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Human Rights Committee

**Consideration of reports submitted by States
parties under article 40 of the Covenant pursuant
to the optional reporting procedure**

Fifth periodic reports of States parties due in 2015

Romania^{*}, ^{}**

[Date received: 28 September 2016]

* The present document is being issued without formal editing.

** The annexes to the present report are on file with the Secretariat and are available for consultation.
They may also be accessed from the web page of the Human Rights Committee.

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1. The present report has been prepared in line with the guidance provided by the Human Rights Committee, by replying to the list of issues prior to submission (LOIPR).
2. The information selected and compiled in the report and its annexes by the experts of the Ministry of Foreign Affairs was supplied by the following Romanian institutions: Ministry of Justice; Ministry of Internal Affairs; Ministry of Labor, Family, Social Protection and Elderly; Ministry of Health; Ministry of National Education and Scientific Research; Ministry of Regional Development and Public Administration; Prosecutor's Office attached to the High Court of Cassation and Justice; Superior Council of Magistracy; National Institute for Magistracy; State Secretariat for Religious Denominations; Ombudsman; National Council for Combating Discrimination, and National Agency for Roma.

Question 1

3. Since 1999 to present, an ample reform of the national legislation on human rights took place, in accordance with the developments in the Romanian society and the provisions of the international and European legal instruments in the field of human rights protection and promotion to which Romania became party.
4. By joining NATO in 2004 and becoming a fully-fledged EU member state in 2007, Romania proved its commitment to democratic values, the rule of law and respect for human rights and fundamental freedoms.
5. A particular attention has been paid to improving the legislative framework regarding justice system. Thus, the adoption of the four new codes — Civil, Civil Procedure, Criminal and Criminal Procedure — represented an unprecedented legislative reform given its complexity and amplitude. The new codes are the fundamental pillars of the Romanian legislation. The simultaneous drafting and adoption of essential legislation, substantial and procedural, both in civil and commercial matters, undoubtedly proved the will of the entire political spectrum for advancing the reform process. The Civil and Criminal Codes brought a series of important changes in substantive rules governing civil and criminal relations, while the Procedural Codes aimed at rendering more efficient the procedures, thus responding to the need to shorten the duration of trials, to speed up procedures, and to introduce flexibility, predictability, transparency, and consistency in the judicial process.
6. Changes in the national legislation led also to the consolidation of democratic institutions and even to the establishment of specific ones, at central and local levels, in order to better ensure the exercise of human rights and fundamental freedoms.
7. National strategies on various human rights issues, such as the rights of the child, promoting equal opportunities between women and men, preventing and combating domestic violence, combating discrimination, inclusion of Romanian citizens belonging to Roma minority, preventing and combating trafficking in persons etc., have been adopted and implemented with the aim to improve human rights protection of all citizens and, subsequently, to foster social and economic development.
8. With regard to the dissemination of the Covenant among judges, lawyers and prosecutors, the National Institute of Magistracy (NIM), a public institution under the coordination of the Superior Council of Magistracy, is responsible for the initial training of future judges and prosecutors, the continuous training of magistrates in position, as well as training of the trainers and organizing exams for Romanian magistrates. NIM provides specialized training on the international protection of human rights and fundamental freedoms. A general presentation of the relevant international instruments in the field, including UN Covenants, among which the International Covenant on Civil and Political Rights, is included during training session.

Question 2

9. The previous recommendations of the Human Rights Committee made to Romania in 1999, have been taken into consideration and are reflected in the evolutions that took place during the reporting period.

10. Developments in the human rights field have also been presented in the national reports submitted to various international fora (among which the second cycle of the Universal Periodic review — 2013, the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination/CERD — 2010, the implementation of the International Covenant on Economic, Social and Cultural Rights — 2014, the implementation of the Convention on the Rights of the Child — 2015, report on the follow up by Romania to the recommendations enclosed in the European Commission against Racism and Intolerance/ECRI's third report — 2012, second evaluation report on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings — 2015 etc.), as well as in Romania's responses to the Office of the High Commissioner for Human Rights (OHCHR) questionnaires.

Question 3

11. Complex anticorruption measures have been taken as a means to consolidate the independence of the judiciary. The **National Anticorruption Directorate** (NAD) was created in 2002 as an independent judicial structure within the Prosecutor's Office attached to the High Court of Cassation and Justice (HCCJ). NAD investigates alleged acts of corruption committed by dignitaries including members of the Parliament and public officials.

12. By Government Emergency Ordinance (G.E.O.) no. 63/2013 the offenses of tax evasion, fraud and customs regime with damage lower than the equivalent in RON of 1 million EUR were removed from NAD's jurisdiction, except for those already registered in the caseload. As a result, the unit will focus on fighting high-level corruption.

13. Through G.E.O. no. 74/2013 on some measures to improve and reorganize the activity of the National Agency for Fiscal Administration (NAFA), the Fiscal Antifraud Directorate General (FADG) was created within the Agency, with attributions in preventing and combating tax evasion and fiscal and customs fraud. Within FADG's central structure, a Department for Combating Fraud was created, which provides specialized technical support to the prosecutor in carrying out the criminal investigation, in cases concerning economic and financial crimes. The FADG inspectors carry out scientific and technical findings that constitute evidence, financial investigations in order to seize assets, and verifications on tax matters ordered by the prosecutor. 262 antifraud inspectors were seconded at the prosecutors' offices.

14. The *National Anticorruption Strategy 2012-2015*, along with the preventive anticorruption measures and evaluation indicators, and the *National Action Plan for implementation of NAS* were approved by Government Decision no. 215/2012. The Strategy was also unanimously assumed by the Romanian Parliament in a joint session of the two chambers, on 12 June 2012.

15. The *Strategy* is based on an independent analysis of the efficiency of the previous similar strategic documents (2005-2010) and it is the result of a comprehensive public consultation. The recommendations issued by "The independent assessment on the implementation of the *National Anticorruption Strategy 2005-2007* and the *National Anticorruption Strategy on Vulnerable Sectors and Local Public Administration 2008-2010* in Romania" were incorporated in the *National Anticorruption Strategy 2012-2015*.

16. The document has a holistic and multidisciplinary approach and it is addressed to all public institutions (executive, legislative, judiciary, local public administration), the business environment, and the civil society.

17. All public institutions have the obligation to adopt their own action plan in order to achieve the Strategy's objectives, through measures on all three intervention pillars: prevention, education and combating. In addition, anticorruption units were set up in several government institutions.

18. The evaluation mechanism established by the *Strategy* and examples of projects carried out to support its implementation are detailed in *Annex 1*.

19. With regard to **asset recovery**, the Ministry of Justice (MoJ) through the National Office for Crime Prevention and Asset Recovery (ARO) exchanges data and information with EU counterparts and other specialized international networks. In 2014, ARO dealt with 77 requests received from the national authorities and answered to 128 requests issued by EU and international counterparts.

20. In January 2014, a Memorandum for approving the creation of a specialized agency dealing with managing seized assets within the Ministry of Justice and for other legislative measures was adopted by the Government. One of the main objectives is the development of a national integrated database on assets related to crime, in order to track such assets through the entire criminal process (tracking, seizure, management of seized assets, interlocutory sale of seized assets, confiscation, and disposal).

21. Examples of projects regarding the **exchange of best practices in the asset recovery area** are provided in *Annex 2*.

22. Statistical data on **recent results in combating corruption** are available in *Annex 3*.

Question 4

23. The institutions overseeing the respect of human rights and fundamental freedoms have complementing competences, avoiding overlapping.

24. The Government Ordinance (G.O.) no. 137/2000 on preventing and sanctioning all forms of discrimination, republished (available in *Annex 4*) sets the composition, attributions and the mandate of the **National Council for Combating Discrimination (NCCD)**. NCCD is an autonomous public authority with legal personality and under the control of the Parliament. NCCD guarantees the respect and enforcement of the non-discrimination principle. The National Council for Combating Discrimination carries out activities exclusively in the non-discrimination field and has the following attributions: preventing all forms of discrimination; mediating discrimination deeds; investigating, ascertaining and sanctioning discrimination deeds; monitoring discriminatory cases; and providing specialized assistance to victims of discrimination.

25. The National Council for Combating Discrimination elaborates and enforces public policies in the non-discrimination field. It exercises its authority based on petitions and complaints from individuals or legal entities and acts *ex-officio* when it detects the infringement of the non-discrimination law.

26. In accordance with the Paris Principles, the NCCD Steering Board is a collective, deliberative and decisional body that takes responsibility for the tasks provided by law. It is composed of 9 members appointed by the two Chambers of the Parliament in a plenary session, for a 5-year term that can be extended. Two members of the Steering Board are appointed by the civil society. The NCCD president is elected by the Steering Board among its members for a 5-year term.

27. The National Council for Combating Discrimination is member of the European Network of Equality Bodies (EQUINET).

28. According to Law no. 35/1997 (republished with subsequent modifications and additions), the Ombudsman is an autonomous and independent public authority. The Ombudsman is elected for a 5-year term that can be extended.

29. According to its attributions, the Ombudsman receives complaints filed by persons who have been aggrieved by public administration authorities through violations of their civic rights and freedoms and decides on such complaints; follows-up with the legal resolution of the complaints received and requests the public authorities or civil servants to put an end to the respective violation of the civil rights and freedoms, to reinstate the complainant in his/her rights, and to redress the human rights violation; formulates points of view upon request of the Constitutional Court; notifies the Constitutional Court on the unconstitutionality of laws before promulgation. The Ombudsman issues only recommendations.

30. Unlike the Ombudsman, the National Council for Combating Discrimination has jurisdictional administrative attributions, it follows the principles of a judicial institution and its goal is to issue an administrative judicial act liable to the control of courts in the administrative litigation procedure.

Question 5

31. According to art. 2 of the Government Ordinance (G.O.) no. 137/2000 “**discrimination** shall mean any difference, exclusion, restriction or preference based on race, nationality, ethnic origin, language, religion, social status, beliefs, sex, sexual orientation, age, disablement, non-infectious chronic diseases, HIV infection, affiliation to a deprived category, as well as on any other criterion that has as purpose or effect the restriction, removal of recognition, use or exercise, under equal terms, of the human rights and fundamental freedoms or of the lawful rights, in the public, economic, social and cultural filed or in any other branches of public life.”

32. On 26 February 2013, the Chamber of Deputies (as decisional chamber) passed the Law for the amendment of G.O. no. 137/2000 which creates a relative presumption for the person who produces facts based on which one may assume that a discrimination act has taken place. Hence, within the procedure in front of the court or in front of the National Council for Combating Discrimination, “the person shall present facts from which it may be presumed that there is a direct or indirect discrimination, and the person against whom the complaint was made has the burden of proof that there has been no breach of the principle of equal treatment. Any means of evidence may be brought in front of the court, in compliance with the constitutional regime of the fundamental rights, including audio and video recordings or statistical data”.

33. Taking into consideration the evolutions in the Romanian society and in accordance with the European practices, The National Council for Combating Discrimination (NCCD) developed projects and programs to effectively implement the anti-discrimination principle. NCCD’s actions to prevent and combat all forms of discrimination covered a significant part of the objectives and priorities set by the Action Plan of the *National Strategy implementing the measures to prevent and combat discrimination 2007-2013*. The projects targeted the implementation of the prevention policy, promoting equality and diversity, intercultural dialog, social cohesion, inclusion of vulnerable groups, strengthening best practices.

34. Information on the situation of **complaints regarding cases of discrimination** received and solved by NCCD is available in *Annex 5*.

35. According to the Prosecutor's Office attached to the High Court of Cassation and Justice, between 2012 and July 2014, 107 cases regarding instigation to discrimination and concerning activities with fascist, racist or xenophobe character were solved. In 2014, 123 such cases were pending, 39 of which were solved, and in none of the cases the sending to trial was ordered.

Question 6

36. The *Romanian Government Strategy for the inclusion of Romanian citizens belonging to Roma minority 2015-2020* represents a review of the *2012-2014 Strategy* and a continuation of the *Strategy for Improving the Condition of Romanian citizens of Roma minority 2001-2010*. The new *Strategy* takes into account the EU recommendations on Roma inclusion stipulated in the 2011 EU Framework for National Roma Integration Strategies up to 2020 and the 2013 Council recommendation on effective Roma integration measures in the Member States, and will support the efforts to reach the national social targets of Europe 2020 Strategy enclosed in National Reform Program.

37. The new vision and approach of the *Strategy* to sustain social inclusion of the Romanian citizens of Roma ethnicity is based on several aspects: intervention is needed not only to ensure social justice and protection but also to value, support, and develop the Roma human resource; the intervention measures will be coordinated and integrated to ensure their effectiveness, and tailored to the social and cultural particularities of various Roma sub-groups; partnerships with Roma community and the civil society throughout the implementation, monitoring, evaluation and review stages.

38. Observing the European principles, the main goal of the *Strategy* is to bring the Romanian citizens belonging to Roma minority to a socio-economic level of inclusion similar to that of the rest of the population and to provide equal opportunities by initiating and implementing public policies and programs in various fields of intervention. The *Strategy* aims to involve central and local public authorities, the civil society and Roma themselves in activities aimed at increasing socio-economic inclusion of Roma.

39. The main intervention areas are education, employment, health and housing complemented by social services and infrastructure, culture and combating discrimination.

40. The *Strategy* is accompanied by action plans for each major field of intervention. The evaluation of the implementation stage of each Action Plan in accordance with the established indicators will be performed twice a year and, where needed, specific measures will be put in place. A yearly report on the implementation of the *Strategy* will be presented to the Government and subsequently forwarded to the European Commission via the National Contact Point. Depending on the evaluation results, the Inter-ministerial Committee will make recommendations for sectorial activity improvements, amendments, and additions to the *Strategy*. The implementation of the *Strategy* will also benefit from the European Structural and Investment Funds.

41. Romania endorses the principle of equal opportunities for education of all citizens regardless of physical or mental impairments, cultural or socio-economic background, mother tongue, ethnic origin. Education is a key instrument for preventing social exclusion of disadvantaged groups, especially those belonging to Roma minority. This goal can be achieved only through a thorough social inclusion of all categories of children and youngsters in the compulsory education system.

42. The **Education Law** (Law no. 1/2011), with its subsequent modifications, states a series of principles to support the active participation and social inclusion of citizens and their right to lifelong learning, such as: equity (access without discrimination), quality (standards, good practices at the national and international level), relevance (personal developmental needs and socio-economic needs), decentralization of the decision making

process, preserving the cultural identity of all citizens and promoting intercultural dialogue, respect of the national minorities' rights, social inclusion, participation and responsibility of parents, focusing the decision making process on dialogue and consultation.

43. The Ministry of Education has developed and implemented affirmative measures and mechanisms for social protection targeting disadvantaged groups, which proved their impact over the years, such as: school buses for students from remote communities; school supplies and various facilities (running water, heat, furniture, home-schooling) for children from socio-economic disadvantaged background; monthly or yearly grants to encourage access of disadvantaged children to secondary education, to avoid and reduce drop out, to buy computers, and for students pursuing vocational education.

44. The Government supports education in Romani language at pre-school (kindergarten) and primary levels (around 900 students/year), as well as classes of Roma history, culture and language (3-4 hours/week for around 26-30,000 students). 22 kindergartens offer bilingual education (Romanian-Romani or Hungarian-Romani).

45. Educational materials and textbooks for all levels of education, including university level, are edited in Romani language on Roma history, culture and traditions, intercultural education, diversity. National contests on Romani language and Roma history are held on regular basis. Yearly, around 5-7,000 young people (out of which 60% are Roma) participate in the "Second Chance" programs dedicated to children, youngsters and adults who have not completed their compulsory education.

46. At county level, there is an informal network of 42 Roma education supervisors which closely cooperates with teachers specialized in Roma history, language and traditions. Centers for Inclusive Education (consisting of over 800 school mediators, support or itinerant teachers, speech therapists, school counsellors) have been in place in each county in order to support access to education for all children. Young Roma people are encouraged to participate in Open and Distance Learning programs to subsequently become teachers in Roma communities. Around 50-60 teachers of Roma history and Romani language are trained yearly, with the support of UNICEF. From 2010 to 2013, the Ministry of Education in partnership with UNICEF Romania and the Institute of Education Sciences organized special training courses for about 300 school directors dealing with high levels of absentees and drop outs.

47. In 2014, approximately 240,000 Roma students were enrolled in the national education system at all levels (from kindergarten to the last class of high school). Around 2,800-3,000 students of Roma ethnicity are admitted to high school every year. Starting with the university year 1993-1994, approximately 500-600 special places for Roma students have been reserved every year in Romanian universities in social studies, law, sociology, public administration, journalism, political sciences, theatre, and psychology faculties and the Police Academy. A detailed situation of the **reserved seats for Roma and other minorities at the entry exam in the educational institutions of the Ministry of Internal Affairs** is provided in *Annex 6*.

48. School segregation of Roma children is prohibited by law (The Order of the Ministry of Education no. 1540 of 19 July 2007, published in the Official Journal no. 692 of 11 October 2007). However, during the implementation of PHARE program "Access to education for disadvantaged groups with a special focus on Roma" (September 2002-March 2010), MESR became aware of cases of segregation, in some schools, namely classes or schools created exclusively for Roma students. In most of the cases, the main reasons for segregation were the existence of compact Roma communities (territorial/geographical segregation), the necessity of providing compulsory education as close to home as possible, the difficulty to transport students to other schools, poor knowledge of Romanian language, and inadequate level of education. MESR decided on the implementation of specific

measures, adapted by the County Schools Inspectorates to each situation, in order to support the desegregation process, such as: school transportation for Roma students from segregated areas to schools with other ethnic majority, heterogenic classes at all levels of education, sharing school spaces and facilities, hiring and training Roma school mediators, additional teaching hours for students with learning difficulties, promoting ethnic Roma identity in schools, developing the school curricula (Romani language, Roma history and traditions), training teachers in inclusive education, and awareness raising efforts among Roma parents. The desegregation action plans and measures are closely monitored by MESR and additional measures are taken, if necessary.

49. The Ministry of Education has initiated and developed a series of projects and programs targeting disadvantaged groups, including Roma, in partnership with various NGOs and international institutions, and benefiting from national and European and international funding. The most important ones are listed in *Annex 7*.

The **Housing Law** (Law no. 114/1996 with subsequent modifications and additions) explicitly prohibits segregation on any grounds, including race, and forbids forced evictions without due guarantees. A component of the “Developing the capacity of ministries to develop economic and financial analysis to support drafting of policies relevant to programming and the implementation of structural instruments” Project (developed by the Prime Minister’s Office and the World Bank) consists of an impact analysis elaborated by Ministry of Regional Development and Public Administration on modifying the Law no. 114/1996. It focuses on creating a data collection mechanism on the already existing social houses and the need for such facilities, as well as on the standards for building new social houses. According to the Law no. 292/2011 on social assistance, housing represents a component of social inclusion.

50. In the area of housing, the main objective of the *Romanian Government Strategy for the inclusion of Romanian citizens belonging to Roma minority 2015-2020* is to ensure decent living conditions and access to public services and infrastructure. Some of the measures envisioned are as follows: building social houses with indiscriminate access by low-income Roma; rehabilitating houses in areas with vulnerable Roma; developing public utilities infrastructure in such areas; supporting the issuing of real estate documents.

51. The National Agency for Roma was involved, mainly through the representatives of its Regional Offices, in all the cases of relocation or eviction carried out by the local authorities. More details about the cases of evictions and relocations in Baia Mare, Cluj-Napoca and Piatra Neamț are available in *Annex 8*.

Question 7

52. The Romanian Constitution fully recognizes the freedoms enshrined in different international and European instruments and fully complies with the requirements of the international and European legal standards in the field of **fighting discrimination, intolerance, racism, xenophobia and other related behaviors**.

53. Romania ratified Protocol no. 12 to the European Convention on Human Rights by Law no. 103/2006.

54. Since 2005, the Romanian criminal legislation has undergone several amendments the most important ones being the drafting and approving of new codes in criminal matters. The drafting of the new Criminal Code (Law no. 286/2009 in force since 1 February 2014) was meant to address new challenges posed by the evolution of the crime phenomenon and at the same time tried to be in line with the international and European conventions ratified by Romania and covering criminal law matters.

55. The Romanian **criminal legislation** provides for sanctions against the perpetrators of racism, xenophobic and other related crimes both through the provisions of the Criminal code, as well as other special legislative provisions (e.g. Government Emergency Ordinance no. 31/2002 prohibiting the organizations and symbols with fascist, racist and xenophobic character and the glorification of those found guilty of crimes against peace and humanity amended by Law no. 187/2012 on the implementation of Law no. 286/2009).

56. Furthermore, the main additions brought by Law no. 217/2015 for amending and supplementing G.E.O no. 31/2002 refer to prohibiting the legionary organizations and symbols and worship of persons guilty of crimes of genocide and war crimes. Article 2 is supplemented by two new lines e) and f) where the Legionary Movement and the Holocaust in Romania are defined. According to art. 6 of the new law, the public denial, contradiction, approval, justification, minimizing by any means of the Holocaust or its effects is punished with imprisonment from 6 months to 3 years.

57. Excerpts from the Criminal Code on racially motivated behaviors and criminal legislation fighting discrimination are provided in *Annex 9*.

58. In accordance with its competence of national authority for prevention and fight against all forms of discrimination, of research and application of policies in this field — acting in the society as a bond between categories and ideologies, as a platform for dialogue between citizens and institutions — the National Council for Combating Discrimination (NCCD) sought to observe the guidelines of its activity, by pursuing the Objectives and Priorities established in the *National Strategy implementing the measures to prevent and combat discrimination 2007-2013*. NCCD's actions to prevent and combat all forms of discrimination covered all the issues established through the objectives of the *Strategy*.

59. On the Roma issue, NCCD has been particularly active and, in the recent years, it has put in place a training program for judges and prosecutors, in order to efficiently apply and implement the legal anti-discrimination provisions. Thus, the National Institute of Magistracy (NIM) has been organizing, in collaboration with NCCD and Romani Criss, various training programs and seminars for future judges and prosecutors and for magistrates on provisions of the Criminal Code (aggravating circumstances, abuse of position by limiting certain rights, incitement to discrimination, genocide) and on equal access to justice for Roma persons, combating racism through criminal law.

60. Examples of activities aimed at contributing to the eradication of the potentially discriminating behavior towards Roma minority conducted at the level of the Romanian Police are presented in *Annex 10*.

61. Statistics on the types of offences committed against persons belonging to Roma community registered at the level of the Ministry of Internal Affairs are available in *Annex 11*.

Question 8

62. The Romanian legislation punishes any form of discrimination based on gender and sexual orientation, regardless the field of activity.

63. With regard to the **legislation on transgender people and people who change their gender through medical intervention**, the following is to be mentioned:

64. Art. 43 letter i) of Law no. 119/1996 on civil status documents, republished — birth documents and, where appropriate, marriage or death documents shall include references with regard to changes in the marital status of the person, including cases of sex change as a result of a final court judgment. The Constitutional Court ruled on the constitutionality of art. 44 letter i) of Law no. 119/1996 (art. 43 letter i) after republishing). The author of the objection considered that the challenged legal provisions contravened to the constitutional

provisions of art. 22 para. 1) on the right to life and to physical and mental integrity, of art. 26 regarding intimate, family and private life and of art. 34 para. 1) on the right to health care as the right of a person on sex change is a personal decision regarding his/her private life that doesn't require a court judgement. Analyzing the arguments on which the objection was based upon, the Constitutional Court found that they were unfounded: "The references in the legal status documents as a result of a court judgement pertain exclusively to the legal nature of these documents, as well as to the legal status of the person, with the aim to have a proper population record. Taking into consideration the regime of civil status documents, the Constitutional Court notes that the approval of the change of sex of a person by a final court judgement is required for entering the references on the change of sex in the civil status of a person, so there can be no intervention of the courts in the intimate life of a person, as the author of the objection is stating. Thus, sex change represents the choice of the person, but with effects on his/her social status in relation to public order." (Constitutional Court Decision no. 530 of 30 May 2008, published in the Official Journal no. 526 of 11 July 2008)

65. Government Ordinance no. 41/2003 on acquiring or administrative change of the names of natural persons with subsequent modifications and additions (Official Journal no. 68 of 2 February 2003) at art. 4 para. 2) letter 1) states the possibility to change the name of the person who received the consent through a final court judgement and demands to bear an appropriate name, providing with a forensic document which proves his/her gender.

66. Art. 131 para. 3) of Government Decision no. 64/2011 for the approval of the Methodology on the implementation of the provisions on civil status (Official Journal no. 151 of 2 March 2011) states that the personal identification number assigned to a person can be reassigned only in cases when references on gender and date of birth were modified, according to the law, or when it had been mistakenly assigned.

67. Art. 19 letter i) of Government Emergency Ordinance no. 97/2005 of record, domicile, place of residence, and identity documents of Romanian citizens, republished (Official Journal no. 719 of 12 October 2011), with subsequent modifications and additions, provides that the Community Public Services for Persons' Record issue a new identity document in case of change of sex.

68. Art. 277 of the Civil Code forbids marriage between same-sex partners and states that such marriages or partnerships concluded abroad are not recognized in Romania.

69. In November 2010, the Agency of the European Union for Fundamental Rights (FRA) published the Report regarding "Homophobia, transphobia and discrimination on grounds of sexual orientation grounds and gender identity".¹ Romania is mentioned, along with Poland and Bulgaria, as the country where Pride marches were successfully organized for the first time without any incident. The report also states that Romania is among the 13 EU member states that expressly criminalize incitement to hatred or discrimination on grounds of sexual orientation. A consolidated version of the report released in June 2011,² mentions Romania among the 20 EU member states that have set up single equality bodies dealing with all grounds for discrimination, including discrimination based on sexual orientation. The report also notes the removal of barriers to reproductive health services for LGBTs, regardless of their marital status or sexual orientation. On the other hand, Romania has amended its legislation to specify that marriage is reserved for opposite-sex couples only; same-sex partnerships and marriages concluded abroad are not recognized.

¹ Available at: http://fra.europa.eu/sites/default/files/fra_uploads/1286-FRA-LGBT-report-update2010.pdf.

² Available at: http://fra.europa.eu/sites/default/files/fra_uploads/1659-FRA-homophobia-synthesis-report-2011_EN.pdf.

70. A special attention has been paid as regards training police, gendarmerie forces, judges, and prosecutors on the rights of LGBTs (lesbians, gays, bisexuals, transgenders). Examples of projects related to combating discrimination against and promoting tolerance towards persons on grounds of sexual orientation and gender identity are available in *Annex 12*.

Question 9

71. In Romania, **persons living with HIV/AIDS (registered as persons with disabilities)** enjoy all rights and facilities covered by Law no. 448/2006 on the protection and promotion of the rights of persons with disabilities, republished, such as: social services, health care and recovering, education, vocational training, employment and reasonable adaptation at workplace, guidance, social benefits, housing, planning personal life environment, transportation, leisure, access to culture, sport, tourism, legal assistance, tax incentives.

72. Romanian health legislation provides that health care facilities must guarantee equal access of patients to medical care, without discrimination on grounds of race, gender, age, ethnicity, nationality, religion, political affiliation or personal aversion. Medical care and services provided to people with disabilities are covered by the health social insurance system. Health measures and social support have increased life expectancy from one year to over 10-15 years.

73. The antiretroviral medical treatment is provided free of charge by the Ministry of Health through the National Prevention Program within the Regional Prevention Centers. Persons living with HIV/AIDS also benefit from a monthly allowance for food. Children with disabilities, including children living with HIV/AIDS, receive a state allowance, increased by 100%, and are entitled to a monthly food allowance.

74. The National Institute for Infectious Diseases “Victor Babeş” coordinates at national level the HIV/AIDS program in collaboration with government institutions and NGOs. The Ministry of Health and the National Health Insurance House monitor, together with NGOs, cases of discrimination.

75. Several examples of projects and initiatives targeting persons living with HIV/AIDS are listed in *Annex 13*.

76. In 2012, the Ombudsman issued a Special Report on the effects of HIV/AIDS therapy discontinuity and patient drop-out aimed at highlighting the issues dealt with by persons living with HIV/AIDS and improving legislation and the institutional framework with a view to respecting the fundamental right to life, health, physical and psychological integrity of the patient. The Ombudsman took notice and acted upon cases of discrimination against persons living with HIV/AIDS.

Question 10

77. The National Authority for Persons with Disabilities was established in 2003 under the authority of the Ministry of Labor, Family, Social Protection and Elderly (MLFSPE). In 2010, it was reorganized as Directorate General for the Protection of Persons with Disabilities within MLFSPE. G.E.O. no. 86/2014 reestablished the National Authority for Persons with Disabilities (NAPD) as a specialized body of the central public administration with legal personality, under the MLFSPE.

78. NAPD coordinates the activities of **protection and promotion of the rights of persons with disabilities**, develops policies, strategies and standards in the field of promoting the rights of disabled people, monitors the implementation of specific regulations, and evaluates the need of quality services. Through Law no. 221/2010,

Romania ratified the UN Convention on the Rights of Persons with Disabilities. It proves the commitment of the Romanian Government to the promotion, protection and guaranteeing the full exercise and in equal terms of all human rights and fundamental freedoms for all persons with disabilities, and also to increase the quality of life of persons with disabilities in Romania. According to art. 2 of the Law, NAPD is the national authority to coordinate the implementation of the UN Convention and acts as National Focal Point. According to the provisions of the UN Convention, The Romanian Institute for Human Rights (IRDO) has been nominated the independent observer of the promotion, protection and implementation of the Convention. Subsequently, protocols of collaboration were signed with other NGOs.

79. Law no. 448/2006 on the protection and promotion of the rights of persons with disabilities was drafted in collaboration with NGOs and is based on the provisions of the international documents in the field and on the *National Strategy for the protection, integration and social inclusion of people with disabilities 2006-2013 "Equal opportunities for disabled people — towards a society without discrimination"*. Several examples of projects, activities, and awareness raising campaigns were initiated and developed in the framework of the *National Strategy 2006-2013* aiming at eliminating discrimination against persons with disabilities and facilitating their access to open labor market, social protection, and professional integration are listed in **Annex 14**.

80. In 2015, *The National Strategy "A society without barriers for people with disabilities" 2016-2020* has been elaborated through a comprehensive process of public consultation with civil society representatives, persons with disabilities and their organizations, and also following the procedure of decision-making transparency in public administration. The document embraces the vision of the European Strategy for persons with disabilities 2010-2020 "A renewed commitment to a barrier-free Europe" and, also, the vision of the Convention.

81. The main objectives of the social policies in the field of disability implemented in Romania during 2014-2020 are accessibility, participation, equality, quality services in the community, employment, education and training, social protection, health, and external action.

82. Changes in the legislation have been made through consultations with the civil society, taking into account the proposals presented both by NGOs and by disabled people. To this end, a protocol of cooperation was signed by MLFSPE and the National Disability Council.

83. The Constitution (art. 41) guarantees the right to work and to choose one's profession, occupation, and job freely. The Labor Code stipulates the principle of equal treatment for all employees and employers. Any direct or indirect discrimination against an employee, on grounds of gender, sexual orientation, genetic characteristics, age, nationality, race, color, ethnicity, religion, political option, social origin, disability or family responsibility, trade union membership or activity is prohibited. Furthermore, the Labor Code regulates an additional annual leave of at least three working days for blind employees and other persons with disabilities. Also, according to the law, blind persons with severe and aggravated disability are granted an extra payment of 15% to their monthly salary. The Labor Code prohibits firing employees on grounds of disability.

84. European Council Directive 2000/78/EC of 27 November 2000 establishing the general framework for equal treatment in employment and occupation was implemented by the Government Ordinance (G.O.) no. 137/2000 on preventing and sanctioning of all forms of discrimination, as further amended and supplemented. The provisions of the G.O. shall apply to all natural or legal persons, public or private and also to all public institutions with responsibilities in terms of employment conditions; recruitment criteria and conditions;

selection and promotion; access to all forms and levels of guidance, training and vocational development; protection and social security.

85. According to Law no. 448/2006, any person with disabilities who wishes to integrate or reintegrate into work has free access to vocational evaluation and guidance, regardless of age, type and degree of disability. Persons with disabilities actively participate in the process of evaluation and vocational guidance, in accordance with one's own desires and skills.

86. In order to encourage employment, a special attention has been paid to groups having difficulties in integrating into the labor market, including people with disabilities registered at the County Agencies for Employment. Specific measures covered information and vocational counseling, labor mediation, vocational training, counseling and assistance for starting an independent activity or business, supplementing the incomes of the employees, stimulating labor mobility, subsidizing employment. According to Law no. 76/2002 on the unemployment insurance system and employment stimulation, with subsequent modifications, employers receive subsidies for hiring graduates with disabilities (18 months for each graduate; the value of subsidy depends on the level of education of each graduate) and for persons with disabilities (12 months for each person employed). The first counseling centers for persons with disabilities were established in 2003, with the support of a World Bank project, conducted in collaboration with the National Agency for Employment. In 2011, a counseling network of 20 centers was developed within the County Agencies for Employment.

87. The Ombudsman released two special reports³ which highlighted the problems and difficulties of persons with disabilities are facing because of vague legal provisions or administrative malfunctions and formulated recommendations aiming at improving the legislation and the overall activity of the institutions. In order to improve access of disabled persons to the labor market, the Ombudsman recommended the adoption of some measures to raise the quality of monitoring, coordination and control of the activity of various public central and local institutions involved in guaranteeing their rights, such as: town halls, local and county councils, retirement agencies, county agencies for employment, regional agencies for health insurance, directorates general for social assistance and child protection.

Question 11

88. *The National Strategy for Equal Opportunities between Women and Men 2010-2012* was adopted by Government Decision no. 237/2010. It aimed at eliminating all forms of discrimination on grounds of gender and promoting equal opportunities and treatment between women and men, with the overall objective of improving the implementation of gender equality policies in all national policies and programs, in order to achieve equality between women and men, at all levels of economic, social, political and cultural life. The National Strategy and the Action Plan for its implementation were elaborated by the National Agency for Equal Opportunities for Women and Men (NAEOWM).

89. In the framework of the *National Strategy*, there were organized meetings, events, debates at central and local levels, involving representatives of central and local public administration, social partners and NGOs, as well as citizens with a specific interest in this matter. Leaflets and information materials on topics related to equal payment for work of equal value, labor flexibility, reconciling family and professional life, promoting equal participation of women and men in the decision-making process, information campaign for fathers, labor market legislation, domestic violence, sexual harassment, mass-media stereotypes, motherhood, gender equality indicators, elimination of gender stereotypes,

³ "The Special Report on the Respect and Promotion of the Rights of Persons with Disabilities" (2009) and "The Special Report on the Protection of Persons with Disabilities" (2013).

equal participation of women and men in the decision-making process, women's rights legislation, discrimination among young people were disseminated. Examples of activities and programs developed in accordance with the four areas of intervention and their specific measures of implementation set by the *National Strategy 2010-2012* — labor market; social life; roles and gender stereotypes; participation in the decision-making process — are detailed in *Annex 15*.

90. *The National Strategy in the field of equal opportunities between women and men for 2014-2017* aims to continue the policies in the field of equality between women and men that have been already developed and to promote at national level the principle of non-discrimination on grounds of gender, through concrete measures and actions on different specific areas of intervention.

91. Improving the participation of women in the labor market is a priority for the Ministry of Labor and it is also reflected in the *National Employment Strategy for 2014-2020* under Specific Objective no. 2 “Improving the occupational structure and labor market participation of women and persons belonging to vulnerable groups”, Point of Action no. 2.2 “Increasing women's participation in the labor market, including measures to support reconciliation of work and family”. The actions included in the *Strategy* and envisaged to support women's participation and reintegration in the labor market aim at: promoting entrepreneurship and “second chance” programs for developing women's adequate and required skills and qualifications; developing the infrastructure to provide childcare facilities and support services for the care of dependent family members; raising awareness activities on the need for flexible working hours arrangements; tackling salary differences between women and men; fighting gender-related stereotypes.

92. As part of the collaboration with the UNFPA Romania, the National Agency for Equal Opportunities for Women and Men participated as a permanent member in the meetings of the Working Group for the organization of the Gender Center of Romania, whose main areas of interest were the labor market, education, health, migration, social inclusion and the elimination of gender stereotypes.

93. The Agency drew up an analysis regarding the participation of women in presidential, parliamentary and local elections and assessed, from gender perspective, the representation of women and men in the electoral competition and also of the elected candidates.

94. Data regarding the situation of women in decision-making position us collected from all Ministries and the Secretariat General of the Government on two decision-making degrees and two levels of representation: 1st decision-making level (Secretary General, Deputy Secretary General, Director General and Deputy Director General), 2nd decision-making level (Director, Deputy Director, Head of Department and Head of Office), level of representation A (central governmental institutions, namely the Ministries and the Secretary General of the Government), and level of representation B (local decentralized units of the Ministries, institutions, agencies, other specialized bodies subordinated/under their authority, exclusively funded from the state budget).

95. According to the latest study elaborated in 2014 by the National Agency for Equal Opportunities for Women and Men “Women and Men in decision-making in public central administration”, the top leadership positions in the Ministries (secretary general, deputy secretary general, director general, deputy director general) were occupied 46.1% by women and 53.9% by men. The representation on women employed and in leading position in the Ministry of Internal Affairs and in the structures of the Prefect's Office is presented in *Annex 16*.

96. Romania contributes to the online database of the European Commission regarding the situation of women and men in decision-making positions.

Question 12

97. The legislation⁴ on the **use of firearms** stipulates the conditions and situations, including exceptions to the rule, when people carrying firearms may lawfully use their weapons, in order to exercise their duty.

98. The Romanian Police established an integrated set of rules regarding the use of weapons by police personnel while on duty, in compliance with the legislation in force, by adopting the “Procedure regarding the use of duty firearms” (in force between 2008-2013) and the “Procedure regarding the use of individual intervention tools by policemen” (in force since 2013).

99. During regular professional training sessions, cases regarding the use of firearms by policemen and the legislation into force are presented and discussed with the aim to preventing cases of abuse. Also, some regional police units participated in tactical exercises for handling service firearms. The officers were handed training materials, passed evaluation tests, and were assessed by county medical practitioners and the psychologist of the respective police unit.

100. Details about cases of alleged killing by members of the security forces are available in *Annex 17*.

Question 13

101. The national legislation in the healthcare sector stipulates both the responsibilities of the Ministry of Health, as a central public authority, with regard to family planning; family, mother and child protection and the patient’s rights with regard to reproductive health, such as women’s right to life; to information, education and necessary health services; to planning methods; to decide if and when to have children etc.

102. *The 2014-2020 National Health Strategy*, approved by Government Decision no. 1028/2014, sets among its main objectives the improvement of health condition and nutrition of mother and child, with a specific focus on reducing the number of unwanted pregnancies and elective abortions as well as on eliminating the maternal mortality caused by the termination of pregnancy. During recent years, maternal mortality by abortion had a decreasing trend, from 15 cases in 2005, compared to 3 cases in 2012. Taking into account that approximately 10% of the total number of cases of abortion registered in one year and approximately 10% of pregnancies occur in girls aged under 19 years, prevention measures to address unwanted pregnancies are of utmost importance, as early motherhood, especially with unwanted pregnancies, involves important socio-economic risks, such as child abandonment, school dropout which may lead to subsequent social exclusion risk.

103. Health represents one of the main intervention areas of the *2015-2020 Romanian Government Strategy for the inclusion of Romanian citizens belonging to Roma minority*. The Strategy seeks to improve of the access to basic, preventive and therapeutic medical services; to prevent sickness situations contributing to the morbidity and mortality levels affecting the Roma population and the diminution of risks thereof; to improve the local authorities capabilities in order to identify the needs and to address them; to prevent the discrimination of Roma in the health system. Among other measures, it is envisaged to: increase the Roma presence rate in the national social insurance system; develop the basic health services network; support the employment of Roma health professionals; develop family planning and dedicated measures for the health of women and children; supplement

⁴ Law no. 17/1996 on firearms and ammunition regime (Arts. 46-53) and no. Law 218/2002 on the organisation and functioning of the Romanian Police, republished (Arts. 34, 35, 36 (3)-(4) and Art. 37).

the vaccination of vulnerable children; implement prevention programs against infectious diseases; create a hotline against the discrimination of Roma patients.

104. *The Strategy for the inclusion of the Romanian citizens belonging to Roma minority for the period 2012-2020*, approved by Government Decision no. 1221/2011 comprised, in its chapter on Health, “the implementation of information campaigns for Roma women on the risks associated with early marriages, on the prevention and combating domestic violence and human trafficking.”

105. Furthermore, the measure was also included in the current *Strategy* as follows: “Increasing the use of family planning, especially by young Roma women and implementing women and child health interventions such as: i) informing and counseling Roma women and young women on reproductive health, the risks associated to the early marriages, mother and child health, preventing and combating domestic violence and human trafficking; ii) providing with free contraceptive measures to an extended territorial area; iii) increasing the human resources capacity of the community network regarding reproductive health and mother and child health.”

106. Another good practice is that of the **Roma health mediators** as promoters of a healthy lifestyle. Their attributions include explaining the basic notions and advantages of family planning. In 2014, the Ministry of Health provided funding for 391 health mediators and 982 community nurses who provide medical and social services for both Roma people as well as for other vulnerable groups.

107. In 2013, the **community teams**, consisting of community nurses and health mediators, monitored and supported 32,187 vulnerable persons, including Roma, in particular women and children. In 2014, the same teams monitored and supported more than 75,000 vulnerable persons for medical or/and social issues. Their activity focused primarily on facilitating the communication with healthcare professionals; explaining the advantages of the health insurance system; promoting healthy eating; presenting the benefits of family planning; explaining the basics of child care and the benefits of breast feeding and vaccines etc.

108. Starting with 2014, the Ministry of Health has been implementing the project “Strengthening the national network of Roma mediators to improve the health status of the Roma population”, funded by the Norwegian Financial Mechanism, in 45 communities in 6 counties. This initiative will complement the national health mediation program and identify additional 45 communities, mostly Roma, that lack access to basic health services. Each of these communities will receive support from a team of health mediators and community nurses, who will be employed by the local authorities and provide adequate health services based on the assessment of the basic health needs of the community.

109. In September 2014, the Ministry of Health established a working group for community healthcare that shall develop proposals to clarify and harmonize the existing legal framework. The working group focuses on the integrated community centers and on developing tools, guidelines and protocols for community healthcare teams. The group gathers representatives of ministries involved in social inclusion of vulnerable groups, including Roma, and NGOs’ representatives.

110. The main objectives of the **national family planning program** are reducing the high number of abortions and abortion caused pathology, reducing maternal mortality, respecting the fundamental rights of women and improving the role of women in society. Providing free contraceptives continued through the National Family Planning Activities. Although the general level of knowledge on family planning methods among the population has increased, the use of modern contraceptive methods still holds a small share among fertile women. In 2012, there were 360,012 family planning consultations and in 2013, there were 349,149 consultations.

111. An optional course on health promotion and health education was introduced in schools which also includes a chapter on reproductive health education.

Question 14

112. **Victims of domestic violence are protected by law.** Law no. 217/2003 on preventing and combating domestic violence, republished, aims at promoting family values, sustaining family members in distress as a result of domestic violence cases, supporting the victims and assisting aggressors by ensuring their participation to health recovery and social rehabilitation programs, as well as at initiating and coordinating social partnerships, in view of preventing and fighting domestic violence.

113. According to the law, domestic violence means any physical or verbal action, exercised intentionally or by omission, excepting the actions committed in self-defense or defense, by a family member against another member of the same family, which causes physical, mental, sexual suffering or a material prejudice. In addition, preventing a woman to exercise her fundamental rights and liberties may also constitute a form of domestic violence.

114. In the last years, several normative acts have been adopted, including amendments to the Criminal and Criminal Procedure Codes, in order to ensure a better protection for victims of violent crimes, including domestic violence. Thus, amendments brought to the Criminal Code created a more efficient legislative framework to fight domestic violence. Furthermore, Law no. 197/2000 for amending of the Criminal Code included, for first time in the Romanian legislation, provisions regarding the punishment of domestic violence acts.

115. In June 2014, Romania signed the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). The Convention has entered into force for Romania on 1 September 2016. Thus, Romania reaffirmed its commitment to promote and respect the fundamental human rights and to consolidate the judicial framework for preventing and combating violence against women, girls and domestic violence.

116. Law no. 25/2012 on amending Law no. 217/2003 introduces in Chapter IV the “protective order”, which represents a new measure designed to protect the victims of domestic violence. Thus, according to art. 23 “The person whose life, physical or mental integrity or liberty is endangered by an act of violence from a family member may apply to a court of law, in order to eliminate the danger, to issue a protective order, by which it orders, provisionally, one or more of the following measures-obligations or prohibitions: a) temporary evacuation of the aggressor from the family’s residence, regardless of the owner of the property; b) reintegration of the victim and, where appropriate, of children in the family’s residence; c) limits to the right of the aggressor to use only on a part of the common home which can be shared in such a way that the abuser does not come into contact with the victim; d) orders the aggressor to keep a minimum determined distance from the victim, from their children or other of his relatives or from the protected person’s residence, place of work or education facility; e) interdicts the aggressor to go in certain places or defined areas where the protected person attends or visits regularly; f) prohibits any contact, including by telephone, by correspondence or by any other way, with the victim; g) orders the aggressor to yield any weapons to the police; h) entrusts the minor children or establish their residence.” Judicial statistics show that, in 2013, the protection order was used by the litigants in 2,346 new cases registered in local courts.

117. According to the legislation in force, the criminal proceedings for domestic violence can be initiated *ex-officio*.⁵ Taking into that consideration, according to the new Criminal Code (Law no. 286/2009), murder and first degree murder are considered among domestic violence offences, the criminal proceedings are instituted *ex-officio*. Furthermore, art. 199 of the new Criminal Code stipulates that offences provided at art. 188 (murder), art. 189 (first degree murder), art. 193 (hitting/beating or other forms of violence), art. 194 (injury), art. 195 (beatings or injuries that cause death), and art. 196 (injury by negligence) committed against a family member shall be regarded as domestic violence offences and punished by an increased penalty. However, reconciliation exonerates criminal liability.

118. As far as rape is concerned, the law was amended and in case the rapist marries the victim, the former cannot be exonerated from criminal liability anymore. But if the victim withdraws his/her complaint, the perpetrator is exonerated of the criminal liability.

119. Statistics on cases of domestic violence are available in *Annex 18*.

120. The National Agency for Equal Opportunities for Women and Men is the central authority responsible with the implementation of governmental strategies and public policies in the field of preventing and combating domestic violence and violence against women. According to the law, it can finance or co-finance programs and projects at national level aiming at preventing and combating domestic violence and violence against women.

121. *The National Strategy for preventing and combating domestic violence* and its Action Plan for 2005-2007 were adopted in 2005 by Government Decision. The *Strategy* outlined the following objectives: improvement of the legislative framework necessary for organizing and functioning of the social services system in the field of preventing and combating domestic violence; reinforcement of the institutional capacity at central and local levels to implement and develop programs and social services for victims of domestic violence; developing a culture of partnership and social solidarity in preventing and combating domestic violence at national level; awareness-raising within the society; participation and active involvement of the state in relevant actions undertaken at international level. The implementation of the Action Plan has been evaluated by means of a public debate with the participation of NGOs and public authorities.

122. Subsequently, in 2012, the Government adopted the *National Strategy for preventing and combating domestic violence for 2013-2017* along with the Operational Plan for its implementation. The *National Strategy* defines a series of operational objectives regarding the prevention and reduction of domestic violence, protection of victims, the accountability of perpetrators by creating an integrated institutional framework, the promotion of inter-sectorial cooperation to eliminate domestic violence and support partnerships with civil society. It also aims at creating the premises for reducing tolerance towards domestic violence and increasing the effectiveness of prevention programs through a systematic implementation of preventive measures. It is also meant to develop non-violent attitudes and behaviors, to ensure uniform implementation of legislation, as well as to improve the national legal framework.

123. The Romanian Police adopted a pro-active attitude in relation to combating domestic violence. Police officers and gendarmes have received special training with regard to the best conduct and intervention practices in cases involving this type of victims. The Police have been involved in various activities to facilitate the victim's access to protective measures, by way of advising and informing about their rights and access to specialized services. The Police concluded cooperation protocols with various institutions and local

⁵ Before 2000, the criminal action could have been initiated only upon the prior complaint of the injured person.

public authorities, associations and NGOs for preventing and monitoring cases of domestic violence. Workshops, seminars and meetings for debating the situations presenting high risk for domestic violence and advancing solutions were held at local and county level.

124. Some of the projects on combating domestic violence implemented at national level are presented in *Annex 19*.

Question 15

125. According to art. 22 para. 2 of the Constitution, as revised, **no one may be subjected to torture or to any kind of inhuman or degrading punishment or treatment**. The Criminal Code punishes crimes that obstruct justice which also imply the use of violence, degrading punishments or ill treatments.

126. According to art. 64 of the previous Criminal Code (in force until 1 February 2014), the means of evidence that lead to the factual elements which may serve as evidence, namely, the accused or defendant's statements, the victim's statements or those of the civil party or the party who bears the civil liability, the witness' statements, documents, audio and video recordings, photos, the probative material means, the technical-scientific and forensic findings and expertise that were illegally obtained can't be used in criminal case proceedings.

127. Equally, in accordance with art. 68 of the previous Code of Criminal Procedure (in force until 1 February 2014), it is forbidden to use violence, threats or any other constraints, as well as promises or incentives with the purpose of obtaining evidence.

128. Furthermore, in accordance with art. 101 para. 1 of the new Code of Criminal Procedure (in force starting with 1 February 2014), it is forbidden to use violence, threats or any other constraints, as well as promises or incentives with the purpose of obtaining evidence. Art. 102 stipulates that evidence or derived evidence obtained through torture shall not be used in the criminal trial.

129. The Ministry of Internal Affairs (MoIA) has created a mechanism according to which complaints regarding acts of torture, cruel, inhumane or degrading treatments, as well as other cases of human rights violations are subject to criminal or administrative investigations. If acts of abuse of any kind are revealed and proved to be committed by MoIA personnel, measures of criminal, administrative or disciplinary nature are being taken, on a case by case basis, according to legal norms in force. The police officers and the MoIA personnel are trained during courses and through specific internal legal procedures on such situations.

130. The complaints and communications addressed to the Romanian Police are thoroughly checked by its appropriate control structures, which are recommending penalty measures, according to the law, in all cases in which violations of fundamental rights and freedoms of citizens or of deontological norms are proved. If there are indications that the act committed by a police officer is of criminal nature, the reported cases are forwarded to the institutions empowered by law to solve them (the prosecutor's office or the court of law).

131. On 22 May 2014, the Inspectorate General of the Romanian Police and the Ministry of Justice signed an Agreement on awarding grants in the framework of the Project for enhancing the capacity of the detention and preventive arrest system in order to be in line with the relevant international human rights instruments. The main objective of the project is the renovation of the 52 Centers for detention and preventive arrest by upgrading and improving the existing infrastructure. 884 police officers have been trained as part of the project (Romani language, current problems occurred during daily activity in the Centers).

A best practices guide and a brochure on human rights and issues related to discrimination have been disseminated.

132. Information on the situation of cases involving crimes of torture and ill-treatment is provided in *Annex 20*.

Question 16

133. According to the Constitution (art. 23), as revised, **individual freedom and security of a person are inviolable**. Search, detention or arrest of a person are permitted only in cases and under procedures provided by the law. Freedom deprivation measures can only be based on criminal grounds.

134. If there are well-grounded reasons to believe that a person has committed a crime, the respective person can be detained by the police for a period not exceeding 24 hours. The custody order must contain the date and the hour when it was enforced, while the release order — the date and the hour when this measure was terminated. If the criminal investigation authorities consider necessary to impose the measure of preventive custody, they have to submit a well-argued request to the prosecutor.

135. Art. 23 of the Constitution, as revised, and the new Code of Criminal Procedure (Law no. 135/2010) introduced new regulations regarding the competence to order preventive custody. Thus, the competence to order preventive custody lies with the judge. The length of the preventive custody is maximum 30 days. The judge can extend it for additional periods of up to 30 days each if such a measure proves necessary for the completion of the criminal proceedings, but not longer than 180 days. Art. 23, paras. 5 and 6, of the Constitution introduced the concept of the reasonable term regarding the total length of the preventive custody, as well as the court's obligation to regularly verify, throughout the trial, at intervals of maximum 60 days, the legality and the grounds of the preventive custody. If the grounds for the preventive custody have ceased to exist or if the court finds there are no new grounds justifying the extension of the custody, it must order, at once, the release of the defendant. The court's decision on preventive custody may be subject to the legal proceedings stipulated by the law. The release of a person under preventive custody or arrest is mandatory if the reason for this measure disappeared. A person under preventive custody has the right to apply for provisional release under judicial control or on bail.

136. According to art. 89 of the new Code of Criminal Procedure, the judicial organs have the obligation to inform the accused or indicted person about his/her right to be assisted by a lawyer throughout the criminal investigation and judgment phases. In addition, any person taken into preventive custody or arrested has to be promptly informed in a language that he/she understands about the grounds for his/her detention or arrest and has the right to submit a complaint against his/her detention.

137. The new Code of Criminal Procedure stipulates the principle of proportionality of the preventive measure to the gravity of accusation of a person, as well as the principle of the necessity of such measure in order to achieve the legitimate aim pursued by taking this measure. Under these circumstances, there was set up a maximum **period of pre-trial detention** also for trial phase.

138. The new Code of Criminal Procedure introduces the house arrest as a preventive measure. It is an alternative to pre-trial detention and it can be ordered by the judge if the same conditions as those for preventive arrest are met. The length of the house arrest is maximum 30 days; the judge can extend it for additional periods of up to 30 days each if such a measure proves necessary for the completion of the criminal proceedings.

139. The judicial control and judicial control on bail also represent self-contained preventive measures, unlike the old regulation, under which these measures were applied only for defendants placed under preventive arrest.

140. With regard to the **art. 9** (right to liberty and security of persons) and **art. 10** (humane treatment of persons deprived of their liberty) **of the Covenant**, the Law no. 254/2013 on enforcing custodial sentences and measures issued by the judicial bodies during the criminal trial, with subsequent amendments and additions, in art. 5, para. 1 stipulates that “It is prohibited to subject any person serving a custodial sentence or measure to torture, inhuman or degrading treatment or other ill-treatment”.

141. The administrative detention is not stipulated by the Romanian law.

142. According to the Government Emergency Ordinance (G.E.O.) no. 194/2002 regarding **the regime of foreigners**⁶ in Romania, republished, as further amended and supplemented by Government Ordinance (G.O.) no. 25/2014, the Inspectorate General for Immigration (IGI) decides upon the return of aliens illegally staying in Romania, by issuing a return decision in any of the following situations: the foreigner illegally crossed or attempted to cross Romania’s state border, entered Romania while a previously issued entry ban was in force, no longer fulfills the entry and/or staying requirements, his/her right to stay — stemming from a visa, visa abolition agreement, the residence permit or small border traffic permit — ceased; the foreigner whose asylum procedure is completed or who relinquished it and did not abide to the obligation of leaving the Romanian territory,⁷ the foreigner was declared undesirable.

143. The return decision is the administrative act by which IGI ascertains the illegal staying of a foreigner on the Romanian territory and determines his/her obligation to return and the time-limit for his/her voluntary departure. The foreigner against whom a return decision was taken shall be removed under escort.

144. Taking into public custody is a measure of temporary restraint of the freedom of movement on the Romanian territory, issued against foreigners to take all necessary steps for removal under escort. It is ordered in writing by a designated prosecutor from the Prosecutor’s Office attached to the Bucharest Court of Appeal for a period of 30 days, following a request from IGI, against a foreigner who cannot be removed under escort in 24 hours and is found in one of the following situations: presents the risk of escaping removal under escort; avoids or impedes the preparation of return or the process of removal under escort; is subject to expulsion. The measure of taking into public custody cannot be ordered for a period longer than 6 months. In exceptional cases, the period can be extended up to 12 months when IGI is unable to carry out the removal under escort of the foreigner, due to foreigner’s actions to obstruct the process of removal under escort or to delays in securing the documents needed for the removal under escort from third party countries.

145. According to IGI, in 2009, 460 foreigners were taken into public custody and housed in the accommodation and public custody centers for aliens; 462 foreigners in 2010; 536 foreigners in 2011; 671 foreigners in 2012; 292 foreigners in 2013, 217 foreigners in 2014, and 59 foreigners in the first trimester of 2015.

146. During their stay in the centers, foreigners are provided with accommodation, food, personal hygiene items, and psychological and medical assistance, as stipulated in the Regulation for Public Custody Accommodation Centers for Foreigners, approved by the

⁶ According to art. 2 (a) of G.E.O. no. 194/2002, a foreigner is defined as “a person not holding Romanian citizenship, or the citizenship of another EU or European Economic Area member state, or Swiss citizenship”.

⁷ As stipulated by Law no. 122/2006 regarding asylum in Romania, as subsequently amended and supplemented.

Order of the Minister of Internal Affairs no. 121/2014. The respective persons have the right to communicate directly or through mail with persons from outside the centers; to receive packages or money and to buy different things needed for their staying in the centers; to submit requests, notifications or complaints, to participate in cultural and educational activities, including outdoors, and counseling activities, religious activities or in activities stipulated by domestic law and by the relevant international treaties and agreements to which Romania is party to. Foreigners are also entitled to receive visits from members of foreign diplomatic missions and consular offices representing their interests, representatives of national and international organizations and NGOs with responsibilities in the field of migration or human rights protection, authorized and accredited according to the law, family members, or, on reasoned grounds, other persons, and legal representatives.

Question 17

147. As a part of the overhaul of the criminal justice system, the penitentiary system has been positively influenced by the social, political, economic and cultural transformations occurred in the Romanian society in the last years. The Romanian authorities adopted a number of legislative and organizational measures in order to address the problems of the **penitentiary system**, including those related to the security and minimum comfort of detainees.

148. Decision no. 430/2009 of the National Administration of Penitentiaries (NAP) aimed at creating establishments according to the correctional enforcement in particular, age and sex of inmates, reducing overcrowding, promoting the participation of inmates to work outside the detention room and allowing better distribution of supervisory staff.

149. The Order of the Minister of Justice no. C/433/2010 defines compulsory minimum standards related to conditions of accommodation of the convicted persons, as follows: for every person deprived of liberty categorized in the closed and maximum security prison regime, as well as for minors, young people, people on remand and convicted whose enforcement regime has not yet been settled should be provided with 4 m²; for every person deprived of liberty categorized in the half-open and open prison regime provisions should ensure 6 m³ of air. This legislation is an important step in the effort to implement the recommendations of the European Court of Human Rights to ensure a minimum living space per inmate — 4 m² per detainee, regardless of prison regime.

150. The National Administration of Penitentiaries makes constant efforts for improving detention conditions and providing an appropriate climate for enforcing prison sentences and measures, which mainly fall into five large categories: increasing the accommodation capacity through renovation and construction; modernizing the existing facilities; improving the prisoners' rights; involving prisoners in activities outside the detention room; reducing violence among inmates. A detailed situation of recent projects is provided in *Annex 21*.

151. **Statistical data on the number of persons detained and the overall prison capacity**, respecting the standards imposed by the Order of the Minister of Justice (OMJ) C/433/2010 and the European Court of Human Rights (ECHR) is available in *Annex 22*.

152. **The inmates' right to health care** is guaranteed by law. It is the responsibility of all prison staff members to ensure the inmates' good health treatment. The inmates benefit from free health care and medicines. Each penitentiary has at least a general practitioner, a dentist and nurses providing permanent health care.

153. The prisoners suffering from acute or chronic disorders benefit from special care and surveillance in the prison infirmaries, specialized ambulatories, public hospitals or hospitals in their own health network, and in case of medical or surgical emergencies, they are transferred to the nearest hospital. They also benefit from the right to be legally recognized

as disabled persons or they can stop working for disease-related reasons, after medical examinations and periodical reevaluations. On release, they can benefit from the corresponding financial rights (disease retired pay, disability allowance). The inmates benefit from medication and treatment through the social health insurance system and through the prison budgets and the national health programs (diabetes, tuberculosis, HIV/AIDS, dialysis, oncology).

154. Detainees living with HIV/AIDS benefit from free medical care upon request provided both by the prison doctor and by a specialist doctor in the public health network or in the prison hospital network (specialist doctors work in the infectious disease facility in Poarta Albă and Bucharest Jilava Prison Hospitals). The infection or the disease is confirmed by specialists in the public health network who also decide upon the beginning or maintaining the specific antiviral treatment within the national program.

155. Inmates with a psychiatric diagnosis are registered in the medical record of the prison and receive psychiatric treatment from the medical staff, under strict supervision. In order to have their psychic disorder or treatment reassessed, patients are committed to the psychiatric facility of the prison-hospital (Bucharest Jilava — additional 2 psychiatrists were employed, Colibași or Poarta Albă). According to NAP statistics, at the end of June 2014, 2,188 inmates with psychiatric disorders were registered in the prison health care network. Among them, 68 prisoners were committed to the psychiatric facilities of the prison hospital: 26 patients in Bucharest Jilava Prison Hospital, 27 in Colibași Prison Hospital and 15 in Poarta Albă Prison Hospital. In addition to the medication treatment, in the case of detainees with a psychiatric diagnosis (and other categories considered vulnerable), a case management procedure allowing for the patient assessment from a multi-disciplinary perspective (medical, psychological, social, educational, potential risks for themselves, others or prison security), monitoring and specific intervention are also implemented. Thus, patients compliant with the psychological intervention benefit from psychological counseling individually and, depending on the diagnosis, may take part in one of the psychological support group programs.

156. According to Law no. 487/2002 on mental health and the protection on persons with mental disorder, republished, the Ministry of Health is the competent authority to protect the mental health of the population. The National Centre of Mental Health and Anti-Drug, established in 2008, is the specialized public institution, subordinated to the Ministry of Health, which coordinates, implements and evaluates the mental health policies at the national level, including the promotion of human rights for people with mental health problems. There is an annual National Program of Mental Health running, coordinated methodologically by the Psychiatry Commission of the Ministry of Health and technically by the National Centre of Mental Health and Anti-Drug.

157. The national legislation on mental health has been adapted to the European standard on persons with mental disorders hospitalized in psychiatric medical units. Thus, Law no. 487/2002 republished, on section III, states the rights of persons with psychiatric disorder, among which: the right human dignity (art. 35), prohibition to subject patients to inhuman or degrading treatment or ill-treatment (art. 37), any form of discrimination against hospitalized persons on grounds of race, nationality, ethnicity, language, religion, gender, sexual orientation, political affiliation, beliefs, wealth, social origin, age, disability, chronic non-contagious illness, HIV/AIDS or other criteria is forbidden (art. 38), the right to benefit from the best available medical services and mental health care (art. 41 para. 1), the right to exercise all civil, political, economic, social, and cultural rights (art. 41 para. 2), the right to private life (art. 42, para. 1, lett. b), freedom of thought, opinions and religious beliefs (art. 42, para. 1, lett. d).

158. The psychiatric hospitals for security measures are public health units with a single specialty which provide continuous hospitalization for various persons, including for

patients hospitalized according to art. 110 of the Criminal Code (hospital admission). There are four such hospitals subordinated to the Ministry of Health: Ștei Psychiatric Hospital for Security Measures (Bihor county), Săpoca Psychiatric Hospital for Security Measures (Buzău county), Pădureni Grajduri Psychiatric Hospital for Security Measures (Iași county) and Jebel Psychiatric Hospital for Security Measures (Timiș county).

159. According to the data provided by the National Center for Statistics and Informatics in Public Health within the National Institute for Public Health regarding the number of hospitalizations within the psychiatric units of the Ministry of Health, the Romanian Academy, and the local public administration, in 2014, the situation was as follows: 206,618 hospitalizations for acute illness and 37,054 for chronic illness.

160. A list with health units which perform non-voluntary hospitalization according to Law no. 487/2002 on mental health and the protection on persons with mental disorder, republished is provided in *Annex 23*.

Question 18

161. As a member of the community of Western values, Romania is deeply attached to the rule of law, democratic institutions and promotion and protection of human rights. Romania, as a member state of the European Union and NATO and party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (New York, 1984), dissociates itself and vehemently rejects such practices, regardless of the circumstances. This is Romania's official State policy and, at the same time, the clear policy, unequivocal and uncompromising, in the field of human rights, at the EU level, which Romania supports and implements without reservations.

162. Steps have been taken in order to verify the allegations concerning persons or foreign official agencies were allegedly involved, in Romania, in illegal detention or transport of detainees. A Commission of Inquiry was established by the Romanian Senate in December 2005. The Report, adopted by the Senate in 2008, concluded that no elements on the existence of secret US bases, detention centers or unauthorized CIA flights for the transportation or detention of prisoners suspected of terrorism were identified.

163. At the same time, a judicial investigation has been initiated and is ongoing. The competent authorities are taking all necessary steps to solve this case, with full respect of the principles of the rule of law and human rights. Concerning the level of detail of the information on this investigation, Romania stresses that the limitations imposed by the legal provisions governing an ongoing criminal investigation, until its conclusion, should be taken into consideration. Also, caution is necessary regarding the public statements that might affect the investigation.

164. Moreover, a judicial investigation was initiated following a complaint filed, on June 7, 2012, before the Romanian judicial authorities (Prosecutor's Office attached to the High Court of Cassation and Justice), on behalf of Abd al-Rahim Hussayn Muhammad al-Nashiri, currently held at Guantanamo Bay prison.

Question 19

165. The legal framework on **trafficking in persons** has been completed and improved through amendments to Law no. 678/2001 on preventing and combating trafficking in human beings and by Law no. 230/2010 aimed at setting up additional measures to discourage demand, protect victims, punish traffickers, and at extending the definition of the crime of trafficking in human beings to include new forms of exploitation.

166. In order to address and combat trafficking in human beings in a coherent way, the Government set up, in 2005, the National Agency against Trafficking in Persons (NATP) as

a specialized body of the central public administration, subordinated to the Ministry of Internal Affairs. NATP coordinates at national level the policies in the field of trafficking in persons. NATP is also in charge with collecting and managing official data regarding trafficking in human beings.

167. The most relevant measures and prevention activities conducted for the implementation of the *National Strategy against Trafficking in Persons for 2012-2016* are listed in *Annex 24*.

168. As far as the evolution of the phenomenon in Romania is concerned, a decreasing trend in trafficking in persons has been noticed since the establishment of NATP. A database on trafficking in persons has been created and is managed by NATP since 1 January 2007. The database gathers victim indicators such as personal data, socio-professional situation, aspects related to the trafficking period, the assistance period, types of assistance received, and data about the socio-professional situation of the victims after the completion of the assistance period. The principle of confidentiality is respected when introducing and managing data. Furthermore, the database can only be accessed by accredited NATP staff. The system is designed to receive and process trafficked victims' personal data with a view to facilitate their identification and expeditious referral to specialized support services, to monitor the assistance provided to victims, as well as to better understand and evaluate the dynamics of the phenomenon.

169. With regard to trafficking in children, Romania transposed the Directive 2011/36/EU of the European Parliament and of the European Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting into domestic legislation.

170. Statistics regarding Romanian **women and children victims of trafficking** are available in *Annex 25*.

171. **Protection and social assistance services** are provided to victims of trafficking in human beings in specialized centers, managed by public authorities, or in shelters run by NGOs. Social services providers may offer assistance to victims of trafficking at their place of residence, daycare centers or residential centers. Along with the specialized centers, depending on the local or regional conditions and the specific needs of the victims, these persons can also be assisted in residential centers run by local public administration social services that are dedicated to risk-vulnerable categories of persons, such as victims of domestic violence, disabled and homeless persons. Under-aged victims can be sheltered, assisted and protected in emergency sheltering centers for juvenile victims of different forms of abuse. At least one such center exists at the level of the 41 Directorates General for Social Assistance and Child Protection as well as in Bucharest. Children victims of trafficking receive, depending on their personal or family circumstances, either in-family assistance services or specific protection measures outside the family.

172. NATP does not centralize data based on ethnic criteria. *The National Identification and Referral Mechanism for victims of trafficking* adopted by Order no. 335 of 29 October 2007 states among the five principles underlying the fight against trafficking in human beings the principle of equality and non-discrimination. This principle claims that access to assistance and protection should be provided to all victims of trafficking, without restriction or preference to race, nationality, ethnic origin, language, religion, social, opinion, sex or sexual orientation, age, political affiliation, disability, contagious chronic disease, HIV infection or belonging to a disadvantaged category, regardless of the victim's decision to participate or not in criminal proceedings.

173. The situation of **victims receiving assistance** is presented in *Annex 26*.

174. Romanian citizens identified as victims abroad are repatriated with the help of diplomatic missions and consular offices of Romania abroad and of international and non-governmental organizations. Their reception and referral for assistance are coordinated by NATP and they have access without discrimination to all the above-mentioned services.

175. *The Protocol of cooperation on the coordination of victims of trafficking in human beings in criminal proceedings*, signed in 2008, facilitates a coordinated response to victims through inter-institutional cooperation between the state authorities involved in the fight against trafficking in persons, such as NATP; the Directorate for Investigating Organized Crime and Terrorism (DIOCT) within the Prosecutor's Office attached to the High Court of Cassation and Justice; the Inspectorate General of the Romanian Police; the Inspectorate General for Immigration; the Inspectorate General of Border Police, and the Inspectorate General of Gendarmerie. This approach has helped to increase, on one hand, the participation of victims or witnesses in criminal proceedings, by facilitating their access to justice, and, on the other hand, the number of criminal trials solved by the condemnation of the perpetrator. Victims of trafficking in human beings gradually benefit from protection in the legal conditions regarding the witness protection.

176. Statistics on **criminal cases proceedings, cases sent to trial, and cases involving Government officials, police officers or border police officers** are provided in *Annex 27*.

Question 20

177. The Labor Code (Law no. 53/2003, as further revised) and Law no. 76/2002 regarding unemployment insurances and employment stimulation stipulate the rights and conditions for foreign citizens to be employed in Romania. Additional regulations are included in the Government Ordinance (G.O.) no. 25/2014 regarding the employment and secondment of foreigners on the territory of Romania and the amendment of other regulations on foreigners' regime in Romania.

178. Foreign citizens legally residing in Romania can obtain employment approval from the Inspectorate General for Immigration (IGI).

179. Law no. 18/2014 amending and supplementing Law no. 52/2011 on occasional activities carried out by day workers stipulates the inclusion of day workers among the categories covered by the regulations in the field of health and safety at work. Thus, according to the provisions of art. 5 para. (3) of Law no. 52/2011 on occasional activities carried out by day workers, with its subsequent amendments and supplements, "in the field of safety and health at work, the beneficiary/employer has the following obligations: a) to ensure the safety and health at work of day workers; b) to provide training for day workers, before starting the activity and/or when changing the workplace, regarding the risks to which he/she may be exposed to and the measures of prevention and protection that need to comply with; c) to require the day workers to confess, under signature, that their health condition allows them to carry out the activity assigned by the beneficiary/employer; d) to provide adequate working equipment for day workers, that do not jeopardize their safety and health; e) to provide, free of charge, individual protective equipment adequate to the activity carried out by day workers; f) to immediately inform the respective territorial Labor Inspectorate about any event involving day workers; g) to register work accidents suffered by day workers during their activity".

180. The legal framework with regard to foreign and day workers also includes Government Emergency Ordinance (G.E.O.) no. 194/ 2002 on foreigners' status in Romania, republished, with subsequent amendments as well as Law no. 167/2014 on the profession of baby-sitter. According to the current legal provisions, the quota of new foreign workers admitted on the Romanian labor market is adopted on an annual basis by Government Decision at the proposal of the Ministry of Labor.

181. According to Government Ordinance (G.O.) no. 44/2004 on the social integration of foreigners who have acquired a form of protection in Romania, social integration represents an active participation of foreigners who have acquired a form of protection in Romania in the economic, social and cultural development of the Romanian society. To this end, integration programs (specific activities of cultural orientation, counseling and Romanian language) were implemented and their access to a range of economic and social rights (right to employment, education, health care and social assistance, housing) was facilitated. Foreigners who have acquired a form of protection shall have access to the labor market, unemployment insurance system, and to measures to prevent unemployment and to stimulate employment in the same conditions as the Romanian citizens. Moreover, a support system for foreigners was designed. It includes protection and adjustment services provided by the agencies for employment according to their specific situation and needs. Adults included in the integration program were enrolled in the Agency for Employment database as job seekers within 30 days from their inclusion in the program.

182. According to Law no. 122/2006 on asylum in Romania, with subsequent amendments, foreigners applying for a form of protection have the right to receive access to the labor market under the conditions provided by law for Romanian citizens, after a period of 3 months from the date of application for asylum if no decision was taken in the administrative phase of the procedure and the delay cannot be charged with the applicant, as well as during the asylum procedure in the judiciary phase.

183. The monitoring activity conducted in 2014 with regard to the compliance of employers with the legal provisions related to employment and deployment of foreign workers in Romania revealed the following results: out of the 575 total number of controls, 336 were conducted in collaboration with the Inspectorate General for Immigration (IGI); 17 sanctions were applied (13 fines and 4 warnings); the total value of fines applied was of 52,700 RON (out of which 49,000 RON for receiving at work foreigners without work permit), and 56 sanctioning measures were applied. In 2014, 7,832 activities were conducted with regard to the compliance with the provisions of Law no. 52/2011; 241 legal entities were sanctioned for violating the provisions of the law; 511,700 RON in fines were applied, and 114 persons were identified performing activities without proper registration.

Question 21

184. The reform of the Romanian civil and criminal procedure legislation aims at ensuring a modern legislative framework with a view to responding to the need to reduce the duration of the judicial procedure as well as to guaranteeing the fundamental rights and freedoms of all citizens, including the right to a fair trial.

185. The adoption of **Law no. 202/2010** (“small reform law”) on some measures for shortening the duration of trials led to the entry into force of the new Code of Civil Procedure (on 1 October 2011) and the new Code of Civil Procedure (on 15 February 2013).

186. The thorough judicial reform process included also **a set of seven laws on criminal and criminal procedure matters** which entered into force on 1 February 2014, such as: the new Criminal Code (Law no. 286/2009); the new Code of Criminal Procedure (Law no. 135/2010); Law no. 187/2012 on the application of Law no. 286/2009 on the Criminal Code; Law no. 252/2013 on the organization and functioning of the probation system; Law no. 253/2013 on serving sentences, educational measures and other non-custodial measures ordered by the judicial bodies during the criminal trial; Law no. 254/2013 on serving sentences and custodial measures ordered by the judicial bodies during the criminal trial; and Law no. 255/2013 on the application of Law no. 135/2010 on the Code of Criminal Procedure and on amending and supplementing the legislation which include provisions with regard to the criminal procedure.

187. The new **Criminal Code** establishes a coherent legislative framework in criminal matters, avoiding overlapping. It simplifies the substantive law provision, aiming at facilitating its unitary and swift application in the activity of the judiciary bodies. It also harmonizes the Romanian substantive criminal law provisions with the criminal system of other EU Member States, laying the ground for judicial cooperation based on mutual recognition and trust.

188. The new **Code of Criminal Procedure** offers a modern legal framework with a view to improving the efficiency of the criminal trial, reducing the duration of court proceedings, and guaranteeing the universal protection of human rights and fundamental freedoms as reflected by the Constitution and the international legal instruments. The new Code establishes an appropriate balance among the requirements for an efficient criminal procedure, the protection of fundamental human rights, in general, and of the basic procedural rights, in particular, for all persons taking part in a criminal trial, and the respect of the right to a fair trial.

189. As a novelty, the new Code of Criminal Procedure explicitly stipulates the fundamental principles of criminal trial, such as: the right to a fair trial carried out within a reasonable time (art. 8), the principle of the separation of the judicial functions within the criminal trial (art. 3), the principle of the mandatory criminal action tightly connected to the subsidiary principle of opportunity, the *ne bis in idem* principle (art. 6), the right to freedom and security (art. 9), and the principle of loyalty in producing evidence (art. 101).

190. The new institutions of the Judge for Rights and Liberties and the Preliminary Chamber judge aim at valorizing the fundamental human rights, as well as the principle of legality.

191. The new Code of Criminal Procedure stipulates the home arrest as a new preventive measure with the view to extending the possibilities of the individualization of preventive measures. It also introduces substantive modifications in the field of the extraordinary means of judicial review. According to these modifications, the appeal for review becomes an extraordinary legal remedy, exercised only in exceptional situations and only for issues concerning the lack of legality. It has included recently adopted elements at the EU level, configuring an efficient and swift procedure, in order to meet the requirements of the European Court of Human Rights (ECHR).

192. The Code of Criminal Procedure strengthens the role of the High Court of Cassation and Justice (HCCJ) as a cassation court. The unitary case law is ensured through the appeal in the interest of the law and a new institution, namely making a referral to HCCJ for delivering a preliminary ruling to settle legal issues.

193. The introduction of the plea bargain means a significant change in the Romanian criminal trial. This institution may be applied only in the situation of criminal offences for which the law stipulates the fine penalty or the imprisonment of maximum 7 years.

194. The preliminary Chamber procedure, laid down in criminal proceedings, seeks to resolve issues relating to the legality of the commitment for trial the legality of testing administration, ensuring, thereby, the prerequisites for resolving expeditiously the merits of the case and removing the possibility of refunding the case prior to this procedural moment.

195. The new **Code of Civil Procedure** is the result of a sustained effort over the years with the aim of creating a modern legislative framework in the civil field, which is able to fully comply with the demands of modern justice, adapted to social expectations, as well as meant to improve the quality of the public service. Thus, the new Code of Civil Procedure is a turning point in the reform process of the law institutions and justice in Romania.

196. It focuses on the preventive dimension of its provisions and in the same time it meets the exigency of the predictability of judicial proceedings provided by the European Convention for Human Rights and those stemming from the ECHR jurisprudence.

197. The provisions of the new Code of Civil Procedure are designed to meet both the goals of granting citizens access to less sophisticated and more accessible procedural means and methods and speeding up the procedures, including in the coercive enforcement phase, as well as to create the premises for proper settlement of cases, in the framework of the national judicial system. More details are provided in *Annex 28*.

198. The introduction, in civil proceedings, of the petition procedure, adds up to and corrects any shortcomings of the application, within the deadline set by the Court, in order to avoid loading the courts with actions that do not meet formal and substantive requirements.

199. With regard to the duration of the court proceedings, articles 522-526 of the new Code of Civil Procedure allow motioning appeals on delaying the trial, setting out the cases in which it may be submitted and the procedure to be followed. On a similar note, the new Code of Criminal Procedure (arts. 4881-4886) stipulates the right to appeal to a reasonable length of the criminal trial, meant to ensure progress in those trials in which the activity of criminal enforcement bodies is not carried out within a reasonable time frame.

200. 2004 marked the adoption of a set of laws dedicated to guaranteeing the **independence of the judiciary** which are of significant importance for the judiciary system of Romania: Law no. 304/2004 on judicial organization, Law no. 303/2004 concerning the status of judges and prosecutors, and Law no. 317/2004 on the Superior Council of Magistracy.

201. In 2012, the new legal framework established by Law no. 24/2012 for the amendment and supplementing of Law no. 303/2004 on the statute of judges and prosecutors and of Law no. 317/2004 on the Superior Council of Magistracy has introduced new mechanisms for increasing magistrates' accountability and public trust, such as: the criterion of good reputation for admission into magistracy; enlarging the list of disciplinary offences; defining bad faith as an element of the disciplinary offence; enhancing disciplinary sanctions.

202. Furthermore, Law no. 24/2012 strengthens the independence and operational capacity of the Judicial Inspection, which has legal personality and its own budget. According to the new provisions, the disciplinary commissions are replaced by the judicial inspectors and in the matter of disciplinary complaints the preliminary verifications are mandatory. The Judicial Inspection acts according to the principle of operational independence and carries out attributions of analysis, assessment and control in specific fields of activity. This law amends the scheme of disciplinary offences and increases sanctions. It also eliminates the possibility of magistrates escaping disciplinary sanctions through retirement whilst a disciplinary process is on-going.

Question 22

203. Respect for religious freedom, freedom of thought, freedom of conscience, equality and non-discrimination, and guaranteeing equal respect for all religions are the founding principles of **Law no. 489/2006 on religious freedom and the general status of religious denominations**. Applying the provisions of the Constitution (art. 29 and art. 37 para. 3 letter s), the Law regulates the religious freedom in correlation with the provisions of the international treaties and conventions, including art. 18 of the Covenant. The first chapter of the Law is entirely dedicated to laying out of these principles.

204. Thus, the law guarantees freedom of thought, conscience and religion. Freedom of religion is held to include both holding and not holding religious beliefs, of joining and renouncing a specific faith, freedom of worship, freedom of expressing one's beliefs in public both individually and collectively, and freedom of parents to educate children (up to the age of consent) according to their own beliefs (arts. 1-5) and explicitly bans all restrictions to public expression of religious freedom other than the ones allowed under the Covenant and other relevant international laws (art. 2.2).

205. Freedom of expression of religious beliefs is guaranteed both for registered religions (religious denominations and associations) and for unregistered religious groups (art. 5).

206. The Law explicitly states (art. 9 para. 1) that "There is no state religion in Romania; the State is neutral towards any religious persuasion or atheistic ideology", and also makes a clear provision for the equality of all denominations before the Law and public authorities (art. 9 para. 2) banning all forms of discrimination (art. 1 para. 2, art. 9 para. 2). Religious groups, associations and denominations may function freely according to their own statutory provisions (art. 8).

207. The Law establishes clear and objective criteria for the registration of religious associations and religious denominations (based on the number of believers, duration of their presence on the Romanian territory, and the completion of administrative procedures), without discrimination. Thus, the Statutes of all 18 recognized religious denominations have been recognized. Furthermore, 22 religious groups have received a positive consultative opinion from the State Secretariat for Religious Denominations to be registered as religious associations.

208. The Law establishes different levels of cooperation between the State and religious denominations, and, respectively, between the State and religious associations, under a multi-level recognition regime that is primarily functional and does not seek to introduce any forms of discrimination. All areas of cooperation between the Church and the State are equally open to all religious denominations, as the Romanian State seeks to develop a social partnership with religious denominations, in areas of mutual interest. To that purpose, material support for the activities of religious denominations is based on functional criteria, namely on the number of believers of each denomination (according to the latest official census) and the real needs of these denominations. For example, the State Secretariat for Religious Denominations remains in permanent contact (within the limits of its own attributions) with representatives of each denomination in order to ensure that, based on the principle of proportionality to the number of believers, these needs are met.

209. Further legal provisions exist to ensure the respect of the principles of religious freedom, equality and non-discrimination. Thus, the Criminal Code imposes sanctions for the infringement of religious freedom and the respect due to deceased persons. The Code states at art. 381 para. 1 that "Impeding or disturbing the free exercise of the rituals of religious denominations, organized and acting according to the law is punishable with prison of 3 months to 2 years or with a fine."; para. 2 "Constraining a person to attend the religious services of a religious denomination or to perform a religious act connected with the exercise of a religion is punishable with prison of 1 to 3 years or with a fine."; para. 3 "The same sanction is to be applied for constraining a person, through violence or threats, to perform an act that is forbidden by his/her religious denomination organized according to the law."

210. Legal action is to be taken following a complaint by the damaged party.

211. The profanation of religious buildings and ritual objects belonging to a religious denomination organized and acting according to the law is punishable with prison of 6 months up to 2 years or with a fine (art. 382), comparable to the penalties imposed (art. 383

para. 2) for the desecration of graves (3 months up to two years or a fine), and of the bodies of deceased persons (art. 383 para. 1, sanctioned with prison for 6 months to 3 years).

212. The Criminal Code further includes provisions on genocide, crimes against humanity, and war crimes.

Question 23

213. Art. 13 para. 2 of Law no. 489/2006 on religious freedom and the general status of religious denominations states that: "In Romania, all forms, means, acts or actions of religious defamation and religious strife, as well as the public offense against religious symbols are forbidden". The provision aims at the protection of religious freedom both in the context of inter-religious and inter-denominational relations, as well as within the society at large.

214. Art. 13 para. 2 follows closely the provisions of art. 19 of the Covenant, particularly those of art. 19 para. 3, acknowledging that the exercise of these rights "carries with its special duties and responsibilities", and that the law may provide, where necessary, certain restrictions meant to ensure the "respect of the rights or reputations of others" and of public order, health and morals. The provision of the Romanian Law also stems from the Covenant's ban on all "advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence" (art. 20 para. 2).

215. Taking into account the Committee's General Comment no. 34 to art. 19 of the Covenant, one should note that art. 13 para. 2 of Law no. 489/2006 does not by any mean impede freedom of opinion. Holding an opinion (pt. 9 of Comment no. 34 to art. 19 of the Covenant) is not in any way criminalized by art. 12 para. 2 of the Romanian Law. Furthermore, art. 13 para. 2 of Law no. 489/2006 strictly adheres to the terms of art. 19 para. 3 and art. 20 para. 2 of the Covenant and may not in any way be construed to restrict freedom of expression, as enshrined in the Covenant.

216. Art. 13 para. 2 is primarily aimed at preventing religious hatred and strife and has never been used to restrict even the expression of "deeply offensive" opinions with respect to any religion (be it expressed in political discourse, journalism, artistic events, teaching etc.). It should further be noted that neither the Law nor the Criminal Code include any effective penalty for religious defamation, and so far this provision hasn't been invoked in the Courts.

217. Thus, as the contextualization of the paragraph suggests, the ban on religious defamation and on insults to religious symbols was deemed necessary only as a clear statement that expressions of religious hatred and actions grounded therein are unacceptable in a democratic society, and that both individuals and organizations should refrain from actions that may imperil public order, security and social peace.

218. Furthermore, the new Civil Code (Law no. 287/2009), in Section 3, provides for an enhanced protection of the respect of private life and dignity of the person. To this end, art. 70 (Right to freedom of expression) reads as follows: "(1) Every person is entitled to freedom of expression. (2) The exercise of the aforementioned right may not be restricted unless otherwise provided by the present law in its art. 75." Moreover, art. 70 should be read in conjunction with the rest of the articles in order to have an overview of the whole protection granted by the Civil Code.

219. Therefore, as it has been shown, the provisions of Law no. 489/ 2006 concerning the ban on religious defamation and on insults to religious symbols have functioned to this day not as a hindrance to freedom of opinion and expression, but as a guarantee of the respect of freedom of religion and of the preservation of public order and social peace, thus adhering strictly to the terms of the Covenant and their interpretation.

Question 24

220. The right of association is guaranteed by the Constitution. Citizens may freely associate into political parties, trade unions, employers' associations, and other forms of association.

221. Romania has constantly developed and improved special legislation in order to encourage the associative movement. The Labor legislation (Law no. 53/2003 — the Labor Code and Law no. 62/2011 on social dialogue), in conjunction with Government Decision no. 137/2000 on preventing and sanctioning all forms of discrimination, republished, guarantees the recognition and protection of trade union rights and sanctions all forms of abuse and discrimination in the exercise of civil rights and the right of employees to freedom of assembly and association and to establish and join trade unions.

222. Complaints about violations of these rights or conditionings in their exercise shall be addressed to the Labor Inspection and the territorial labor inspectorate that oversees the compliance with and the enforcement of labor legislation or/and to the National Council for Combating Discrimination, the supervisor and guarantor of non-discrimination principles. The Labor Inspectorate is the responsible body with enforcing national labor legislation. Labor inspectors enforce contraventions and sanctions.

223. The Labor Code guarantees employees and employers the freedom of association (art. 7) and the right of employees to create or join a trade union (art. 39, para. 1, letter m). It also provides that the right of employees to be associated in trade unions should be recognized by all employers (art. 217) and prohibits any interference of employers and employers' organizations, directly or indirectly, in establishing trade unions or in the exercise of their rights (art. 218).

224. As a measure of further protection, the Labor Code stipulates that employees cannot give up their rights granted by law and that any clause which seeks to waive or restrict these rights is void (art. 38). The person has the right to be assisted in the negotiation, conclusion or modification of the individual work contract (art. 17 para. 6). The Labor Code forbids any direct or indirect act of discrimination against an employee on grounds of trade union affiliation or activity (art. 5, para. 2), the dismissal of employees on grounds of trade union affiliation (art. 59), and also any discrimination on grounds of trade union affiliation or activity in determining the wage (art. 159 para. 3).

225. Thus, the national legislation also prohibits the dismissal of employees by cause of union membership or union activity and provides general provisions applicable to unreasonable or illegal redundancies. If the dismissal was unreasonable or illegal, the Court shall order its cancellation and shall compel the employer to pay compensations equal to the updated salaries and to the other rights which the employee would have received. At the request of the employee, the Court shall reinstate him/her to the previous state before the act of dismissal.

226. Law no. 62/2011, republished, on social dialogue provides that no one can be compelled to join or not a trade union (art. 3, para. 3). Employees have the right to establish and/or to join a trade union, without restriction or prior authorization (art. 3 para. 1), any interference of public authorities, employers and their respective organizations aimed at restricting or obstructing the right of trade unions to organize their activity is forbidden (art. 7).

Question 25

227. According to art. 8 of Law no. 272/2004 on the promotion and protection of the rights of the child, the child has the right to have his/her identity established and maintained. The child must be registered immediately after birth, has the right to a name, and the right

to a citizenship. The elaboration of art. 8 took into account the recommendations of the UN Committee on the Rights of the Child.

228. The child's name and surname are chosen by his/her parents. The child has the right to preserve his/her citizenship, the name and family bonds, without any interference, in accordance with the law. If a child is illegally deprived of any constitutive element of his/her identity, the public authorities are compelled to take all necessary measures to re-establish his/her identity. As for the child born by unknown parents, the right to identity is established and preserved by the local authorities, in accordance with the law.

229. Law no. 119/1996 on civil documents states that the birth registration should be made without discrimination and all children, regardless of their social, ethnic or racial origin etc., benefit from this fundamental right. Furthermore, in accordance with art. 7 para. (1) of Law no. 677/2001 on the protection of individuals with regard to personal data processing: "Processing personal data related to racial or ethnic origin; political, religious, philosophical or of a similar nature opinions; union membership, as well as personal data concerning health condition or sex life shall be prohibited".

230. Birth registration procedure is detailed in *Annex 29*.

231. The situation of birth registration in 2014 was as follows:

- Persons recorded in the registers of births — 252,102 compared to 240,467 in 2013;
- Persons recorded in the registers of births as a result of transcription of civil status certificates issued by foreign authorities — 85,036 compared to 60,214 in 2013.

232. In order to prevent abandonment of newborns and to ensure the proper civil registration of children, cooperation agreements were signed between the competent authorities, to ensure ongoing exchanges of information and best practices that lead to keeping the rate of unregistered births low.

233. Various projects were implemented at national and local level in order to provide assistance and to improve the situation of Roma persons with regard to identity documents. The most important ones are listed in *Annex 30*.

234. Action plans adopted in 2012 and 2015 at the level of the Directorate for Population Records and Database Administration aimed at a better coordination among competent institutions as well as NGOs in order to facilitate the registration of Romanian citizens of Roma ethnicity in civil records and to support them in obtaining identity documents.

235. Official data show a significant increase in the number of civil status certificates or identity documents issued for Romanian citizens of Roma ethnicity in 2015, as follows:

- Joint actions with public order police officers policy workers — 490 compared to 241 in 2014 and 174 in 2013;
- Persons registered in civil records — 8,882 compared to 6,331 in 2014 and 4,611 in 2013;
- Persons registered in national registry — 37,148 compared to 36,602 in 2014 and 27,998 in 2013.

236. Even though important steps have been made in tailoring specialized services to the particular needs of **street children**, together with the diversification of the intervention methods by using an integrated approach of the problems these children face every day, the phenomenon still persists. The main causes are the poor material situation of a large category of population from rural or urban areas and the shortage of the social role of the family, which was assumed during the past years by various public institutions, schools etc.

237. In this context, the development of services for street children made the object of many specific programs nationwide which have allowed setting up specific services in the counties with a significant number of street children. The authorities focused on adopting specific measures to help decrease the causes generating this phenomenon and its effects. The new services and the diversification of the existing ones followed an integrated approach to answer the needs of street children in line with the child protection policies. These measures grant access, for a determined period of time, to housing, care, education and training in order to facilitate family and social integration of these children.

238. The Ministry of Labor, Family, Social Protection and Elderly (MLFSPE) implemented the “Street Children Initiative”. The program targeted children living on the streets separated from their families for long periods of time, children living with their families but involved on a daily basis in begging or other related activities, children living on the streets with their families (even if the latter category is not very large, it is usually considered by groups of organized crime as an easy source of exploitation to obtain illicit income). The overall goal of the program was to reduce the root causes and effects of the street children phenomenon in Romania, while its specific objectives were aimed at setting up around 20 centers for street children providing day and night shelter to 300 children, and continuing training for nearly 150 professionals from the newly created social services for street children. It was estimated that during the implementation period the number of child beneficiaries would reach approximately 3,000.

Question 26

239. Law no. 272/2004 on the promotion and protection of the rights of the child states that the state shall guarantee the child’s right to life and development by providing him/her without discrimination with the necessary medical services and appropriate medication for his/her medical condition. All costs related to the child’s access to medical services shall be covered by the National Fund for health insurance or the state budget.

240. In addition, the law provides the obligation of specialized bodies of the central and local public administration, along with any other public or private health institutions, to take all necessary measures in order to: reduce child mortality; provide and develop basic and community medical services; prevent malnutrition and disease; provide medical services for pregnant women during and after maternity regardless of whether they are insured in the health social insurance system or not; inform both parents and children on the child’s health condition and nutrition, including on the advantages of breast-feeding; develop activities and programs in the fields of health protection, disease prevention, assistance and education of parents, and family planning services; regular health checkup of children placed in foster care for protection or treatment; provide the confidentiality of the medical act upon child’s request; develop programs for students focused on sexual education, preventing sexually transmitted diseases and pregnancy.

241. Regular visits of medical staff at the residence of the child until he/she reaches one year of age are compulsory. The purpose is to closely monitor the child’s growth and development, train mothers for providing optimal conditions for the growth and development of the child, prevent abandonment, abuse, and neglect which would have negative consequences in the harmonious development of the child.

242. The Ministry of Health has paid special attention to reducing child and maternal mortality, granting equitable access to health services and improving the efficiency of the health system, with an emphasis on mother and child care. To this end, a series of programs, projects and campaigns were implemented and their outcome proved a slight growth of the birth rate. The Health Care Reform — Phase 2 Project was implemented by the Ministry of Health with the financial support of the International Bank for Reconstruction and Development (IBRD) and the European Investment Bank (EIB). It aimed at rendering

medical services more accessible and at improving their quality and overall outcome. The main objectives of the project were to renovate maternity hospitals and neonatal health care facilities, to provide medical equipment and technical assistance, and to train medical staff on delivering modern obstetrics, gynecology and neonatology services. The project also funded works to improve mother and child care in several facilities where local funds were insufficient for full building renovation. The respective facilities were prioritized according to the number of births per year. In 2010, reconstruction works were started in the obstetrics and neonatology units 4 hospitals and, in 2011, 8 other hospitals were included in the project.

243. With regard to abortions among youth, the current legislation focuses, on one hand, on offering appropriate information to young women and, on the other hand, on the involving risks one may take and on the rights of a pregnant woman. Awareness raising campaigns on this subject have been conducted in rural areas.

244. Romania achieved, by 2015, the following two goals: the infant mortality was reduced by 40% between 2002 and 2015 and the mortality rate in children aged 1-4 years was halved between 2002 and 2015.

245. Statistics on the infantile death rate in Romania are available in *Annex 31*.

246. As a novelty, Law no. 272/2004 introduces specific definitions for the concepts of child “**abuse**” and “**neglect**” that were not previously regulated, thus not being able to produce legal effects. By acknowledging the unfortunate occurrence of such violent phenomena against children, both at familial and institutional level, the legislation anticipated the need to take specific actions to fight and prevent violence against children.

247. According to the law, child abuse is any deliberate action of a person who is in a relationship of responsibility, trust or authority with the child that endangers life; physical, mental, spiritual, moral or social development; physical integrity; physical or mental health of the child, and it is considered a physical, emotional, psychological, sexual, and economic act of abuse.

248. Neglect of the child means the voluntary or involuntary failure of a person responsible with raising, caring for or educating a child to take any action that involves fulfilling this responsibility which endangers life; physical, mental, spiritual, moral or social development; physical integrity; physical or mental health of the child. The act of neglect may take many forms, such as the lack of food, clothing, hygiene, medical services or education. The emotional neglect or child/family abandonment is the most serious form of neglect, according to the law.

249. The law guarantees the child’s right to dignity and integrity as a person and explicitly forbids the use of any physical punishments and abuse or other acts which are meant to endanger him/her both at family (natural or surrogate) and institutional level (nursery, kindergarten, school, foster care center etc.).

250. Romania has continued efforts to establish a unified and comprehensive legal framework to prevent child abuse and neglect, as well as a series of mechanisms to monitor the number of cases and the scale of sexual abuse, neglect, maltreatment or exploitation, including in the family, schools and residential care or other type of care. This ensures the complementarity of initiatives adopted at national level, such as the *National Strategy for the Protection and Promotion of Children’s Rights and its Operational Plan 2014-2020*.

251. The *Strategy* intends to create an efficient framework of implementation of the main priorities in the field of child protection, in order to “allow training and development for all children, from birth up to the age of 18”. The *Strategy* is in full compliance with the European priorities and standards and is based on the principles of the Europe 2020

Strategy, the Council of Europe Strategy for the Rights of the Child 2012-2015 and other relevant international documents.

252. The *Strategy* aims at promoting the investment in child's welfare and development based on a holistic and integrated approach supported by all relevant public institutions and authorities, taking into consideration the respect of all children's rights, the accomplishment of their needs and the universal access to services. The *Strategy* intends to become an integrator for all processes dedicated to strengthening structural reforms, including those intended for 2014-2020 whose impact is estimated to be significant in respect to the development of child's rights.

253. More details on the procedure to be followed in cases of child abuse or neglect and cases of children victims of domestic violence are provided in *Annex 32*.

254. In 2011, Romania became party⁸ to the Lanzarote Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Furthermore, Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography and replacing Council Framework Decision 2004/68/JHA was adopted. Romania participated in the negotiation process of the Directive, now being in the phase of transposing its provisions.

255. In the context of the national efforts aimed at preventing child's abuse and exploitation, the legislation on the promotion and protection of child rights includes specific measures to prevent and combat child prostitution, which is usually linked to illegal migration of Romanian minors on the territory of other states or to trafficking in human beings and exploitation.

256. The provisions of the Convention on the Rights of the Child and the ILO Conventions No. 138 on the Minimum Age for Admission to Employment and No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor have been transposed into the Romanian legislation.

257. More information about measures and prevention actions to protect children against any forms of trafficking and exploitation is available in *Annex 33*.

258. Statistics on the situation of criminal complaints involving an underage victim are available in *Annex 34*.

Question 27

259. According to Law no. 272/2004 on the promotion and protection of the rights of the child and Law no. 119/1996 on civil documents, in case of a **child abandoned by his/her mother in the maternity hospital**, the hospital should notify the Police and the social assistance authorities within 24 hours after noticing the mother's disappearance. Within 5 days, based on a common report of all authorities involved, if the child's state of health allows it, the child is released from the hospital and will benefit from a special protection measure. During the next 30 days the Police should make specific investigations to identify the natural mother and report the final results to the local Directorate General for Social Assistance and Child Protection (DGSACP). If the mother is identified, she should be counselled accordingly regarding the consequences of abandoning her child and assisted by the authorities to register the child. If the mother is not identified, DGSACP sends all documents from the child's file to the public service of social assistance which has the obligation to perform all administrative procedures to register the child's birth.

⁸ Law no. 252/2010, published in the Romanian Official Journal no. 885 of 29 December 2010.

Statistics on children/newborns abandoned in maternity hospitals and other medical units are available in *Annex 35*.

260. After Romania's accession to the European Union, child protection system had to respond to the challenges posed by the large number of **children left behind at home**, in the care of relatives, extended family or public institutions, by their parents who seized job opportunities abroad. Initially overlooked, this phenomenon has become a real reason of concern for the authorities, when it became evident that parents' absence may have a serious negative impact on the development of the children left behind. Thus, new monitoring instruments by competent local and central authorities have been developed, in order to design adequate strategies.

261. Previous attempts were meant to raise awareness among parents about their responsibility to notify the local authorities about their intention of leaving the country. Such an action would help local authorities acknowledge the cases of children left at home. Since the rules established by the 2006 Order of the president of the National Authority for the Protection of Children Rights were not actually respected by parents, new measures have been taken at national level.

262. Thus, the modifications brought to the Law no. 272/2004 have introduced a special chapter on children whose parents work abroad. It introduced the obligation of the parent to notify the social services, within at least 40 days in advance, about his/her intention to leave the country and to inform about the person who will be in charge with the child during his/her absence. In the same time, the court shall appoint the person in charge with the child for a period not longer than one year. After one year, the court shall make a new decision in this respect, if necessary. Once these provisions being incorporated in the text of the law, they became compulsory both for parents and authorities.

263. All cases of children left at home are reported to the National Authority for the Protection of the Child Rights and Adoption (NAPCRA). In order to have a better picture of this phenomenon, NAPCRA modified the reporting methodology in order to gather specific data on the situation of these children (children with both parents working abroad or with one parent / the only supporting parent working abroad). Data on the number of children left at home whose parents work abroad in recent years are presented in *Annex 36*.

264. With regard to the measures taken in order to **prevent child separation** from his/her family, the efforts of the Romanian authorities focused on helping parents to better fulfill their obligations towards their children and keeping children within their families. The local authorities responsible with the protection of child rights were involved in setting up day care services and organizing parenting programs and counseling sessions for parents. In terms of numbers, the number of children entering into the system has diminished in 2013 with 3% compared to 2012; while in 2014 a decrease of 9% was registered compared to the previous year. In the same time, the number of children who benefitted from services for preventing children's separation from family increased significantly during recent years (17,855 children in 2006, compared to 56,774 children in September 2015 — an increase of over 300%). The situation of children placed in the special protection system is available in *Annex 37*.

265. Starting with 2008, the Ministry of Labor has implemented of the Project "Community-Based Services Aimed at Preventing Children's Separation from Family and Associated Staff Training". The goal of the project is to develop a network of community-based services at urban and rural levels for preventing children's separation from their family.

266. Furthermore, Law no. 272/2004 on the promotion and protection of the rights of the child has been recently modified and it forbids the placement of a child in an institution before the age of 3. Thus, the *National Strategy* and its corresponding Operational Plan

includes provisions regarding this matter. Thus, one of its main objectives refers to the continuation of the transition process from institutional to community care which implies closing up the remaining old, classic-type institutions and increasing the efficiency of the family-type care system. The objective also implies the setting up of at least one day care service (such as: counselling center, community based service) at the level of each administrative territorial unit until 2020, based on the needs identified by each local public authority. Another specific objective of the *National Strategy* refers to the development of independent life skills of the children who leave the special protection system. Such a measure involves the preparation of the beneficiaries and specific training of specialists.

267. With regard to protecting children against **abuse or neglect** the Romanian legislation strictly forbids any type of violence against the child. These provisions also apply to professionals who work directly with children. In the same time, the local social services have the obligation to verify any potential situation of abuse or neglect even if it is based on a simple suspicion. The acts of violence or abuse on a child are to be punished under the civil or criminal law, on a case by case basis.

268. One of the specific objectives of the new *National Strategy for the Protection and Promotion of Children's Rights 2014-2020* refers to raising awareness among children, parents and professionals, as well as the general population with respect to all forms of violence. The *Strategy* also refers to the need to decrease children's exposure to any forms of violence in mass-media and online. The legislation will be carefully monitored, evaluated and modified accordingly.
