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FOLLOW UP REPORT ON ROMANIA (2002-2005)

Assessment of the progress made in implementing the recommendations of the Council of Europe Commissioner for Human Rights

For the attention of the Committee of Ministers
and the Parliamentary Assembly

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Introduction

1. The Commissioner for Human Rights, Mr Alvaro Gil-Robles, visited Romania between 5 and 9 October 2002 at the invitation of the Romanian Government. In the report of his visit,¹ the Commissioner had raised a number of questions concerning the legislation and effective respect for human rights in Romania. The purpose of the present report is to evaluate the changes that have come about following the conclusions and the recommendations made by the Commissioner in 2002. It follows the order of the recommendations and deals only with the problems raised in the first report.

2. This report is based on the documents and information provided by the Romanian authorities relating to developments in observance of human rights since the first report and also the findings and conclusions of a follow-up visit to Romania by members of the Office of the Commissioner² between 13 and 17 September 2004.⁴ The members of the Office wish to thank all those whom they met and also the Information Office of the Council of Europe in Bucharest for its invaluable assistance.

1. Judiciary

1.1 Functioning of the judicial system and exceptional powers of the Prosecutor

3. In his report, the Commissioner recommended limiting the exceptional powers of the General Prosecutor to seek the annulment of definitive judgments in civil matters. He also emphasised the importance of procedural reform and the need to ensure the independence of the judiciary.

Development of the situation and measures taken

4. Generally, Romania has made remarkable efforts to implement a strategy to reform the judiciary and to comply with the Community *acquis*. The new Constitution and the recent legislation on judicial matters, in particular the laws on the status of judges, on the organisation of the judiciary and on the Judicial Service Commission – which entered into force on 30 September 2004 – were aimed primarily at modernising the administration of justice and also at putting in place the mechanisms necessary to ensure the effectiveness and the independence of judges and law officers. Law No 247/2005 further reinforces the independence and the autonomy of the judiciary.⁵

5. The Judicial Service Commission must assume full responsibility for recruiting judges and prosecutors, for their career development and for the penalties that may be imposed on them. These laws significantly alter the structure of the judicial system by creating specialist courts to replace the specific chambers within the courts and they reinstate the principle of collegiality. Judicial certainty and the quality of judicial decisions are also fundamental objectives of the reform.

6. Following the constitutional revision of 2003, the Supreme Court of Justice has been changed to the High Court of Cassation and Justice; its members are appointed for life. Furthermore, the process of the creation of specialist courts should be complete by the end of 2007.

7. The Minister for Justice no longer has the power to appoint judges directly or to promote them to the higher courts and the prosecutors' offices or to management posts in the Judicial Service Commission. However, he appoints judicial assistants. In addition, the Minister continues to attend the sittings of both Chambers of the Commission and has either full voting rights or *de facto* capacity to influence decisions.

8. The quality of judgments raises certain difficulties; and errors on the part of the lower courts continue to be found in an appreciable number of civil judgments which are appealed. That lacuna may be explained by the difficulties encountered by litigants in obtaining legal aid and the low remuneration of lawyers providing legal aid services.⁶ The low remuneration of judicial personnel, together with the lack of resources, particularly in the field of information technology, are further factors which may also explain the problem.

9. Finally, the provision which allowed final judgments in civil matters to be annulled has been abolished.⁷ Furthermore, the General Prosecutor is no longer able to issue arrest warrants or to order preventive detention for more than three days.

Conclusions

10. The Commissioner welcomes the repeal of the exceptional powers of the General Prosecutor and the reforms undertaken in relation to the judiciary. He nonetheless recommends that these reforms be continued, in order to strengthen the independence of the judicial system while improving its structure and its effectiveness.

1.2 Prisons

11. In his report, the Commissioner noted the dilapidated state and the chronic overpopulation of the prisons. He recommended that the authorities ensure humane detention conditions and develop the use of alternative penalties.

Development of the situation and measures taken

In spite of the efforts made to improve prisons, recent studies carried out by the Romanian authorities show that the situation remains difficult. In 2004, out of 44 prisons, 8 had very good conditions, 15 had good conditions, 15 had satisfactory conditions and 6 had particularly difficult conditions, including Jilave prison, near Bucharest, which was visited by the members of the Office of the Commissioner.

12. Prison over-population continues to be a persistent problem in Romania, although the number of prisoners has fallen from more than 47,000 in 2002 to around 39,000 at the end of 2004. On average, the rate of overpopulation has fallen significantly and is now at an acceptable level of 101%. However, certain prisons still have an intolerable overpopulation.⁸ From a general point of view, living conditions in prison have improved but still require further improvement, owing in particular to the lack of resources allocated to them.

13. As well as the lack of means, there is a manifest lack of prison staff. Romania has on average one warder for seven prisoners, and even one for seventeen prisoners in certain prisons, whereas the average in Europe is closer to one warder for four prisoners.⁹ That shortage means that warders on duty have to increase their working time and are reduced to a purely supervisory role, and it may have negative consequences on their actions or interventions. Lastly, the lack of staff represents a significant obstacle to the normalisation of prison life and exacerbates the shortage of equipment and the problems associated with overpopulation, and severely limits work towards reintegration.

14. Nonetheless, a significant process of modernisation has been initiated. Among the objectives of the Strategy for the reform of the judicial system 2004-2007, mention should be made of the intention to build new prisons and to modernise nine centres. Over the period 2001-2005, 6,332 new places were created.

15. In this process for the improvement of living conditions in prisons, mention may be made of the modernisation of the young offenders' centre in Gaesti and the creation of the centres in Ocna and Buzias, the construction at Rahova prison of a hospital specialising in surgery, and the provision of hot and cold water and installation of central heating in all prisons. Also noteworthy, finally, is the transparency of the Ministry of Justice, which publishes detailed statistics on the prison situation on its internet site.

16. As regards alternatives to detention, the new Criminal Code, adopted in June 2004 introduced the possibility of an open or semi-open prison regime for petty offences. It also provides for options other than imprisonment for young offenders and offers wider possibilities for the application of penalties.

17. The Commissioner's team visited Jilava and Rahova prisons, both near Bucharest. These two prisons to a large extent reflect the situation in prisons in Romania at the time of the visit.

18. At the time of the visit, Rahova prison had 1,915 prisoners, including 80 minors, for 2,200 places. The different wings of Rahova prison have recently been renovated and provide reasonable living conditions. However, a problem of overcrowding affected the women's section, where up to 16 women were being held in cells with only 10 beds. There are two reasons for this overcrowding. First, women's prison sections are rare in the Bucharest area and prisoners wish to or must remain in Rahova (in order to be near their families, or because the proceedings are still pending, etc.); and, second, the women's wing was reduced by one half in order to build the new prison hospital.

19. Rahova prison hospital admits and treats prisoners from the whole country. It has a very modern operating facility and the latest generation of medical equipment. As the Director of the Prison Administration states, the

construction of this facility required a significant but essential financial effort, as prison medicine was incomplete and inappropriate. Prisoners are now able to receive proper care, sometimes in better conditions than in some civil hospitals.

20. By comparison with the positive example found in Rahova, Jilava prison appeared, at the time of the visit, to be in an alarming situation. Essentially a transit prison and a preventive detention prison, it had 2,500 prisoners for 1,400 places, and was one of the most overcrowded prisons in Romania. Conditions were deplorable from any point of view, as the Director of Romanian Prisons acknowledged. All the installations were obsolete, the windows incapable of keeping out the cold and the furniture from another era. Over-population meant that in some cases 27 prisoners had to live in cells designed for 6 or 8 prisoners.

Conclusions

21. The Commissioner emphasises the efforts made and the investments carried out to improve prison conditions and welcomes the adoption of new alternative measures. There is a clear intention to increase available prison places in order to reduce prison overpopulation. The programme of bringing prisons into line with the standards of the Council of Europe must be continued. However, significant difficulties remain and an urgent solution must be envisaged for the most obsolete and the most overcrowded prisons, such as Jilava prison.

2. Police

22. In his report, the Commissioner recommended that serious investigations and prosecutions should be undertaken by the authorities against public servants who have committed abuse. He also invited the authorities to develop training programmes.

Development of the situation and measures taken

The demilitarisation of the Romanian police was completed in 2002 and only the gendarmerie, civil protection and fire brigades still come under the Ministry of Defence. In addition, education on respect for human rights has been introduced at the police academies in the context of initial training and continuous training. The Human Rights Committee of the Ministry of the Interior organises conferences and discussions with themes linked with the protection of human rights and police action. The reform of criminal procedure has also transferred responsibility for deciding on preventive detention to the judges.

23. Nonetheless, in spite of these significant efforts and the programmes of the Minister for the Interior aimed at reducing prejudice and violence, cases of ill-treatment in the course of police intervention, in police stations and prisons, are still reported. NGOs and the Roma community continue to report cases of verbal and physical violence against them. The adoption of a law which better defines the conditions of the use of firearms has only partly reduced their excessive use. It seems, finally, that violence and abuse are not always prosecuted before the courts or punished in internal procedures.

Conclusions

24. The Commissioner recommends continuing the reform of the police forces, in particular as regards awareness of effective respect for human rights. The fight against the misuse of firearms must continue, in particular by severely punishing any inappropriate use.

3. Child protection

3.1 Closure of institutions

25. In his report, the Commissioner recommended ensuring that supervisory programmes were established to promote the social integration of children placed in institutions alongside the programme of closing obsolete institutions and the framing of a policy for preventing abandonment of children.

Development of the situation and measures taken

First of all, it must be emphasised that the Romanian authorities have taken positive steps to ensure the welfare of children. Thus, the National Child Protection Authority established priorities for the period 2002-2004 which to a large extent reflected the proposals in the Commissioner's report.

26. The gradual abandonment of the system of institutionalisation is one of the most important aspects of that strategy. This entails reducing the number of children in traditional institutions and the closing the institutions, developing the network of host and placement families, integrating children in a special education system into the normal system and reducing the number of street children.

27. In that sense, and according to the figures supplied by the Romanian authorities, the number of children placed in institutions fell from 57,181 in January 2001 to 34,262 in June 2004. As at that date, 163 institutions had been closed, bringing the number of institutions from 205 at the beginning of 2001 to 67 at the end of 2004. It is important to emphasise that the Camin Spital centre, in the county of Vaslui, which the Commissioner visited in 2002, has been closed, as have other similar institutions.

28. In the context of the process of closing those institutions, reintegration in families and family-based solutions were preferred. Guidance and support services were made available to the children. Nonetheless, support structures adapted to the needs of children, and in particular institutions, must remain open where no other solution can be envisaged.

3.2 International adoption

29. In his report, the Commissioner referred to reprehensible practices linked with international adoption and recalled that the primary aim of adoption must be to provide a child with a mother and a father and not vice versa.

Development of the situation and measures taken

As a preliminary observation, it must be borne in mind that international adoption is not in itself an inappropriate solution if it is carried out in the interest of the child. In the past that mechanism was perverted in Romania and criminal networks used it to convert children into goods, a source of profit. It was for that reason that the Government decided to suspend the process.

30. Following the entry into force of Law No 347/2002, all applications to adopt Romanian children by a person or a family of foreign nationality or having Romanian nationality but living abroad were suspended for a period of twelve months. This moratorium was renewed for 3 years pending the entry into force of the new legislation on international adoption.

31. Law No 273/2004 on the legal arrangements for adoption in Romania entered into force on 1 January 2005. Section 39 of that law restricts international adoption to cases where a family relationship – to the degree of grandparents – exists between adopter and adopted. That provision excludes de facto any adoption of a Romanian child by foreign adopters. The law is based on the following principles: adoption is no longer conceived as a measure designed to protect the child but as a civil-law institution; the circumstances in which a child may be adopted and the adoption procedure are described in detail; the national adoption procedure may be undertaken solely by a court; and parents who have lost parental authority retain their right to consent to the adoption of their child.

Conclusions

32. The Commissioner is pleased to learn that a number of traditional children's institutions have been closed and that new host structures have been set up. The new legislation on adoption puts the child's interest back at the centre of the procedure and emphasises the importance of adoption at national level. However, the possibility of international adoption should not be precluded if adoption is in the best interest of the child and is accompanied by all the guarantees which will enable the abuses of the past to be prevented.

4. The fight against trafficking in human beings

33. In his visit report, the Commissioner recommended strengthening the programmes designed to assist and protect victims of trafficking. The Commissioner welcomed the criminalisation of trafficking and the adoption of an action plan to fight trafficking in women and children. However, the report underlined the lack of specialist institutions to receive victims and the lack of training of law-enforcement officials and judges.

Development of the situation and measures taken

Sine 2002, Romania has further reinforced the measures used to fight the traffic in human beings more effectively. By Decree No 299/2003, the Government adopted the rules implementing Law No 678/2001 on the prevention of and the fight against trafficking. This decree describes, in particular, the immediate measures which the administration must take in order to protect the victims of trafficking. An Inter-ministerial Group has also been set up under the decree in order to co-ordinate and evaluate activities in that area. Although trafficking was already criminalised by the Law of 2001, Law No 39/2003 on the prevention of and the fight against organised crime establishes an express link between those two closely connected phenomena. As regards the implementation of those rules, the National Action Plan on the Fight against Trafficking in Human Beings established in 2001 has carried out various activities and in particular programmes to draw public attention to the risks of trafficking, targeting in particular specific areas, schools or certain communities. The plan encourages the improvement of the economic and social conditions of potential victims by providing assistance in seeking employment or awarding bursaries.

34. While it is difficult to know the number of Romanians who are victims of trafficking in Romania or abroad, statistics have been drawn up concerning their return. According to the International Organisation for Migration (IOM), 707 victims returned to Romania between January 2000 and June 2003. However, it appears that those figures are not wholly representative of the situation, and this demonstrates the need to collect and publish reliable statistics.

35. According to the information provided by the NGOs, progress has undeniably been made, particularly in the protection of victims and in relations between the Romanian Prosecutor and his European counterparts. However, Romania continues to be a country of origin, transit and, to a lesser extent, destination for victims of trafficking. The principal targets of traffickers are young women and girls who are sexually exploited in the country of destination. A very detailed study by the IOM shows that the most vulnerable group among Romanian women consists of girls of between 15 and 25 years of age from single-parent families living in average-sized towns, in particular in the regions of Moldova and Transylvania.¹⁰ It is for that reason that the Ministry of Labour, Social Affairs and Family has made a bursary available for women in those regions.

36. As regards the criminal aspect of the fight against trafficking, 226 persons were arrested in 2004 in connection with trafficking; of these, 73 were convicted and in many cases given heavy penalties. While those figures are higher by comparison with 2002, they remain relatively low, in view of the extent of the phenomenon both in Romania and in Europe.

37. Disabled persons, and especially children, are also victims of trafficking and are exploited as street beggars in certain European towns.¹¹ Since October 2002, Romania has signed a number of agreements with countries of western Europe – in particular France, Spain and Italy – in order to reinforce the fight against the exploitation of unaccompanied minors and to facilitate their return. In August 2004 the Government adopted a National Action Plan for the prevention of and the fight against trafficking in children. The plan provides for the establishment of a national network of transit centres in the border counties to offer medical, psychological and legal assistance to young persons who have been repatriated and/or are victims of trafficking. The network will be co-ordinated by a

pilot centre in Bucharest. The plan also envisages the development and implementation of programmes of prevention and of reintegrating children who are victims of trafficking.

38. In 2003, according to the figures of the Ministry of the Interior and the Administration, 1,034 children were repatriated into Romania for illegal immigration. Of that number, 410 were questioned and 93 cases of trafficking were detected.¹² According to certain NGOs, child-trafficking networks develop much more readily because it is apparently easy for groups of children to cross the border.

Conclusions

39. The Commissioner welcomes the normative texts adopted and the programmes put in place to prevent and fight against trafficking. However, the collection and publication of reliable statistics on the number of victims of trafficking would enable better account to be taken of the phenomenon. It is also necessary to reinforce the protection of victims of trafficking and the prosecution of offenders.

5. The mentally ill

40. In his report, the Commissioner recommended developing further programmes for adults with mental disabilities. He noted the NGOs' concern at the overcrowding of psychiatric institutions, the lack of educational programmes, all of which was the result of underfinancing. Last, he emphasised the need to grant special dependency allowances sufficient to lead a dignified life.

Development of the situation and measures taken

5.1 Conditions of confinement

41. The situation in institutions holding persons with mental disabilities has improved to a certain extent but continues to cause concern. Accommodation and care conditions vary considerably, from acceptable to worrying.

42. There are, admittedly, some positive recent examples, such as the community project begun at the Alexandru Obreja hospital, which the members of the Office of the Commissioner were able to see. This project, financed by the World Bank, enables patients to leave hospital and to be reintegrated socially while continuing to receive psychiatric follow-up treatment. The Government wishes to use it as a model for the creation of similar structures throughout the country.

43. However, significant efforts still remain to be made, as may be seen from the findings during the visit to the Alexandru Obreja hospital, where the management informed the members of the Office that the heating system for the wings was very old and insufficient to heat the entire hospital, but that they were unable to change it as they lacked the resources. More worrying still is that in December 2001 the lack of heating in the Jebel hospital led to the death of five patients from hypothermia. Between January and February 2004, 17 patients died of hunger and cold in the Poiana Mare hospital and 84 died of similar causes in 2003.¹³ The findings of the NGOs in certain institutions in 2004 are damning:¹⁴ problems of access to medical care apart from psychotropic treatment, overpopulation, premises not heated in winter owing to lack of resources, patients undernourished and without proper clothing, access to showers limited to once per week. The majority of these problems are the consequence of a crucial lack of financial and human resources.

44. In addition to these material problems, the psychiatric institutions must admit non-psychiatric cases. During the visit to the Alexandru Obreja hospital, its director indicated that approximately 20% of its patients were in fact social cases – alcoholics, victims of domestic violence, persons with no fixed abode, etc. – not in need of psychiatric treatment. However, in the absence of places in more suitable structures, the hospital must admit them. Other examples were given of orphans who had attained their majority being placed in psychiatric institutions in the absence of other structures. That finding raises a twofold problem. First, these persons occupy places that should be allocated to the mentally ill, but above all it shows that placements do not always take account of the interest of the person. It is therefore necessary to review placement procedures in order to avoid any inappropriate placement and to offer to persons in the process of being marginalised alternatives other than the street or a psychiatric hospital.

5.2 Memorandum on the reform and rehabilitation of the mental health services

45. Following these various events, the Ministry of Health indicated on 11 March 2004 that an inspection of all psychiatric hospitals and institutions would be undertaken in order to cast light on the improvements that needed to be made. In response to that inquiry, the Government on 19 May 2004 adopted a Memorandum aimed at reforming and rehabilitating the Romanian mental health services system. The Memorandum first of all sets out the urgent measures that must be taken before the end of 2004: amendment of the legislation in force and setting up of an Inter-ministerial Commission, rehabilitation of six psychiatric hospitals for a sum of one million euros, improvement of living conditions in the institutions, notably by increasing the daily allowance by 32%,¹⁵ training of the medical and health staff and increases in their salaries, individual assessment of the patients of psychiatric institutions from a medical, social and legal aspect. In the longer term, the Ministry of Health intends to make the mental health services more accessible and to improve their quality, while developing mental health promotion and awareness programmes. Looking ahead to 2007, it is proposed to undertake a full review of mental health services, to develop outpatient psychiatric services in every county, to draw up an action plan to implement mental health policies and to involve the local authorities in the operation of the institutions.

46. The Memorandum broadly takes into account the concerns previously expressed by the NGOs and by the international authorities. If the programmes are completed, as announced, and if the money necessary for the restructuring is invested, they should permit an appreciable improvement in living and working conditions in psychiatric institutions in Romania.

Conclusions

47. In spite of the initiatives undertaken, care and leaving conditions of the mentally ill in specialised institutions continue to cause great concern. Accordingly, the Commissioner invites the Romanian authorities to carry out the reforms initiated as quickly as possible, in order to insure that the death of patients will not happen again and to provide decent living conditions to all patients. The confinement procedure must be reviewed both from a legal point of view and as regards its implementation. Finally, it would be appropriate to develop reception structures for marginalised persons so that they are no longer accommodated in psychiatric institutions.

6. Domestic violenceIn his report, the Commissioner recommended ensuring better protection and assistance for victims of domestic violence by adopting new legislation and increasing the awareness of police officers. He also invited the authorities to develop training and awareness programmes concerning the new provisions of the Criminal Code and emphasised the need to open Government-subsidised shelters not only in Bucharest but also in the rest of the country.

Development of the situation and measures taken

48. The Law on the prevention of and the fight against domestic violence was amended at the end of 2003 in order to set up the National Agency for the Protection of the Family, a specialist agency coming under the Ministry of Labour, Social Solidarity and Family. The Agency came into being on 16 February 2004. Law No 217/2003 extends the concept of "family" to all persons living under the same roof, so that the protection offered to victims of domestic violence is no longer confined to spouses and children. It also provides for the establishment of co-operation between the State, civil society and international organisations to study the question and to develop domestic violence awareness and prevention programmes. The provisions of the Civil Code have been strengthened, increasing the protection offered to victims. A person guilty of physical or mental violence may be temporarily excluded from the family home in order, to provide the victim with effective protection rather than having to flee the home.

49. During the visit, the Commissioner's team was able to meet the President of the National Agency for the Protection of the Family, Ms Marinescu, who described the situation of domestic violence in Romania. According to her information, in 2003 17% of Romanian women stated that they had suffered domestic violence. She stated that few legal proceedings had been undertaken by the victims, notably because such proceedings represent a high cost for the household and where a fine is imposed it has to come out of the family budget. After a long process of consultation and dialogue, the national strategy on domestic violence, which was in the course of preparation at the time of the visit, was adopted at the end of 2004.

50. The vast majority of the 22 shelters for victims of female violence in Romania are private initiatives funded by NGOs or by foreign foundations. The President of the Agency indicated that she was willing to set up partnerships between local authorities, which would provide premises, and NGOs, which would run the shelters, sometimes with support from public funds. That observation shows the extent to which those shelters lack financial support from the State and from local communities.

51. The members of the Office of the Commissioner visited the shelter for women victims of domestic violence at the Polimed Apaca hospital in Bucharest. That shelter, like many others in Romania, owes its existence to the devotion of the staff, most of whom work without pay. The shelter is "housed" by the public hospital but its budget is made up of private funds or individual donations. Those running the shelter stated that there was good cooperation with the local police, who often acted to protect the shelter or to bring victims to it; however, they also stated that the lack of knowledge about the matter was striking and that training was essential at national level. That concern was also raised by the President of the Agency, who intends to improve training and the awareness of police officers and judges of domestic violence and how to deal with it.

Conclusions

52. The Commissioner invites the authorities to continue the efforts already undertaken and to develop training programmes for those concerned. It remains necessary to implement the action plan, to increase the number of publicly-subsidised shelters and to ensure that the provisions of the Criminal Code are applied in full.

7. The Roma Community

53. In his report, the Commissioner recommended allocating the necessary resources to develop the national strategy on behalf of the Roma, particularly by improving their circumstances, and their access to the labour market and by facilitating access to identity documents.

Development of the situation and measures taken

7.1 General situation

54. According to the 2002 census, 535,250 persons were registered as Roma, representing 2.5% of the Romanian population. Nonetheless, the UNHCR estimated in 2004 that the Roma population actually numbered between 1.8 and 2.5 million persons.

55. According to the Romanian NGOs, the national strategy for improving the situation of the Roma, established in 2001, has thus far had only a limited impact. Apart from the creation of implementing bodies, like the National Roma Office, the strategy has brought few tangible changes, owing to the lack of funds allocated. Some progress was none the less noted, in particular in the form of the recruitment of social mediators within the Roma community by the municipal services. The visit by the members of the Office of the Commissioner to a Roma district in Bucharest revealed that these persons are establishing a link between the community and the municipality which allows both sides to deal better with any difficulties. They also facilitate access to the public services and approaches to the administration.

56. From a general point of view, the Roma situation continues to be a cause for concern. The NGOs and the representatives of the Roma community continue to report violence on the part of the police and discrimination and state that a negative image of the Roma is spread by the media and a part of the political class. As regards the living conditions of a large part of the Roma community, they have

developed only slightly since 2002: rudimentary or improvised electrical services, housing which is unfit for habitation or unsuitable for a large family, no heating or water supply. Although access to the health services has improved, significant progress remains to be made. In order to respond, the national authorities decided to give priority to the implementation of specific projects at local level. Various forms of social assistance have also been introduced for Romanians in greatest need.

57. As regards access to employment, the Roma, who are often little qualified for work, suffer directly from unemployment and indeed discrimination. It is for that reason that the National Employment Agency has adopted a range of measures aimed at the Roma. In 2004, 9,079 Roma were thus employed through specific programmes and the Employment Agency hopes that 6,440 Roma will be hired before the end of 2005. Job fairs are also organised and in August 2005 a mobile job fair visited 200 areas in Romania in order to provide information on the programmes for the Roma developed by the authorities and also on the jobs available. While these initiatives must be welcomed, for the time being they affect only a limited number of Roma.

58. As regards access to identity documents, the Ministry of Administration and the Interior has adopted a certain number of measures with the competent local authorities to facilitate the issue of identity cards or civil status documents to the Roma. Thus, according to the information supplied by the Ministry, almost 2,500 unregistered Roma were entered in the civil status registry between December 2004 and March 2005. Nevertheless difficulties in registering the newly-born seem to persist.

7.2 Education

59. The precarious material and social situation of Roma families has consequences for access to education by their children. Statistics indicate that the drop-out rate during the elementary stage is very high among Roma children, in spite of certain local initiatives. Primary education is free in Romania, but families are required to purchase the school materials. The cost of doing so, which may appear derisory, is a significant reason for dropping out.

60. Some municipalities have set up specific educational support programmes for children and even provide free meals in order to encourage those least well off to attend school. Romania has also undertaken to provide classes and courses in the Roma language. Without a minimum education, it is illusory to hope that the precarious situation of the community might improve in the future. It is therefore a medium-term investment that Romania must make in order to enable the coming generations to escape the endless cycle in which a significant part of the population finds itself trapped. With that in mind, the Ministry of Education has developed a programme for needy children and offers bursaries and places reserved for Roma children in certain schools and universities. In September 2004, a programme concerning priority access to education by disadvantaged children was begun in 74 nursery and primary schools in ten regions. In June 2005 the programme was extended to 12 other regions.

Conclusions

61. The Commissioner welcomes the initiatives undertaken, in particular in education and access to the jobs market. However, significant efforts remain to be made to allow members of the Roma community to have full access to medical services, civil status and a good-quality education. These improvements, like better access to the jobs market, will come about through the full implementation of an ambitious action plan. Finally, programmes to allow everyone to have access to essential services such as water and electricity must be intensified.

8. The People's Advocate

62. In his visit report, the Commissioner recommended assisting the work of the People's Advocate by providing him with, *inter alia*, premises easily accessible to all. The Commissioner found it regrettable that the People's Advocate had to share his premises with the gendarmerie.

Development of the situation and measures taken

Since March 2003, the People's Advocate has occupied new premises which are at the exclusive disposal of the institution, in an institutional district in Bucharest. The institution also has three offices outside the capital and intends, eventually, to increase that number to 15 in order to facilitate requests to intervene by individuals. The institution employed 90 persons at the time of the visit.

63. The institution of the People's Advocate, which was set up in 1997, has been reinforced on a number of occasions, the most recent of which, in 2003, entailed a constitutional amendment which extended the mandate from 4 to 5 years and changed the appointing authority. The constitutional amendment of 2003 also authorised the People's Advocate to request the Constitutional Court to examine the constitutionality of a law before promulgation. It may be regretted, however, that the constitutional amendment leaves it to an institutional law to decide on the appointment of the People's Advocate and that it did not recognise at constitutional level a procedure for election by Parliament or the Senate.

64. The People's Advocate is assisted by four specialist deputies, one of whom should be given responsibility for the police, gendarmerie, justice and the prison system, a second for the family, children, women and the elderly, a third for decent living conditions and pensioners, and the fourth for minorities and human rights.

65. In 2003 approximately 6,000 complaints were received, mainly concerning questions of property. The People's Advocate expressed concern at the growing number of requests to intervene received in respect of living conditions which are too low, and in particular requests from pensioners whose pension is insufficient to cater for their most basic needs. As regards the investigation procedures, the People's Advocate stated that he was satisfied with the obligation placed on both national and local administrations to provide him with the information needed to investigate complaints. Finally, he indicated that the institution complied with the time-limits laid down in the law for responding to complaints.

Conclusions

66. The Commissioner welcomes the distinct improvement in the material conditions available to the People's Advocate and the importance of the work carried out by that institution.

9. Freedom of expression

67. In his report, the Commissioner recommended abolishing the possibility of punishing the offences of libel and defamation by a prison sentence and encouraged the introduction of a self-regulation mechanism for journalists by drawing up a professional code of conduct.

Development of the situation and measures taken

The Criminal Code previously provided that journalists could be given heavy fines and prison sentences for defamation. That offence was altered in January 2005, since when only fines can be imposed. However, the fines remain very high by comparison with the low remuneration of Romanian journalists. For that reason, on 6 September 2005 the Romanian Government laid before Parliament a new amendment of the Criminal Code which would abolish the offence of libel or defamation. The offences of defamation of the country or the nation and communication of false information would also be removed from the Criminal Code.

68. The NGOs involved in protecting freedom of expression reported the adoption of a self-regulation code by a very broad group of media and the drawing up of a good practice guide between the media and the judicial authorities, which was done with the support of the European Union PHARE programme.

69. However, the NGOs¹⁶ also indicated that a certain control is exercised over certain media by both the national and the local political powers. According to what they say, the tax debt incurred by the media has sometimes been used as "exchange currency" by certain politicians to obtain a right of consultation on their editorial policies. Cases of direct or indirect pressure being brought to bear on journalists are also related in the report of the Recommendation on the freedom of the media in Europe of the Parliamentary Assembly.¹⁷ In some districts, politicians combine local top-level responsibilities with control of the most influential media in the region.

Conclusions

70. The Commissioner welcomes the adoption of the self-regulation code and the reforms of the Criminal Code. He encourages Romania to pursue the protection of freedom of expression and of the media both in legislative terms and in practice.

¹ Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, 27 November 2002, on his visit to Romania 5-9 October 2002, CommDH (2002)13. ² The delegation of the Office of the Commissioner was composed of Mr Ignatio Pérez Caldentey and Mr Julien Attuïl. du Bureau du Commissaire se composait de MM. Ignatio Pérez Caldentey et Julien Attuïl. ⁴ This visit included meetings with representatives of the Ministries of the Administration and the Interior, Labour, Solidarity and the Family, Foreign Affairs and Justice. The visitors also met the President of the Constitutional Court, the People's Advocate, the General Prosecutor of Romania, the General Prosecutor of the Office of the National Anti-Corruption Prosecutor, the Under-Secretary of State of the National Authority for the Protection of Childhood and Adoption, the members of the Parliamentary Committee for Questions of Human Rights, Religion and National Minorities, the President of the National Authority for the Disabled, the President of the National Family Protection Agency and the President of the National Council for the Fight against Discrimination, and also representatives of NGOs, the media and the Delegation of the European Commission in Romania. The Centre for the Protection of Child Victims of Domestic Violence, child placement centres in Saint Ecaterina and Casa din Tei, the Alexandru Obreja Hospital in Bucharest, the prisons in Jilava and Rahova, the Provisional Centre for the detention of aliens, a police station in Bucharest, the Centre for the Protection of Victims of Domestic Violence of the Polimed Apaca Hospital and a Roma district in Bucharest were also visited. ⁵ Law on reform in the areas of property and justice, entered into force on 27 July 2005. ⁶ 2003 Regular Report of the European Commission on Romania's progress towards accession, p. 25. ⁷ Emergency Decree No 58/2003, 1 July 2003. ⁸ In particular the Bacău prison, which had a rate of overpopulation of 288% on 31 December 2004. ⁹ "The condition and perspectives of prison system", document of the Ministry of Justice, www.anp-just.ro ¹⁰ International Organisation for Migration, *Who is the next Victim? Vulnerability of Young Romanian Women to Trafficking in Human Beings*, August 2003. ¹¹ Commission of the European Communities, 2004 Regular Report on Romania's progress towards accession, COM(2004) 657 final. ¹² 50 for begging, 25 for prostitution and 18 for theft. ¹³ See the Report of the Centre for Legal Resources (CLR) on this topic.

¹⁴ Amnesty International, *Romania: memorandum to the government concerning inpatient psychiatric treatment*, May 2004, EUR 39/003/2004. ¹⁵ From 53,000 lei (1.4 €) to 70,000 lei (1.9 €). ¹⁶ In 2004, according to Reporters sans frontières, Romania came 70th out of all States for freedom of expression and of the media – see 2004 annual report. ¹⁷ Report of Ms Tytti Isohookana-Asunmaa of 14 January 2003 (document 9640 revised) in conjunction with Recommendation 1589(2003) on freedom of expression in the media in Europe of the Parliamentary Assembly.