followed by diseases of the respiratory tract. These two causes cover over 60 per cent of the deaths within this age group.

Mortality rate among children 1-4, by main causes of death (1994-1996)

for every 100,000 born alive

Cause of death	1994	1995	1996	1997	1998
Total	132	118	124	110	105
of which:					
Infectious and parasitic diseases	14.0	7.1	5.3	6.95	3.55
Diseases of the respiratory tract	32.2	27.7	33.9	31.36	31.42
Diseases of the digestive tract	4.0	4.0	4.4	3.47	3.98
Congenital anomalies	9.2	11.7	14.2	9.68	12.26
Accidents, poisoning	49.2	46.6	44.2	36.62	33.24

357. As compared to 1994, there has been a noticeable decrease in the number of deaths caused by infectious and parasitic diseases and by accidents, poisoning and other external causes. In contrast, the number of deaths caused by congenital anomalies and by diseases of the digestive tract has increased by almost 200 per cent. However, the number of deaths caused by accidents, poisoning and other external causes is still very high, representing two fifths of the deaths among this age group.

Juvenile mortality: 5-14 years

358. With the age group 5-14, the mortality rate (the number of deaths for every 1,000 children 5-14) is about 0.6 per 1,000, and it registered an increase during 1994-1996.

359. Higher levels are registered among boys in this age group, most of the deaths occurring in rural areas, mainly due to accidents and to diseases of the respiratory tract, as a consequence of the difficult access to the health network and to the low level of health education.

Mortality in the 15-19 age group

360. The mortality rate in this age group has been decreasing over the last few years. The mortality rate among boys 15-19 is almost double that of girls in the same age group.

361. The most important causes of death affecting this age group are accidents, traumatic injuries, poisoning, and external causes. These account for half the deaths. Transportation accidents account for 32 per cent of the total number, drowning 23 per cent, and self-inflicted injuries 13 per cent.

Maternal mortality

362. The following tables provide information on trends in maternal mortality and abortions, 1994-1998:

	1994	1995	1996	1997	1998
Maternal mortality (deaths of mothers for every 100 000 babies born alive)	60.4	47.8	47.1	41.1	40.46
- due to obstetrical risks	22.3	22.8	22.1	22.34	
- due to abortions	38.1	25.0	19.0	20.3	18.12

Abortions by age groups, 1994-1998

Age group	1994	1995	1996	1997	1998
Total	530 191	502 840	456 221	347 126	271 496
under 15	1 060	1 145	862	638	558
15-19	36 749	38 430	35 814	26 095	20 886
20-24	132 395	127 414	113 552	86 347	66 133
25-29	144 611	142 781	135 826	100 655	74 620
30-34	108 339	94 071	82 260	67 254	57 533
35-39	78 940	71 736	63 008	46 842	36 292
40-44	25 602	24 556	22 768	17 776	14 280
45 and over	2 495	2 707	2 131	1 519	1 194
Abortions per 1 000 babies born alive	2 149	1 125	1 972	1 465	1 144

Suicide**Suicides, 1994-1998**

Year	No. suicides	No. suicides among children 5-19	Of which:	
			Males	Females
1994	2 887	110	84	26
1995	2 793	119	89	30
1996	2 828	112	92	20
1997	2 859	111	85	26
1998	2 838	94	71	23

363. Four to 5 per cent of children and adolescents aged between 5 and 19 commit suicide, the rate for boys being up to three times greater than for girls, reaching 4.6 times in 1996.

364. Suicide in children and adolescents is a reality which is constantly facing Romanian society, as children and adolescents perceive it as the only solution to their existential problems. The new therapeutic approach for the children and adolescents who have attempted suicide involves a double reform in Romania, both in terms of childcare and in mental health services.

365. Regarding mental health services, there is a need to establish ambulatory centres to function as buffer institutions with a predominantly preventive role and constitute a community link between traditional health services and other community institutions. The new ambulatory mental health services differ from the traditional model in their active attitude towards the high-risk population, in their acceptance of groups normally rejected on account of their special pathology and socio-economic features, in their flexibility in adapting the servicing programme to the institutional requirements. Although such mental health services have been recommended by WHO since as early as 1970, they have only recently become possible in Romania due to the inflexibility of the previous regime as opposed to the new governmental strategy on the protection of the rights of the child. However, the centre set up, in Bucharest in 1996 was the only one to meet international psychiatric standards and to be certified as such. It is imperative that other centres be set up in other areas of the country as well.

366. Within the National Programme for Family Planning and the Protection of Mother and Child Health, the Ministry of Public Health included a sub-programme for the prevention and treatment of epilepsy, enuresis and mental health problems in children and adolescents. An additional national programme addresses drug addiction and focuses on detoxification cures and post-cures with methadone and naltraxone, to be conducted in special centres within psychiatric hospitals.

367. A children's section is currently operating within the Zam psychiatric hospital in Hunedoara county, whose aim is to implement medical and educational measures for children falling under article 105 of the Penal Code: hospitalization, drug treatment, continuing education, and possibly training for a profession.

G. HIV/AIDS

368. The number of children infected with HIV has been increasing in recent years. Of the total number of HIV cases in 1994 (3,136), 2,916 were children between 0 and 19 years; this rose to 4,109 out of 4,599 cases, that is 89.3 per cent, in 1996.

AIDS cases, by age group

Age group	1994	1995	1996
Country total	3 136	3 727	4 599
Total children	2 916	3 424	4 109
under 1	491	493	504
1-4	2 008	2 076	2 140
5-9	394	821	1 400
10-12	7	13	26
13-14	9	10	13
15-19	7	11	26
% of children aged 0-19 of the total number of cases	93.0	91.9	89.3

369. The main agent of infection of children is mother-to-child transmission where the mother has had a transfusion or has otherwise been infected in the hospital. Such cases accounted for 63 per cent of the total in 1996, an increase of 140 per cent over the 1,653 such cases in 1994.

370. AIDS shortens the life span of the infected children: out of the total number of deaths due to this cause, over 85 per cent occurred in the population aged between 0 and 19. Most of the HIV deaths in this group were children aged between 5 and 9. Most of those infected and most of those who die are boys.

H. Family planning

371. Family planning has a direct impact on the health of the mother and child. High-risk pregnancies are those among women under 20, over 35, or less than two years after birth.

372. Family planning services are offered by the public health system to all age categories by a national network of family planning/reproductive health centres and offices (11 referral centres and 230 local family planning offices), and obstetrics-gynaecology offices.

373. The efficiency of family planning is deficient especially in the rural areas, since the regulations in force require only six months of courses for medical doctors to be certified competent in this field.

374. The following programmes have been proposed to alleviate the current situation:

- (a) Developing a short training course, especially for doctors in the rural area;
- (b) Improving both undergraduate and postgraduate curricula to allow all general practitioners to gain competence in the field;
- (c) Having medical assistants (especially midwives) involved in family planning after a special training period;
- (d) Having social workers involved, especially since high-risk persons usually come from underprivileged groups. The social worker should have knowledge in the field and provide an interface between the community and the health professionals.

375. Pursuant to these objectives, a World Bank-financed national family planning programme was initiated in 1990 with three components: staff training, contraceptive material procurement, and population information/education through specific communication means. NGOs joined the Romanian authorities, the World Bank, UNDP, UNICEF.

376. Under the supervision of the National Centre for Health Promotion, a national strategic plan for promoting reproductive health was developed and signed by the Ministry of Public Health, the Ministry of Labour and Social Protection, the Ministry of National Defence, as well

as by the NGOs and international agencies in the field. Pilot programmes were set up in three districts. Other pilot programmes exist, especially for education in schools, generally run by NGOs. In the public health system, medical services are free of charge for everybody.

377. Maternal sterility is an issue of special concern. There is practically no national programme for in vitro-fertilization (apart from two local projects in Timisoara and Bucharest). There is no clear set of regulations in this highly sensitive area with ethical and judicial implications (regarding donor status and the mother's role), nor any adequate funding for such usually expensive in vitro-fertilisation programmes.

I. Social protection

378. The rights of the child to social protection/security are primarily connected with the financial rights (allowances, etc.) from which all children benefit. At the same time, there are other types of allowances or services offered to the parents in order to increase their capacity to bring up their children.

379. As already mentioned in chapter V, it is the universal right of all children in Romania to benefit from a State child allowance. This allowance is stipulated by Law 61/1993 regarding the State child allowance and is granted until 16 years of age, or, if the child is integrated in one of the legally recognized education systems, until 18.

380. Starting in March 1998, Government Decision 173/1998 raised the amount of the State child allowance from 50,000 to 65,000 lei, 18 times the amount granted in 1993 and 25 per cent more than the amount for 1997. The sum total allocated for this allowance by the State budget is close to 4,000 billion lei.

381. Law No. 261/1998 was drafted and adopted at the end of 1998 to modify and improve Law 61/1993 regarding the State child allowance, so as to extend it to young persons over 18 until the completion of high school or vocational education, with the exception of those repeating a school year for other than medical reasons.

382. The payment of this allowance is conditioned by school attendance to prevent dropping out. The situation at national level is that school drop-outs usually come from families in a precarious financial situation, unable to provide for their children's education. The allowance is suspended if the child drops out of school, whereas the right to the allowance is retained.

383. A significant measure to support families with children was the passing of Law 119/1997 regarding a new family allowance: the additional allowance for families with children based on a transfer from the State budget to families with several children, irrespective of their income. Pursuant to this law, the additional allowance is given to families with two or more children up to age 16 (or 18 if enrolled in daytime education or if registered as first- or second-degree invalids, or as challenged persons), as well as to the families of foreign or stateless citizens residing in Romania. The amount differs according to the number of children in a family: 40,000 lei for two children; 80,000 lei for three children; 100,000 lei for four or more children. In 1998 a total of 764 billion lei were paid out to families in this way.

384. An additional premium is awarded to the mother before and after childbirth. For each birth after the second child, each mother is entitled by Law 67/1995 to a premium of 362,710 lei, to be adjusted monthly, pursuant to Government Decision 295/1999. This fixed sum is both a financial support for families with children and a measure against child abandonment and to promote the birth rate; 82,219 birth premiums were awarded in 1998 amounting to a total of 22 billion lei.

385. Law 49/1992 (art. 4) stipulates the periodic payments and the entitlement period for pregnancy and post-natal leave of absence in relation to the length of service of the mothers. This pre- or post-natal leave of absence may not exceed 112 days and can be requested by the mother as she sees fit, starting with the seventh month of pregnancy. The payment for this leave of absence is 65 per cent of the current salary for female employees with less than eight years' service and 85 per cent for those with over 8 years' service.

386. At the same time, Law 120/1997 stipulates the right to a paid holiday for either of the parents to look after their child up to two years of age, the wages being 85 per cent of the regular salary they would normally receive. If the situation involves caring for a child with special needs, the leave may extend to three years of age, and additional medical leaves of absence are granted to look after children with certain medical conditions until they reach 18 years of age.

387. Should the mother decide to continue working, article 156 of the Labour Code stipulates the right to a break for feeding and tending to a child.

388. Indemnities and facilities for the care of children with special needs are a special category. In addition to the salary paid under a special contract with the Territorial Inspectorate for Disabled Persons, there are a series of facilities for such persons:

- (a) Priority for telephone line installation and exemption from the payment of the basic fee;
- (b) Free urban public transportation for persons registered as first- or second-degree invalids; the former also benefit from 12 free inter-urban trips each year;
- (c) Free medical care with free medication and treatment in special resorts;
- (d) Priority for disabled persons or persons bringing up disabled children for State housing as well as additional rooms allocated on demand for State-owned apartments;
- (e) Priority for social housing with subsidized rent (the rent may not exceed 10 per cent of the family's net monthly income).

389. One other very significant measure to ensure a minimum income for families or persons experiencing difficulties with no or a small income is the social allowance based on the principle of social solidarity. The social allowance is stipulated by Law 67/1995 regarding social allowance and GD 125/1996 regarding certain measures connected to the social allowance and

instituting minimum criteria to calculate this allowance. Local authorities are responsible for the implementation of this law, the mayor being in charge of responding to applications and establishing the respective rights. The funds for the payment of such social allowance rights come from the local budgets.

390. The level of net income up to which a person is entitled to a social allowance is readjusted periodically. At present, pursuant to GD 295/1999, the maximum level is set as follows according to the number of family members:

- for 1 person: 156,000 lei;
- for families of 2: 281,000 lei;
- for families of 3: 392,000 lei;
- for families of 4: 492,000 lei;
- for families of 5: 586,000 lei;
- for each additional family member: 87,000 lei.

The social allowance is given to families whose income is below the net levels.

391. Emergency assistance is provided pursuant to Law 67/1995 regarding the social allowance and is to be paid also by local councils to families in a crisis situation (natural calamities, fires, deaths, etc.). Local councils also offer free meals or canteen meals at a subsidized rate of up to 70 per cent to families benefiting from social allowance or other families meeting the conditions set by the law.

J. The quality of life

392. The Environmental Protection law 137/1995, article 5, stipulates that “the State acknowledges the right of every person to a healthy environment”, to which end it guarantees the implementation of the measures which ensure this fundamental right of mankind.

393. The Romanian environmental protection legislation makes no special mention of special standards to ensure the right of the child to a healthy environment, so this right is dependent on its realization for the rest of the population in general. In this respect, the Environmental Protection Law, together with other normative acts including State standards, stipulates mandatory general measures to eliminate pollution sources, whether chemical, radioactive, bacteriological, or phonic, and to improve the quality of the environment and of life. The measures address the protection of the atmosphere, the waters, the ground, the vegetation, residential and entertainment areas, and green spaces in urban locations.

394. There are numerous areas and cities in the country where the local population suffers from the negative impact of pollution sources:

- Atmospheric pollution with toxic substances, some of them extremely aggressive;
- Surface and underground water pollution, including of drinking water, especially in certain rural areas;
- Vegetable and animal food product contamination;
- Noise pollution, especially in the urban environment.

395. The Ministry of the Waters, Forests, and Environmental Protection aims to initiate, together with other governmental and non-governmental structures, the setting up of ecological recreation, training and education, especially for the children from areas affected by pollution and generally for children in a difficult situation. The Ministry of Public Health has initiated programmes for the improvement of health, living conditions and the environment in association with local and international NGOs. Apart from these, National Action Programme No. 10 for the monitoring of health in child and adolescent communities aims for promotion and prevention by evaluating the health and risk factors.

396. The objectives of such programmes aim at assessing the level of physical development in relation to the living environment factors and the impact such factors have on the health of children and adolescents. To this effect, many of the activities are aimed at the evaluation of the microclimate and the environment of school units. Measures to improve them are promoted by local authorities, school inspectorates, etc. following recommendations from the health inspectors of the Ministry of Public Health.

397. Also, National Action Programme No. 9 for health and the environment includes the setting of norms regarding the quality of the environment in dwellings and social-administrative buildings, as well as of a methodology to evaluate the health risk within environmental impact research.

398. To prevent sicknesses and pollution, the programme objectives include measures to diminish specific risks in the living and working environments: protection against water and air pollution, against the chemical and microbiological contamination of food, reduction of population exposure to ionic radiation, protection against noise pollution, etc.

399. The Ministry of Health has specifically noted that it is impossible to address all aspects of the health of children and adolescents and the risk factors to which they are exposed due to inadequate funding and human resources, which calls for careful prioritizing of health problems for this age group.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. General information regarding the education system

400. The Romanian Constitution stipulates the right to education together with free State education for all children and adolescents, irrespective of social or ethnic origin, gender or religious preference. Education Law 84/1995 acknowledges education to be a national priority. The educational ideal of Romanian school consists in the free, complete, and harmonious development of the individual, in the forming of the autonomous and creative human personality (arts. 2, 3).

401. The objectives of the Education Law are:

- (a) The appropriation of scientific knowledge and of national and universal values;
- (b) The formation of intellectual abilities, affective availabilities, and practical skills by the assimilation of humanistic, scientific, technical, and aesthetic knowledge;
- (c) The assimilation of techniques of intellectual labour required for instruction and self-instruction for the duration of one's life;
- (d) The cultivation of respect for fundamental human rights and liberties, for human dignity, and the free exchange of ideas;
- (e) The cultivation of sensitivity towards human problems, moral-civic values, and of respect for nature and the environment;
- (f) The harmonious development of the individual through physical education, hygiene and health education, and sports;
- (g) The specialization of the young for a useful profession generating material and spiritual rewards.

402. The main objective of the reform initiated by the Ministry of National Education is the completion of the transition from an authoritarian and centralized educational system to a system suitable for a society based on individual liberty. To meet this objective, the Ministry proposes:

- (a) To reduce the curricula load and to make them compatible with European curricula;
- (b) To convert a self-perpetuating system into an essentially creative one and to bring research back to the core of academic education;
- (c) To improve the infrastructure and generalize educational communication;
- (d) To create a partnership and a new interaction between schools and universities, on the one hand, and the economic, administrative, and cultural environment on the other;

(e) To orient management towards performance and competition, and to free it from centralism and populism alike;

(f) To integrate Romanian education within the international education network.

403. The Ministry of National Education has sought to unblock reform, to design and implement real reform in keeping with the present needs of Romania and perceptible to all interested categories of people: students, teachers, parents. The main measures initiated by the Ministry to fulfil this aim are:

- Reorganizing the Ministry of National Education;
- Curriculum reform;
- Institutional changes in education;
- Reforming scientific research;
- Reorganizing the academic year;
- Reforming assessment of knowledge and of school units;
- Optimizing the use of existing resources;
- Ensuring the salaries and continuous formation of the teaching staff;
- Computerizing and improving the education infrastructure;
- School and university management;
- Legislative reform and international cooperation.

404. All the above measures aim to reshape the educational process so as to cultivate respect for the personality of the child and for the fundamental rights and liberties of mankind, for the harmonious development of the child, and for his/her readiness to assume a responsible life in society. Practically, these measures lightened the curricula, introduced new subjects to enhance the psychological and intellectual potential of students (communication, sciences, visual education, optional courses, etc.), set up parent committees and lectures to change their attitudes and involve them more in school activities. Education and its components (civic, moral, environmental protection, traffic) is ensured through self-standing subjects (moral-civic education), half-annual or annual programmes, and topics to be debated during counselling hours.

405. Student orientation and counselling are provided in centres and offices for psycho-pedagogic assistance under the supervision of district school inspectorates, in counselling offices within school units, or with the assistance of school and professional orientation commissions within the specialized department of the Ministry of National Education. The professionals directly involved include the class principals, the school psychologist, as well as other professional categories.

B. Relaunching rural education

406. Starting from the data compiled by the National Statistics Commission, according to which 52.9 per cent of the Romanian population live in rural areas and is increasing, as well as from the troubling data relating to the operation of school units in this type of environment, the Ministry of National Education believes it is necessary to relaunch rural education.

407. In contrast to the urban education dominated by school dropouts, rural education is confronted with non-schooling and school absenteeism. These phenomena have two major causes:

(a) The precarious economic and social status of the parents in the rural environment, the isolation of habitats, the distance between residence and school, the absence of hygiene, the students being kept at home for agricultural labour;

(b) Unsuitable school spaces, insufficient or inadequate funding, inadequate material equipment of schools, understaffing (especially for qualified staff).

408. Under the circumstances, the programme of the Ministry of National Education proposes:

- To expand the rural education network;
- To adequately equip rural schools with modern teaching and communication means;
- To connect village schools to modern information networks;
- To properly endow school libraries;
- To build and operate efficiently the rural school transportation network;
- To introduce and expand extramural education systems;
- To make functional an extensive system of rural school canteens;
- To influence the movement of skilled teaching staff towards the rural environment by study credit systems, limited work contracts and other facilities.

409. This programme of restructuring the school network complements another national programme initiated by the Ministry of National Education for the rehabilitation of schools (new school construction, development and consolidation of existing ones), co-financed by the Romanian Government and the World Bank.

C. The structure of the national education system

410. The levels of the Romanian education system are as follows:

Pre-school education for children between 3-7

Primary education (grades I to IV)

Secondary education: gymnasium (grades V to VIII)
high school (grades IX to XII/XIII)
vocational

Post-high school education

Higher education: undergraduate
postgraduate

Continuing education

411. The types of education in Romania are co-educational, extramural, night school, distance learning, private, alternative forms to regular and special education such as Waldorf, Pestalozzi, Montessori and step-by-step for mass education, and special education centres, therapeutic pedagogic centres, home schooling, sanatorium/prevention schools for special education.

Pre-school education

412. Pre-school education is not mandatory in Romania. Crèches (ages 0-3) have medical staff but no professional instructors. Twelve thousand, nine hundred and fifty-one kindergartens were registered in the 1996/97 school year, of which 3,331 were urban and 9,620 rural. One thousand, three hundred and thirty-five (10.3 per cent) are destined for ethnic minority children. Pre-school education intake was 659,226 children, of whom 49,545 were in ethnic minority units or sections. The number of pre-school units rose to 13,352 in 1998 (of which 13,352 were public kindergartens, 22 kindergartens for children with special needs and 75 private kindergartens), for an optimum intake of 700,000. The actual intake was 731,587.

413. Despite the rather significant number of rural pre-school units, the rural intake is lower than the urban.

414. There is a general tendency for the pre-school intake to fall (752,141 in 1990, 659,226 in 1996/97), possibly as a result of the reduction in demographic growth and the increase in unemployment, especially for females. Parents' financial hardships should be added to this, although regular kindergartens (four hours daily) are free, and the extended timetable (eight hours daily) is 50 per cent subsidized by the State.

415. Children between five and seven enrolled in the preparatory groups of the kindergarten are exposed to activities aimed at preparing them for student life. There is a constant concern to improve the quality of education in kindergartens by dropping the child/instructor ratio from 28 in 1990 to 17 in 1996. These data represent average amounts and occasionally there can be up to 30 children per instructor, especially in rural areas and in underprivileged economic and geographic areas (southern Moldavia, the Danube Delta). Thirty-six thousand, five hundred and two pre-school instructors were registered by the Ministry of National Education in 1997/98, 37,929 in 1996/97 and 37,007 in 1990/91.

Primary education

416. Compulsory education in Romania includes grades I through VIII. Grades I through IV are primary education. Primary education is provided in 6,188 units, of which 5,697 are rural. There are a total of 52,701 primary classes with an intake of 1,388,155 students, of whom 676,761 are female.

417. Classes in the mother tongue of ethnic minorities include 67,629 students for Hungarian; 7,268 for German; 599 for Ukrainian; 29,601 for other languages.

418. There were 35,869 Rroma students in primary classes. Certain classes are taught in the Rromani language, but they are understaffed, as there are not enough professionals from native Rromani-speaking groups. Although schools preparing this category of professionals have a special intake provision for ethnic Rroma, the places usually remain unfilled and often graduates will refuse to take classes of Rroma students. Most Rroma students go to classes taught in Romanian or Hungarian in Transylvania. Among the possible explanations are a refusal by Rroma to be channelled into a form of discrimination which may be beneficial for early ages but is seen as detrimental later in life, due to ethnic prejudice.

419. Listed as one of the underprivileged categories, access to education for the Rroma children was facilitated by the Ministry of National Education through the following measures of positive discrimination listed under Order 4562/1998:

- Where families are nomadic, school enrolment is not conditioned by the parent's domicile; only a written application is required;
- School inspectorates are authorized to set up school caravans for nomad Rroma children or for children who do not attend school for various reasons;
- School inspectorates are authorized to provide free pre-school education for children of underprivileged Rroma families so they may attend this first stage of school instruction;

- The allotment of Rroma places in schools and universities stipulated by Order 3577/1998 are extended into the academic year 1999/2000 and their number is increased with the general increase of university student intakes;
- The general inspectorate for religious education within the Ministry of National Education, together with the inspector for the Rroma ethnic group of the General Directorate of Education for the Minorities, are authorized to negotiate with theological seminaries admission of Rroma grade VIII graduates to prepare them for religious services requested by the Rroma population;
- The General Directorate of preparation for higher education, school camps and tourism listed intercultural camps to include Rroma children for the 1998/99 academic year.

420. Two thousand, seven hundred and sixty-two education units are urban and 11,049 rural, with a 60 per cent urban intake. Overpopulation in urban classes is due to the concentration of the young population (parents) in cities, as a result of a tendency to abandon rural living and find urban jobs, as well as to parents' desire to have their children educated by professionally trained staff.

421. Of the 61,378 primary schoolteachers, only 49,875 have been formally trained. There were 9,200 dropouts from primary education in 1996/97, which rose to 11,696 in 1998/99. The main causes include:

- Material difficulties of the children's families;
- The use of child labour, especially in rural areas;
- Decreasing motivation for education and instruction due to the mirage of quick earnings, corroborated by inadequate support for studying from parents;
- Exigencies of an education system with very high standards, but at times indifferent to the need to ensure average competence in students instead of favouring top results for a limited number of students;
- Faulty communication between the school and the family.

All these causes were identified by professional educators themselves, which led to proposals for change to a system based on accumulated information to an operational one based on knowledge-appropriation skills.

Gymnasium education

422. Gymnasium education, grades V through VIII for children aged 10-14/15, has an intake of 1,120,730, of whom 547,887 are female. The students are grouped in 52,476 day classes.

The number of hours per week range from 25 for grade V to 32 for grade VIII. The teaching is performed by 92,047 specialized teachers and 3,330 technical instructors, with a total of 64,185 females.

423. There were 12,678 dropouts in 1996/97, 7,639 in the urban areas and 5,039 rural; the total number of dropouts for 1998/99 was 9,027 in urban schools and 8,362 in rural schools.

424. Despite efforts to offer equal opportunities to children irrespective of their area of residence by creating a significant number of classes in such areas, there is an important deficit of trained professionals in rural, less accessible and less inhabited areas. Untrained staff are still being used in such schools, as well as simultaneous classes (students of different grades working at the same time in the same room). This leads to a difference in the level of training, which is a reason for subsequent educational failure and reduced access to high school and vocational education. This amounts to the recognition that the right to education is only partially available.

425. Six point eight per cent of children ages 7-14 did not attend compulsory schooling in 1996/97.

Vocational education

426. This form of education includes children and adolescents over 14 who have completed their compulsory training. Vocational schools are part of the State education system and involve a two-to-four-year study period, depending on the specialization and complexity of the profession. Enrolment is based on a primary graduation certificate with an additional admission examination when applications exceed the intake capacity.

427. Vocational schools also organize complementary education (for apprentices) over a one-to-three-year period. Graduation is certified by a diploma of skilled worker. Vocational schools generate graduates in over 300 professions, their practical training being 66 per cent of the curriculum.

428. In 1998/99 the intake for vocational and apprentice education dropped to 259,398 from the 262,057 enrolled in 1996/97 and the 365,860 in 1990/91. There are 797 vocational and apprentice schools with 7,627 teachers and master instructors, as opposed to 707 schools with 4,209 teachers and master instructors in 1990/91. The 1997/98 vocational education intake was 219,075 with 5,091 teaching staff as compared to 201,243 intake for vocational education in 1998/99. The dropping intake relative to the growing staff numbers may lead to a more efficient training process.

429. The professions taught are grouped around the following domains: extraction and drilling, electro-technics, metallurgy, machine building, wood processing, food processing, forestry, commerce and services. The professions are carefully balanced against the economic changes in Romania. Practical work is therefore conducted in the companies where the future graduates are to be employed.

430. The number of dropouts rose to 9,994 for vocational education and 4,328 for complementary education in 1997/98 and 10,193 for vocational and 3,973 for complementary education in 1998/99.

High school education

431. High school education spans over a four-to-five-year period. Students may choose from the following subjects: theory, computers, economics, technical subjects, agriculture, art (music, choreography, painting and sculpting), administration, military, sports, theology, special subjects.

432. High schools are usually State units (there are three private high schools at present) for gymnasium graduates. Admission exams are organized for daytime, night-time, and external education. Night-time and external education are usually offered to graduates of vocational or complementary schools, mostly over 18, desiring to continue their study. Most of the high schools are urban. There are agricultural high schools in rural areas. The high school intake in 1996/97 was 792,788 of whom 432,710 were female. The intake dropped to 762,704 in 1997/98 and rose again to 790,934 in 1998/99.

433. There is no demonstrable difference between male and female students in their choice of study with the exception of the technical subjects, where males are three times the number of females and teaching, where 17,222 out of 18,398 students are females. There are also high schools taught in Hungarian and German. There were 34,837 high school dropouts in 1996/97, going down slightly down to 32,222 in 1998/99.

Education budget

434. Education received 3.1 per cent of the gross national product in 1994. In 1995, the Education Law stipulated a mandatory 4 per cent of GNP, which was carried over to 1996/97 and will very likely be the same for 1998/99. However, this sum became inadequate with the decrease in GNP and inflation.

435. Investments to rehabilitate the buildings destined for educational purposes are still below minimum standards as compared to EU and even Central European countries. Additionally, there is only a very limited amount of the required equipment and teaching materials.

436. There are 873 school dormitories for 99,554 students and 747 canteens feeding 101,304 students. Both the canteens and the dormitories are insufficient, especially in the rural areas where schools are at a significant distance from the students' homes and for students ages 10-14.

437. In 1996/97, 90,628 scholarships were offered to students for compulsory education and 31,559 scholarships to high school students, and 541,314 students benefited from social allowances. Still, the financial difficulties encountered by many of the students' families led

to 59,464 dropouts of the overall 3,599,569 intake in 1998/99. This has to be placed in the context where the State can allocate only the following amounts according to the education level:

- pre-school education: 1,358,475 lei
- primary/gymnasium education: 1,628,252 lei
- high school education: 2,783,587 lei
- vocational education: 1,275,516 lei
- special education: 9,846,846 lei
- post-high school education: 1,274,959 lei

438. The analysis of the overall funding coming from the central Government in 1998 showed an amount of 10.5 billion lei divided into:

- pre-school education: 728,432,450 lei
- primary/gymnasium education: 3,768,493,310 lei
- high school education: 1,777,431,740 lei
- vocational education: 249,453,470 lei
- post-high school education: 127,475,850 lei
- special education: 598,512,880 lei
- higher education: 1,899,044,200 lei
- dormitories, canteens, hostels: 71,130,000 lei
- other: 1,287,252,215 lei

439. Apart from the funds allocated by the Ministry of National Education (for State educational units, auxiliary and administrative staff salaries and operation), pursuant to article 167, paragraph 2, of the Education Law, funds for maintenance and repairs of education units (except for universities) are paid by district and local councils out of specially allocated funds from the State budget, out of local budgets, as well as out of their own resources. Paragraph 3 of the same article stipulates that specialized ministries, public authorities and interested businesses contribute with their own funds, upon contract, to the maintenance and rehabilitation of post-primary units.

D. Recreation and leisure activities

Ministry of National Education

440. Children's centres and clubs in 249 cities host over 600,000 children (statistics for 1997/98). These clubs include a wide range of scientific, artistic and sports groups. Besides their daily activities, art and sports groups also organize shows and competitions. Around 300,000 children took part in artistic activities and 60,000 children took part in sport and tourist activities. Access to sports is limited by high equipment costs and by the difficulty of transportation to the various stadiums and locations. Technical classes are attended by over 200,000 children.

441. Each county has a camp administration which organizes trips and stays for students in the 210 school camps. Five hundred thousand children attended such camps in 1997/98. Children in childcare institutions enjoy such camps free, while the other children have to pay a fee depending on their parents' income and the number of children in a family. Camp administrations are subsidized by the State budget and additionally funded by NGOs and other sponsors.

442. There is a discrepancy in the access of children to extracurricular and camping activities, especially in regard to children from rural areas and from underprivileged families, including Roma families. For the latter, the specific cultural context impedes their participation in educational activities outside classes.

443. Most of the schools have libraries, but the book fund is mostly outdated due to financial limitations and to inadequate investments to develop and update school libraries. The ROEDUNET national system initiated by the Ministry of National Education will transform school libraries into documentation centres and will help raise the membership of children and young people. School libraries organized as documentation centres may become cultural centres in the rural areas and/or centres for continuing education (parents' schools, centres for computer literacy).

444. The Romanian Institute for Human Rights is the main partner of the Ministry of National Education in organizing the national camp and competition "Democracy and Tolerance" for gymnasium students, whose general theme is the rights of the child.

445. Starting with 1995, the national contest "Romanian Culture and Civilization" has been organized for high school students as a recreational activity meant to encourage knowledge of the local patrimony and intercultural education. The theme of the 1999 edition was "Cultural, historical and religious particularities of your local community".

Ministry of Culture

446. Children's literature is published by several publishers (with an emphasis on textbooks). The Government does not subsidize this kind of literature, usually considered profitable, the only exception being the Ion Creanga Publishing House. The Ministry of Culture finds it useful that children's literature should benefit from a more substantial contribution in the future, by means

of subsidizing formative and educational programmes regarding belletrist as well as technical and scientific literature. The Ion Creanga and Junior Publishing Houses will be priority recipients since they are specialized institutions.

447. There are 19 puppet theatres in Romania organizing, beside their regular repertoire, other activities for the pre-school, school, and teenage public (festivals, workshops, etc.). Shows are in Romanian, in the languages of ethnic minorities (Hungarian), or in foreign languages (for example, the Ion Creanga Theatre runs shows in French and English for young people).

448. The public for this kind of activity is quite varied: children and young people from ordinary families, disabled children, HIV-positive children, children in childcare institutions or requiring extensive hospitalized care (like children in oncology wards). Most of the activities designed and performed in theatres are supported financially by the State through the Ministry of Culture or local authorities.

Ministry of Youth and Sport

449. The Ministry of Youth and Sport runs programmes for children and young people which concentrate on sport for all, high performance sports and sports for the handicapped.

450. The Romanian Federation Sports for All runs two broad programmes for children and young people: the Baby Sports Programme, a strategy of physical exercise where movement and games start at a very early age, designed by the Ministry of Youth and Sport and UNICEF, and the Fun Sports Programme, which allows each child or young person to freely choose his/her leisure time activity, in an organized framework or independently, in order to express and develop their individual physical and psychological abilities.

451. The high performance sport programme aims to stimulate the interest of sport units in working with children and junior teams and to select and promote young athletes in the European and world circuit. In 1998, 72,000 children and young persons were registered with school sports clubs, organized in beginners, advanced, and high performance groups.

452. The programmes of national federations are generally concerned with junior teams (age 17-18) and cadet teams (age 15-16), but also run subprogrammes to stimulate interest in sports among both male and female students. The funding for this programme is 18,949 million lei and it covers the activities of 41 federations. Another 3,162 million lei were allocated to preparing 325 students in national Olympic centres.

453. The Romanian federation Sport for the Disabled aims mainly to integrate disabled persons in society through sport, irrespective of their handicap, gender, age, religion, political sympathies, etc. National competitions for persons with motor handicaps enrolled 200 persons aged 15-45, 80 per cent of whom are between 15 and 30 and equally balanced between the genders. The funding for competitions for persons with a mental handicap were 62,070,000 lei with a participation of around 600 persons.

454. The National Special Olympics for table tennis and athletics are organized together with the Special Olympics association. Two thousand children and young people aged 8-22 from all over the country participate every year, and 400-600 reach the finals.

VIII. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency: refugee children (art. 22)

455. Between 1993 and 1998 the Office for Refugees registered 5,363 persons requesting asylum; 602 of them were granted refugee status. Below is the situation by year regarding the number of refugee children out of the total number of applications:

	1993	1994	1995	1996	1997	1998	Total
Applications submitted	928	647	634	584	1 424	1 146	5 363
Applications accepted	0	16	94	94	80	318	602
Number of children	0	9	7	12	26	44	98

456. All 98 children granted refugee status in the reference period came in the company of a legal representative. There is no evidence of an individual application by children, all formalities for foreign children having been submitted by their legal representatives.

457. Should there occur in the future an individual application for refugee status by a child unaccompanied and without judicial capacity according to the Romanian legislation, the competent departments and officials of the Ministry of Internal Affairs are under the obligation to make sure the child is represented by an adult or by a specially appointed organization.

458. On the other hand, the Ministry of National Education ensures access to pre-school and school education for all children of asylum-seekers and refugees requiring it in school 165 in Bucharest where a special class was created and from where these children will be integrated into mass education. The Bucharest Liaison Bureau with UNHCR runs many special programmes together with NGOs with experience in the field in order to support these children and increase their ability to integrate and adapt socially.

459. Pursuant to the current legislation, refugee status determination period is three years, with the right of a two-year extension. All cases where this term has expired have nevertheless been favourably resolved by the Romanian authorities in accordance with the Law 46/1991 regarding adherence to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. Both during the formalities towards the obtaining of refugee status and after the status has been granted, the Romanian State offers material support to the persons with no means of subsistence. The Ministry of Internal Affairs uses specially allocated government funds to offer temporary material assistance to asylum seekers and the Ministry of Labour and Social Protection offers refugee status applicants a six-month allowance equal to a minimum salary.

460. A hundred and sixteen refugees and asylum-seekers, including 56 children, are currently accommodated at a centre in Bucharest. Others reside in Bucharest and a few in other cities. The Ministry of Internal Affairs took over two buildings which will be rehabilitated with assistance from the UNHCR and used to lodge asylum-seekers and some refugees.

B. Children in conflict with the law

1. The administration of juvenile justice (art. 40)

461. The Romanian Penal Code has a special penalty condition for minors as opposed to adults. Derogatory procedural norms from the common law are stipulated for the trial of minors. Penal responsibility for minors is set at 14 years of age. Minors aged 14-16 are penally responsible providing it is established that they committed the crime with full discerning powers (art. 99 of the Penal Code). Other than penal protection measures are taken for minors not penally responsible or liable to commit deeds punishable by the penal law. In selecting the penalty or educational measure for penally responsible minors (arts. 100 and 101 of the Penal Code) the judge has to consider the degree of social menace of the crime, the physical status, moral and intellectual development, conduct and living conditions of the minor, as well as other elements which may characterize the minor. Educational measures are predominant and penalties are conditioned by demonstrable proof that educational measures would be insufficient.

462. Pursuant to article 20, paragraph 1, of the Romanian Constitution, all stipulations regarding the rights and liberties of citizens are to be interpreted and applied in accordance with the Universal Declaration of Human Rights and with the conventions and treaties to which Romania is a party, and the second paragraph of article 20 states that as regards fundamental human rights, should there arise incompatibilities between domestic laws and international pacts and treaties, the latter have precedence over the former and should act as guarantees for the respect and strengthening of the rights and liberties of minors in legal conflicts.

463. Thus, in the absence of domestic legislation, the principles and stipulations of the Convention on the Rights of the Child regarding justice for minors, and the United Nations Standard Minimal Rules for the Administration of Juvenile Justice (The Beijing Rules), and the recommendation R(87) 20 of the Committee of Ministers of the Council of Europe regarding social reaction to juvenile delinquency become applicable, together with other international judicial instruments to which Romania has adhered.

464. Domestic legislation regarding justice for minors responds to the requirements of international acts, making quite clear the preoccupation of the legislators to come into agreement where possible with the stipulations and the spirit of the Convention.

465. The stipulations regarding the educational measures (their type, content and execution) and the penalties within the special limits set for minors, to which are added the stipulations of the Criminal Procedure Code and of the normative acts regulating the execution of penalties and educational measures of placement in the custody of re-education centres, result from a concern with the reintegration of the minors in society and their assuming a constructive social role. Law 140/1996 for the modification and completion of the Romanian Penal Code sets out obligations for the minor while he/she executes the educational measure of supervised liberty

(a period in which the minor is entrusted to his family or to another person or, in extreme cases, to an institution), among which is the obligation to perform an unsalaried activity for the benefit of the society in an institution of public interest for a duration of 50 to 200 hours after classes or during the holidays. The same holds for minors whose imprisonment is suspended until they reach 18 years of age. On reaching that age, the young person has to fulfil the obligations imposed by the supervised suspension of the execution of penalty (art. 86 of the Penal Code), such as to perform a useful activity and to continue his/her education.

466. These stipulations were recorded by the penal law in order to augment the responsibility of the minor towards his/her community, to develop a sense of personal worth, and to facilitate reintegration in society. The other obligations to the effect of precluding the minor's frequenting certain locations or contacting certain persons are also in the minor's own interest by sheltering him/her from the negative influence of a pre-delinquent environment.

467. The above measures which are part of the Penal Code are based on experiments with alternatives to imprisonment within a programme developed over a two-year period by the Ministry of Justice in association with the Special Representative of UNICEF in Romania.

468. The presumption of innocence is guaranteed by the Constitution (art. 23, para. 8). The defendant is under no obligation to prove his/her innocence. Where evidence of guilt is presented, the defendant has the right to refute it (article 66 of the Criminal Procedure Code).

469. A minor may not be convicted for a deed which is not stipulated as a crime by the penal law. It is only in connection with such a deed, if guilt be demonstrated, that penalties may be pronounced. The principle of non-retroactivity is operative according to which "penal law may not be applied if at the time of its performance, the deed was not stipulated as a breach of law". Also, the penal law is not applicable to acts that are no longer illegal.

470. The legal authorities are under the obligation to inform the (minor) defendant of the act for which he/she is accused and of its judicial classification, and to ensure that he/she is represented by a defender (article 6, paragraph 3 of the Criminal Procedure Code). The detained minor must be informed immediately of the reasons therefor, and the accusation is to be communicated as soon as possible in the presence of a lawyer (art 137¹).

471. The investigation authorities are under the obligation to make available the penal investigation material (articles 250 and 257 of the Criminal Procedure Code). At the first hearing, the president of the court must establish whether the defendant was given a copy of the indictment and if he/she was informed about the accusation. The trial can be postponed at the defendant's request if the indictment was not communicated within three days (art. 318). The representative of the tutelary authority, the parents, the guardian, or the person to whom the minor has been entrusted must be present for the presentation of the penal material (art. 41, para. 2).

472. The president of the court must order the clerk to read the accusation and then proceed to explain the accusation to the minor defendant. Also, the defendant has to be told about the right to ask questions of the co-accused, the other parties, the witnesses and the experts, and the right to request explanations throughout the trial whenever he/she wishes (art. 322). The penal

investigation is performed by prosecutors and by the penal investigation authorities/police (art. 201). The trial is performed by judicial authorities: courts of justice, tribunals, appeal courts, and the Supreme Court of Justice (article 25, paragraph 1, of the Constitution and article 10 of Law 92/1992 regarding judicial organization). Although there are no special tribunals for minors in Romania, provisions are made for a special structure of the judicial instance. The law on judicial organization (art. 16, para. 2) stipulates that a minor's trial is to be judged by judges appointed by the president of the court. Also, the Criminal Procedure Code institutes a special derogatory procedure for minors to be applied if the minor is under 18 or if the minor turns 18 during the penal process.

473. The special procedure for the trial of minors stipulates that:

- (a) The judging of the case is performed in the presence of the minor;
- (b) A social inquiry is mandatory for the penal investigation authority and for the board of judges;
- (c) The tutelary authority, the parents, the guardian or the person to whom the minor is entrusted, together with anyone whose presence is deemed necessary, should attend the trial;
- (d) The trial session is to be held separately from other sessions and is not public. The judges can decide to excuse the minor after having heard him/her if they decide that the investigation and proceedings might have a negative influence on the minor;
- (e) If the minor is to be tried together with adult defendants, the cases may be separated;
- (f) The procedure for persons caught in flagrante delicto does not apply to minors.

474. The right to an impartial and equitable procedure is implicitly related to the minor's ability to ask for evidence in his/her defence, to interrogate the witnesses and discuss the accusation with the experts. Although there are no fixed terms for the resolution of cases regarding minor defendants, the Superior Council of Magistrates can penalize the judges whenever there is evidence of systematic delays of the procedure (article 29 of Law 92/1992 on judicial organization).

475. Article 481, paragraph 2, and article 482 of the Criminal Procedure Code stipulate that subpoenas are to be served to the tutelary authority, the parents, the guardian, or any other persons to whom the minor has been entrusted, during the penal inquiry, upon the presentation of the evidence and during the trial, once the rights of such persons have been established, and that the minor has the right to be assisted by a lawyer of his/her own choice or appointed. It must be noted that most of the recognized rights of the minors and their guarantee during the penal process become possible by ensuring the right to defence. Pursuant to current legislation, the ruling of the first instance may be contested and appealed. It is also possible to use, where the law makes such provisions, extraordinary measures (revision and contestation in annulment, appeal in annulment).

476. The Romanian Constitution recognizes the rights of citizens belonging to ethnic minorities and persons who cannot speak or understand Romanian to use the interpreting services to be informed of all documents and terms of the case, to address the court, and to express conclusions. The services of an interpreter are free of any charge (article 127 of the Criminal Procedure Code). The Criminal Procedure Code additionally stipulates that the native language of an ethnic minority, must be used in courts of law in the areas inhabited by such minority (art. 7).

477. The Emergency Ordinance of the Romanian Government No. 26/1997 regarding the protection of the child in difficulty stipulates the right to protection of children having committed a criminal action but who cannot be held penally responsible. The Commission for the Protection of the Child must take educational measures in such cases, to be applied for the children's best interest. Should the Commission decide a measure of supervised liberty against a child without penal responsibility, the child may be entrusted to his/her family, to another family, or to the public service specializing in child protection.

478. The judges appointed to try penal causes involving minor criminals must participate yearly in central or regional colloquiums and seminars debating the theoretical and practical problems regarding the criminal liability of the minor, the rights of the suspected, accused, or guilty child, and the procedural guarantees he/she is entitled to.

479. The National Institute of the Magistracy organizes modules for intern judges regarding family law and the criminal liability of the minor, and the rights of the minors acknowledged by international conventions.

480. In order to prevent juvenile delinquency and the victimization of minors, the prosecutors have to:

- Cooperate with the police to prevent juvenile delinquency and to identify homeless children, children who have fled their families or the tutelary institutions, in order to keep strict account of them;
- Continue verifying that the rights and interests of institutionalized minors are respected and that legal provisions are observed in penal inquiries and judicial actions;
- Cooperate with the Commissions for the Protection of the Child and with the public services specializing in child protection that were created pursuant to the new legislation in each district of the country and each borough of the capital.

481. Apart from these measures, the Bureau for the Protection of the Rights and Interests of Minors of the Section for Penal Investigation and Criminal Justice of the General Prosecutor's Office attached to the Supreme Court of Justice will make sure to:

- Verify the way in which the Romanian Committee for Adoptions observes the new legal provisions regarding domestic and international adoptions;

- Take charge of the documentation for the use of prosecutors specializing in defending the rights and interests of minors;
- Cooperate constantly with the Department for Prevention within the General Inspectorate of the Police and the Public Order Directorate within the General Police Directorate of Bucharest, with the Department for the Protection of the Child, with the representatives of the central administration and the regional services, with the Special Representative of UNICEF to Romania, with other international organizations and with domestic and foreign NGOs in the field.

**2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings
(art. 37 (b), (c), and (d))**

482. The Romanian Constitution guarantees the individual liberty and safety of each person (art. 23, para. 1). The guarantee of liberty is a basic rule of the penal process (art. 5, para. 1). Anyone under penal investigation or trial must be treated with respect for human dignity. Subjecting someone to torture or cruelty, inhumanity or degradation is punishable under the law. Searching, detaining or arresting a person is strictly controlled by the legal procedures (art. 23, para. 1).

483. There are no special regulations for minors different from those for adults regarding prevention measures (detaining for 24 hours, the obligation to remain in the city for 30 days, preventive arrest for 30 days with the possibility of extending the term by court ruling) (articles 144, 145, 146, 149 of the Criminal Procedure Code).

484. Pre-trial detention is possible only with a warrant issued by a magistrate (article 23, paragraph 4 of the Constitution). The circumstances leading to arrest are specified by the Criminal Procedure Code (arts. 143, 148). Detained or arrested persons must be immediately informed of the reasons for their detention or arrest. The charge is brought to the attention of the defendant as soon as possible, in the presence of a lawyer (art. 137).

485. Legal counselling by lawyers is obligatory for minors in all of the phases of a penal trial and is a guarantee for the exercise and respect of procedural rights (article 1717, paragraph 2 of the Criminal Procedure Code). In the absence of a chosen lawyer one has to be provided. Upon the decision to detain a minor the prosecutor or judge has to inform a member of the family or a person designated by the family within 24 hours (art. 137, para. 2). Legal counselling being mandatory, the investigator will make sure that the lawyer is present when the defendant is being heard. The arrested defendant has the right to contact his/her defence counsel. Exceptionally, when it is in the interest of the penal investigation, the prosecutor by default may issue a motivated order to suspend counsel's contact with the defendant for a maximum of five days (art. 172, para. 5). Contacting the lawyer cannot be forbidden on the extension of the detention by the judging instance and it is mandatory when the evidence is presented (art. 172, para. 6).

486. The special stipulations regarding minors who are in pre-trial detention include:

(a) The possibility for the investigator to subpoena, if necessary, the representative of the tutelary authority, the parents, the guardian, or the person to whom the minor has been entrusted when the minor is to be heard (article 481, paragraph 1, of the Criminal Procedure Code). Subpoenaing the aforementioned persons is mandatory when the evidence is presented (article 481, paragraph 2 of the Criminal Procedure Code).

(b) While they are being detained or arrested, the minors are to be kept separate from adults (art. 142).

487. The judging instance exercises control over the measures ordered by the prosecutor in regard to detention, ruling on the same day on the legality of the measure of pre-trial detention when the minor files a complaint within 24 hours of his/her detention. The instance may maintain or revoke the measure. The complaint is judged in the presence of the prosecutor and the defence. The judging instances alone may extend the measure of detention beyond the term of 30 days within the limits set by the law. The person under detention may ask for supervised liberty under judicial control or bail (article 5 of the Criminal Procedure Code). When the grounds no longer exist for the maintaining of the detention, it has to be revoked by default or on request (art. 139, para. 2). The Criminal Procedure Code also stipulates the situations when pre-trial detention ends de jure (art. 140).

488. Criminal investigations are carried out by prosecutors specializing in juvenile cases, appointed by order of the General Prosecutor. Certain police officers must also specialize in inquiries involving minors at district level. Detention penalties can apply to minors only after a definitive court ruling. No penalty may be applied outside the limits and grounds set by the law (article 23, paragraph 9 of the Constitution). The penalties for minors currently includes two means of deprivation of liberty: placement in a re-educational centre or imprisonment.

489. Placement in a re-education centre can be ordered against a minor until he/she turns 18 and can be extended for no more than two years if found necessary to meet the educational conditions of the measure (article 101^{c)}, 104 of the Penal Code). There are two re-education centres running at present in Romania.

490. Imprisonment can be ordered against a minor within the limits stipulated by law.

491. Deprivation of liberty may be shortened by release on parole, after at least one year from the moment of placement in a re-education centre and provided the minor has shown evidence of improvement. Minors sentenced to imprisonment can be released on parole if they have served at least one third of a sentence of up to 10 years and have demonstrated serious signs of improvement (art. 60, para. 2). Once over 18, the conditions for parole are the same as for adults. In the case of unintentional crimes, the portions of executed sentences that must be served before release on parole are smaller.

492. At present, there are sections for minors in adult penitentiaries which are separate from adult sections and a prison for minors is currently being organized. Law 23/1969 (republished in 1972), now under revision, stipulates the manner of serving sentences in penitentiaries, the rights and obligations while in detention, and the penalties applied. A new draft is currently being prepared by the Ministry of Justice for the law regarding penalties and punishments. Law 23/1969, still in force, guarantees the minors' right to education by providing general and vocational education with a view to their qualifying for a profession and social reintegration. As for the obligation to work, this can only be applied to a minor who has turned 15 and only with a doctor's consent. Minors may not be used for harmful labour. Their rights to contact their families are more permissive than those for adults. Minors may not be placed in solitary confinement. Also, minors in detention in penitentiaries have a more permissive right to leisure and recreation than adults and have to be provided with food fitting their age needs. The manner of executing educational work in re-education centres is stipulated by Decree No. 545/1972.

493. This decree will soon be replaced by a new legal draft designed by the Ministry of Justice regarding the execution of educational measures for inmates of re-education centres. The future centres for social rehabilitation will service minors sentenced by court ruling to educational measures, providing protection, education and professional, psychological, medical and physical assistance commensurate with the minor's age, gender and personality, with a view to harmonious development.

494. These new centres for social rehabilitation will operate on the principle of unlimited access to education, study, equal educational opportunities, and the institutionalization of minors in the least restrictive environment. To this effect, several types of social rehabilitation centres will be designed: a national centre for social rehabilitation (half open) and local centres for social rehabilitation (open). The conditions of detention will be applied with impartiality, without discrimination, and with a view to protecting the life and health of minors, to develop their sense of responsibility, to encourage those attitudes and abilities which may benefit them in integrating in society and may increase their chances of discontinuing contact with criminal environments, to minimize the differences between life in the centre and outside it, to develop self-esteem, to ensure unlimited contacts with the family and with the local community in order to facilitate reintegration in society. Extensive stipulations are made regarding the rights of minors in accordance with the Convention on the Rights of the Child, with guarantees for respect for those rights by the trained staff of the social rehabilitation centres. Disciplinary penalties for misconduct during internship, stipulated by the law, may not include the suspension of the minor's right to be visited by his/her family and may not be degrading or inhuman. Within the limits set by the law, minors can attend local schools. To meet the set objectives, the centres for social rehabilitation are staffed by didactic, medical, psychological, social, and security professionals.

495. The breakdown of minor penitentiary inmates on 1 June 1997 (source: The Ministry of Justice/General Directorate of Penitentiaries) was as follows:

Total minors: 2,662 of whom:	- in re-education centres	582
	- in pre-trial detention	1,561
	- imprisoned	519

The structure of minor convicts:

(a) by the type of crime:	- homicide	3%
	- rape	7%
	- robbery	20%
	- causing death or serious injuries	1%
	- theft of public property	1%
	- theft of private property	64%
	- assault	1%
	- other	3%
(b) by gender:	- male	95%
	- female	5%
(c) by age:	- 14-16	9%
	- 16-18	52%
	- over 18	39%
(d) by education level:	- under grade IV	18%
	- in grade IV	9%
	- graduates of grades V-VII	47%
	- graduate of grade VIII	17%
	- graduate of more than grades VIII	9%
(e) by professional qualification:	- qualified	2%
	- in the process of qualifying	1%
	- unskilled	97%
(f) by criminal record:	- with a previous record	4%
(g) by ethnic origin:	- Romanian	73%
	- Hungarian	3%
	- Rroma	23%
	- other	1%
(h) by social environment:	- urban	65%
	- rural	35%

C. Children in situations of exploitation

1. Economic exploitation (art. 32)

496. The Romanian legislation reflects the recommendations regarding labour relationships concerning children under article 32 of the Convention, according to the stipulations of the Constitution, the Labour Code and other normative acts in the field, and the penalties and punishments for infringements of such stipulations are governed by the Penal Code. The Romanian Constitution includes the following stipulations:

(a) The forms of social protection for children and young people are set by the law; exploitation of children, their use for activities that may harm their health or morality, or endanger their life and normal development, are forbidden;

(b) The minimum age for employment is 15;

(c) Public authorities are under the obligation to contribute to ensure the conditions for the free participation of young people in the economic life of the country.

497. Additionally, the Romanian legislation had to observe the principle of unlimited right to work consecrated by the Universal Declaration of Human Rights, while the Constitution stipulates that the right to work may not be limited and the choice of profession and of a job are free.

498. Pursuant to article 161 of the Labour Code, employed children may not be placed in hard or hazardous workplaces and may not be made to work at night or beyond the legal duration of a working day (eight hours), except for emergencies and exceptional situations.

499. Young employees under 18 have the right to a minimum holiday of 24 working days (Law 6/1992 and GD 250/1992). The computation is made by considering the age of the young employee on 1 January of that year. Employees with an invalidity/disability are entitled to an additional three days' holiday each year. Any convention according to which the young employee renounces partially or entirely his/her right to a holiday is illegal.

500. As regards the penalties, the Penal Code (art. 191) incriminates the act of subjecting a person, in circumstances other than those defined by the law, to labour against his/her will or to mandatory labour (the penalty for such an infringement is six months to three years' imprisonment). Article 184 stipulates a three-month to two-year penalty of imprisonment for involuntary bodily harm when this is the result of infringements of legal dispositions or of the measure of prevention of exercising a certain profession or activity.

501. However, there have been cases where the existence of a black labour market often makes inoperative the legal dispositions for the special protection of working children, despite the efforts of the State to gain control over the employment situation. It has become obvious that the labour legislation for children can be improved by a better identification of the public and private institutions and of the measures to be taken.

502. With the development of specialized public services (whose task is to monitor the rights of the child and, implicitly, the exploitation of children), the Department for the Protection of the Child is aiming to run programmes in cooperation with local authorities to support families with limited material capabilities and several children and to analyse the situation of these parents with a view to their employment, as most of the children found in unsuitable labour relationships come from such families.

2. Drug abuse (art. 33)

503. Article 312 of the Penal Code incriminates drug trafficking. This crime is defined as the production, holding, or carrying out any operation regarding the circulation of toxic or narcotic substances, the cultivation in order to process of plants containing such substances, or experimenting with toxic products and substances without a licence. Paragraph 3 of article 312 stipulates penalties of one to five years' imprisonment and the suspension of certain rights for medical doctors who unnecessarily prescribe narcotic products or substances. It also stipulates as an aggravating circumstance organizing or permitting narcotic products and substances to be consumed; this raises the penalty to 3-15 years' imprisonment and the suspension of certain rights. No special mention is made of such crimes involving children, but the current stipulation applies to the involvement of children. The modified form of Law 61/1991, article 2, stipulates that serving alcoholic drinks to minors in public places constitutes an infringement.

504. As regards international conventions in this domain, Romania is a party to the 1971 Convention on Psychotropic Substances and the 1988 Convention against the Illicit Traffic of Narcotics and Psychotropic Substances to which Romania formally adhered by Law 118/1992.

505. Romania started facing this problem only after 1989 when, with the opening of the borders and having a geo-strategic position she became a focal point for this criminal phenomenon. The transiting, production, commercialization and consumption of drugs became a part of everyday life: the police are faced with dealers and producers and consumers who often become dealers themselves. It is noteworthy that it is already possible for the addicts to obtain medical services for detoxification. It has been noted that high school students have increasingly become drug consumers, with the drug dealers moving on to county high schools after having covered the ones downtown.

506. By mid-1996 there were no data regarding drug consumption in Romania. In 1995, the Institute for Hygiene, Public Health and Health Services ran a study on alcohol, tobacco, and drug consumption among the adolescents of Romania. Adolescents were interviewed through a standard, self-administered questionnaire. The sample consisted of 919 adolescents from all kinds of high schools (theoretical, economic, industrial, theological, art). Eight hundred and twenty-nine answered the questions as required. The results of the study showed the following:

- the best-known drugs are heroin (the most consumed), cocaine, marijuana, hashish;
- the most frequent sources of procurement are the family and friends;
- most of the interviewees claimed they never consumed drugs (92.8 per cent);

- the consumers procured the drugs from their friends (4.2 per cent) and family (3 per cent);
- on evaluation of the sincerity of the answers it was revealed that only 65 per cent of the girls and 55 per cent of the boys were honest.

507. Although the phenomenon is widespread in schools and universities, there is one fundamental problem: non-admission of drug consumption both by the students and by the managers of the educational facility, which prevents the specialist teams from entering such schools in order to run programmes for the prevention of drug and alcohol consumption.

508. With the founding of the National Pilot Centre for the Treatment of Addicts in Bucharest in 1996, the first data were generated regarding persons who were hospitalized for drug consumption. The Centre operates within the Detoxification Section of the Prof. Dr. Gh. Marinescu Hospital and can accommodate 30 patients. From June 1996 to May 1997, 334 patients were hospitalized, mostly from Bucharest (78 per cent), some from other areas in the country (14 per cent) and 8 per cent foreign nationals. Only 9 cases are patients under 18 (2.69 per cent), but unfortunately a 14-year-old was hospitalized who had a three-year experience of drug consumption. Most of the hospitalized patients were unemployed (62 per cent), 31 per cent are employees, and 7 per cent are students. Heroin and cannabis are smoked as a cigarette or “joint”, a method deemed less expensive and more efficient. Injected heroin is a much less frequent solution. Of the therapeutic chain of addicts only drug addictions are being treated in Romania.

509. To limit the expansion of this phenomenon, a number of projects have been initiated:

(a) A multidisciplinary training joint project of the General Inspectorate of the Police/Service for the Fight against Organized Crime and the Institute for the Management of Health Services in Bucharest. This is a project of assistance towards the designing of a national strategy in the field;

(b) The PHARE project for the training of staff in the field of drug demand reduction, run jointly by the Pompidou Group of the Council of Europe, the Health Division of the City of Bucharest, and the above-mentioned institute. The training targeted two types of specialists: health service planners and professionals for the practical actions of prevention, therapy, and rehabilitation;

(c) The “Reduce the exposure of children and adolescents to drugs” project designed by the Department for the Protection of the Child in November 1997 and addressed to the G-24 in response to the call of United Nations Secretary-General Kofi Annan to the States of the world to find ways to fight this phenomenon together. The project is in agreement with the governmental strategy for reform in the field of the rights of the child as it rests on an interactive system at three levels: prevention, detoxification therapy and therapeutic community, the basis of social integration

3. Sexual exploitation/sexual abuse (art. 34)

510. Although Romanian legislation does not use the terms “sexual violence”, “sexual abuse”, “sexual exploitation”, or “pornography”, their content is fully covered by the penal legislation which incriminates what the Penal Code includes under the chapter heading “Crimes against Sexual Life”. Thus, in regard to sexual violence and abuse, stipulations are made for rape (art. 197), sexual relations with a minor (art. 198), seduction (art. 199), sexual relations with persons of the same gender (art. 200), sexual perversion (art. 201), sexual corruption (art. 202), incest (art. 203).

511. In all these cases, the act is criminalized only because the minor is a victim (relations with a female minor, seduction, sexual corruption), or, in the case of other infringements, aggravating circumstances are stipulated when the victim of sexual violence or abuse is a minor (rape, sexual relations with persons of the same gender, sexual perversion). In certain situations, as in the case of article 200, paragraph 5, and article 201, paragraph 5, penalties are also stipulated for prompting or tempting a person to have sexual relations with persons of the same gender or sexual perversion, together with propaganda or association or any act of encouragement for the same purposes.

512. Special protection is offered by means of the penal law to minors under 14 who may become victims of sexual violence and abuse. Law 140/1996 for the modification and completion of the Penal Code increased the penalties for rape against a female minor under 14 from 3-10 years to 10-20 years’ imprisonment. Penal action is initiated by default in the case of minor victims.

513. As regards sexual exploitation, stipulations are made for the crime of sexual procurement consisting in urging or forcing a person to prostitution or facilitating prostitution or gaining benefits from another person’s prostitution, or recruitment of a person for prostitution or trafficking for this purpose (art. 329, para. 1). The penal law also stipulates an aggravating circumstance in the case of procurement of minors with a penalty of 3-10 years’ imprisonment.

514. Another stipulation is made for the action of selling, disseminating, making, or possessing in order to disseminate objects, pictures or any material of an obscene character (art. 325). The Penal Code does not punish separately the act of involving a minor in pornography or using a minor in shows of an obscene nature. Law 48/1992 regarding the audio-visual media penally punishes activities of an obscene nature or against morality.

515. The Romanian Penal Code contains the principle of extraterritoriality of the penal law, which allows for the trying of both Romanian and foreign citizens who commit sexual violence, abuse or exploitation or disseminate obscene materials (the personality, reality, and universality of the penal law - articles 4, 5, 6 of the Penal Code).

516. Within the penal process it is possible, on request from the parties, the prosecutor or by default, for the judging instance to declare the session secret if a public session would be “against the morality, dignity, or privacy of a person” (article 290, paragraph 2 of the Penal Code). The right to privacy is thus guaranteed of the minors who have been victims of sexual violence, abuse or exploitation or have been involved in pornography.

517. In August 1996, during the World Congress against Commercial Sexual Exploitation of Children in Stockholm, the first national study was made entitled "The sexual exploitation and abuse of the child". It was the first time an official document recognized the existence of this painful phenomenon and the urgent need to act in cooperation for prevention and efficient and diversified intervention. The study was done by the National Committee for the Protection of the Child of the Romanian Government in cooperation with the Save the Children Organization (for the chapters regarding homeless children) and with the support of the UNICEF Representative for Romania. The study was done in association with the representatives of the ministries involved in the protection of the child. It has numerous annexes with statistics, which are recognized as the known side of the phenomenon as opposed to another, less-known side. There had hitherto been some specialists, especially from NGOs, who pointed out the negative impact of such misfortunes on the harmonious future development of the children. Naturally, the media were eager to uncover such cases, which, basically, made their publications and shows more profitable.

518. From 1990 to the first half of 1997, the prosecutor's offices had 1,254 penal cases to solve whose objects were crimes of a sexual nature against minors (source: General Prosecutor attached to the Supreme Court of Justice). Twenty-two cases are in the process of being solved as penal inquiries and 48 as trial cases. The following statistics obtained, by category:

– rape (art. 197)	777
– sexual relations with a female minor (art. 198)	41
– seduction (art. 199)	8
– sexual relations with persons of the same gender (art. 200)	242
– sexual perversion (art. 201)	285
– sexual corruption (art. 202)	81
– incest (art. 203)	29

519. The victims of these crimes were minors ages 4-17 and the authors were aged 15-70. Four of the criminals were foreign nationals who committed these crimes on Romanian territory: two Germans, one Norwegian, one Arab. For these crimes the judging instances ruled sentences of imprisonment from 1 to 10 years. In very few of the cases it ruled for a parole.

520. The Emergency Ordinance of the Government No. 26/1997 regarding the protection of the child in difficulty creates the necessary legislative framework for the protection of the minor who is a victim of sexual violence and abuse or is in such danger, and it offers options for protection of a family type, or, in extreme cases, of an institutional type.

521. The creation of specialized public services for the protection of the child at the level of local public authorities makes it possible to identify families with a higher risk in this field and to offer solutions to concrete situations which are forwarded to the Commission for the Protection of the Child. These are the bases for the prevention of sexual violence and abuse in the family.

522. Psychological and psychiatric offices were established within hospitals and clinics or privately which offer assistance for victims of sexual violence and abuse. They are, however, insufficient and do not cover the whole range of needs of sexually abused children from underprivileged families or homeless children.

523. The number of persons with definitive convictions for the above-mentioned crimes in 1994-1996 was 5 per cent of the total number of convictions. This means a slight drop in the number of persons sentenced for rape (minor victims) from 338 to 310 in 1996 as compared to 1995. However, the number of persons convicted for procurement rose from 78 in 1995 to 119 in 1996. A number of foreign paedophiles were registered in Romania whose victims were homeless children. Female minor prostitution is sometimes a form of sexual exploitation (by parents, relatives, procurers), sometimes a means of living for abandoned female minors. One hundred and fifty-eight persons were convicted for prostitution in 1996 (including minors), which is 224.4 per cent more than the mere 49 in 1995.

524. The media (specialized publications, dailies, radio and TV shows) had an important role in raising public awareness and in creating a public feeling of condemnation and adversity to sexual violence and abuse, especially in 1996 and 1997. There are periodic contacts between the editors of certain publications and radio or TV shows and the Ministry of Justice, the General Prosecutor's Office at the Supreme Court of Justice, the General Inspectorate of the Police, the Ministry of Public Health, the Ministry of National Education and the Department for the Protection of the Child in order to create specific forms of education for the youth and the parents to prevent such harmful practices with children and young people. Special separate or joint programmes are developed especially by the Ministry of Internal Affairs, Police Inspectorates, the Ministry of National Education, the Ministry of Public Health, the Department for the Protection of the Child, NGOs (Save the Children, Our Children, etc.), the UNICEF Representative and the local authorities. Part of the conclusions drawn as a result of such programmes were not yet evaluated and addressed for lack of adequate funding.

525. By order of the General Prosecutor attached to the Supreme Court of Justice, the prosecutors specializing in minor cases (appointed to run penal inquiries of minor defendants) will also service cases where minors are victims of penal cases. Significant progress was made in raising public awareness and sensitizing authorities of the size and implications of this phenomenon and of the need to organize a common strategy to fight such practices, as well as in creating with the third term of 1997 of the specialized public services for the protection of the child at the level of the local authorities and the commissions for the protection of the child.

4. Sale, trafficking and abduction (art. 35)

526. The Convention on the Rights of the Child stipulates as a duty of the States parties the obligation to take all necessary measures at a domestic, bilateral, and multilateral level to prevent the selling and trafficking of children under any form and for any purpose.

527. The current Romanian legislation has no special stipulation regarding unaccompanied minors illicitly in countries other than their own, so that minors are treated just like adults travelling illicitly and are consequently repatriated in accordance with the bilateral agreements signed by Romania.

528. As for domestic law, the Constitution proclaims individual liberty and the inviolability of a person's safety. Together with constitutional stipulations, article 103 of the Family Code stipulates the right of parents to ask for the return of the child from any person who unlawfully has the child in his/her possession.

529. The Penal Code incriminates kidnapping as the crime of unlawfully depriving a person of his/her liberty and is punished with 1-5 years' imprisonment. If the depriving of liberty is accomplished through kidnapping and if the victim is a minor then the penalty is 5-12 years' imprisonment.

530. Romania adhered to the Hague Convention on Civil Aspects of International Child Abduction through Law 100/1992. Pursuant to article 6, paragraph 1, of the Convention, the Ministry of Justice was appointed as the central authority for carrying out the obligations entailed by it.

531. Starting with 1993, the Department for Foreign Relations and European Integration within the Ministry of Justice received a number of 35 requests, of which 25 from parties residing abroad, for children who had been illicitly transferred onto Romanian territory. Another 10 requests came from Romanian citizens who complained against the illicit transfer of children on the territory of another State party to the Convention. Fifteen of the total number of requests have been solved favourably by an understanding between the parties or by the intervention of the authorities; seven other cases were declined by the Romanian authorities on the basis of article 13, paragraph 2, and articles 27 and 35 of the Convention. In another three cases the minors could not be found on Romanian territory or in another State indicated in the request. The central Romanian authority benefits from the support of the police to locate children who are the object of such requests. The solving of such cases is very difficult given the incomplete domestic legislation regarding the application of this Convention. The central Romanian authority is understaffed and the police are sometimes reticent to execute a court order for the return of the children.

532. Non-governmental initiatives (the Save the Children organization in cooperation with the International Social Service) led to inquiries and programmes meant to define the size and problems related to this phenomenon and to assist children in such situations. Through such programmes 362 international cases were solved of which 147 regarded unaccompanied minors. Most of the unaccompanied minors who flee to a different country are aged 15-17 (85 per cent).

533. The analysis of causes of the minors' decision to leave the country identified the following main causes:

- precarious economic conditions (49 per cent)
- a misguided spirit of adventure (36 per cent)
- group influence (15 per cent)

534. By gender, the majority of cases are males (74 per cent). By provenance, 85 per cent come from an urban environment. By nationality, 59 per cent are Romanian children, 15 per cent Rroma children, 6 per cent Hungarian, and 4 per cent Germans. Notably, the percentage of Rroma children fleeing the country is higher than the percentage of this ethnic group in the Romanian population.

535. The provenance of the children shows that 60 per cent come from families (63 per cent of which are separated). Orphans and abandoned children are under 10 per cent; 16 per cent of the cases regard infants who were abandoned in maternities. The vast majority of children (83 per cent) come from families with more than four children. Of the 147 unaccompanied minors, 63 per cent returned to the country to their natural family or a childcare institution.

D. Children belonging to an indigenous group or an ethnic minority (art. 30)

536. According to the basic law of Romania, the State acknowledges and guarantees the right of a person belonging to an ethnic minority to preserve, develop, and express his/her ethnic, cultural, linguistic, and religious identity. This stipulation of the Constitution is supported by several legislative and administrative measures ensuring the exercise of this right in the various fields of activity, measures which have already been mentioned in different chapters of this report. Here are a few aspects regarding the activity of the Ministry of Culture and the Ministry of Youth and Sports regarding ethnic minorities, together with considerations regarding the Rroma minority in Romania.

Ministry of Culture

537. According to the objectives and strategy of the Ministry of Culture and of its specialized department (Ethnic Minorities Department), a programme was initiated to set the permanent logistical, material, and expertise framework for the safeguarding, conservation, research, valorization, development, and free expression of the essential aspects of the ethnic, cultural, linguistic, and religious identity of minorities, as well as for ethnic and inter-ethnic tolerance.

538. In recent years, the sums allocated to the Ethnic Minorities Department grew from 173 million lei in 1996 to 400 million lei in 1997, and 1,730 million lei in 1998. Due to this spectacular growth in its budget, as well as to the permanent cooperation with its main partners (NGOs for ethnic minorities in Romania, the Department for the Protection of Ethnic Minorities of the Romanian Government, the Council for Ethnic Minorities, the district Cultural Inspectorates), the Ministry could organize 110 specific cultural activities as opposed to 57 in 1996 and 80 in 1997. These activities included:

- Cultural days of the German, Slovak, Serbian, Ukrainian, and Roma minorities;
- An exhibition dedicated to the history of the Jews in Romania, shown in Vienna;
- Choral and instrumental music and religious celebrations of the Hungarian and German minorities;
- Folk festivals, contests, creative camps of the ethnic minorities;
- Theatre and music shows and contests in the districts of Arad, Bihor, Cluj, Covasna, Harghita, Maramures, Mures, Sibiu, Timis, Tulcea;
- Support for the transportation of music bands and dance ensembles to the various international festivals;
- Anniversaries of personalities of the Hungarian, German, and Ukrainian ethnic minorities;
- Research and publication of brochures and catalogues showing the contribution to the cultural heritage of the ethnic minorities;
- Scientific meetings and symposiums in Cluj, Constanta, Satu Mare;
- Exhibitions in Bucharest, Sibiu, etc.

Ministry of Youth and Sports

539. The Ministry of Youth and Sports was implicated in and supported varied projects and programmes for the ethnic minorities. Of the 47 programmes funded for 1998, we would like to mention the series of events organized by the Student Council “Venczel Jozsef” Harghita, the Hungarian Student Council Salaj, and the Hungarian High School Students Union of Romania, together with those organized by the Hungarian, German, and Serbian youth and student associations. Some of the aspects covered by the broad spectrum of these activities were:

- Cultural exchanges, inter-ethnic cohabitation models, identity and inter-culturalism;
- Meetings of NGOs and their leaders, courses for the formation of youth leaders, special training for the leaders of local youth associations in Covasna;
- Publishing reviews, bulletins, brochures, environmental protection magazines;
- Public awareness campaigning for European integration;
- The European/international week for the fight against racism;

- Scientific meeting, training course on the use of the Internet, student-teacher-parent training, training for students;
- Competitions, festivals, meetings of folk dance ensembles;
- Tourism, work, folk camps, etc.

Considerations regarding the situation of the children belonging to the Rroma minority

540. According to the data provided by the latest census in Romania (January 1992), the number of declared Rroma citizens was 409,723, which is 1.8 per cent of the total population, the second largest minority in Romania after the Hungarian.

541. Two additional estimates were made of the real size of the Rroma population, as it is known that a good part of this population refuse to declare their genuine ethnic identity for various reasons. A first estimate was made by Mihai Merfea yielding 1,180,163 (5.14 per cent of the Romanian population). The study “Gypsies between ignorance and concern” used successive estimate criteria which led to a figure of 1,010,646 (4.6 per cent).

542. Below is the point of view of the Save the Children organization - Romania regarding the situation of the Rroma children and claiming we are still far from a situation where the rights of the children of this ethnic minority are respected.

543. Although measures of a legislative nature have been taken in the field of education, they are only sparsely carried out due to inadequate funding and to the mentality resistance of those called to execute them. Rroma children are still discriminated against in schools and the teaching staff show very little concern for drawing them to an understanding of the educational process. This is due to prejudices claiming ab initio that the Rroma child is incapable of falling in with the school discipline and less endowed for study. No interest is shown for the personal abilities of the child and for the limited material capability of the family to ensure the child's integration with the rest of his/her peers. There is no encouragement for intercultural education which might in time lead to the formation of a “majority” generation capable of understanding and accepting specific ethnic differences. No abstraction can be made of the influence of families on the Rroma children who are often denied the opportunity to come to school for fear of persecution or of loss of Rroma traditions, or simply from too much poverty. No concrete measures were taken for the improvement of the situation of these families, such as professional training and integration, ensuring sanitary lodging, etc.

544. These precarious living conditions have a negative influence on the health of the children who suffer from an early age from diseases generated by malnutrition, poverty, and lack of hygiene. To these are added the lack of a sanitary education of family and children, the lack of permanent sanitary assistance, the scarcity of medical staff willing to work with the Rroma, and, not the least of these, the absence of programmes by the Ministry of Public Health (such as mobile dispensaries, for instance) regarding these underprivileged groups.

545. The marginal status leaves a deep mark on the personality of the Roma children and, often out of a spirit of self-preservation and of revolt, they become violent very early in their lives. The identity problem is one of survival and in order to survive they use all means, sometimes against the law.

546. The fact of a large number of Roma delinquents is not entirely their own fault, but that of the society that oftentimes rejects them. In fact, the media are playing a negative role in this respect, as they publish detailed accounts of abominable crimes when they are committed by the Roma, thus maintaining a breach between this ethnic group and the majority, with no room for a change of mentality on either side.

547. The few programmes which are aimed to treat the Roma minority with respect and understanding and to support Roma children were initiated by NGOs, whether Roma or not: Foundation for an Open Society, Rromani Criss, Aven Amentza, Save the Children, Foundation for the Development of the Civil Society, UNICEF, etc. But these rather small-scale projects should be taken up, developed, and funded by the State in order to obtain a more visible result nationwide.

Initiatives for the Roma minority

548. The promotion and funding of initiatives for the Roma children and families belong to both governmental and non-governmental organizations and are an important beginning for the partnership aimed at improving the living conditions for this minority and to promote the rights of their children.

549. All initiatives, programmes, and projects of the Department for the Protection of the Child start from the principle of non-discrimination, and are thus dedicated to all children in difficulty, including, and possibly starting with, the Roma children. The new protection system for the child in difficulty promoted after 1997 starts from the evaluation of existing needs at the level of each community and the development of adequate projects for these specific needs and the resources of each community. The result is the promotion of the most suitable alternative community-integrated services to meet the needs of the target population.

550. The Ministry of Labour and Social Protection coordinates two social services projects within the EU/PHARE SESAM Programme for Social Services addressed to the Roma families in Cluj and Harghita and proposing to integrate in society the underprivileged population through the diversification and development of social, educational, and health programmes.

551. The Ministry of Youth and Sports, together with the "Good Samaritan" Foundation, worked jointly to organize and develop the seminar on "Reintegration of the young Roma in civil society". The same Ministry provided the funding for the organization by the cultural, artistic and tourist association "Fageteană" of the activity entitled "Education through art of the young Roma".

552. The Ministry of Internal Affairs cooperates with the civil society in running programmes for crime prevention among the Rroma along the following lines:

- Knowing the needs and special traits of the Rroma ethnic minority for equal and non-discriminatory treatment;
- Presenting the concern of the police to solve the special problems of the Rroma ethnic minority with respect for the rights and liberties of the citizens;
- Partnership activities to defuse tensions and conflicts in local communities, especially those where Rroma live;
- Crime prevention programmes within the Rroma ethnic minority in order to change its image for the rest of the population.

553. Below are some of the partnership activities of the Ministry of Internal Affairs together with the Rroma NGOs:

- (a) The Young Rroma Generation Society:
 - “The Policeman, the man next to us” - 1995, activities in five districts;
 - “Parents and their children” - 1996, study and social intervention in the Ferentari quarter, Bucharest;
- (b) Rromani Criss:
 - Training Rroma activists in the field of Rroma-police relations, 1997;
 - Police participation in the working groups at the organization’s headquarters, 1996-1997;
- (c) The Christian Centre of the Rroma:
 - “Invitation to cooperation”, 1995;
 - Social intervention in the Rroma community in Medias (the Rroma ethnic minority-the Sibiu Police), 1997;
 - Crime prevention programme for the Rroma, 1997-1998;

- (d) The Roma ethnic community of Romania: meetings between the Roma ethnics (silver workers), the police, and the local administration in the Buzau and Bacau districts;
- (e) The Phoenix Foundation: the programme “Racism and intolerance in education”, Braila, 1998;
- (f) The Alliance for the Union of the Roma:
 - Interventions for the mitigation of conflicts in Bucharest, 1998;
 - Participation in the working group constituted by this organization;
- (g) The Roma Party:
 - Formation of partnerships at district level between branch chiefs and officers in the prevention squads, 1998;
 - Facilitation of communication for the solving of problems in Prahova, Constanta and Ilfov counties;
 - Identification and prioritizing of the problems of the Roma ethnic minority in the counties with Roma Party branches.

554. Apart from these partnership activities with the Roma civil society, 25 meetings were organized (1996-1998) between the police, local ethnic leaders and the administration regarding situations arising in certain communities and the need to defuse local conflicts. The partnership also involves training of Roma councillors at city-hall level regarding the legislation on population record-keeping.

555. Another concern of the Ministry of Internal Affairs has been participation at international meetings debating the relationship between the Roma ethnic minorities and the authorities, such as the participation in the working group organized by the European Centre for Dialog in Turvey, United Kingdom. The presentations “The role of the policeman in a multi-ethnic multi-confessional society” and “Facilitating communication between the police and the Roma for a better community life” were highly appreciated for their pragmatic spirit.

IX. CONCLUSION

556. We would like to end by pointing out that in compiling the present report we have been constantly bearing in mind the final observations of the Committee on the Rights of the Child adopted at its 130th meeting after the consideration of the initial report by Romania (CRC/C/3/Add.16) and the written replies to the list of issues relating to the initial report.

557. Special consideration was given to the main causes of concern expressed by the Committee on the Rights of the Child regarding legislative reform, the situation of children belonging to ethnic minorities, child abuse and neglect, and the measures adopted for the training of personnel for the protection and promotion of the rights of the child dealt with in the different chapters of the report so as to reflect on the present situation in Romania.

558. The same special attention was given to the suggestions and recommendations made to Romania and we believe we can safely claim that important steps have been taken in our country in March 1997 for the initiation of the reform of the system for the protection of the child and for the promotion and genuine respect of the rights of the child, through a continuous process of consolidation of the new legislative and administrative framework, as well as their permanent improvement in accordance with the needs and resources identified at the national and local levels.
