



**Convention on the  
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**COMMITTEE ON THE RIGHTS OF THE CHILD**

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

**Third and fourth periodic reports of States parties due in 2007 \* \*\***

**ROMANIA**

[1 November 2007]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

\*\* Annexes can be consulted in the files of the Secretariat.

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## **Introduction**

1. Child protection has been a priority for all of Romania's governments from 1990 to the present day. Before this period many children were kept in institutions in inhuman and harsh conditions. Romania launched child protection reforms in the early 1990s after having been frequently accused of not being able to care of its children.
2. The first laws adopted accorded considerable importance to placing children in institutions. This was a continuation of the approach taken by the old regime, which saw adoption as an affordable solution for families that could not take proper care of their children.
3. It subsequently became clear that the role played by institutions and the State in child protection should be decreased as it had become obvious that the education and developmental needs of huge numbers of children were not well served by this institutional framework. A decision was therefore taken to close down these institutions and replace them with family type homes offering protection to a smaller number of children. This arrangement offered these children similar conditions to those they would find in a normal family, as well as better educational conditions.
4. Such measures needed of course a new legislative framework that should adapt itself to the new objective necessities of the system but also to the new demands imposed on Romania during the European Union accession process, which had become a national objective. In 2005 a new legislative package was introduced and brought a number of fundamental changes in Romania's child protection system. The new legislation is based on the principles contained in the European Convention on Human Rights and the United Nations Convention on the Rights of the Child. The new laws contained principles which recognized the primary role of the family in raising and caring for children. Institutions took on a less important role and were only considered after all other family type protection measures had been considered.
5. Thus, the role of State institutions was redefined. Their role was to first of all support parents, or a child's legal representative, in the realization of their duties. For example, local public administration authorities began to inform parents and children on their rights and the means at their disposal to secure social assistance rights.
6. The recent opening of Romania's borders following its accession to the European Union, has also entailed preparing labour reports on Romanian citizens. Attracted by the opportunity of a better income and a better lifestyle for their families, many Romanians have chosen to leave the country, and have left their children at home in the care of relatives, extended family, and even state institutions. The extent of this development was initially disregarded but has become a source of real concern for authorities as it began to realize the extent and tragic impact of parental absence on the children that had been left at home. Thus, a number of actions were initiated, together with a simultaneous application of new instruments to quantify and monitor this phenomenon by the competent local and central authorities, in order to provide adequate strategies adapted to the real needs of these beneficiaries.
7. Although the main objectives of child protection reforms have already been achieved, changes are still ongoing as part of the adaptation process to the realities of contemporary Romanian society and the best interests and needs of Romanian children.

## I. GENERAL MEASURES OF IMPLEMENTATION

8. From the beginning the domain for the protection of the child's rights represented a challenge and a process of continuous change aimed at harmonizing and aligning the initial and subsequent legal rules to the international standards. This registered one of the most spectacular evolutions in terms of the passage from a centralized and closed system to a decentralized one, open and aimed at properly supplying of the family environment.

9. Ensuring and respecting children's rights and locating them in an area of special interest, has been a national priority for the Romanian Government. The sustained efforts undertaken at the central as well as at the local level by the responsible structures have led, from the beginning of 2001, to a moment of radical change of the policy on child protection and adoption.

10. The Governing Programme and Government Strategy in the domain of child protection (2001-2004) being the main reference elements for intervention, the Romanian Government proved its commitments for a thorough reform based on the legal, administrative and financial measures adopted during this period.

11. The activity of elaboration of a new legal package was initiated in May 2002 and involved consultations with all the partners inside child protection system and with specialists within the system. The European Commission's special attention with respect to the fulfillment of the engagements undertaken by Romania in the field of child protection has materialized in the appointment of groups of experts (January 2003) that offered technical assistance to the group of Romanian experts in perfecting the legal package. In June 2004, the Parliament adopted a legal package in the domain of protection of child rights, based on the principles of the European Convention on Human Rights and the Convention on the Rights of the Child, legal package effected on January 1st, 2005, which includes: Law No. 272/2004 on the protection and promotion of the child's rights, Law No. 273/2004 on the legal regime of adoption, Law No. 274/2004 on the establishment, organization and operation of the Romanian Office for Adoptions and Law No. 275/2004 for the change of the Government Emergency ordinance No. 12/2001 on the foundation of the National Authority for the Protection of Child's Rights.

12. The elaboration of this new set of laws aimed at instituting a state of normality and at increasing the amount of responsibility for a natural family and the child's best interest. Thus, the role of the state institutions was redefined, their attributions covering, first of all, the duty to support the parents, or as the case may be another legal representative of the child in the realization of its duties. For example: the local public administration authorities undertake to inform the parents and children regarding the rights they have and on the means of securing social assistance rights and social assistance.

13. Previous to the approval of the aforementioned legal package, the trend of separating the child from its natural family was widespread, due to the lack of active measures for preventing a possible separation. The risk situations relevant in many of the families do not justify the child's separation from the parents. In the absence of services adapted to the family's needs, exposed to the risk of abandonment and separation, this phenomenon was widely encountered among the

Romanian population, becoming a means of transferring the responsibility, in case the natural family had the lowest suspicions that it will not be able to undertake the responsibility of raising and educating a child.

14. The legal package in the domain of child protection represents more than an improvement of the legal frame from a sector of activity and represents the basis of a modern, European system for the protection of child's rights, fully depleted with the international treaties to which Romania is part of, especially with the European Convention on Human Rights and the Convention on the Rights of the Child.

15. To understand the new Romanian law, it must be mentioned that this was set up to ensure a balance between the requirements of the international convention that all European countries must make efforts to respect and the specific problems that Romania has to face during the last years.

16. Starting with January 1st 2005, the central authority in the field, the National Authority for the protection of Children's rights and Adoption reorganized itself as the National Authority for the Protection of Children's rights (NAPCR) extending its domain of activity, from the protection of children with difficulties to the protection and promotion of every child's rights. At the same time, there is a separation between the field of child's special protection and the adoption, thus being set up the Romanian Office for Adoptions as a central authority managing this issue.

17. The appearance of this legal package involved a thorough re-evaluation of the existing legal provisions in the respective field of activity to that moment and has sealed the passage from the regulation of the protection of children with no parental care, to a clear and coherent set of regulations for the protection of all children's rights.

18. Law No. 272/2004 on the protection and promotion of the children's rights represents the central element of the legal package. Its basis is the fact that parents are primarily responsible for raising, caring and looking after the evolution of the child, therefore they must receive the support they need from the community and the local authorities for the fulfillment of the corresponding responsibilities.

19. This law regulates the legal frame for the observance, promotion and guaranteeing of the children's rights set in the Constitution, according to the provisions of the Convention for the National Union organization on children's rights, ratified by the Law 18/1990, republished, and other international acts to which Romania is part of.

20. It is especially conceived to allow Romania to respect its international obligations, particularly the ones stipulated in the two international conventions abovementioned, not being surprising the fact that many of the provisions of this law reflect the provisions included in the Convention on the Rights of the Child as well as the ones included in the European Convention on Human Rights.



21. This law practically instates a system which, first of all, targets all Romanian children, not only the ones in need and for which the state (the competent public authorities) must urgently implement a measure of protection, as well as for those in their own family, mainly focusing on the transition of the protection system from a needs perspective to a rights perspective.

22. According to the regulations mentioned, all public authorities, non-governmental organizations, as well as natural and legal entities responsible for child protection must observe and guarantee these rights.

23. Law No. 272/2004 on the protection and promotion of the child's rights includes all children, irrespective of their location, in a family or in a protection system, at school or already on the labour market, in the country or abroad, irrespective of their situation and with no discrimination, guaranteeing them the implementation of their rights, stipulated in the Convention on the Rights of the Child. Moreover, the essential role of the parents and family is stressed in child raising and education of the child and secondly the intervention of the state authorities in case the family cannot properly respond to the children's needs.

24. The basic principles which lie at the basis of the initiation and consequently to the completion of the new legal framework were:

- (a) The observance and promotion of the child's needs;
- (b) The equality of opportunities and non-discrimination;
- (c) Developing the parents' responsibility regarding the implementation of the rights and the fulfillment of the parent's obligations;
- (d) The priority of the parents' responsibility regarding the observance and guaranteeing of the child's rights;
- (e) The de-centralization of the child protection services, the multi-sector intervention among the public institutions and authorized private authorities;
- (f) Ensuring an individualized and personalized child care;
- (g) Observing the child's dignity;
- (h) Listening to the child's opinion and considering it, taking into account the age and the degree of maturity;
- (i) Ensuring the stability and continuity in the child care, raising and education process, taking into accounts its ethnic, religious, cultural and linguistic origin when implementing a protection measure;
- (j) The celerity in taking a decision regarding the child;
- (k) Ensuring the protection against the abuse and child exploitation;

(l) The interpretation of each legal norm regarding the child's rights correlated to the overall regulations in this field.

25. Their legalization meant a new reference point regarding the group of beneficiaries to which this law addresses, making the passage from the protection of children from the child care institutions, as follows:

(a) Romanian children in the Romanian territory;

(b) Romanian children abroad;

(c) Children without a citizenship on Romanian soil;

(d) Children requesting or benefiting from a form of protection in the conditions of legal regulation regarding the status and regime of refugees in Romania;

(e) Foreign children on Romanian soil, in emergency situation ascertained by competent Romanian public authorities, by the meaning of the law.

26. For understanding, approaching and unitarily implementing the principles and provisions of Law No. 272/2004, The National Authority for the protection of children's rights edited a Manual of implementation of this normative act.

27. The manual is an instrument that can be used by all specialists involved in the domain of child rights, according to their areas of competence, and at the same time the information included in this work can be useful for parents and children, leading to a better understanding of their rights and their means of promotion and protection.

28. Also in the line of constant concerns of Romania regarding the regulation of this field, the Romanian Government has adopted in 2005 the Government Decision No. 1058/2005 on the approval of the National Action Plan for the implementation of the law in the domain of child protection, in the content of which general, operational objectives, actions, responsible entities and terms of realization thereof are found.

29. The general objectives of this Action Plan were:

(a) The transition from an approach of the type "the protection of the child in need" for the implementation and monitoring of the child's rights;

(b) Ensuring the effective implementation of the child's rights;

(c) Establishing the manner of implementation of the prerogatives and mechanisms of inter-institutional collaboration;

(d) Organization and implementation of new legal prerogatives in the domain of child protection;

(e) The identification of the needs in the area of resources, the exploitation of the existing ones and the favoring of the implementation of the legal package.

30. Adopting such an action plan was regarded as a useful and necessary working instrument for the coordinating and supporting the process of implementation of the legal provisions included in the new legal package.

31. The process of elaboration of such a thorough and important document implied the co-optation and involvement of a large institutional specter, the contributions of several institutions with responsibilities in this field being reunited from various levels of regulation.

32. This approach was then perpetuated and exploited in the monitoring processes, each of these institutions appointing the persons responsible with reporting the progresses registered, the difficulties encountered, as well as other relevant aspects.

**Objective I: The transition from an approach of the type “the protection of the child in need” to the implementation and monitoring of the child’s rights**

33. Results registered:

(a) In the process of elaboration or change/completion of some normative acts the provisions of Law No. 272/2004 on the protection and promotion of child rights, were taken into account;

(b) The ability of the National Authority for the Protection of Children’s Rights was strengthened with respect to its mandate of promotion of the child’s right and monitoring the way in which these are observed;

(c) Campaigns of education on the child rights addressed to children and parents, as well as professionals were held;

(d) The national strategy of promotion and protection of the child’s rights was elaborated.

**Objective II: Ensuring the effective implementation of the child’s rights**

34. Results registered:

(a) The methodological guide for the manner of execution of the obligations of the authorities and persons involved in the ascertaining and registration of the child birth, was elaborated;

(b) The funding sources were identified, necessary for the printing and distribution of the pregnant woman’s book for all pregnant women (health programmes 2006) and the initiative “The hospital a child’s friend” programme was launched;

(c) Social assistants were hired in more than half the maternities (on January 1st 2006, a number of 68 social assistants were hired, and 38 of which were engaged in 2005 in training sessions within the company; 3 of which have become trainers within the current company);

(d) The optional discipline “Health Education” was introduced in all schools and high schools in Romania;

(e) The network of community medical assistance was created; according to the data supplied by the Ministry of Public Health, the number of community medical assistants has reached in 2006, 905, and the number of sanitary mediators 282. In 2007 it is intended that the number of community medical assistants to reach 2500, and of sanitary mediators 350;

(f) The Ministry of Education and Research has set as priorities for the period 2006 - 2008 the equality of chances and enhancing the participation to education (improving the pupils' transport with school buses, ensuring impartial conditions of hygiene and health education in the rural area), reform of the early education (the Strategy for the early education, as part of the converging strategy regarding the early child development was elaborated);

(g) The process of space adequacy was initiated (schools, medical facilities, other public institutions, means of public transport) for the access of challenged children;

(h) The situation of the children who on January 1st 2005 were in the child protection system was re-assessed;

(i) The convention on the personal relations regarding children was signed, Strasbourg 2003;

(j) The day services established by the county councils were transferred to the local councils;

(k) A guide detailing the concrete means of implementation of the right of the adopted child to know its origins was elaborated.

### **Objective III: Setting the means of implementation of the competences and mechanisms of inter-institutional collaboration**

35. Results registered:

(a) Law No. 47/2006 regarding the national social assistance system was adopted;

(b) The capacity of the Romanian Adoption office was strengthened and the mechanisms of coordination between ORA and NAPCR were set;

(c) Protocols of collaboration were closed between the GDSAPC and the institutions with responsibilities in the field at the county level (police, tribunal, Prosecutor's office, AJOFM, penitentiaries/re-education centers);

(d) The probation division within the Ministry of Justice has elaborated a model regarding the report of evaluation for the underage child who committed a criminal act and is not charged (the report is stipulated in art. 130 par (2) of Law No. 272/2004);

(e) A methodology of cooperation between GDSAPC and the SPASs was elaborated (the methodology was approved through the Order of the State Secretary of NAPCR);

(f) Consulting community structures were created;

- (g) Training courses for the SPAS personnel were implemented;
- (h) In the period April-may 2007 regional meetings were held for the promotion of the good practices in the field of protection and promotion of the child's rights;
- (i) NAPCR has implemented its attributions for the inspection of the child protection services.

**Objective IV - Organization and implementation of the new legal prerogatives in the field of child protection**

36. Results registered:

- (a) Continue the talks and consultations on the theme of instituting the specialized sections for underage children and family;
- (b) Judges and prosecutors were trained in the domain of child protection (through funds coming from the European Union. 201 judges and 65 prosecutors were trained, and with the Phare 2003 programme a number of approx. 450 judges, prosecutors and probation counselors were trained);
- (c) Was elaborated "The Methodological guide for the performance of the annual visit by the magistrates in the public and private services which have children in foster care as a consequence of a legal decision" (approved by the CSM plenum on December 2005);
- (d) Magistrates have made visits in the child protection services, and CSM has elaborated a report for 2006 (the report was approved by the CSM plenum in January 2007);
- (e) The Superior Council of Magistracy has created "The Committee of monitoring the fulfillment of the obligations of the Council and the courts of law for the accomplishment of the National Plan of Action regarding the child protection, including the ones regarding the way visits should be accomplished" and organizes quarterly meetings on these issues;
- (f) Meetings are periodically organized between the GDSACP and tribunals.

**Objective V - Identifying the resource needs, exploiting the existing ones and supporting the implementation of the legal package**

37. Results registered:

- (a) The management personnel and the local administration were informed, notified and sensitized to the issue of the child protection;
- (b) A department for child education was created within NAPCR;
- (c) The methodological guide for service contracting was set up;
- (d) The first comprehensive study regarding the maternal assistance system was elaborated.

38. The decentralization process, which started in the 1990s, is continued by the new legislation by transferring attributions and services from the county to the local level (commune, city, municipal level). Beyond the interpretation of this step as an opportunity aimed at strengthening and increasing the sense of responsibility of local communities, it also represents a solution destined at establishing and diversifying the services for the child and family as close as possible to their residence.

39. On the basis of these new regulations, new services with clearly defined attributions appeared, with the purpose of supporting the specifics of each case, so that the decisions taken reach the intended purpose. The appearance of the Public Social Assistance Service is regulated at the level of each administrative territorial unit in the country.

40. The attributions of this service are multiple, including the identification of the risk situations, the prevention of the separation of the child from the parents as well as monitoring the child's situation from the respective administrative-territorial unit.

41. As for the children at risk of separation from their parents, the legal provisions adopted in 2004 underline the prevention of the child-family separation. Thus, public social assistance services at the level of municipalities, cities and communes were obliged to monitor and analyze the situation of children in their administrative-territorial area, to identify and assess the risk situations, as well as to prepare the documentation for granting services and/or the provisions needed for preventing the separation.

42. Any child-parents separation, as well as any restriction of implementation of the parents rights must be preceded by the systematic supply of services and provisions stipulated by law, focusing on the proper information of parents, on counseling and mediation, supplied on the basis of a service plan.

43. The service plan can target the transmission of the request of implementation of a special protection measure for the child to the General Direction of Social Assistance and Child Protection at county level, only if, after granting the services stipulated in the plan, it is reached the conclusion that the child can no longer be maintained with its parents.

44. The purpose of the old Child Protection Commission, an authority with the most important prerogatives and competences in the local child protection field, is now diversified and completed with the intervention of courts of law, in what making a decision regarding the child is concerned. Therefore, the responsibility of deciding on the separation of the child from its parents is no longer the exclusive prerogative of this structure, such decisions being the object of legal proceedings which aim at issuing an order by the competent court, as a sole authority which can decide the separation of the child from the parents.

45. The authorities undertake to adopt active measures for maintaining the contact between the child and the parents on the entire length of the foster care placement. The priority of institutions and professionals responsible for the implementation and monitoring of these measures represents the reintegration of the child in the family.

46. By first of all taking into account the best interest of the child and to avoid the negative effects of the institutionalization at a tender age, as well as the effects of a prolonged hospitalization, Romania chose to prohibit to place children under the age of 2 in residential services. This kind of placement in an institution is to be allowed only when the child suffers from a severe handicap or depends on specialized services for recovery.
47. The new law also approaches the particular problem of children who leave the child protection system being subjected to the risk of social exclusion. For supporting the integration of teenagers into society and acquiring a working place, they can benefit from special protection and after turning 18, even when they chose not to continue their education, for a 2 year period.
48. The new law gives the National Authority for the Protection of Children's Rights the general competence for monitoring, coordinating and control in the domain of protection and promotion of the child's right indicating at the same time that the referential normative acts for the activity of the Authorities is Law No. 272/2004 and the Convention on the Rights of the Child.
49. The prerogatives of the National Authority for the Protection of Children's Rights, provisioned by Law No. 272/2004 are completed with the provisions of the emergency government ordinance No. 12/2001 approved by Law No. 252/2001 and modified by Law No. 275/2004. With the Romanian Government Decision No. 1432/ 2004 the prerogatives, organization and operation of the National Authority for the Protection of Children's Rights (ANDPC) were approved.
50. The National Authority for the Protection of Children's Rights is organized only centrally and has prerogatives only in the field of protection and promotion of the child's rights.
51. In its content, art. 100 defines the new object of activity of The National Authority for the Protection of Children's Rights. If the activity of the National Authority for the Child Protection and Adoption (ANPCA) was almost exclusively centered on the protection and monitoring of the child in need, the new institution has as main task the monitoring of the way children rights are respected.
52. The monitoring process stipulated in art. 100 does not refer to individual cases of children but to activities, programmes, projects, strategies, measures, policies of the public authority and authorized private bodies, which have as object of activity the implementation of the child's rights. That is why the purpose of this monitoring process is to force the public authorities (executive, legal and judicial) to adopt all the measures (administrative, legal and of other nature) needed for ensuring an efficient observance of the child's rights (the condition of well-being), on the basis of the information, data, studies and proposals placed at their disposal by the Authority.
53. Starting with June 2006, at the level of The National Authority for the Protection of Children's Rights the Department of Monitoring the Children's Rights in Romania was established with the purpose of performing an analysis of the degree of observance of the rights of all children in Romania, by the meaning of the legal provisions in force. Starting from the premise of elaboration of the legal package effective from the beginning of 2005 on the basis of

the Convention on the Rights of the Child, the decision of establishing a specialized structure covering this aspect has been grounded on the elaboration of analysis and data collection instruments which consider modern indicators and adapted to the new requirements.

54. For reaching the objective proposed it was targeted the involvement of a large number of structures authorized to act in the domain of child care protection, thus reaching the involvement of the specialized public services, founded on the basis of law 47/200 at the level of each administrative-territorial unit of the country, so that the data sent to the central authority reflect the exact reality existing at the level of each community.

55. Beyond the representation of a simple statistical information on the number of children in the system, the new monitoring instruments elaborated reflect a wide range of aspects which include details regarding a series of child's rights such as identity, health, spare time and recreation, etc. along with the sketching of a complex picture of the number and quality of the personnel working in this field, as well as that of the services available for beneficiaries.

56. At the level of NAPCR has continued the updating and improving process of the data base created through a data collection IT system (Child Monitoring and Tracking Informatisation System). The CMTIS database consists of the following two modules:

(a) A child module containing data regarding the cases opened by children registered at the General Direction of Social Assistance and Child Protection, particularly children in the special protection system;

(b) A personnel module containing data on the personnel hired in the child protection system. Currently a third module is underway - the costs module, whose purpose is to give a clear image of the costs for the child according to certain indicators (per period, type of service).

57. The data included in each module allows the identification of the child, finding out its legal situation, the history of the child in the system, and finding out the number, training and the legal situation of the personnel employed in the system.

58. At the level of the NAPCR administration, the CMTIS system disposes of a system entry registration function (log-in), function which also allows the visualization of the data accessed by users. The entry in the system is allowed only on the basis of a username and a password of minimum 5 characters, the user's register and granting the access exclusively correlated by NAPCR.

59. At the end of September 2007 the information referring to the children existing within the child protection system was introduced in the CMTIS in a proportion of 91.55 per cent. Collecting and processing the data contained in the IT system of data collection CMTIS is made with the purpose of realization of the overall image of the child protection system in Romania and of the evolutions registered by it, as well as for grounding the strategies and public policies initiated by NAPCR.



60. From this perspective, the activity of the National Authority for the Protection of Children's Rights focuses on monitoring and promoting the child's rights. The National Authority for the Protection of Children's Rights disposes of a series of instruments offering autonomy in the realization of the coordination activity:

- Elaboration of normative act drafts, including strategies and action plans, for adapting the internal legislation to the principles and norms of international treaties in the domain of the child's rights, to which Romania is part of, as well as for the effective application thereof (Government Decision No. 1432/2004 on the prerogatives, organization and operation of the , National Authority for the Protection of Children's Rights (art. 3, sub-par. 5)
- The endorsement of all normative acts which refer to any of the child's rights provisioned in the present law (art. 147)
- Explicit regulation through the Law No. 272/2004 of partnerships for the realization of regulations and common activities for the child's rights protection and promotion

61. One of the instruments with which the National Authority for the Protection of Children's Rights performs its own strategy and also coordinates its activity in the domain of protection and promotion of the child's rights are the programmes of national interest.

62. The programmes of national interest (PINs) contribute to the application of the provisions of the new legislation from the domain of protection and promotion of the child's rights, as well as to the support of the local administration authority in the creation/development of services for children and families. For the processing thereof, NAPCR has allocated 14.026,2 thousand RON budget in 2005, of 14.676 thousand of RON in 2006 and of 16.810 thousand RON in 2007. The grounding, elaboration and management of the PINs was made by NAPCR.

63. The closing of institutions with a capacity exceeding 100 places, which have not been structured per modules of the familiar type by founding family care centers - houses and apartments for children, promoting the minimal compulsory standards from the field of child protection and monitoring the observance of the child's rights, development of the community social services system for the child and family and supporting families in crisis for preventing the separation of the child from its family, are a few of the programmes of national interest implemented in the last 3 years.

64. Reaching up the main objectives proposed by the National Authority for the Protection of Children Rights would not have been possible without the implementation of the EU financing programmes. Thus in the reporting period the following programmes were implemented:

(a) Phare 2001 - RO 0104.01 - grant scheme (budget 10,57 millions EURO);

(b) Phare 2002 - 2002/000-586.01.01 - grant scheme of technical assistance for the monitoring of the projects financed by the grant scheme and the public awareness campaign concerning the children rights "Children Rights are Law!" (budget 14,8 millions of Euro, out of which 3,7 millions EURO contribution of the Romanian Government);

(c) The twinning light project for the elaboration of the action plan for the implementation of the legislative package within the field of child protection (budget of 150.000 EURO);

(d) The twinning light project for the evaluation of the actual stage of the foster care network in Romania (budget of 200.000 EURO);

(e) Phare 2003 - 2003/005-551.01.01 - the educational campaign concerning child's rights (budget of 3 millions of Euros).

65. The grant schemes have focused mainly on closing down huge institutions while developing family alternative to institutionalization (foster families, apartments, houses). In the same time there were developed a number of services meant to contribute to the reintegration of children within the natural or extended family, as well as the prevention of the child's separation from his family.

66. With the help of the projects financed through the grant schemes of PHARE 2001 and PHARE 2002, 62 institutions were closed, 94 houses and 161 apartments being given to the use of their beneficiaries. In the same time were recruited, trained and then hired a number of 1424 foster parents (maternal assistants). To these numbers should be added: 5 maternal centers, 18 day care centers, 11 recovery centers, 3 centers for receiving children in emergency. The contracts were signed in July - November 2003 and were finalized in January - September 2005. For closing down the 36 institutions were selected, trained and licensed 1.100 maternal assistants and were set up 151 services. More than 10.000 children benefited of the activities developed during the implementation of the projects.

67. Aside from the control activity it develops (regulated by art. 7 of the Emergency Government Ordinance No. 12/2001). The National Authority for the Protection of Children's Rights has made a series of inspections regarding the way in which public authorities as well as private authorized bodies observe the compulsory quality standards for services destined for child protection (art. 116 of Law No. 272/2004).

68. By implementing the control duties, the National Authority for the Protection of the Children's Rights defends and promotes the rights and freedoms of the child through specific instruments of a government authority (including by applying sanctions). Through control activity regarding the manner in which public authorities or private bodies observe the minimal compulsory standards (art. 116), the National Authority for the Protection of Children's Rights also defends the rights of the child because the standards are created exactly for the observance of all the child's rights.

69. Romania's Ombudsman is an institution created in order to protect the rights and freedoms of people in its report with the authorities of the public administration. One of the specialty field of the activity carried on by this institution is the children rights, as well as those of the family, young people, retired persons, persons with disabilities. The children have direct access to the Ombudsman and one of its four vice presidents is specialized for this field of activity.

70. The purpose and scope of the Ombudsman are set by the Romanian Constitution (art. 58, 59 and art. 60) while the organization and operation of the institution of the Ombudsman are regulated by Law No. 35/1997 with further modifications. In 2004 were registered 15 complaints concerning issues of child protection issues mainly referring to level of life, the right to health services, the right to life and integrity, the right to special protection of the persons with disabilities, the right to education.

71. Referring to the issues brought to its attention the Ombudsman has initiated legal procedures besides the General Direction of Social Assistance and Child Protection, local school inspectorates, Ministry of Education, Research and Youth. In 2005, 39 complaints were registered referring to issues related to child protection. One of the specialty field of the activity carried on by this institution is the children rights, as well as those of the family, young people, retired persons, persons with disabilities. For these problems a number of 3 inquiries were performed.

72. Thus the Ombudsman was approached by foster families who have complaint about the measures taken by the local authorities for taking the children out of their care and place them with their natural families, while they have considered that those families were not able to care for their children.

73. The people have also signaled the abuses committed in the placement centers on the institutionalized children, the lack of financial resources for the payment of the foster families, personal assistants of the children with disabilities, cases when children did not benefit of the allowances stated by the law.

74. In 2006, was registered a number of 53 complaints referring to problems belonging to children with handicap, a number of 10 inquiries being performed. They have asked the competent authorities for supplementary information necessary to answer the complaints, staff of those structures being interviewed about certain situations when people rights have been disregarded. 1 inquiry was ordered in order to verify the way public authorities are protecting child's rights to integrity in a residential service. Following this inquiry a recommendation was made to the local General Direction for Social Assistance and Child Protection in Hunedoara, that had under its subordination the institution where the child's right to physical and psychological integrity was harmed.

75. But the improvement of the child's condition is not achieved only by defending or promoting the child's rights in its relations with public authorities. That is why it is important to also understand the purpose the National Authority for the Protection of Children's Rights has, which intervenes for the defense of the children's rights and freedoms not only in relation with the public authorities but also in relation with the legal natural or legal person which have children under their care.

76. For the first time in the internal legislation it is expressly provisioned for local authorities to ensure the prevention of the separation of the child from parents, including by developing day services (art. 111 par. 1 of law 272/2004). As for ensuring a special social protection of the child, this falls within the incidence of the county council, which undertakes to organize family and residential services (art. 112 - Law 272/2004).

77. The prerogatives stipulated by Law No. 272/2004 are correlated with the provisions of Law No. 215/2001 a of the local public administration, republished, with the provisions of the Government No. 68/2003 regarding social services modified by Government Decision No. 86/2004.

78. Furthermore, without breaching the rights of the parents/legal representatives, the mayor through the public social assistance service undertakes to monitor the situation of children living in the administrative-territorial unit to identify the risk and crisis situations for solving them on a local scale.

79. For the mayor and the president of the county council a series of obligations which must be corroborated with the attributions they have according to the provisions of the Local Public administration law, are expressly stipulated.

80. Thus, the mayor ensures the observance of the fundamental rights and freedoms of citizens, of the Constitution, as well as the implementation of laws (..), (art. 68 par. (1) lett. a) of the local public administration Law No. 215/2001, republished. Furthermore the mayor leads the local public services, ensures the operation of the civil state and tutelary authority services; oversees the realization of the social assistance and social assistance measures (art. 68 lett. s), Law No 215/2001, republished).

81. Considering the mayor's duties as local public authority, mentioned below, to which the provisions of Law No. 272/ 2004 are added, we can conclude that he is the "key local authority" of which the implementation of this normative act depends at a local level.

82. The purpose of the local council and of the public service of social assistance in locally solving social problems depends on the proper information, involvement and initiative of the mayor. The mayor's tutelary authority prerogatives aiming at child protection were sent to the court of law (decision prerogatives) but this keeps its other prerogatives according to the provisions of the Family Code.

83. The president of the county council/mayor of the district ensures the observance of the Constitutional provisions, the implementation of the laws, the Romanian President's decrees, the orders and ordinances of the Government, the orders of the county council as well as other normative acts (art. 116 lit. a) Law No. 215/2001, republished).

84. The responsibility for the increase and ensuring the development of child is first of all in the parents' hands (art. 5 par. 2-Law 272/2004) but secondary it is the responsibility of the local collective of which the child and its family are part of (art. 5 par. 3- Law 272/2004).

85. The same law regulates the local public administration authorities' obligation to involve the local collectivity, establishing the domains in which this implies:

- (a) Identification of the communities' needs;
- (b) Solving the social problems concerning children locally.

86. The local collectivity intervenes through its appointed representatives (mayor or local council) but the citizen consulting can be made by referendum or by any other means of direct participation of the citizens to the public affairs, by the meaning of the law (art. 3 par. (3) from the Law of local public administration, No. 215/2001, republished).
87. The concrete form of direct participation at the identification of the community's needs and at solving the social problems concerning children on the local level resides in consulting the community structures.
88. Consulting community structures represents an organized and permanent form of participation to the local community life, while solving the social problems concerning children. Different forms of community structures were experienced, but the recommended model is the one of the consulting community councils.
89. The consulting community structure consists of representative and influential persons from the community. What matters is not the professional training but the social and moral prestige. The following can also be members of the consulting community structure: local business men, academic staff, medical doctors, local counselors, policemen (art. 103 par. (2) of the law 272/2004). But according to the specifics of the community the following people can also be members: representative of ethnic communities, sanitary mediators, representatives of local non-governmental organizations etc.
90. This is founded through a decision of the local council or by order of the mayor (art. 103 par. (3) of law 272/2004). In the document of incorporation the persons members are nominated together with the purpose for its creation: supporting the social assistance and child protection activity.
91. The general direction of social assistance and child protection are obliged to grant the necessary technical assistance for the creation and formation of consulting community structures as a form of support in the activity of social assistance and child protection (art. 2 lett. c), sub-par. 3 from the frame regulation of organization and operation of the general direction of social assistance and child protection/Government Decision No. 1434/2004).
92. According to the information centralized at 30.06.2007 at the level of NAPCR from the town halls within the country, there were 1551 community consultative structures.
93. The Government Decision No. 68/2003 on social services, with subsequent changes and additions, stipulates that for the realization of the personal objectives of the local public administration authorities undertake to involve the community in the identification, prevention and solving the social problems locally.
94. Unlike the general direction of social assistance and child protection organized as a public institution (which ensures the special protection services as well as the specialized services of county interest), the commission for child protection is the specialized authority of the county council.

95. The main prerogatives of the commission for child protection are stipulated in the Government Decision No. 1437/2004 on the organization and operating methodology of the child protection commission:

- (a) Periodically re-evaluates the decisions on the protection measures, as well as the classification as handicap and the school direction of the child, based on the notification of the general direction of social assistance and child protection;
- (b) Revokes or replaces the measure set, within the meaning of the law, if the circumstances which determined its establishment have changed;
- (c) Solves the complaints filed by children, to the extent to which their solving is not set by law in the competence of other institutions;
- (d) Promotes the child's rights in all the activities it develops;
- (e) Informs the parents regarding the consequences of the placement at the care center on the relations they have with children, including regarding the rights and obligations they have towards a child during the placement;
- (f) Sets the sum of the parents' monthly contribution to the maintenance of the child for which the placement was decided, by the meaning of the law.

96. Comparatively to the old legislation, the commission's prerogatives for child protection have been reduced. Some competences are transferred either to the court or to the general direction of social assistance and child protection.

97. The members for the child protection represent institutions with responsibilities in the domain of child protection at county level:

- (a) General Direction of Social Assistance and Child Protection;
- (b) Public Health Authority, de-concentrated structure of the Public Health Minister;
- (c) The county School Inspectorate, de-concentrated structure of the Ministry of Education, Research and Youth;
- (d) The county Police Inspectorate, de-concentrated structure of the Ministry of Internal Affairs and Administrative Reform;
- (e) Labour and Social protection Direction, a deconcentrated structure of the Ministry of Labour, Family and Equal Opportunities.

98. Members of the commissions undertake to exclusively follow the child's best interest in all the decisions adopted. The commission can take special protection measures only on the basis of the parents and child's approval, if the child that has turned 14, expressed in front of the members of the commission.

99. Furthermore, local authorities as well as local communities have an active role in issuing special protection decisions for the child. Not only the individualized protection plan is compulsory, but also the service plan as well as the point of view of the consulting community structures (Government Decision No. 1437 par. 9, par. 7).

100. By establishing the general direction of social assistance and child protection, as a public institution of county interest, the activity of social assistance at county level is made in a unitary, coordinated context, the beneficiaries being approached in the context of the family and the community.

101. The general direction of social assistance and child protection has the purpose of ensuring the application of the policies and social assistance strategies in the field of child protection, family, lonely persons, old persons, persons with handicap as well as other persons in need.

102. At the same time, the general direction of social assistance and child protection is the main supplier of specialized social services, unlike the public service of social assistance which is the main supplier of social services with primary/preventive character.

103. Although it has not the general competence in the field of protection and promotion of the child's rights comparable to that of the National Authority for the Protection of Children's Rights, the general direction of social assistance and child protection mainly acts in two big directions:

(a) At county level:

- (i) Ensures the social protection services for the child without the parents' care or who cannot be left in their care and which involve the child's placement in a care center (family center and residential center);
- (ii) Develops specialized services of county interest for the protection of the abused and neglected child and for the child who commits criminal deeds, but does not answer in front of the law;
- (iii) Has certain competences for the protection of refugee children in case of an armed conflict; has exact duties for the realization of the child's right for setting and keeping the identity;
- (iv) Verifies the notices regarding the cases of alleged child abuse;

(b) Locally:

- (i) Methodologically coordinates the activity of preventing the separation of children from parents;
- (ii) Ensures the technical assistance needed for the establishment and processing of consulting community structures.

104. When it has information on the existence of concrete situations of cases of breach/non-observance of the child's rights, the general direction of social assistance and child protection (DGASPC), in the spirit of promoting the child's rights must inform the competent authorities/structures/services to solve them.

105. By order of the county council/local council of the Bucharest municipality, the organizational structure is approved, as well as the number of personnel and the financing of the general direction of social assistance and child protection (par. 4) having as a reference point the Government Decision No. 1434/2004 on the frame-regulation of organization and operation of the general division of social assistance and child protection.

106. Public services of social assistance at local level are provisioned by Law No. 47/2006 regarding the national social assistance system. Under these provisions new services are brought up whose role is to support the child and his family in a more transparent manner and well aware of the particularities of each case, so the decision made reach their purpose. Thus it is stated the setting up of the Public Service of Social Assistance at the level of every administrative unit.

107. The public social assistance service is established by order of the local council and the attributions in the field of child protection stipulated in art. 106 of the Law no 272/ 2004 are completed with provisions concerning the field of adult persons, according to art. 3 par. 2 lett. b, of the Government Decision No. 90/ 2003 for the approval of the framework regulation of organization and operation of the public social assistance service.

108. As a consequence of the changes brought by the Law No. 272/2004, mainly by establishing at the county level of the general direction of social assistance and child protection and introducing new obligations for the local public administration authorities, it was also needed the re-assessment of the attributions of public social assistance services from the level of communes, cities and municipalities in the field of child protection.

109. According to the provisions of art. 12 of the Government Decision No. 68/ 2003 regarding the social services, modified with the Government Decision No. 86/2004, the public service of social assistance is the main supplier of social services with primary character with the priority purpose of supporting the social function of the person in its own life environment, family or community. In the perspective of the attributions it has in the domain of child care, the activity of prevention of child-family separation is relevant.

110. A clear distinction is made between services which involve the prevention of the parents-child separation (day services) and the special protection services which involve the separation of the child from its parents (family and residential services).

111. The professional quality and training of the specialists who activate in the field of the protection of children's rights, has been a priority for the Romanian authorities. Reported to the number of administrative territorial unit of Romania, information regarding the number of consulting community structures, public social assistance services and also the number of employees activating in these structures, their degree of basic and continuous professional training are sent quarterly to NAPCR.



112. According to the data collected at the level of the National Authority for the Protection of Children Rights, beginning with 2007 with the help of the General Directions for Social Assistance and Child Protection that collect this kind of data from every town hall existing at the level of all administrative units of Romania, out of the 3170 administrative units only 546 towns, villages had set up within their structure public services of social assistance, where 6625 persons were hired, out of which 21 per cent had university education, 7 per cent have graduated high school and 72 per cent have no specialty qualification. Out of the total number of persons hired within those services, 628 persons have been involved in training activities on child protection issues in the first semester of 2007.

113. From the total number of persons with attributions in social assistance, who works with the administrative units which do not have set up a public service of social assistance (3642), 16 per cent have an university degree in this specialty, while 7 per cent have post high school education and 77 per cent have no studies in the specialty they are working with. Out of this total number only 1164 persons have been involved in training classes focused on child's rights issues.

114. In the same perspective the general direction of social assistance and child protection undertakes to promote the family alternatives at the residential protection. (art. 2, lett. c) sub-par. 13 of the Government Decision No. 1434/2004).

115. As a consequence of the provisions of par. (2), the Decision No. 1438/2004 was issued for the approval of the frame regulations of organization and operation of services for preventing the child-family separation as well as of the special protection services for the child which temporarily or definitively lacks his/hers parent's care.

116. The decision above will include the following three annexes:

- (a) Framework regulation of organization of residential services;
- (b) Framework regulation of organization and operation of day services;
- (c) Framework regulation of organization and operation of family services.

117. The three types of services can function only on the basis of the license issued by the National Authority for the Protection of Children's Rights. Article 108 defines the purpose of the day services, and art. 1 par. (2) from Appendix No. 2 of the Government Decision No. 1438/2004 stipulates that the following are also part of the category of day services:

- (a) Day centers;
- (b) Centers of counseling and support for parents;
- (c) Centers of assistance and support for the re-adaptation of the child to psycho-social problems;
- (d) Services for monitoring, assistance and support of the pregnant woman predisposed to abandon her child.

118. Services can be public or private. Although day services are of local interest, the county council can also institute such services for children who benefit of a special protection measure.

119. Local councils, by order, set up day services organized as units with legal personality while day services established by the county council or the local district council is organized as units without a legal personality, being included in the structure of the general direction of social assistance and child protection (art. 2, par. 3 and par. 4 from Appendix No. 2 of the Government Decision No. 1438/2004).

120. Beneficiaries of the day services are:

(a) Children and parents who are given services and provisions aimed at preventing their separation;

(b) Children who benefited from a special protection measure and have been reintegrated in the family;

(c) Children benefiting from a special protection measure;

(d) Parents whose children benefit from a special protection measure;

(e) Children unaccompanied by parents or a legal representative, requesting a form of protection by the meaning of the legal regulations on the status and regime of refugees.

121. The frame regulation of organization and operation of day services, also refer to the organization structure, personnel categories, service management, personnel attributions, conditions for occupying the management positions.

122. The access of beneficiaries to day services is made on the basis of the service plan or, as the case may be, of the individualized protection plan, by order of the mayor/manager of the legal persons in the structure in which the service operates.

123. Day services can operate only if they obtained the operating license. This is granted if the minimal compulsory standards, processed for such services and approved through the order of the state Secretary of the National Authority for the Protection of Children's Rights (ANPCA).

124. Through the Order No. 24/ 2004 the minimal compulsory Standards for the day centers were approved and the minimal compulsory standards regarding the day centers for children with disabilities were approved through the Order No. 25/2004.

125. The minimum compulsory standards regarding the counseling and support centers for parents and children were approved with the Order No. 88/2004.

126. Through the Order No. 14/2007 issued by the State Secretary of The National Authority for the Protection of Children's Right the minimal compulsory standards of the service for the development of an independent life customs and of the methodological guide of implementation of these standards were approved, and through the Order No. 132/ 2005 the minimal compulsory standards for the services destined for the protection of street children were approved.

127. The obligations introduced for the local public administration authorities and the focus on the development of local services with the purpose of preventing the separation of the child from the parents and the community, prove that the new policy in the domain of child protection is directed towards the prevention of any form of child placement. After which for years material and human resources have been concentrated on the development of the family placement, now the attention and the resources are concentrating on preventing the separation of the child from its parents and the development of community services which should favor the raising and care of the child by its parents.

128. The general direction of social assistance and child protection and private authorized bodies organizing the family services as distinct department, or as an activity provided by a department with several attributions.

129. The beneficiaries of the family services are:

(a) Children for whom it was the decided to be given for adoption, by the meaning of law;

(b) Children, temporarily or definitively separated from their parents as a consequence of establishing the placement measure by the meaning of the law;

(c) Children for which the emergency regime placement was called up by the meaning of the law;

(d) Young people who turned 18 and who benefit from a special protection by the meaning of the law.

130. The importance of organizing and developing such services is imposed by the provisions of art. 60 par. (1) of the Law No. 272/ 2004, according to which the placement of the child, who did not turn 2 years old, can be instructed only for an extensive or substitute family.

131. By the meaning of Order No. 35/ 2003 the minimal compulsory standards for ensuring the child protection at the professional maternal assistant were approved as well as the methodological guide of implementation of these standards.

132. In the third annex of the Government Decision 1438/2004 the purpose of the residential service is defined as a special protection service and the services which are part of this category are listed: foster care centers, centers for receiving children in emergency situations and maternal centers. Public residential services, unlike private ones are exclusively organized in the structure of the general direction of social assistance and child protection.

133. The family model is sanctioned as a method of organization/reorganization of residential services, to better respond to the needs of the children placed in such institutions, including the special needs of the children.

134. Particularly, referential normative acts for residential services are the following:

(a) Government Decision No. 1438/2004, appendix No. 1 which refers to the Frame Regulation of organization and operation of residential services completed with the Government Decision No. 539/2005 modified by 1007/2005; to be checked if there are other normative acts;

(b) Order No. 21/2004, published in the Official Gazette, part I No. 222 of 15.03.2004 for the approval of the minimum compulsory standards of residential services for the child protection;

(c) Order No. 27/2004, published in the Official Gazette, part I No. 515 as of 8.06.2004 for the approval of the minimum compulsory standards regarding the child protection residential services for children with disabilities;

(d) Order No. 89/2004 for the approval of the Minimum compulsory standards for the emergency center for the abused, neglected and exploited child;

(e) Order No. 101/2006 on the approval of the minimum compulsory standards for the maternal center and the methodological guide of implementation of these standards.

135. If the day services and the family services can be established by private authorized bodies, the residential services can be set up only with the approval of the county council, respectively of the local councils of the districts of Bucharest (art. 2 par. (3), appendix No. 1 Government Decision No. 1438/2004).

136. The beneficiaries of the residential services are:

(a) Children temporarily or definitively separated from their parents as a consequence of instituting the measure of placement in this type of service, by the meaning of the law;

(b) Children for which the emergency placement was issued;

(c) Youngsters who turned 18 and who benefit by special protection by the meaning of the law;

(d) The couples parent/legal representative-child, in case of ascertaining the child abandonment risk for reasons non non-imputable to the parent/legal representative or in case of including it in a programme for restoring family ties;

(e) Children unaccompanied by parents or by a legal representative which requests a form of protection in the conditions of the legal regulations on the status and regime of refugees.

137. The access of beneficiaries to the residential services is mainly made on the basis of:

(a) Placement measures issued by the meaning of the law by the children protection commission or the court of law;

(b) The orders of placement in emergency conditions issued by the director of the general direction of social assistance and child protection or by the court of law;

(c) The order of admitting the child-mother couple within the maternal center, issued by the management bodies of the legal person in the structure of which this type of service operates as well as the mother's residence contract.

138. The novelty of such a regulation consists of establishing two distinct obligations for the local councils:

- (a) Preventing the separation of the child from the parents;
- (b) Organizing day services.

139. Taking into account that, by definition (art. 108 par. (1)), day services ensure the maintenance, restoration and development of the child and parents' capacity to overcome the situations which could determine the separation of the child from its family, by setting up such services (day centers, support and counseling centers for parents, assistance and support centers for re-adapting the child with psycho-social problems, services of monitoring, assistance and support of the pregnant woman, women with a predisposition to child abandonment) local councils can better fulfill their obligation of preventing the child-parents separation.

140. However, few communal local councils have funded/will fund day services. This does not mean that in their absence, local councils no longer have the obligation of ensuring the prevention of the child-parent separation.

141. The evolution concerning the development registered by the day care services at the local level cannot be presented, since only at the beginning of 2007 was set up at the level of NAPCR a database which collects also information about the services aimed to prevent the separation of the child from his/her family, developed at local level. Under these circumstances at 30.06.2007, there were 280 day care services functioning in the subordination of the local councils, with a total number of 11.000 beneficiaries.

142. If, locally, there are not sufficient resources for organizing day services, these can also be organized by association. Local councils have this possibility also by the meaning of Law No. 215/2001 of the local public administration, republished, but few of them actually implemented it. According to art. 15 law 215/2001, republished "Local councils and county councils can decide on the capital or goods participation, in the name and interest of the local collective they represents, at the establishment of commercial companies or services of public interest or as the case may be, by the meaning of the law".

143. Most of the times, local councils show reserves regarding the establishment of days services (usually day care centers) especially invoking financial constraints. For various local councils, especially in the rural area, the limited budget is a reality. Nevertheless, the need of day services is sensed especially among poor communities, where there are no working places and not even the perspective of improvement. This is the reason why par. (2) of art. 111 of Law No. 272/ 2004 explicitly included the support it must be given by the county council:

- (a) Ensuring the financing of these services and, subsequently;
- (b) Ensuring the financing up to 50 per cent of the operating costs thereof.

144. On the other hand however, financial restrictions have prevented local authorities from establishing services of local interest as well as the lack of interest and information. Furthermore local authorities still prefer to transfer to the county the social cases for solving, instead of actively getting involved and trying to identify the local solutions.

145. Children placed in social services (family and residential services) may have specific needs which involve the access to a series of specialized services (kineotherapy, logotherapy, counseling, psychological therapy etc.) offered in the day centers.

146. Usually, county councils as well as general direction of social assistance and child protection want to develop services of county interests which properly respond to the needs identified at the level of the county. As with local councils, county councils have not sufficiently exploited the possibility of setting up specialized services based on association.

147. The association can be considered especially for the establishment of residential services destined to the child who performed a criminal deed and which is not liable in front of the court.

148. It's about orientation, monitoring and support centers for the social reintegration of the child. In the public sector the association is possible between authorities of the local and central public administration who by law are entitled to set up public services as well as among these also private authorized bodies.

149. Although they are private law subjects, in the domain of protection and promotion of the child's rights, authorized private bodies undertake to observe the provisions of Law No. 272/2004, as well as the secondary law approved for the execution thereof.

150. If local councils can organize only services of prevention of the child-family separation and county councils usually only services aimed to the special protection of the child, the private authorized bodies can organize and can develop services in both domains.

151. Similar to the local public administration authorities, private bodies need a license to set up, organize develop services in the domain of child protection.

152. Therefore, aside from the authorization - process which develops under the supervision of the Ministry of Labor, Family and Equality of Chances (MMFES), private bodies which want to offer such services must obtain the operating license issued by the National Authority for the Protection of Children's Rights.

153. If the authorization is compulsory for all the suppliers of social services irrespective of the category of beneficiaries (children or adults), the license is necessary for the private bodies that aim to develop services for children, provisioned in the law for the protection and promotion of children's rights:

- (a) Day services;
- (b) Family services;
- (c) Residential services.

154. The existence of such a development and quality gap but also the particularities of some services for child protection determine the need to license the services.

155. If the authorization is for service suppliers (public or private) the licensing only regards services expressly provisioned by the law (regardless if they are founded by public authorities or authorized private bodies):

(a) Services of prevention of the child-family separation;

(b) Special protection services of the child temporarily or definitively without its parent's care.

156. The observance of the minimal compulsory standards for the services aimed at preventing the separation of the child from its family and of special child protection is one of the conditions on the basis of which the operating license is obtained.

### **Vulnerable aspects**

(a) Low number of PSSA (public services for social assistance) (in 546 of administrative-territorial units from the total number of 3170);

(b) Insufficient training of one part of the PSSA's staff (21 per cent have faculty degree in speciality);

(c) Necessity of more day care and orientation, surveillance and social - reintegration centres development by the local authorities;

(d) Existence of same disparities regarding the development and the quality services.

## **II. DEFINITION OF THE WORD "CHILD"**

157. Within the meaning of the Convention on the Rights of the Child, a child is "any being under the age of 18 years, except for the cases when, on the basis of applicable law to the child, the age of consent is set under this age".

158. Law 272/2004 regarding the protection and promotion of the children's rights regulates this concept in the sense that a child is: the person who has not turned 18 and did not acquire the full capacity of exercise, by the meaning of the law, which proves that the child's definition in the Romanian legislation agrees with the provisions of the Convention on the Rights of the Child.

159. As for the concept of child reported to the legal provisions, in civil matter the capacity of exercise and use thereof is regulated as follows:

(a) The capacity of use of the natural person is the general and abstract capacity of the human being to have rights and obligations (art. 5 par. 2 from the Decree No. 31/1954);

(b) According to art. 7 from the Decree No. 31/1954, „the capacity of use starts from the person’s birth and ends with its death. The child’s rights are recognized from the moment of its conception, but only if it is born alive”. The content of this capacity is given by the ability to have all the civil rights and obligations, except for the ones restricted by law;

(c) The capacity of exercise of the natural person is the human being’s aptitude to use the civil rights and to fulfill the civil obligations, by closing judicial civil acts (art. 5 par. 3 from the decree No. 31/1954). According to art. 11, they have no ability of exercise: the underage child who has not turned 14; the person placed under interdiction. For those who have no ability of exercise, the judicial acts are made by their legal representatives. Article 9 stipulates that “The underage child who has turned 14 has a restricted ability of exercise. Judicial acts of the underage child with restricted capacity is closed with the former approval of the parents or legal guardian”. Finally, according to art. 8 from the same Decree No. 31/1954, “the full capacity of exercise starts from the date when the person turns 18. The underage child who marries acquires the full capacity of exercise”.

160. The right to vote is a universal right recognized by the Romanian Constitution to all the Romanian citizens with no exception. This right can be exercised only by the person who have turned 18 years old until the day of election (art. 36, Romanian Constitution). Restrictions of this right exist only to the extent to which the court decides it, in circumstances clearly and expressly stipulated in the civil and criminal law.

161. The right to education is guaranteed to all Romanian citizens, for all the levels and forms of education, irrespective of the social and material condition, gender, race, nationality, political affiliation or religious belief.

162. The State promotes the principles of democratic education and guarantees the right to a differentiated education, on the basis of the educational pluralism, to the individual’s benefit and of the entire society. (art. 6, Education law modified and completed). In Romania, the compulsory education is of 10 grades, day, ends at 18 years old.

163. According to the provisions of art. 18. - (1) in the aforementioned law, “The pre-school education is organized for children between 3-6/7 years old, in kindergartens with normal, extended and weekly programme”.

164. The primary education is organized and usually operates with a morning schedule, within the educational facilities with grades I-IV, I-VIII, I-X or I-XII/XIII.

165. The registration in the 1st grade is possible after turning 6 years old, its moving being possible only at the written request of the parents or legal guardians of the child, if their development allow a more early beginning of the school. Also at the written request of the parents or legal guardians, the registration in the 1st class of children who turn 6 years old until the date of starting the school year will be extended with one year.

166. The Ministry of Education, Research and Youth can approve the organization of training courses for the promotion of the grades I-IV for persons who, for various reasons, did not graduate the primary education till the age of 14.



167. The right to work is regulated by the Romanian law, in the sense in the Romanian Constitution stipulates at art. 45 par. 4, the fact that underage children under the age of 15 cannot be hired as employees.

168. As for the acquiring of the working capacity, the Labor Code sets the minimal age for this at 16 years (art. 13, par. 1). According to the same document the natural person can close a labour contract acting as employee and upon turning 15 years old, with the parents' approval or of the legal representatives, for the activities corresponding to the physical development, abilities and knowledge, if its health, development and professional education are not jeopardized. (art. 13, al. 2).

169. The framing of children or teenagers in what represent a dangerous labour is possible only after turning 18, this type of working place being set only by Government Decision.

170. According to the provisions of the Family Code, in art. 4 it is stipulated that the man can marry only if he has turned 18 and the woman only after turning 16. Nevertheless, the marriage of a woman who has turned fifteen can be approved only for solid reasons. The approval can be given by the Local Council/the council of the Bucharest municipality, depending on the place where the woman resides and only based on an endorsement gave by the official doctor. Now there is in study the project of the new Civil Code that wants to equalize the age for marriage, so a marriage could be possible only from the age of 18. In the same time, in respect of the approval given in case of an early marriage it is proposed that such a document be available only from 16 years old, no matter we are talking about girls or boys.

171. Referring to the access to certain categories of violent/pornographic media, the Law 504/2002 of the audio-video with further modifications stipulates the fact that it is prohibited the broadcasting of programmes which can seriously affect the physical, mental and moral development of underage children, especially programmes containing pornography or unjustified violence.

172. The broadcasting of channels which can affect the physical, mental and moral development of underage children can be made only if, by choosing the period of time of broadcasting or due to the technical means of reception, underage children have no audio or video access to the respective programmes and can be made only after the display of an acoustical and graphic warning, for the entire duration of the programmes, ensuring a visual warning symbol (art. 39, par. 1, 2, 3 of Law 504/2002).

173. Referring to voluntary Enrolment in the armed forces, the Law 446/2006 on the training for defense stipulates at art. 56 that the pre-military training is voluntarily, organized with teenagers competent from a medical point of view, who have turned 15 and until enrolment.

174. The pre-military training of teenagers is organized and realized by the Ministry of National Defense and Administrative Reform. In this sense, these collaborate with the Ministry of Education, Research and Youth with other public administration authorities, as well as will non-governmental organizations. This is performed in organized centers alongside military facilities. In 2006 and 2007, the Ministry of National Defense and the National Authority for Youth have organized, in partnership, two pre-military training events with high school teenagers.

175. The criminal code of Romania stipulates regarding the criminal liability of underage children, that a person who has not turned 14 is not liable from a criminal point of view. (art. 113 par. 1). The underage child with the age between 14-16 is criminally liable only if it is proved that he committed the deed with discretion (art. 113, par. 2). The underage child who turned 16 is liable from a criminal point of view according to the law (art. 113, par. 3).

176. Regarding these aspects, the provisions of the Penal Code are very clear at the art. 123 states that:

177. The punishments applied to the minor are the following:

- (a) Strict prison time from 5 to 15 years old, while the law states that the crime committed is punished with prison for life;
- (b) Strict prison from 3 to 12 years old, while the law states that the crime committed is punished with severe detention;
- (c) Strict prison time at half of the period stated by the law for an adult person;
- (d) Prison time between the punishment limits reduced at half, when the law states that the crime in question is punished with prison time;
- (e) Penalty in day-penalty between 5-180 days, each day being appreciated at a value of 5 RON and 50 RON;
- (f) Work for the community interest, between 50 and 250 hours;
- (g) The punishments applied to the minors are to be executed under the same regime stated by the law for such an execution;
- (h) The complementary punishments do not apply to the minor;
- (i) The punishments pronounced for the crimes committed during minority do not involve incapacities or other such measures.

### **Obligatory enrolment in the armed forces**

178. Law 446/2006 on the training of the population for defense stipulates in art. 3 the fact that the military service is performed by Romanian citizens, men and women who have turned 18, within the meaning of the law.

179. By the meaning of the law mentioned, citizens who can be enrolled are considered to be Romanian citizens, men, with ages between 20 and 35 years, which fulfill the criteria for the execution of the military service, in certain situations expressly stipulated by law. Women can perform on demand, any of the forms of military service, pregnant women interrupt the completion of the military service.

180. The adoption of law 272/2004 was corroborated with the development of important campaigns of acknowledgement with the purpose of informing all the ones working with and for children as well as the ones involved in the education of the parents regarding the child's rights.

181. Thus, the National Authority for the Protection of Children's Rights has developed an educational campaign for the children's rights funded by the European Union via the programmes PHARE 2002 and 2003, for promoting the law spirit.

182. The first part of the campaign (Phare 2002), developed in October 2004 until March 2006 under the slogan "Children's rights are law!", was structured on three components: campaigns for informing the public, component of training for professional groups and activities connected to the national and international mass-media.

183. The campaign of information was launched in October 2005 and addressed the public through the mass-media Sources (TV, radio, written press), targeting a wider acknowledgement of the children's rights, for a between observance thereof by the people.

184. The message behind this campaign was "*Don't be an accomplice to the violation of rights*" and represented an attempt to change the mentalities and behavior of a certain social category very different and with a well-defined importance in the social frame of the Romanian society. Starting from the premise that all persons come into contact with children, either parents, relatives, neighbours or friends, either as a consequence of the professional activity they develop or as simple citizens, this campaign tried to mobilize all the ones mentioned in the sense of changing the approach they have on the issue of children's rights, as a member of the society.

185. The graphics of the campaign, consisted of the illustration of the children's rights considered to be relevant with respect to the current situation in Romania. Therefore, the campaign messages were made to counteract some deeply rooted prejudices especially regarding the right to education, in the urban as well as rural environment.

186. Along with the right to an education, the identity right, the right to an opinion and the right to the protection against any kind of abuses were promoted through radio and TV commercials, as well as through press deliveries.

187. The educational campaign has continued to support the actual function of the toll free line for child protection - 0800-8-200-200 - created in 2001 within the Campaign aimed at preventing children institutionalization and abandonment "A child home is not at home". The toll free line for child protection is a free service focused on informing and telephone counseling on problems regarding child and family protection issues. The phone calls received from the potential beneficiaries are taken over by the qualified personnel of the Toll free line, which is made up by psychologists, social assistants and legal counselors.

188. The toll free line for child protection has been functioning since February 2006, starting as a non-governmental organization. Over the years, the toll free line has diversified the services offered to its beneficiaries, from offering proper information to counseling and guidance on different issues concerning the protection of children in difficulty, to issues concerning child protection in general. Such an experience acquired, made it able to continue functioning, without the Phare programme support, which initially helped it exist for 4 years.

189. Between 2001-30.09.2007 at the toll free line have been registered 16 649 valid cases, out of which most of them were referring to issues connected to the material help offered by the authorities to the parents in difficulty (5752), adoption and maternal assistance (5358). In 1530 cases there were reported suspicions of abuse on children.

190. The component of instruction of professionals involved in the children's rights protection had an a main objective the presentation of new rules introduced by Law 272/2004, as well as the acquiring by professionals of the necessary abilities for a better implementation of these provisions.

191. One hundred workshops were organized which lasted 2 days, in the period August-October 2005, which reunited 1800 professionals from the entire country, belonging to all the professional groups mentioned. One day sessions were organized for all the participants in the period November 2005 - January 2006, in which the participants presented the way in which they applied in their professional activity, the knowledge acquired in the initial workshops and analyzed the instruments for a better collaboration between professions at a county level.

192. Considering the advanced attributions the new law offers local communities, a series of specific workshops were organized for social assistants from the level of county and local authorities, with the subject of the mechanisms of collaborations between them. More than 2600 participants have debated, in the 86 workshops, the problems with which they are confronted and have identified solutions and priorities at county level. A common working methodology for social assistants from the county and local level was elaborated taking into account the new attributions stipulated by Law No. 272/2004, as well as the proposals and needs expressed in workshops.

193. The activities of informing the population and the efforts to change the perceptions and attitudes towards the rights of children and the stimulation of the decision making process and the good practices which are in the interest of children in Romania, continued through a new project "You can also be a good parent!" which initiated in December 2005 and is closed in October 2007.

194. Both components of this campaign, the one of formation as well as the one of communication, promote the new approach, centered on the child and the family, introduced by Law No. 272/2004 regarding the protection and promotion of the child's rights, the activities thereof being elaborated for sending the same common message: parents are primarily responsible for the raising and caring of children, and all the other - professionals, communities, local and state authorities - have the duty to support the parents to complete this responsibility.

195. Every one of the 41 local directions for social assistance and child protection in the country, and one sector of Bucharest beginning with 11th of January 2007 have organized the seminars for decision makers factors. These sessions were aimed to bring together all the decision makers from the counties levels, local counselors, mayors, Presidents of Courts, chiefs of decentralized services pertaining to the field of health, education, internal affairs as well as representatives of the church.

196. The component of training was addressed to professionals which interact with children in the day to day activity - social workers, academic staff, medical staff, judges and prosecutors, policemen and priests. It was implemented in a partnership with central institutions which coordinate the activity of these professionals including the Romanian patriarchy as well as with the 47 General Direction of Social Assistance and Protection of Children's rights.

197. The activities proposed for the fulfillment of the training component referred to the elaboration of six manuals regarding the role of the professional categories mentioned in the protection and promotion of the children's rights.

198. The appearance of these manuals for the six professional categories represented the elaboration of practical guides on the way in which professionals, in their relation with children and their parents, as well as in the relations with the other professionals. The manuals were distributed to the participants at the courses, as well as to other professionals.

199. The two manuals destined for the local trainers which supported the training sessions in each county and district of Bucharest, were doubled by their formation at central level (30 persons), another series of 8 regional training sessions destined for local trainers (47 x 4 trainers = 188 persons).

200. The 188 local trainers, together with central trainers, have supported starting with February 2007, 182 local training sessions. In these sessions 5000 representatives of professional groups were trained: 800 policemen, 400 magistrates, 1000 social assistants, 900 academic staff, 300 priests, 1300 medical staff. Furthermore, 20 000 brochures were distributed for 4 categories of professionals (5000 for each category: medical staff, academic staff, policemen, social assistants) together with 33.000 posters having as main themes "What means to be a good parent?", "How to handle undesired behaviours - education rather than discipline" and "Preventing the street children phenomena". More than 70 letters together with the corresponding manuals were sent to the Universities in order to be included in the curricula addressed to the professionals who might act in order to promote and protect the children rights.

201. Also within the foregoing Education Campaign the Children's Council - SAY! developed its activity. The Children's Council SAY! Is a forum of discussions for children living in Romania with the general purpose of reinforcing the voice thereof and to help to mobilize children, parents and the community for the protection and promotion of the children's rights in their day to day life.

202. The initiative of the National Authority for the Protection of Children's Rights was developed as a partnership with the Ministry of Education and Research and with the Council of Pupils in Romania within the Education Campaign aforementioned, is a discussion forum for children in Romania, with the purpose of giving the possibility for children to express their opinion regarding all the issues they are concerned with and to be listened - in the family, at school, by the authorities or the mass media.

203. The main objective of the Children's Council, was to elaborate the Children's Report on the observance of the children's rights in Romania, presented in the annex of the present report.

204. Another component of the project was destined for the adoption activities, the Romanian Office for Adoptions being, aside from the National Authority for the protection of Children's Rights, the second beneficiary thereof. The most important activities were:

(a) The elaboration and distribution of three leaflets with the subject National Adoption; the themes approached were the importance of each step in the adoption process, how important it is to tell your child that he is adopted and the procedure of national adoption;

(b) Organization of a seminar for professionals working in the domain of national adoptions.

### **Vulnerable aspects**

(a) The difference between the age of marriage permitted in the girls situation (15 years) and boys (18 years).

## **III. GENERAL PRINCIPLES**

205. According to the provisions of the Convention on the Rights of the Child (art. 3 par. 3) the state must ensure the implementation of the standards, this being ensured by a proper inspection and monitoring. The state authority authorized to monitor the way in which public authorities and authorized private bodies observe the standards for services destined for the child protection is the National Authority for the Protection of Children's Rights.

206. The observance of the standards refers to all the services provisioned in art. 107 of the law 272/2004 on the protection and promotion of the children's rights and not only to the ones provisioned in art. 110 (material error in the content of the law, which will be corrected). art. 105 clearly stipulates that services for preventing the child-family separation, as well as services of special protection of the child temporarily or definitively deprived from the care of its parents, provisioned by the law mentioned (art. 107) can be instituted only if it obtained the operating license. This is granted on the basis of the fulfillment of the minimum compulsory standards processed for the services of prevention of the child-family separation, as well as for the special protection services of the child temporarily or definitively deprived from its parents' care.

207. Through the Government Decision No. 1440/2004 the conditions and procedure for licensing and inspection of the services of prevention of the child-family separation were elaborated, as well as the special protection measures for the child temporarily or definitively deprived from its parents' care.

208. The operating license is issued by the National Authority for the Protection of Children's Rights based on the request addressed to the local/county public administration authorities or private bodies which founded/found the respective services.

209. The licensing procedure has two stages:

(a) Granting the provisional license for a 12 month period;

(b) Granting the operating license for a 36 months period.

210. The National Authority for the Protection of Children's Rights drafts a report of evaluation being undertaken to solve the request on the issuing of the provisional license within 30 days from the registration of the request.

211. Ninety days before the expiration of the provisional license the public authorities/private bodies file a new request for obtaining the operating license.

212. As for the services for child protection existing at the date when Law No. 272/2004 entered into force, the normative act on licensing and inspection contains a series of transitory dispositions applicable in these cases. Thus, according to art. 27 from the Government Decision No. 1440/2004, modified and completed, the services for which it is necessary to obtain a license are considered to be provisionally licensed, for a 36 month period. Public authorities and private bodies undertake to deposit the documentation for obtaining the operating license within 60 days from the date of receipt of the inspection report.

213. The National Authority for the Protection of Children's Rights has the following obligations:

(a) To solve the request on the granting of the operating license within 30 days from the date of registration of the request;

(b) To perform the inspection of the provisionally licensed service and to process the inspection report;

(c) To draw up an evaluation report;

(d) To draw up the national register of services which obtained the provisional license and the operating license.

214. In the period 2005-july 2007, 645 licenses were issued by the specialized department of the National Authority for the Protection of Children's Rights, of which 199 provisional licenses and 446 operating licenses.

215. The National Authority for the Protection of Children's Rights has performed periodical inspections on the way in which the public authorities or private bodies observe the Minimum Compulsory Standards drawn up for the services of prevention the child-family separation and respectively for the ones destined to the special protection of the child deprived from its parents' care.

216. It must be underlined the fact that the inspection activity was a prerogative of the National Authority for the Protection of Children's Rights regulated by art. 116 of Law No. 272/ 2004, being connected with the observance of the standards and obligatory nature of certain services.

217. The activities of inspection and control represented distinct duties performed on distinct departments. After the local authorities/private bodies notified the National Authority for the Protection of Children's Rights about the date of commencement of the service that had obtained the provisional license, NAPCR undertook the obligation to perform the inspection of the respective service.

218. Inspections were planned annually (annual inspection plan). The visits were made in teams of 2 inspectors authorized by the State Secretary. Services that obtained the operating license were inspected twice (an announced and unannounced visit).

219. Starting with 2006, based on the provisions of art. 29 of Law No. 47/2006, in the suborder of the Ministry of Labor, Family and Equality if Chances the Social Inspection was set up, as a specialized body for the central public administration with legal personality, with the purpose of controlling the implementation of the law in the field, as well as the inspection of the activity of public and private institutions, responsible with the supply of allowances and social services.

220. Therefore, the Government Emergency ordinance No. 130/2006 regarding the Social Inspection, approved with modifications and additions by Law No. 211/2007 was approved, which regulates the principles and values underlying the social inspection missions, the social inspection functions, specific and institutional, as well as the main attributions whereof.

221. The Social Inspection has taken over the attributions and responsibilities in the field of inspection belonging to the National Authority for the Protection of Children's Rights, the National Authority for Persons with Handicap, the Ministry of Labour, Family and Equality of Chances, as well as of its de-concentrated structures.

222. The Social Inspection has in its suborder 8 social regional inspectorates, with legal personality. The Social Inspection targets the inspection of the activities in the domain of social assistance, made by the central and local public administration authorities and the natural and legal persons, on the prevention, limiting and removal of the temporary and permanent effects of situations which might generate the marginalization or social exclusion of the persons, family, group or communities.

223. The Social Inspection fulfills the following general functions:

(a) State authority, which ensures the practice of the control of unitary application and observance of the regulations in its domain of activity, as well as operation of regional inspectorates;

(b) Communication: with the purpose of permanent relating to the local and central public administration authorities and with natural and legal persons subjected to the inspection activity, informing them and the citizens on the way in which social rights set by law are observed;

(c) Training: performing the development of the multi-disciplinary competences of the personnel;

(d) Representation: ensuring the internal and external representation in its domain of activity, on behalf of the Romanian State and the Romanian government;

(d) Administration: ensuring the administration of the public respectively private goods of the state or, as the case may be the administrative-territorial units, under its administration or use and of managing the allotted funds.



224. For the fulfillment of its purpose, the Social Inspection has the following specific functions:

(a) Control: performing the control of the observance of the social rights of citizens and legal provisions in the field, the manner of ensuring, administration and management of the social services and the social assistance funds, as well as the supplier's performance and the quality of social services;

(b) Evaluation: analyzing the impact of policies and public procedures implemented in the domain of provisions and social services, for establishing diagnosis and elaboration of proposals and recommendations of improvement of the legal and institutional frame, as well as enhancing the budget allotments needed for the development of the national social assistance system;

(c) Counseling: granting to the central and local public administration authorities and to legal and natural entities public or private with prerogatives in the domain of social assistance counseling and recommendations for the good development of the activity and the enhancement thereof and the prevention of the deeds of breach of legal provisions.

225. The inspection activities include missions of control, evaluation and counseling in the field of social assistance. Authorities of the local and central public administration and natural and legal entities, private or public with prerogatives and responsibilities in the domain of social assistance, as well as suppliers of social, public and private services are subjected to the inspection activity.

226. Currently the organization and operating regulation of the social Inspection must be approved.

227. Until the foundation of social inspection, the specialized department from the National Authority for the Protection of Children's Rights performed 556 inspections as follows: 246 in 2005, 306 in 2006 and 4 in 2007.

#### **A. Non-discrimination**

228. According to the second periodic report the principle of non-discrimination is reflected in the Constitution as well as at the level of other laws, such as the ones regulating the family relations and the inheritance, the international private relations, the education relations and the statute of refugees.

229. The rights stipulated in Law 272/2004 are guaranteed to all children without discrimination, irrespective of the race, colour, gender, language, religion, political opinion, nationality, ethnic identity or social origin, of the material situation the degree and type of deficiency the birth and acquired statute, the difficulties of educating and developing of the child and parents or other legal representatives.

230. In Romania the prevention and sanctioning of all the forms of discrimination is enacted by law 324/2006 for the change and completion of the Emergency ordinance No. 137/2000 on the prevention and sanctioning of all the discrimination forms.

231. The National Council for Combating Discrimination operates on the basis of the provisions of art. 16 of the aforementioned Emergency ordinance, being the state authority in this field, an autonomous institution, with legal personality, under parliamentary control and at the same time guarantor of the observance and implementation of the principle of non-discrimination according to the internal law in force and with international documents to which Romania is part. The National Council for Combating Discrimination is the national authority which investigates and contraveniently sanctions the deeds or acts of discrimination.

232. In the practice of its attributions, the Council independently develops the activity, without being restricted or influenced by other institutions or public authorities.

233. The National Council for Combating Discrimination is organized and operates as a specialized body of the central public administration, with legal personality, develops its activity independently and aims at implementing the principle of equality between citizens, stipulated in the Romanian Constitution, in the internal law in force and in the international documents to which Romania is part of.

234. The mission of this structure is to promote and defend the rights regulated by the anti-discrimination law. The council informs and forms the Romanian society for removing every form of discrimination, investigating and sanctioning discrimination deeds, contributing to the creation of a general confident, respectful and unitary climate defining for a modern, democratic and European society.

235. In this sense, the Council has organized and participated in a series of campaigns and actions of informing for sensitizing the public opinion on the non-discrimination principles.

236. Therefore CNCD was part of the supporting committee of the project financed by the European Union from Phare funds "Access to education for disadvantaged groups", which represented the second stage of a programme launched in 2002, implemented by the Ministry of Education and Research. The period of implementation of this project was December 2004-September 2006 and targeted the promotion of the principle of equality of education opportunities, irrespective of the individual, cultural particularities, of the social-economic context and the mother tongue. The Project aimed the development of the capacity of the education system as a response to the needs of children coming from disadvantageous environments, with focusing on the Roma population.

237. Acknowledging the fact that in the Roma community the access to information on the potential involvement in programme aimed to reach this community is pretty laborious, the authorities have decided that school mediators should be more involved in these activities of, by helping, for example to the distribution of certain materials within the Roma communities.

238. In 2003 the activity of the Council mainly aimed at the informing and building awareness in the population, the civil society and public institutions on the existence of a non-discrimination law and a specialized body in this field, closing protocols with the purpose of strengthening the fight against this phenomenon. The themes of social exclusion are among the themes approached in the domain of children's rights. As for the activities developed by the child issue, the CNCD members have participated in a few initiatives which involved: the issue

of the child, teenager, adult with handicap, no exclusion, developing local strategies and networks for stimulating the participation to education of Roma children, preventing the discrimination of Roma children.

239. In 2004 the Council was involved in organizing the first edition of the “DiversFest festival - Bucharest 2004”, that brought together the following events: the fair of the organizations involved, debates, contests, art exhibitions, books presentations, artistic moments.

240. In 2003 the College has analyzed a number of 473 petitions, out of which has solved a number of 3550. They were also applied a number of 35 notifications and fees which have pointed out discrimination facts, most of them referring to the Roma community.

241. During 2004 it was received a number of 353 complaints from physical and legal persons, governmental or non-governmental organizations.

242. From the complaints analyzed by the Council most of them were referring to ethnic discrimination, belonging to a certain social category (retired people), nationality beliefs, AIDS infections. Out of the 353 complaints received, the College has solved a number of 217 complaints. Out of this number in 27 cases it was obvious that a discrimination deed was committed being applied 24 notifications and 3 contravention fees.

243. The number of solved cases in 2005 was of 360, out of which 280 complaints were received in 2005. The discrimination criteria most used were: social category (90), ethnic (85), nationality (39), disability (21), beliefs (19), age (17), religion (11), HIV/SIDA (10), gender (9), sexual beliefs (9), category in difficulty (6). In the same time, in case of the 48 self-notifications most of them envisaged criteria such as ethnic (26), gender (15), nationality (8), age (5), social category (4).

244. In 2005, 60 contravention sanctions were applied, the amount of the fees collected on this base being of 4.000 new currency (40 mill. Old currency). A number of 22 cases of discrimination were solved through mediation.

245. For the implementation of the principle of equality of chances between men and women and the connected policies in this field, in Romania, the institution with responsibilities in this domain is the National Agency for the Equality of Chances between Men and Women.

246. This operates since April 2005, after the adoption of the Government Decision No. 84/2004 for the change and completion of Law 202/2002 on the equality of chances between men and women in the second semester of 2004, through which it was fully transposed the Directive 2002/73/ EC, for amending the Directive 76/207/EEC, on the implementation of the principle of equality between women and men regarding the access to employment, professional training and promotion as well as working conditions.

247. The agency was funded as a specialized body of the central public administration, with legal personality, subordinated to the Ministry of Labour, Family and Equality of Chances with the purpose of promoting the equality of chances between men and women and the fight against women discrimination (art. 24 Law 202/2000 on the equality of chances between men and women, republished).

248. Also in the line of measures taken by the state institutions for combating discrimination and the opportunity of offering equal opportunities, comes the approval by the Decision of the Romanian Government No. 522/2006 for the change and completion of the Government Order No. 430/2001 on the approval of the Strategy of the Romanian Government for the improvement of the situation of the Roma population.

249. The purpose for initiating such a strategy destined especially to these category of beneficiaries was that of significantly improve the situation of the Roma population in Romania, by promoting measures for social inclusion, simultaneous with the set of networks and reinforcement of the durable partnerships with the purpose of elaborating measures/projects/programmes from the domain of improvement of the situation thereof.

250. Therefore, taking into account the realities with which this category of beneficiary is confronted with, the main objectives of these policies were the identification of social measures aimed at ensuring the enhancement of the Roma population's access to a decent dwelling and public utilities such as water, electricity, sewage and heating systems, by allocating the local financial resources destined for the building of dwellings for disadvantaged groups, including for persons belonging to this minority.

251. With reference to the chapter Justice and public order, the strategy targets the overseeing of the observance of the rights of the persons belonging to national minorities, especially Roma minorities, by introducing assertive measures for the Roma minority in the process of recruiting the personnel from the structures of the Ministry of Internal Affairs and Administrative Reform and the Ministry of National Defence.

252. Another side approached by means of a strategy was the increase of the efficiency of the active measures destined for including the Roma population on the working force market. The regulation and promotion of active measures for beneficiaries with guaranteed minimum revenue was targeted by facilitating the access to the courses of professional exchange.

253. The chapter for child protection, education, culture and cults targeted the inclusion of roma human resources, graduates of the specialized education system, including women, in child protection, care and education centers.

254. The increase of the access to a quality education system, pre-school and school as well as continuing the access opportunities in the pre-university and university domain for youngsters belonging to a Roma minority have also represented priorities of this strategy.

255. Such measures were corroborated with the review of the school syllabus for the promotion in the school environment of a favorable climate for the social including of disadvantaged categories, including Roma population. With this purpose ministry commissions were founded for Roma people within the ministries involved in the implementation of the Government Strategy of improvement of the Roma situation.

256. The purpose of these structures was to analyze the stage of the activities stipulated in General Plan of measures in the own sector of activity, Furthermore, County offices were founded in each county for Roma people within the institutions of the Prefecture, subordinated to the Ministry of Administration and Internal Affairs.

257. By the purpose of unitary realization of the general plan of measures for the implementation of the Government Strategy for improving the Roma situation, from a technical point of view the activity in the county offices for Roma is coordinated by the National Agency for Roma people.

258. The main responsibilities of the county offices for Roma people are the organization and coordination of the activities for the fulfillment of the objectives and tasks in the General plan of measures at county level. These offices will have 3-4 experts appointed by order, of which one will obligatorily be a member of the Roma minority.

259. The non-discrimination principle is promoted through a series of normative acts belonging to other domains which through the wide impact it has on the public can have a significant contribution on the promotion thereof. Thus with the art. 40 of the Audio-visual Law No. 504/2002 it is strictly forbidden to broadcast programmes which contain any form of incitement to hatred on grounds of race, religion, nationality, gender or sexual orientation. Furthermore in the Code of regulation of the content of the audio-visual approved with the order No. 187/2006 of the President of the national Council of the Audio-Visual to art. 12 the following is expressly stipulated: "it is prohibited any pejorative or discriminatory reference at the ethnic origin, nationality, race and religion of the child as well as to an eventual handicap".

#### **B. Best interests of the child**

260. Acknowledged as such by the old legislation, the principle of the child's best interest experiences a new approach, being strictly regulated, the law clearly and unequivocally highlighting the fact that: "any other regulation adopted in the domain of observance and promotion of the child's rights, as well as any legal act issued or, as the case may be, closed in this field is subordinated to the principle of the child's best interest" (art. 2. par - (1) of Law 272/2004 on the protection and promotion of the children's rights).

261. The principle of the child's best interest is imposed including in the rights and obligations afferent to the child's parents, other legal representatives thereof, as well as other persons to whom this was legally entrusted. This aspect has an absolute priority regarding any measures and decisions which concern children, undertaken by the public authorities and authorized private bodies and in the causes solved by the courts of law.

262. Moreover, the aforementioned law subordinates this principle to any other regulation, or legal acts, which might be elaborated and which might have incidence in the domain of the protection of the children's rights.

263. The assessment of the child's interest must include the evaluation of its short term situation as well as the long term one. For understanding this key-phrase, to avoid its transformation in a stereotype, which finally leads to its excessive invocation, but in lack or insufficiency of the impact on an applicative level, the child must first of all be considered a complex as well as distinct entity. This means that each child must be acknowledged as a universe in itself, whose interest can be set only through a continuous and responsible reference to the overall social relations of which the evolution and development of child depend.

264. The best interest of the child must be taken into account individually especially in the situations connected to:

(a) The separation of the child from its parents: the child will not be separated from the parents against its will, “except for the case in which the authorities decide under the reserve of the judicial review and with the observance of laws and applicable procedures, that this separation is necessary in the best interest the child;

(b) The parents’ responsibilities: both parents have the main responsibility of raising the children and the “child’s best interest will be their main concern”;

(c) The deprivation from a family environment: children temporarily or permanently deprived from their family environment or those who to their best interest cannot be left in this environment, are entitled to receive protection and special assistance;

(d) Freedom restriction: children deprived of freedom must be separated from the adults “except for cases in which it is viewed that it is not in the best interest of the child”;

(e) The court hearings for criminal cases involving an underage child: the parents or legal representatives of the child must be present.

265. The importance of this principle is sanctioned by the legislator, including children who for various reasons are on the Romanian territory, allowing the analysis of the particular case thereof, according to the same measurement units as with Romanian citizens. Thus Law 122/2006 on asylum in Romania contains a series of provisions which regulates the legal regime of foreigners which request a form of protection for Romania, legal regime of foreigners benefiting from the form of protection in Romania, procedure of granting, termination and annulment of a form of protection in Romania, as well as the procedure for establishing the member state responsible for the analysis of the asylum application. Art. 8 of this law clearly stipulates the fact that all the decisions regarding underage children are taken with the observance of the child’s best interest for the implementation of the corresponding legal provisions.

266. Other provisions regarding this right are found in the law on the regulation of the mediating profession, Law 192/2006 on the mediation and organization of the mediating profession, stipulating that in the use of the mediation procedures in case of misunderstandings between the spouses on the continuation of the marriage, the use of the parenthood rights, establishing the children’s domicile, the parents’ contribution to the raising of the children, as well as other misunderstandings which appear in the relations between the husbands regarding the rights they have in front of the law, the mediator must oversee that the result of the mediation does not contravene the child’s best interests, will encourage the parents to primarily concentrate on the child’s needs, and undertaking the parental responsibility, so that the separation in fact or divorce does not jeopardize the proper raising and development of the child (art. 65).

267. If, during the mediation, the mediator is informed of the existence of some facts that jeopardize the normal raising and development of the child or seriously damages its interest, it undertakes to notify the competent authority (art. 65, par. 2).

### C. The right to life, survival and development

268. With reference to the reduction of the number of duties of children, in the context of the right to life, survival and development it must be stated the fact that a series of state institutions, such as the Ministry of Education, Research and Youth have decided to introduce in school curricula classes of sexual education, to build awareness in the children to the issues which can appear and to prevent the appearance of a large number of unwanted pregnancies to children.

269. With reference to the application of the death penalty, the Romanian law strictly interdicts this kind of punishment, therefore no such penalty will be applied, especially for children.

270. Because in the legal frame of this fundamental right of the child to life, there is the institution of infanticide, we specify that this represents a crime severely punished by the Romanian Criminal Code. The criminal code, section *Special Part. Crimes against people. Crimes against life, body and health integrity. Homicide. Infanticide* defining this deed as “the murder of a newly born child, performed immediately after birth, by the mother in psychical disorder generated by the birth, acknowledged on the basis of a medical-legal expertise, meets the elements of an infanticide stipulated in art. 177 C. pen. If the action of killing carried on by the mother in such a state of shock did not generate its effect, the newly born being rescued, the absolution is legal, as the attempted crime of infanticide was not incriminated”.

271. The situation of infanticides between 2002-2006.

Infanticides	2002	2003	2004	2005	2006
	38	25	25	32	20

272. Also on the line of the reduction of the number of deaths of children due to unpredictable events such as road accidents, the Romanian Police has developed a series of programmes destined to prevent the occurrence of unpredictable events. Associate Programme for the Prevention and Combating of Road “STOP TO ROAD ACCIDENTS! LIFE HAS PRIORITY”.

273. The traffic education of children in kindergartens is a programme for building awareness of the danger to which children are exposed to when they break the traffic rules, the education starting at tender ages. This leads to a wide campaign of information and education to which kindergarten and school children participated. The Road Police has launched a national campaign for the road security, action which targets the prevention of road accidents and the reduction of the number of victims thereof.

274. The campaign also included the “International Week of Road Safety”, first of all dedicated to children and drivers. According to the Resolution in the domain of Road Security of the General Assembly of the United Nations on the global crisis of road security in the period 5-11 April for the fourth consecutive year “The Week of Road Safety” was held with the motto “Respect in Traffic is Road Safety”.

275. The Ministry of Education, Research and Youth ensures the realization of the major objective of road education for scholars and pre-scholars, for the formation of a responsible road behavior for protecting the right to live. The activities projected are processed in the area of formal education (in the classes of Counseling and Direction - module Life style Quality), as

well as in the area of non-formal education through contests, debates, practical activities, educational projects based on interactive modern methods which stimulate the initiative and involvement of pupils.

276. At national level, the Ministry of Education, Research and Youth annually organizes the National Contest “Road Education, Life education”, with local, county and national phases, which ensure a wide base of selection respectively the involvement of a large number of gymnasium pupils. In the contest a section of road projects was introduced, addressed to 1st to 12th grade pupils which offers the possibility of implementing the pupil’s initiatives, with the support of the institutions involved.

#### **D. Respect for the views of the child**

277. The comprehensive review of the legislation, policies and practices and to ensure the compatibility with articles 12 of the Convention for all children and in all the domains of the jurisdiction, represented a priority for the Romanian authorities which have made efforts to obtain a clear and unequivocal rule in this sense.

278. The observance of the right to an opinion is guaranteed by the Constitution of any person, including children. For regulating and reinforcing a law of this principle, Law 272/2004 on the protection and promotion of the children’s rights stipulates at art. 6, lett. h) that the observance of the child’s opinion and taking it into consideration, based on the age and its degree of maturity represents one of its fundamental rights.

279. In the spirit of observance of each child’s right to an opinion, the specific law for this field stipulates that listening to a child’s opinion and taking it into account, according to the age and its degree of maturity is obligatory.

280. According to the civil law, the natural person is presumed to have the proper judgment to close legal acts starting with the age of 18, when the law recognizes the full ability of practice.

281. The underage child under the age of 14 is presumed by the law not having the necessary judgment to close civil legal acts, and the child between 14 and 18 is considered to have the judgment under development, hence the legal recognition of a limited ability to close legal acts. Referring to the child capable of judgment Law 272/2004 on the protection and promotion of the child’s rights has a different meaning from the aforementioned.

282. Thus, art. 24. of Law 272/2004 shows that any “child capable of judgment can freely express his judgment on any issue concerning him”. In any legal or administrative procedure concerning him, the child has the right to be listened. The child who has turned 10 years old must be compulsory listened. Nevertheless, the child who did not turn 10 can also be listened, if the competent authority views that his hearing is necessary for solving the case.

283. The right to be listened gives the child the possibility of requesting and receiving any pertinent information, to be consulted, to express his opinion and to be informed on the consequences his opinion might generate, if it is observed, as well as on the consequences of any decision concerning him.



284. The listening of the child's opinion is observed in the whole of an administrative procedure, beyond his hearing in the court, the child also having the right to express his opinion in case of a decision regarding measures for protecting him.

285. The Government Decision 1437/2004 on the organization and methodology of the operating of the commission for child protection stipulates that persons commissioned in front of the Commission for solving the case are heard by the Commission separately, in the following order: the child turning 10 years old, the parents/legal representative, the person, family or representative of the authorized private body who wants to be given the child, the other persons called in front of the Commission to give the proper information for solving the case; after the separate hearing of these persons, the Commission can proceed to a new joint hearing of two or several persons among the aforementioned. The child who turned 10 years old is informed by the president of the Commission on the measure proposed for its protection, the consequences that settling this measure will have and has the right to freely express his opinion to the protection measure proposed.

### **Vulnerable aspects**

(a) Insufficient development of scholar mediator institution within the Roma communities.

## **IV. CIVIL RIGHTS AND FREEDOMS**

### **A. Name and nationality**

286. Every child can establish and preserve its identity. Its registration is made immediately after birth with the right to a name, the right to acquire a nationality and if it is possible to know his parents and be attended to, raised and educated by these (Law 272/2004).

287. In this sense, art. 2 par. (1) from the Romanian Government Ordinance No. 41/2003 on acquiring and changing the names of natural persons through administrative procedures, approved by Law No. 323/2003, with further changes and additions, stipulates: "The family name is acquired by filiations and is lawfully changed by the changes in the civil status of the natural person, by the meaning of the law".

288. The child's name and surname are chosen by their parents, by the meaning of the law in force. The child can preserve its citizenship, the name and family bonds, within the meaning of the law, without any unwarrantable interference, any ascertainment of a break of this right compelling the state authorities to urgently take all the necessary measures for re-establishing the child's identity (art. 8).

289. Draws the attention the provisions of art. 18 par. (3) of Law No. 119/1996 on the civil acts, with further changes and additions, according to which: "if parents do not have a common family name, or there is an inconsistency between the child's name registered in the birth certificate and the verbal declaration of the affiant, the birth certificate will be drafted on the basis of the declaration written and signed by both parents, stipulating the child's family name and surname. In case of dispute between the parents, the local community public service of registration of the persons from the place of birth registration will decide through a written order."

290. By the meaning of art. 64 par. (1) of the Family Code “a child born outside marriage acquires the name of the parent which first set the filiation”, and par. (3) of the same article stipulates that “if the child is simultaneously recognized by both parents, the provisions of art. 62 par. (2) shall apply”.

291. The child’s parents not being married, have different family names. In these conditions the following provisions apply:

(a) If the child was simultaneously recognized by both parents, the child’s family name will be set by these, and in case of married parents with different family names:

- (i) By agreement between the parents, the name being declared at the child’s birth, at the register of births, deaths and marriages;
- (ii) In the absence of such agreement, the tutelary authority from the child’s domicile shall decide, by listening to its parents, that the child shall have the name of one of their names or both their name united;

(b) If the father did not recognize its child, the child will acquire the mother’s family name, according to the norm set by art. 64 par. (1), according to which the child born outside marriage, unrecognized by both parents acquires the family name of the parent with which the filiation was first set;

(c) If the father subsequently recognizes the child born outside marriage or the paternity is ascertained by legal procedures. In this case, according to art. 64 par. (2) of the Family Code, the court can decide on the establishment of the father’s name to the child.

292. As for the child born by unknown parents, his right at establishing and preserving his identity is ensured by the local authorities, according to the legal provisions in force. The adopted child also has this right, his change of name after the adoption is stipulated by law in the sense that “the adopted child acquires by adoption the adopter’s name.

293. According to the provisions of art. 53 par. (3) of Law No. 273/2004: “For solid reasons the court, by accepting the adoption, at the adopter’s requests or of the adopting family’s request and with the child’s approval who turned 10 years old, can decide to change the surname of the adopted child.” This is a novelty brought to the current adoption law.

294. By the meaning of this right, Law 272/2004 recognizes the child’s right to maintain personal relations with the parents, relatives or any other person to which the child has developed attachments. (Art. 14. - (1)).

295. Similarly, the parents or another legal representative of the child cannot obstruct the personal relations with grandparents, brothers and sisters or other persons with which the child enjoyed his family life, except for cases in which the court rules it, considering that there are solid reasons to jeopardize the physical, psychological, intellectual or moral development of the child.

296. As for the child's acquisition of the parents' citizenship, the Romanian law stipulates that this is obtained by:

- (a) Birth;
- (b) Adoption;
- (c) Granting on demand - Law 21/1991 of Romanian citizenship.

297. As for the acquisition of the citizenship by children born on the territory of other states or the law stipulates that every child born on Romanian soil, from Romanian parents, is a Romanian citizen.

298. The following are also Romanian citizens:

- (a) Were born on the Romanian territory, even if only one of the parents is a Romanian citizen;
- (b) Were born abroad, and both parents or only one of them is Romanian.

299. The child found on the territory of Romania is considered a Romanian citizen, until it is differently proven, if neither of the parents is known.

300. The Romanian citizenship is acquired by the foreign citizen child or without citizenship through adoption, if the adopters are Romanian citizens, and the adopted child turned 18.

301. If the adoption is made by a single persons, and this is a Romanian citizen, the underage child acquires the adaptor's citizenship.

## **B. Preservation of identity**

302. According to the provisions of art. 8 par. (1) and (2) of Law No. 272/2004 on the promotion and protection of the child's right: "The child has the right of establishing and preserving its identity". "The child is registered immediately after birth and has the right to a name, the right to a citizenship and if it is possible to know his parents and to be taken care of, raised and educated by them."

303. Subject to the right to establish the identity, the registration of a birth is made according to the legal provisions at the town hall of the municipality, district of Bucharest, the city or commune where the event has occurred (Law No. 119/1996 on the civil acts, with further changes and additions).

304. The term of declaration and registration of birth:

- (a) 15 days from the date of birth, for the child born alive and still alive;
- (b) 3 days from the birth, for the child born dead;
- (c) 24 hours from death, for the child born alive who died within the 15 day term;

(d) 30 days from the date of finding, in case of the found child;

(e) 30 days from the date of drafting of the minutes of abandonment, for the child abandoned by the mother in the maternity.

305. As soon as the birth is registered, the civil state officer will give the child its personal number code, based on the PNC lists pre-calculated allotted to each town hall, from the lists corresponding to the year of birth.

306. The personal numeric code is granted to a natural persons, from birth, is registered in the acts and certificates of civil state and is copied in the other official acts, issued on the name of the respective person.

307. Any child born is registered in the Romanian civil state registers, dead or alive, as well as any child born on the territory of the country.

308. According to the provisions of art. 4 of Law No. 119/1996, foreign citizens with the temporary residence in Romania can request the registration of the civil state acts and deeds in the same conditions as Romanian citizens, and persons without citizenship must request the registration of the civil state acts and deeds in the persons' register of the community public services.

309. The Romanian authorities have processed in 2006 a series of standards on the procedures and terms to be observed if this fundamental right must be granted to a child abandoned in maternity or in a sanitary facility.

310. Therefore, sanitary facilities with newborns and/or pediatrics places, undertake to hire a social assistant or, as the case may be, to designate a persons with abilities of social assistant (art. 9 par. (1) of Law 272/2004).

311. The birth registration can be made on the basis of the verbal statement given to the officer of civil state and of the documents provisioned by law by any of the parents, and if, for various reasons, they cannot do it, the doctor, the persons present at birth or the personnel from the facility where the birth took place, the relatives or neighbors which acknowledged the child's birth have the obligation of declaring it.

312. In order to establish the identity of the abandoned child or found or of the parents thereof, the competent police authorities undertake to appoint one or more persons responsible with performing the afferent measures, according to the law, for registering the child's birth (art. 9 par. (2) of Law 272/2004).

313. According to art. 10 from the same normative act, birth medical certificate, for the newborn child, as well as for the child born dead, is drafted 24 hours from birth.

314. If the birth occurred outside a medical facility, the family doctor with the cabinet registered in the territorial area where the birth took place undertakes to ascertain the child's birth at the request of any person, within 24 hours and then to process and issue the medical certificate of the child's birth, even if the mother is not registered on the list of its cabinet. Any persons who

found an unknown child must inform the nearest police station in 24 hours. According to the provisions of art. 13 par. (1) of Law No. 272/2004 on the protection and promotion of the child's rights, "The person taking a child in order to protect him for a temporary period, until finding protection measures by the meaning of the law is given, commits himself to care for him, and in within 48 hours to announce the local public administration authority in the territory of its residence".

315. This new norm abrogates the provisions of art. 88 of the Family Code, stipulating that: "The person taking a child to raise him, without executing the forms requested for adoption, undertakes to keep the child while he is under-aged, but only if the natural parents died, have disappeared or are in difficulty".

316. The public service of social assistance where the child was found shall take the necessary measures to register the child's birth, obtaining the order of establishing the name and surname of the child by the Mayor of the town, according to the provisions of art. 24 of Law No. 119/1996 with further changes and additions.

317. If the child is left by the mother in the maternity, the processing of the birth certificate is made within 30 days from the drafting of the minutes of ascertaining of the child's abandonment, signed by the representative of the general direction of social assistance and child protection, by the police and maternity representative (art. 23 of Law No. 119/1996, with further changes and additions).

318. For the child found as well as for the child abandoned by the mother in the maternity, the medical-legal expertise for the registration of the child is free (art. 12 par. (2) of Law No. 272/2004).

319. If the child birth statement was made after the expiration of the terms provisioned by law, but within a year from the child's birth, the registration is the birth is made with the mayor's approval.

320. When the statement was made after a year from the date of its child birth, the birth certificate is solely processed on the basis of a definitive and irrevocable order, on the approval of the belated registration, which must contain all the necessary registration data.

321. As for the registration of the birth occurring on a train, on a ship or airplane, the Romanian law stipulates that according to the provisions of art. 3 par. (2) of Law No. 119/1996 the ship and airship commandants are civil state officers (...). Therefore, these people shall perform the formalities to be executed for registering a birth.

322. With respect to Romanian children born outside the borders the Romanian law has a series of specifications aimed at regulating this kind of situations. Thus, "According to the provisions of art. 43 par. (3) of Law No. 119/1996 with further changes and additions, the civil state certificates of Romanian citizens made abroad are conclusive in Romania only if they are transcribed in the Romanian civil states registers. At the moment of their transcription, a personal number code will also be attributed to the child".

323. For children born abroad with birth certificates transcribed in the country, the personal number code is granted by the civil state officer within the territorial administration unit where the birth certificate is registered, if the birth was registered at the competent local bodies of the respective state, irrespective of whether he is a Romanian citizen residing in Romania or a Romanian citizen residing abroad, in the latter the responsibility of transcription will be assigned to the mayor's office where the person has had the last residence in the country.

324. For children born abroad until 31.12.2003, if the birth was registered in the diplomatic missions or the consulate offices of Romania, abroad, the PNC will be granted by the Division of Civil state within the Local Council of the 1st district of Bucharest, based on the list of PNC pre-calculated allotted from the lists corresponding to the year of birth (this category of civil state acts is kept by the Civil State Division within the Local Council of the 1st district of the Bucharest Municipality).

325. Children born abroad starting with 01.01.2004 and whose birth certificates is registered in the civil state registers of the diplomatic missions or the carrier consulate office of Romania, authorized abroad, the PNC will be granted by the civil state officer from the diplomatic missions or the carrier consulate office of Romania, based on the lists of PNC pre-calculated allotted to it, from the lists corresponding to the year of birth.

326. By the meaning of Law No. 94/2004, from the need to simplify the procedures in the domain of civil state acts for all Romanian citizens abroad, the provisions of art. 42 par. (2), in the Law No. 119/1996 were introduced so that: "Romanian citizens abroad can request the registration in the Romanian civil state registers from the diplomatic missions or consulate offices of Romania, of civil state certificates issued by the foreign authorities, which concern them, if the registration of the civil state act or deed was previously made at the authority in the state where these are located; the registration being made with the approval of the heads of the diplomatic missions and consulate offices (...)".

327. The registration to the diplomatic missions is the equivalent of the transcription in Romania.

328. The obligation of registering children is popularized by publishing referential normative acts in the Official Gazette of Romania, by displaying in pediatrics and maternities the normative acts stipulating the terms and documents needed for the registration of the newborns.

329. In the Romanian civil state registers the birth of a child born in Romania is registered. According to the provisions of art. 4 of Law No. 119/1996, foreign citizens residing or temporarily located in Romania can demand the registration of the civil state acts and deeds in the same conditions as Romanian citizens, and the persons without citizenship are compelled to request the registration of the civil state acts and deeds at the community public services of population register.

### **C. Freedom of expression**

330. The majority of the states share the principle according to which the children's opinions must be listened and taken into account, according to their age and ability to understand. An extremely important aspect when we talk about the child's rights, is protection - besides the

biggest part of the Convention on the Rights of the Child speaks about protection - but equally important for the well being of the child is autonomy. The concept of children's rights started to be more and more associated with the gaining of the independence as the child grows.

331. The child's opinion is taken into account progressively, according to its ability. Thus, there are situations in which its opinion is decisive, and in others the child's opinion is heard and taken into account but it does not represent the decisive element in the decision making of the parents, or as the case may be by the competent authorities.

332. The two elements are found, in a different distribution, at the level of the internal and international regulations that oscillate between the tendency to recognize the children's total independence, in certain cases, at a certain age and to impose the maintenance of a balance in appreciating the importance of the will expressed by the underage child. In the first case, the law decides to grant the child the right to decide, and the child's desires have precedence and decide on the finality of the respective case. On the other hand, the law does not go that far, but supports to a certain extent the child's right to express his point of view, which is taken into account by adults when these make decisions, either judges, parents or other persons.

333. In the Romanian law we can find examples of both situations. With reference to the absolute right to decide, it is stipulated that the adoption of a child who turned 10 years old cannot be done without its approval (see article 11 par. (1) letter b) and art. 17(2) of Law No. 273 on the legal regime of adoption. These are extremely clear provisions, which offer children over 10 years old the right to veto.

334. The second case is shown in art. 6 (h) of the Law on the protection and promotion of the children's rights, which sets as a general principle of implementation of the law "listening to the child's opinion and taking it into account, according to the age and maturity".

335. It is a balanced vision, which, without denying the child's role in appreciating any measure which concerns him, nevertheless advises caution at establishing the weight of this role, without reaching the point when in fact the child decides exclusively and without judgment, on the measures taken for him.

336. The right to the freedom of speech is strongly connected to the child's right to express its opinions and to be taken into account. This right must be promoted and ensured by encouraging the child in different environments: in the family, at school, in other institutions and in society. Practically, the children's civil rights start within the family, with an essential role in shaping the conscience and protecting the human's rights, in creating the respect for human values and cultural legacy and respect for another civilization.

337. Proper measures should be considered that ensure a balance between the parents' responsibility and the realization of the child's rights, including the right to freedom of speech.

338. With reference to the restrictions on the practice of this right, it must be said that it "restrictions" must obligatorily be provisioned in the law and to needed for: observing the rights and reputation of other persons, for protecting the national safety, public order, public health, or of the good habits.

339. There are cases in which parents, by ensuring the proper education of the child can and must limit their right to freedom of speech, respectively the cases stipulated in article 30 of the Constitution, which refers to the interdiction to prejudice the dignity, honor, private life of the person and right to its own image, being forbidden the country's defamation, the inducement to aggressive wars, to national, racial, religious hatred, territorial separatism or to public violence as well as obscene manifestations, contrary to the good customs.

340. According to the civil law, the natural persons is presumed to have the judgment for closing legal acts starting with the age of 18, age when the law recognizes the full capacity of exercise.

341. The underage child under the age of 14 years is presume by the law not to have a proper judgment to close civil legal acts, and the child between 14 and 18 is considered to have the judgment under development, and legally recognized for a restricted capacity to close legal acts.

342. Referring to the "child able of judgment", Law No. 272 gives another sense than the judgment one needed to close legal acts.

343. Therefore, art. 24 par. 1 of Law 272/2004 has another perspective, the child's right not to be ignored, every time adults make plans in his concern. This right to be listened, to be heard - by parents, the guardian, the teachers and tutors, the social assistant, the legal authorities - is defined in par. 3 of the same article , as being the possibility of the body to request and receive any given information and to be informed on the consequences of any decision concerning him.

344. The obligation with communication with the child helps knowing him, understanding its needs, the environment in which it was educated and the child's opinion, his level of understanding reality, the consequences of its own facts, to know which are the more adequate means of intervention, as forms of answering to the child's needs.

345. Of course, the child's right to be listened necessarily presupposes the obligation to be given the opportunity to speak, but do not force him to make a decision which might satisfy entirely only the children's needs, if the liability factors would realize that the child's interest on a long or immediate term, impose a different measure. Besides, par. 4 of art. 24 clearly states the fact that if a child can be listened, in administrative and judicial procedures, at any age, its opinions "can be considered and the proper importance will be granted, according to the age and degree of maturity of the child".

346. In the legal and administrative procedures, the child's right to be listened is part of the procedure: listening to a child is compulsory in procedures which concern him. It is a child's protection text towards the possibility of showing off an exaggerated tendency of the authorities to call the child in order to be listened in other causes than the ones focused on taking measures which concern the respective child. As a consequence, this article must not be interpreted by specialists which usually intervene in procedures which inevitably involve listening to the child (the members of the child protection commission, judges, prosecutors, etc.), in the sense that a child can or must be listened for cases in which his testimony is relevant, even if this does not refer to the child.



347. Another condition for listening to the child, without which his opinion would not be relevant, is that this is well informed, receives explanations and is prepared so that his opinion is freely expressed.

348. Furthermore it is essential that persons which intervene in the procedure of listening to the child benefit of formation in this sense; otherwise, the procedure of listening can affect the self image of the child, its psychical and emotional state.

349. In administration and legal procedures, if the listening of the child who turned 10 - in afferent problems - is presumed by the legislator as necessary, not the same was the legislator's vision regarding the child who turned 10.

350. If the first part of paragraph 2 entitles the child of any age which requested to be listened to obey his request, if such display of will was not expressed to the child turning 10 years old, it can only be called to be listened only after a serious analysis of the need of its statements, made by the authority ruling this method. The situation can become extremely dangerous, if it is insisted on listening to the child which did not turn 10 years old, in principle, not having the required maturity. It is recommended to listen to the child under the age of 10 with care and if this cannot be performed by the/authorized by/ in the presence of a psychologist, you 'd better create categories of professionals which intervene in the aforementioned procedures, also as a means of obtaining good results of the listening procedures.

351. The listening of the child must be necessarily regarded as a right thereof and not as a possibility for adults to exploit to their favor an eventual opinion of the child.

352. According to the provisions of 272/2004 law, any child, irrespective of the age it has, can request to be listened to, in any legal or administrative procedure which concerns him. If the child's request is rejected, the authorities in question must explain this decision (also the provisions of art. 13, par. 2 from the Government Decision No. 1437/2004 regarding the organization and methodology of operation of the commission for child protection).

353. The provisions are completed to those of the Family Code, regarding the institution of the trusteeship. Thus art. 152 lett. c) of the Family Code stipulates that the guardianship can be instructed if, for reasons of illness or for various reasons, the parent or guardian cannot fulfill a certain action on behalf of the person which represents or whose acts it approves.

#### **D. Freedom of thought, conscience and religion**

354. The right to freedom of thought, conscience and religion can be viewed as a pre-existent right of the child to the free expression of its opinion.

355. The content of this article could raise problems of implementation in the following two situations:

(a) Study of the religion as discipline in the pre-university education; and

(b) Religious education practiced within the special protection services founded by different cults/religious associations.

356. In order to choose or refuse religion as a school discipline, the pupil must have the parent/legal representative's approval (art. 9 par. 1 of Law No. 84/1995 - Education Law, with further additions and completions).

357. As soon as the child turns 14 years old, it is a priority to obtain the written approval of the child in parallel with the parent/legal representative's approval, and at turning 16 the child can choose its own religion. Consequently, children of 14 and moreover children which turned 16 can choose whether to study this discipline or not.

358. For pupils to express their options knowing the case, it is necessary for parents and academic staff to collaborate and to ensure the proper information of the children right from the beginning of their school years.

359. First of all parents who have the responsibility of raising and ensuring the child's development, can counsel the child in choosing a religion or regarding the belonging to a certain religious cult taking into account its free opinion, as well as its degree of maturity.

360. If a special protection measure was taken for the child, the person taking care of the child has no right to influence its religious convictions.

361. The freedom of thought and the freedom to choose the religion are rights guaranteed to each citizen of Romania through the fundamental law of the country.

362. The expression of such right must be made with the observance of the others opinions and options, without affecting the rights and liberties thereof.

363. Regarding the freedom of choice of religions and introducing it as an object of study in the gymnasium curricula Law 84/1995 of the education stipulates that the Model plans for the primary, gymnasium, high school and professional education include Religion as a discipline, part of the common body. The pupil, with the approval of the parents or of its legal guardian, chooses to study religion and confession (art. 9).

364. At the written request of the parents or legal guardian instituted, the pupil can choose not to attend the religions classes. In this case the school situation will be closed without this discipline, Similarly is made for the pupil who for objective reasons was not offered the conditions to attend the classes at this discipline.

#### **E. Freedom of association and peaceful assembly**

365. By the meaning of Law No. 272/2004 the formal structures are structures financed and functioning by fulfilling the forms and conditions, stipulated by law.

366. These structures operate according to the conditions stipulated in the own statute and according to the legislation in force (associations, foundations, unions, etc.) Informal structures are the ad-hoc structures, not subject to registration formalities.

367. Irrespective of the type of association, whether formal or informal structures are created, their purpose must not violate the law in force.

## **F. Protection of privacy**

368. The National Supervisory Authority for Personal Data processing (ANSPDCP) recently founded, is another institution which ensures the protection of private family life in relation to the public and private operators of personal data.

369. At the same time, by the Government Decision No. 1018/2002 the Norms on the obligations for specialized public services for the protection of the child's rights for guaranteeing the observance of the right to the image and privacy of the child in a care center or entrustment was approved.

370. According to the provisions of the mentioned norm, different data and information referring to the child placed in a care center shall not be supplied to any natural or legal persons only after obtaining a written approval from the manager of the general direction of social assistance and child protection regarding the obtaining and dissemination of these data and information.

371. Furthermore, the applicant undertakes to inform the manager of the general direction of social assistance and child protection regarding the purpose for which the data and information, means of obtaining thereof, as well as the means of promoting them, are requested.

372. The applicant's access in the service premises which will be visited is only made with the explicit approval of the manager of the general direction of social assistance and child protection and in the presence of an appointed representative of the general direction of social assistance and child protection.

373. Moreover, the applicant undertakes to declare on its own responsibility that the data and information will be used without affecting the image and right to privacy of the child in the care center or entrusted.

374. The sampling and processing of any kind of images regarding children in a care center or entrusted can be made only with the previous approval of the legal representative of the child.

375. Each general direction of social assistance and child protection undertakes to set the measures for guaranteeing the observance of the right to an image and to include all the provisions of the Regulation and to subject them for approval to the Local Council, respectively of the district of Bucharest.

376. By Order No. 249/2004 of the National Council of the Audio-Visual (CNA) regarding the child protection of programme services a series of interdictions were instituted regarding the diffusion of an image, photography, interviews, declarations or any other information which might lead to the identification of the children with the purpose of ensuring the child's right to protecting its public image and its private, family life.

377. For instance, children up to 14 cannot be used in audio-visual shows which retrace crimes, abuses or dramatic events occurred in their families. It is also prohibited to spread such information which might lead to the identification of children under 14 years old which watched dramatic events in their families.

378. In case of children between 14-16 years, accused of committing a crime or victims of crimes or physically, psychically or sexually abused can participate at talk shows or audio-visual reportages, with the cumulative observance of the following conditions:

- (a) Previous approval;
- (b) The written approval of the parents, legal representatives;
- (c) Assistance during the transmission by a parent or by a legal representative, respectively by the lawyer in case of criminal investigation or arrest;
- (d) Removing any elements which might lead to their identification in case in which these are victims of crimes or physical, psychical or sexual abuses.

379. In case of children with ages between 16 and 18 years old, accused of committing a crime, the written approval thereof and a lawyer's assistance is needed, if they are criminally investigated or arrested.

380. Moreover, the broadcasting of interviews or statements takes to children under 14 years old, made on the basis of agitating their emotional state aimed at increasing at every cost the spectacular nature of the productions, is prohibited.

381. With reference to the guaranteeing and observance of the child's privacy, with the purpose of harmonizing the internal law with the provisions of the Convention and other international documents, in the Law 272/2004 a special provision was introduced which clearly allows it.

382. Thus, according to art. 22 (1) "The child has the right to the protection of its public image and its private, family life. Subject to the observance of this right were also included provisions according to which children cannot be used or exposed by parents, legal representatives or other persons at the raising and treatment thereof, with the purpose of obtaining personal advantages or of influencing the decisions of the public authorities.

383. At the same time the law stipulates the parent's obligation to ensure all the necessary resources for the good development of the child, in all the layers of evolution, mental, physical and psychical cooperating for the observance of the private life and dignity thereof (art. 32, lett. a, b).

### **G. Access to appropriate information**

384. The free access to information considered necessary for the social and moral wellbeing as well as child's health, by any means, at its choice is inviolable. Law 272/2004, art. 23 stipulates it, for ensuring the observance of this child's right.

385. Aside from the statuation of this right in a general statement, the law brings additional specifications regarding the obligations which encumber the state authorities but also to the legal guardians of the child on the facilitation of the communication thereof according to their objective needs.

386. The child's freedom to search, receive and spread any kind of information, aiming at promoting its social, spiritual and moral wellbeing, its physical and mental health, under any form or any means at its choice, is inviolable.

387. Parents or as the case may be, other legal representatives of the child, persons with children in their care, who promote and ensure the observance of the children's rights undertake to ensure information, explanations and advices, according to the age and degree of comprehension, as well as to allow to express their point of view, ideas and opinions.

#### **H. The right not to be subjected to torture or other cruel, inhuman or degrading treatments or punishment, including corporal punishment**

388. Romania prohibits by law the child's subjection to torture or to any other type of bad treatment, each of the aspects which make up these deeds being severely punished and incriminated by the national criminal law.

389. The child is entitled to the observance of its personality and individuality and cannot be exposed to the physical punishments or other humiliating or degrading treatments. (Art. 28 - Law 272/2004).

390. In case of existence of circumstances in which a child was exposed to one of the situations previously exposed, the child's parents or, as the case may be, another legal representative thereof, the public authorities and private bodies undertake to take all the measures to facilitate the physical and psychological re-adaptation and social integration of every child which was a victim of negligence, exploitation or abuse, torture or punishments or cruel, inhuman treatments, etc. (Art. 86(1) - Law 272/2004).

391. The Romanian Law defines torture as the deed intentionally causing another person an intense pain and strong suffering, physical or psychological, with the purpose of obtaining from that person or from a third person information or confessions, to punish for an act committed by it or another third persons, or is suspected of committing it, to intimidate or pressure him or a third person or for any other reason based on a form of discrimination whichever it is, when such a pain or suffering is caused by an agent of the public authorities or any another person acting with an official title or at instigating or with the expressed or tacit approval of such persons (Criminal Code of Romania Art. 343. - (1)).

392. The changes and additions brought to the Criminal Procedure Code have stipulated that for underage children preventively retained or arrested are ensured, aside from the right stipulated by law for preventively held prisoners over 18, their own rights and a special regime of preventive retention, in relation to the particularity of their age, so that the liberty restrictive measures, taken against underage children for the good development of the criminal process or for preventing their purloining from criminal prosecution, or from the execution of the punishment does not affect the physical/psychical or moral development of the underage child.

393. The regime of execution of the preventive measures, as well as the rules on the observance of the rights of detained persons of execution of the preventive measures, as well as the rules for the observance of the detainee's rights are stipulated in Law No. 275/2006 on the execution of punishments and measures ordered by legal bodies during the criminal process, the rules of

implementation of the law and rules of organization and operation of centers or preventive retention and arrest which include instructions regarding the treatment of persons without freedom, including underage children, access to a lawyer, medical assistance, bonds with the family, etc.

394. Within training programmes which are monthly developed the personnel of arrests, including the one insuring the medical assistance is instructed and tested regarding its prerogatives in the line of preventing the torture acts and bad treatment.

395. The conduct of the personnel making the arrests during the development of the specific activities is monitored through video surveillance cameras.

396. All arrests under development at national level are official recognized and the preventive detention is not made in other places.

397. Measures have been taken for fitting out the special rooms, at the level of all the places of retention and preventive arrest, destined for the imprisonment of underage children, these being separate from the rooms where adults are imprisoned.

398. Underage children and teenagers which execute measures restrictive of their freedom are included in special counseling and psychological assistance programmes ensuring the possibility of continuing the school instruction according to their level of training. Within the organization plans at the level of all the police facilities psychologist functions were provisioned and included.

399. According to Law No. 275/2006, the execution of the punishments and measures disposed by legal bodies during the criminal trial is made under the control of the appointed judge, which represents another guarantee on the observance of the rights of the imprisoned persons, the prevention and investigation of acts of torture, bad treatments or abuses.

400. With reference to the right of children deprived from freedom to inform an intimate or a third party of their situation and the right of access to a lawyer or doctor, we mention that these are guaranteed by Law No. 275/2006 on the execution of punishments and measures disposed by the legal bodies during the criminal trial and stipulated in the Rules of organization and operation of the centers of preventive arrest and retention and are applied correspondingly.

401. Thus, for all cases in which underage children are detained, the legal bodies undertake to inform the parents, guardian, person assigned for the surveillance and care thereof or by another person appointed, and in case of arrest the period of notice will not exceed 24 hours, the obligation of notification being extended also regarding the Social Reintegration Service for Offenders and of Surveillance of the execution of the sanctions non-restrictive of freedom of the competent court to try the cause in a first instance, registering it in the minutes. A specific information procedure will be made in the rules of organization and operation of the centers of preventive retention and arrest, according to the age, with references to their particular situation so that they are easily understood.

402. By the new law of execution of the punishments and measures disposed by legal bodies during the criminal trial, effective from 01.10.2006, the competence to perform the control of the legality goes to the appointed judge where the center of retention and preventive arrest is located.

403. To prevent the appearance of abusive behaviors from the public authorities, measures have been taken at the level of the Romanian police, for informing the police on the internal and international regulations on the treatment of underage children, as follows:

(a) Processing, in the monthly professional training meetings, the normative acts which contain regulations on the rights of underage children;

(b) Processing, with patrol agents, before the entry into service, the manner of actuation in cases in which minors are involved;

(c) The organization of working meetings for policemen involved in the prevention of young delinquency (workers of the proximity police, criminal investigations), for acquiring the specific legal frame;

(d) Organizing professional training classes for officers within the criminal investigation services with the minor's problematic as working line;

(e) Organizing seminars with police officers specialized on the working line "juvenile delinquency, domestic violence and victims minors";

(f) Locally working meetings were organized with specialized policemen (sociologists, psychologists, social assistants), representative of the local public administration with prerogatives in the domain of child protection for the creation of the inter-disciplinary network acting for the protection of the victim-child from any kind of abuse;

(g) Appointing an officer within the criminal investigation and public order services, as well as from the department of prevention, for the creation of a team with prerogatives in solving cases in which minors are involved;

(h) Directing the policemen's activity from the operating teams for the identification/monitoring of minors with delinquent behavior or of the ones in risk situations, intensifying the actions and controls, in the perimeter around the education facilities;

(i) Maintaining in the attention of the management of the General Inspectorate of the Romanian Police, until all the reported cases with minor victims are solved;

(j) Collaboration with the representatives of the Direction for the Child's Rights Protection as well as closing protocols between the territorial units of the Romanian Police with the county services for the protection of victims and social reintegration of offenders;

(k) Collaborating with the National Institute of Magistracy for the development of seminars for the training of magistrates which will be part of the specialized courts in the domain of justice for minors and families. The participation of policemen to criminal investigations to

these activities target the execution of the multidisciplinary and inter-institutional teams, competent in solving the criminal cases with minor offenders, as well as taking the necessary measures of protection for children in need;

(l) Anti-crime and anti-victim training activities for minors in periodic meetings held in education units and care treatment facilities for minors;

(m) Presentation, via mass-media, for special cases in which minors were involved, placing the accent on social consequences arising from the commitment of crimes;

(n) Participating at radio-TV shows regarding the social integration of street children, with the support of the National Company of Red Cross in Romania;

(o) Realization and distribution of educational-preventive materials needed for supporting the activity of prevention.

404. To ensure the prevention of the actions causing cruel, inhuman or degrading suffering or treatments, the Ministry of Internal Affairs and Administrative Reform created a mechanism through which the cases of complaints regarding such facts in which even children are involved, filed by non-internal and international government organizations, as well as institutions with concerns in the domain of defense of the human's rights, aiming at breaches of the human rights by Romanian policemen and directly addressed to him, are always part of the object of a criminal or administrative investigation, and if any kind of acts of abuse ascertained and proved, committed by the personnel of the Ministry of Internal Affairs and Administrative Reform, have taken criminal, administrative or disciplinary measures, as the case may be, according to the legal norms in force.

405. The notices addressed to the Romanian Police are thoroughly checked, through own control bodies, which propose sanctioning measures, according to the law, for all cases in which violations of the fundamental rights and liberties of the citizens or of the methodological norms, are observed. If there are clues indicating that the deed committed by the policemen is criminal, the cases noticed as abuses are forwarded to the authorized institutions to solve them (Prosecutor's Office or court of law).

406. Furthermore, the minors charged or accused, apprehended or preventively arrested are given in all cases, obligatory legal assistance, being compelled to take measures for appointing a publicly appointed lawyer if the minor did not choose one and for this to directly contact the arrested minor and communicate with it.

407. When the preventive arrest or apprehension of a charged or accused minor is disposed, the parents, guardian, person in the care and surveillance the minor was placed, other persons assigned by him are immediately informed in case of apprehension, and within 24 hours in case of arrest, and in case of arrest the service of social integration of offenders and surveillance of the execution of the sanctions non-privative of freedom in the territory of the court judging the cause in first instance is also informed, registering it in a minutes.

408. During the apprehension and preventive arresting, minors are held separate from adults, in specially designed places. The observance of the rights and the special regime provisioned by



law for the minors apprehended or preventively arrested is ensured by the control of a sole judge appointed by the president of the court, by visiting the places of preventive detention by the prosecutor, as well as through the control of other bodies authorized by law to preventively visit the offenders.

409. Exceptionally, the minor between 14 and 16 years of age, criminally charged, can be detained at the prosecutor's disposal or of the body of criminal investigation, with the notification and under the prosecutor's control, for a period that shall not exceed 10 hours, if there are conclusive evidence that the minor committed a crime punished by law with life detention or 10 times more jail.

410. Furthermore, it is imposed the specification that the minor between 16 and 16 years can be preventively arrested only if the punishment stipulated by law for the deed for which he is charged is life detention of prison 10 times more and another preventive measure is not sufficient.

411. The minor offender 16 years of age can be preventively arrested during the criminal investigation for a duration of 20 days. The minor offender can be preventively arrested during the criminal investigation for 20 days. The duration of the preventive arrest can be extended during the criminal investigation each time with 20 days. The preventive arresting of the minor offender during the criminal investigations cannot totally exceed a reasonable term and not more than 90 days. Exceptionally, when the punishment provisioned by law is life detention or 10 times more jail the preventive arresting of the minor offender during the criminal prosecution can be extended to 180 days.

412. The explicitly provisioned interdictions regarding the submission of a child to the bad treatment are without doubt, no exception existing in this sense, Not even when maybe the political or social context could lead to the impression that such events could take place. Thus, no exceptional circumstance, either a state of war or war threats, of internal political instability or any other exception state, can be invoked to justify torture. Furthermore, not even the law order or order of legitimate authorities can be invoked.

413. In the same spirit, the capital punishment is prohibited by the Romanian legislation, as it was previously mentioned, and the minority of the offender is a condition for removing the criminal liability of the minor committing the criminal deed.

414. Article 30 of the Criminal Code stipulates that- "it is not a crime the deed stipulated by the criminal law performed by a minor who at the date of its occurrence did not fulfill the legal conditions to be liable for a crime".

415. With reference to the execution of the freedom depriving punishments, convicted minors execute these punishments separately from the adults convicted or in special detention places, ensuring the possibility to continue the compulsory general education and acquiring a professional training according to their aptitudes.

416. In 1999 the Instructions of the Minister of Internal Affairs No. 901/10.05.1999 were issued on the organization and operation of places of retention and preventive arrest, from the Ministry of Internal Affairs which regulates the organization of places of retention and preventive arrest,

the rights and obligations of detainees and arrested people. Art. 3 of these instructions stipulates that minors are held separately from adults. The preventive arrests will be compulsory equipped with medical facilities for treatments and consultations. The rooms for retention and preventive arrest will be located in the headquarters of the police units and will be equipped with sanitary installations, lighting and ventilation, ensuring accommodation space of 6m<sup>3</sup> of air for each arrested.

417. According to the provisions of art. 20 from the instructions of the minister of internal affairs No. 901/10.05.1999 on the organization and operation of the retention and preventive arrest facilities within the Ministry of Internal Affairs, the submission of the detainees and arrested to torture or another inhuman or degrading form of treatment is strictly forbidden.

418. According to art. 6 from the document previously mentioned, the receipt in the arrest of the detainees, arrested and convicted is made, as the case may be, on the basis of the ordinance of retention issued by the body of criminal investigation, of the preventive warrant of arrest issued by the prosecutor or by the court of law, of the mandate of execution of the prison conviction, the mandate of execution of the contravention jail sanction or of the minutes of retention, brought to the knowledge of the persons in question.

419. If during the search to which these persons are obligatorily subjected, at the introduction in the arrest, it is observed that the arrested person has traces of violence on her body, it will be immediately examined by the doctor of the facility and communicated hierarchically to the chief of the police unit or the deputies thereof.

420. Furthermore, within 24 hours from the receipt of the preventively arrested, the doctor undertakes to examine them and to request a written declaration with the medical record and to draft the medical slip. At the same time, periodically, it must perform the medical visits, and the results must be mentioned in the register and sheet.

421. The strategy of prevention of the acts of torture or bad treatment developed by the Ministry of Internal Affairs mainly consisted of a proper education regarding the human right's issue and an adapted professional training.

422. These activities have developed in a period of training in education facilities, as a basic training, as well as subsequently through other forms of training in the field- inter-county classes, permanent held by the Committee for Human Rights and Humanitarian Rights from the Minister of Internal Affairs with policemen from all the central and territorial units of the General Police Inspectorate.

423. As a consequence of the changes and additions of the Criminal Procedure Code during 2003 through the Law No. 281/2003, the main principle of observance of human dignity was instituted, in the sense that any person under criminal investigation, including a child, should be treated with respect of human dignity, and the subjecting to torture or cruel, inhuman or degrading treatment is punished by law.

424. Furthermore, the right of the charged/accused to defense and the right to be informed on the deed and the charge brought before the hearing is regulated, as well as the obligation of legal bodies to ensure the realization thereof. The legal bodies undertake to notify charged persons,

before giving the first statement, on the right to be assisted by a lawyer. In the conditions and in the cases provisioned by law, legal bodies undertake to take measures for ensuring the legal assistance of the charged and accused persons, if it no longer has a chosen lawyer.

425. Another change of the Criminal procedure Code was that the time of beginning and time of ending of the hearing of the charged and accused person will be registered in the declarations of the charged or accused person. The written declaration is read to him and on demand it is given to read it. When it approves with its content, it signs it on each page and its over.

426. For ensuring the right to defense, the criminal investigation body undertakes to notify the accused that he has the right of hiring a lawyer and that he has the right to make no statement, informing him that whatever will be said can be used against him in a criminal court, by the meaning of Law 281/2003.

427. Also, before being incarcerated, the accused person is informed of all the rights and obligations it has in the period he is deprived from freedom, acknowledging them by signature, in the presence of the lawyer. More than that, the rights and obligations of people retained or preventively arrested are displayed on the walls of the rooms of retention and preventive arrest.

428. With reference to the preventive measure of retention, the changes brought to the Criminal Procedure Code have aimed at regulating the obligations towards the body of criminal investigation to immediately inform the prosecutor on this measure taken.

429. The measure of retention can last no more than 24 hours. The time the person is deprived from freedom as a consequence of the administrative measure of the management of the police section, is deducted from the duration of the measure of retention, provisioned in Law 218/2002 on the organization and operation of the Romanian Police.

430. Through the changes brought to the Criminal procedure code in 2003 the right of the person detained to request to be informed on the measure taken by another family member or another person it appoints. The request of the retained persons as well as the notice is written down in a minutes. Exceptionally, if the criminal research body appreciates that this could affect the criminal investigation informs the prosecutor, who will decide regarding the notice requested by the detainee.

431. Thus the adoption of Law 218/2002 on the organization and operating of the Romanian Police and of Law No. 360/2002 on the Status of the Policemen on the basis of which the Romania Police was demilitarized in consensus with the obligations undertaken by the Romanian State represents an important strategy in the democratic context of Romania bringing a finality to the efforts submitted for harmonizing the institution to the criteria and standards provisioned in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, contributing inclusive to the effort of Romanian society to fulfill the standards of the United National Organization.

432. In the content of 218/2002 it was explicitly mentioned the policeman's obligation that while practicing the rights granted by law, to accurately observe the fundamental rights and liberties of the human being, stipulated by law, and by the European Convention on Human Rights, which includes the right of a person not to be subjected to torture, punishments or

inhuman or degrading treatments. Furthermore, the policemen's obligation to take the necessary measures for protecting life, health and body integrity of persons whose security ensures was stipulated, and especially to take measures for the medical cares to be given every time they are imposed.

433. In the content on this normative act it was expressly provisioned the interdiction of use by the policemen of means of immobilization and fire weapons against children, except for cases in which they perform an armed assault or in group, which endangers the life and body integrity of one or several persons.

434. To prevent torture actions, the Romanian Constitution and the Criminal Code explicitly stipulate preventive arrest, so that this measure is ruled by the judge and not only during the criminal trial; for a duration of 30 days and can be extended to 30 days more without the total duration to exceed a reasonable term of 180 days.

435. For preventing acts of torture or bad treatments in this context, the following measures were taken at the level of the Romanian Police:

(a) Processing and implementing a control plan on the basis of which the managements of the police units and officers appointed permanently perform control in arrests and search the cases noticed;

(b) Rehabilitating and modernizing the centers of retention and preventive arrest for ensuring the necessary equipment for observing the rights of imprisoned persons;

(c) Any imprisoned person has all the rights provisioned by the normative acts in force;

(d) The legal assistance exercised by lawyers is compulsory right from the first hearing and is ensured by public appointment as well as chosen lawyers;

(e) Persons deprived of freedom have the right to communicate and preserve the connection with the family or with the persons appointed by these, as well as the right to come in touch directly or by phone with the family or with the persons appointed by these, every time they want to, with the chosen lawyer;

(f) The rights and obligations of the detainees are posted in the detention rooms;

(g) Any notice on the aspects of bad treatments or breach of the legal provisions is operatively checked, by using consequential measures;

(h) The detainees are kept separately, according to the following criteria:

(i) Retained by the preventively arrested or convicted;

(ii) Women separate from men;

(iii) Minors separated from adults;

- (iv) Recidivists and dangerous or violent criminals separate from primary offenders or from non-violent.

436. Given the multitude and complexity of the human rights issue, concerns on the aspects of the educative instructive process and continuous training of the staff were particularized in the personnel activity for elaborating long term training programmes and aligning to the standards of the activities of workers of the Romanian Ministry of administration and internal affairs to the ones of the workers of the similar ministries from the countries of the European Union.

437. From an education point of view, in the domain of torture prevention, in the system of training and professional education, programmes and post-university courses were elaborated attended by policemen activating on the line of the legal and criminal investigation police.

438. Thus, the formation and perfection of the training of policemen was aimed at changing their mentality, command requested by Law 218/2002 which defines the Romanian Police as being “the state institution specialized executing prerogatives on the defense of the fundamental rights and obligations of humans, of the private and public property, the prevention and discovery of crimes, the observance of the order and public peace, within the meaning of the law”.

439. Furthermore, measures have been taken at the level of the Romanian Police, for spreading materials to policemen on the fundamental rights of the human, including of the ones investigated for the observance of the rights guaranteed by Constitutions, regulated by laws, as well as internal norms of the Ministry of Administration and Internal Affairs.

440. Furthermore, within the different programmes of professional training organized at the level of the Ministry of Administration and Internal Affairs, specific themes on the rights the investigated people in state of freedom as well as the ones detained or arrested should benefit from.

441. In this context, The Ministry of Administration and Internal Affairs, together with non-government organization has started off a programme for the implementation of a project for introducing a personnel training system in he domain of alternative conflict solution.

442. At the same time in the training programmes held monthly, the personnel of the places of detention and preventive arrest, including the one ensuring medical assistance, is instructed and tested regarding the afferent attributions for preventing deeds of torture and bad treatment.

443. Seminars and training sessions were held in the domain of the foreigners’ regime in living centers for foreigners taken under public custody to which the personnel of these centers participated as well as the representatives of the non-government organizations with competence in the field.

444. At the same time, the training of the personnel is made through periodical professional training meetings, as well as by processing the provisions in force at the entry into service of the personnel.

445. The personnel of the Romanian Immigration Office with prerogatives in the vulnerable groups, has participated in seminars organized on this issue, for training for identifying the victims of torture, interviewing them, solving the requests of asylum.

446. With reference to the treatment applied to children in schools, Law 272/2004 on the protection and promotion of the child's rights stipulates that any disciplinary measure applied to the child must observe its dignity, physical punishments or punishments connected to physical, psychical development or which affect the child's emotional state not being allowed.

447. The same provisions are valid also for children institutions not allowing the application of physical punishments,, as well as depriving the child from its rights that might put in danger the life, physical, mental, spiritual, moral or social development of the child, in the family as well as in any institution ensuring protection, care and education of children.

### **Vulnerable aspects**

(a) The situation of the children who are not registered in the registry evidence;

(b) Special training of persons who interfere in the child hearing procedure, such as to protect the physical and emotional condition of the child. Necessity of the child's hearing procedure development.

## **V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

### **A. Parental guidance**

448. Both parents have the responsibility of raising and taking care of the child, provided that it is in the child's best interest.

449. The implementation of the rights and fulfillment of the parent obligations must have in mind the child's best interest and ensure the material and spiritual wellbeing of the child, especially by taking care of him, maintaining the personal relations with him, be ensuring the raising, education and maintenance, as well as by its legal representation and administration of its patrimony.

450. In case of disputes between parents on the use of the rights and fulfillment of the parent obligations, the court of law, after listening to the parents, decides to the best interest of the child.

451. Article 30 par. 1 of Law 272/2004 consecrates the child's right to be raised, taken care of and educated by its parents, strongly connected to the principle of the superiority of the role and responsibility of parents in raising and educating the child (art. 5, par. 2).

452. Generally, from the point of view of the persons and the child's patrimony, par. 2 underlines the parents' obligation to support the child in the implementation of the rights stipulated by law - to health, wellbeing, education, access to information, culture, etc.

453. Par. 3) of the same article underlines the basic concept of the law on the direction of all the actions of authorities and services for supporting the parents, for the undertaking of the primary and essential role in the child's life.

454. In the realization of the parents' obligations, these are entitled to receive the information and specialized assistance necessary for taking care of, raising and educating the child.

455. Therefore, the public social assistance service, while performing its function to take measures for the early tracking down of risk situations, will offer its parents, at their request, specialized consultancy, including legal, concerning the legal supporting possibilities for taking care of, raising and education the children.

## **B. Parental responsibilities**

456. Art. 31 of Law 272/2004 stipulates the principle of equally divided responsibility between the parents, principle existing also in the Family Code, whose provisions, for protecting the minor, remain applicable. The equality of the parents regarding the rights and obligations towards the minor child is regulated, as an aspect of the equality of the rights between men and women, constitutional principle.

457. Parents must jointly exercise their rights and fulfill the parental obligations to the sole interest of the child. It is obvious that the most important are parental obligations, because rights are recognized for the fulfillment of the obligations by the parents. On the other hand, parents can have different opinions regarding the best interest of a child, specialists can also not agree regarding what's best for the child. Any breach of the child's rights (including the lack of respect towards the child's capacity of evolution) is contrary to the best interests thereof.

458. When the physical, psychological or intellectual development of children is undermined by the parents' actions and inactions, that might be avoided, it can be said that they do not fulfill the responsibilities. The Family Code brings a series of specification in this sense.

459. Therefore, both parents have the same rights and duties towards their minor children, without differentiating if they are from the marriage or outside the marriage, or adopted (art. 97 from the Family Code). This means that what matters in establishing the manner of implementation of the rights and duties is the quality of the parents - as persons in relation to which the child's filiation is determined - irrespective if they are married. Furthermore, parents jointly and by mutual agreement take measures regarding the persons, as well as the children's goods.

460. With reference to the child's goods, it is provisioned the right and duty to administer his goods; the right and duty to represent the minor in legal documents or to hand over these documents.

461. If the rule is that parents equally share the parental responsibility, there are various derogatory cases, in the sense that only one of these exercises (although exclusively) the parental rights and duties, although both parents use them, the responsibility is no longer equally shared.

462. For the first category of situations, art. 98, par. 2 of the Family Code stipulates “If one of the parents is dead, or no longer has parental rights, is placed in interdiction or, for any reason, cannot manifest his will, the other parent solely exercises his parental rights”.

463. It must be specified that in the category of circumstances which might generate the impossibility of manifesting a parent’s will the following situations are included in which:

(a) One of the parents has disappeared;

(b) The conflict of interest between the minor and one of the parents, which may lead to endangering the guarantee of practicing the parental rights by the other parent “to the child’s interest, the parental rights being exerted by the other parent;

(c) Obstructing a parent from fulfilling a certain deed to the child’s interest, for example due to illness; the obstruction of the implementation of the rights and parental duties because of family abandonment or execution of a freedom depriving punishment.

464. Between the situation in which the continuous parental responsibility is for both parents, but not equally shared, the most frequently encountered is the one of the parents’ divorce, case in which, according to art. 42 from the Family Code, the court undertakes to rule also on the entrusting of the minor children.

465. Art. 43 par. 2 from the Family Code stipulates that the divorced parent to which the child was given has parental rights over it, and par. 3 expressly stipulates which are the rights and obligations of the divorced parent to which the child was given in custody. The manner of application of the right to ensure the child’s development by the parent to which he child was not given into custody differs from the one previous to the divorce. The doctrine shows that the parent to whom the child was not given has not the security and surveillance service, of the duty to take disciplinary measures and of the right to establish the child’s home and cannot ask its return by the meaning of art. 103, from the one who has it without any right. In connection thereof, it is shown that there must be no understanding between the parents previous to the measure taken, the measures aiming at these rights being taken by a single parent. In these case the agreement intervenes after taking the measure, and if the other parent - to whom the child was not granted - does not agree with the measure taken, he can demand the change of the measures taken with reference to the rights and duties between the divorced parents and children within the meaning of art. 44 from the Family Code.

466. This conclusion does not come only from the dispositions regarding the use of the parental rights in the new context of a marriage terminated by divorce.

467. According to the provisions of art. 65 of the Family Code, if the child’s filiation outside the marriage is set by both parents, its entrustment as well as the parents’ contribution to the raising, education, and professional training costs, will be decided according to the provisions of art. 42-44 including, applied by similarity.

468. By the meaning of art. 1 The Family Code agrees that in Romania the state protects the marriage and family; supports by economic and social means the development and reinforcement of the family.



469. The state defends the mother's and child's interest and manifests a special care for the raising and education of the young generation. The family is based on a freely approved marriage between the spouses. In the relations between the spouses as well as in the application of the rights towards children, the man and the woman share equal rights. The parent rights are exercised to the children's interest.

470. The National Authority for the Protection of the Child's Rights, by Law 272, from the beginning of 2005, has developed a series of campaigns for building awareness for informing the parents regarding the afferent responsibilities, which are the encumbering duties for ensuring as family environments able to develop, raise and educate a child.

471. The guarantee of the observance of the child's rights regarding the preservation of the contact with the parents as well as the undertaking of the afferent responsibilities is universally valid, whether we speak of a child born in a legally constituted family or a child made outside the marriage. Thus, in the latter case, the law allows father to equally assume and exercise the obligations of raising and maintaining the child like any other parent.

472. In the conditions of existence of the circumstances leading to the separation of the child from its parents or at least one of them the law ensures regarding the guaranteeing of this right to maintain contacts with them, in the context in which the observance of its superior interest is ensured. The insertion of this provision expressed in the law came as an additional guarantee for guaranteeing the right to preserve the connection with its parents, in almost any conditions, starting from the premise that the best environment of development for the child is in the middle of its family.

473. The law on the protection and promotion of the child's rights contains a series of articles which refer to the issue of the personal relations of the child with its parents, as well as with "other persons towards which the child has grown attachment".

474. Thus, article 14 of Law 272/2004 recognizes the child's right to preserve personal relations and direct contacts not only with parents but also with relatives and, more important, with other persons towards which the child has grown attachment.

475. Therefore the child can have a "family life" with persons with which it has legal and biological relation but also social.

476. Clearly this is one of the defining articles on the conception of the legislator in the approach of the child issue and entrusting it to a child care facility and its integration in the space it forms. It reflects the philosophy of the law according to which the child is an universe in itself, integrated to a family and social environment, which influences and shapes the personality.

477. This text represents one of the few cases in which the emotional relations are given a legal meaning, the recognition and confirmation thereof as element of legal protection being a large step in defining the principle of protecting the best interest of the child.

478. More than confirming the right to maintain the personal connections, according to art. 14 par. (3) parents cannot prohibit children from preserving the relations with grandparents,

brothers or other persons with which the child has enjoyed a family life, except for cases “in which the court decides in this sense, appreciating that there are solid reasons to endanger the physical, psychical, intellectual and moral development of the child”.

479. This last provision is extremely interesting and moves forward that what is legally imposed to the parents in many other countries.

480. The competence of the limiting the child’s connections with other persons that its parents exclusively belongs to the courts of law, which may decide it only is evidence were brought attesting that by maintaining the respective relations, the physical, psychical, intellectual and moral development of the child would be harmed.

481. Article 15 of the same normative act stipulates - as an example - a series of forms of contact which represent the most frequent means of keeping the connections, including the mail, supply of information on the child and other form of indirect contact. The importance of the connection process and of the attachment is permanently underlined as a means of preventing the abandonment.

482. The relating and attachment process usually occurs naturally, generated by interior, affective-cognitive mechanisms, and the separation, at the child’s early age , by a persons who plaid a significant role in its life, as well a negligence or abuse, can lead to attachment disorders.

483. Restrictions of the child’s right to be contact with any of the parents can be imposed by the court, when there are “solid reasons for endangering the physical, mental, spiritual and social development of the child”. Again it is a clear provision according to which a very serious reason if needed to limit the contact, stipulating the situations in which the contact might be viewed as violating the best interest of the child: If it would jeopardize the physical, psychical, intellectual or moral development of the child”.

484. As a consequence, the court of law will obligatorily rule with the disposition of the child’s measures of protection and regarding the preservation of the personal relations and direct contacts of the child with both parents, of course by observing the best interest of the child. If the court will view that there are still solid reasons that might endanger physical, psychical, intellectual moral or social development of the child, via the same court order will be obligatorily ruled in the sense of limiting this right.

485. The simple limitation of the right to personal relations with the child is not sufficient if the court does not rule on the concrete means of realization of this right for the purpose of preventing a serious condition in which the child will be at a certain moment.

486. The Minister of Education, Research and Youth in partnership with the UNICEF Romanian organization, have elaborated a national programme for parents, called “Parents Education” organized as workshops with parents on subjects like: observance of the children’s rights, negotiating the conflicts etc. presently developing in 540 units to 843 classes. The support materials are available to all the academic staff also in electronic format on the site [www.edu-media.ro](http://www.edu-media.ro).

487. With the same purpose the psychological-pedagogic counseling cabinets in the education facilities offer pupils and parents of counseling service, made by psycho-pedagogical counselors.

### **C. Separation from parents**

488. The cases and conditions in which the separation of the child from its parents may be decided are expressly and restrictively provided by Law 272, through art. 33. These are: divorce, when the separation of the child from one of its parents takes place, or even from both parents, if, as a result of the divorce, the under-aged is consigned to another person, the urgent foster care, when the child was abused, neglected within its own family, and foster care, which is the most frequently met case. In each of the above situations, the ability in what regards making a decision on the separation of the child, is in the exclusive responsibility of the court.

489. The situations in which the separation of the child from its parents through the decision of an administrative authority takes place is foster care ruled by the decision of the child protection commission, but on condition that there is a pre-existent agreement of the parents in what regards the respective protection measure, or urgent foster care, ruled by the General Department of Social Assistance and Child Protection (DGSACP), when the child is abused/neglected within its own family, for the confirmation of which the legislative provided the compulsory notification of the judicial authority within 48 hours after taking the action of urgent protection.

490. The competence of prevention of hazard situations and abusive behaviour on the part of the parents is expressly set as the responsibility of the local social assistance services.

491. Article 50 of Law 272/2004 provides putting into practice the clauses of art. 20 of the Convention on the Rights of the Child and acknowledges the right to protection and social assistance of the child who is temporarily or definitively bereft of its familial environment, at the same time constituting the obligation of the party states to provide the child with an alternative protection.

492. Thus, the beneficiaries of the measures of special protection may be the children who, either temporarily, or definitively, cannot or can no longer be protected by their own parents. This situation may be determined by various circumstances (unknown parents, deceased parents, the parent's foster care under interdiction, the judge's rule of their death or disappearance, etc.) or by the decision of the institutions lawfully authorized to rule the withdrawal of the child from the family when its growth and evolution are endangered within it. The special protection of the child includes a range of actions, performances and services, adapted to the individual traits of each child, authorized to answer the needs of the child in need of such protection as properly as possible.

493. The measures of special protection as well as the services which can be organized for its provision are regulated distinctly within Law No. 272/2004. The performances which may be granted to the child benefiting from special protection can be found both in the distinct chapter of this law, regulating the financing of the protection system, as well as in a series of other regulatory acts, among which are:

(a) GD No. 729/2005 - setting the level of daily allowance for food for collective consumption within social assistance public institutions;

(b) EO 25/2003, modified and approved through Law No. 325/2003 - regulates the granting of financial rights for the child in foster care to the foster carer, rights granted for the coverage of monthly food expenses, equipment, bedding, hygiene and sanitary materials, school accessories, cultural and sports materials, transportation, depending on the case, as well as for the coverage of accommodation expenses;

(c) Law No. 326/2003 as modified by Law No. 111/2004 - sets the rights from which the children and the youth protected by the public services specialized in child protection, mothers protected in maternal centers, as well as children placed to professional foster carers benefit from;

(d) GD No. 1177/2003 - sets the amount of the food monthly allowance payable to HIV infected persons or persons afflicted with AIDS, children in this situation included;

(e) Order No. 73/2004 of the Ministry of Labour, Social Solidarity and Family MLSSF - sets the methodology for granting the monthly food allowance payable to HIV-infected children and adults or those afflicted with AIDS, and for the control of its use by the one entitled to it;

(f) Law No. 448/2006 on the rights of protection and promotion of challenged persons sets a series of rights from which challenged children benefit;

(g) Article 51 of Law 272/2004 sets the time until which a child may benefit from special protection - which is usually the turning into age - at the same time constituting two exceptions from this rule.

494. A first exception is regulated in favour of the youth who come into their full capacity of exercise, who already have a special protection set for them and who prove that, at the time of attaining the full capacity of exercise, they continue their studies within a daily type of education. The extension of the special protection measure is performed upon the request of the youth in question and may be granted up to their turning 26 years old.

495. The second exception focuses on the youth who come into their full capacity of exercise, who do not come into the incidence of provisions of paragraph (2) but who cumulatively meet the following conditions:

(a) A protection measure is set for them when coming into the full capacity of exercise;

(b) Do not have the possibility of re-entering their own families;

(c) Are confronted with the risk of social exclusion, as they do not have any accommodation or the possibility to take care of themselves.

496. If the conditions provided by the law are met, the youth will benefit, upon its request, from the extension of the special protection measure, for a maximum period of 2 years. If, unreasonably and successively, the youth rejected job offers or a place to live in, or if, despite having had a job/place to live, he/she lost them due to reasons that he/she can be blamed for, the application for the extension of the special protection is to be rejected as unjustified.

497. In this context, one must pay special attention to the activities and steps the institutions with duties and responsibilities in the field must take for supporting the youth for the purpose of his/her social integration. In this respect, it is required that, among others, the specialists of the General Department of Social Assistance and Child Protection (DGSACP) cooperate with those of the County Employment Agencies (CEA), for the purpose of achieving the customized social accompaniment, in compliance with the provisions of Law No. 116/2002 on the prevention and fighting of social marginalization and the norm of enforcement of this law.

498. After a number of 42 fairs aimed at offering a job to the children belonging to the special protection field was organized in 2006, only 288 young people were hired.

499. A particular situation in what concerns the wording of the application form is the situation of non-discerning youth due to mental retardation/psychical disease. The granting of extension for special protection in this case is performed (if the legal provisions are met) upon the request of their legal representative. If there is no legal representative, the General Department of Social Assistance and Child Protection (DGSACP) must take this aspect into consideration and require a judge's court the foster care under the interdiction and the appointment of a legal curator for the respective person in due time.

500. Article 52 of Law 272/2004 introduces two general conditions which must obligatorily be considered when there is the need to set special protection measures, i.e.: the existence of a customized protection plan (CPP) and the consent of the 14-year old child.

501. As far as the customized protection plan is concerned, the manner of drawing as well as its frame-model are regulated by Order No. 286/2006 of the State Secretariat of the National Authority for the Protection of Children's Rights.

502. The request of the child's consent in what concerns the special protection measure which is to be taken in regards to its person is new in the Romanian legislation.

503. The introduction of this compulsory clause is a natural consequence of the proper putting into practice of the child's right to have an opinion, constituted for its benefit, thus creating the premises for the assurance of caretaking as adapted as possible to the needs of the child who is to be protected.

504. Article 53 paragraph (3) of Law 272/2004, second thesis, regulates the situation in which the child disagrees with the proposed protection measure, case in which the child protection commission no longer has the competence to rule in the respective case, and, as a result, must decline its competence of ruling in favour of the court.

505. When setting the special protection measure, the court may overcome the child's refusal to express its consent in what concerns the proposed measure, and the situations requiring this are to be motivated within the court's order.

506. Thus, under such a circumstance, the activity of counseling and informing the child for the purpose of requiring and expressing consent appears to be very important, if this consent is to be expressed before a court.

507. Within the same law, the person who is in charge with drawing up the customized protection plan, as well as the time when this is to be elaborated, are also mentioned. Thus, the institution in charge is the General Department of Social Assistance and Child Protection (DGSACP) of the administrative territorial unit where the child actually lives (who registers the request on the constitution of a special protection measure) or, as the case may be, the General Department of Social Assistance and Child Protection (DGSACP) whose general director ordered the setting of the urgent foster care.

508. In compliance with the Methodological Norm on the drawing up of the customized protection plan, approved by Order No. 286/2006 of the State Secretary of the National Authority for the Protection of Children's Rights (NAPCR), the drawing up of the customized protection plan may also be performed by a case manager, appointed by an authorized/accredited private body.

509. A hierarchy of steps and objectives of the customized protection plan is set, and the reintegration of the child within its family is the first option to be considered by the specialists. If this is impossible, or contrary to the superior interest of the child, the other options will be taken into account.

510. As a result, the foster care of the child in a residential type service is to be constituted as an objective of the customized protection plan, unless the other options were assessed and proven viable.

511. At the same time, the obligation to receive advice from the parents and the members of the enlarged family who could be identified is provided for the setting of the customized protection plan's objectives.

512. Articles 55 and 56 of Law 272/2004 regulate both the protection measures which may be set for the child in need of special protection, and the categories of children who can benefit from these measures. The responsibility in this field is divided as follows:

- In the case of the child whose parents are deceased, unknown, whose parental rights have been declined or who were enforced the punishment of interdiction of parental rights, placed under interdiction, legally declared dead or disappeared, when guardianship could not be constituted, the measure of foster care is set by the court
- In the case of the child who, for the purpose of protecting its interests, cannot be left in the parents' care due to reasons they cannot be blamed for, the measure of foster care by the court is taken (when the consent of the parent/parents does not exist) or, as the case may be, by the child protection commission (in situations when the parent consents to this measure being taken)
- In the case of the abused or neglected child, the measure of urgent foster care is taken. It can be ruled by the director of the General Department of Social Assistance and Child Protection (DGSACP), if there is no opposition on the part of the people taking care of the child or of the court, through a Presidential Ordinance, if there is opposition

- In the case of the child found or abandoned by the mother in sanitary units, the measure of urgent foster care is set by the director of the General Department of Social Assistance and Child Protection (DGSACP)
- In the case of the child who committed a deed provided by the penal law and who is not criminally liable, the measure of supervised freedom or the foster care by the Child Protection Commission, or the court, are set, as the case may be

513. Also, the possibility for appeal of the special protection measures is regulated, at the same time setting the people with active law position, i.e. the parents and children over 14 years old.

514. The special protection measures ruled by the Child protection commission may be attacked within the child's domicile court (art. 10, paragraph 3 of GD No. 1437/ 2004).

515. If the measures of special protection are ruled by the court, the possibility to appeal against the measure is represented by the wording of an appeal within 10 days after the communication of the judge's ruling.

516. As for the gratuitous legal assistance that the litigators may benefit from, its granting is regulated by art. 74-77 of the Civil Procedure Code, with the subsequent modifications and completions, as well as by Law No. 51/1995, with the subsequent modifications and completions.

517. According to art. 74-75 of the Civil Procedure Code, the person unable to deal with the legal expenses without endangering its own or its family's provision, may require the court to consent to legal assistance. Legal assistance comprises the granting of exemptions, discounts, scheduling or postponing for the payment of the stamp legal taxes, of the legal stamp and bails, as well as de the defence and gratuitous assistance through a lawyer assigned by the lawyers' bar.

518. According to art. 68-69 of Law No. 51/1995, the granting of gratuitous assistance is performed only on the approval from the dean's bar, in exceptional cases, if the person is bereft of material rights and its rights would be prejudiced by delay; the bar may also give default legal assistance, on the request of the courts, of criminal pursuit bodies or of the local public administration bodies, if it is decided that the persons are in the obvious impossibility of paying the fee, when the fees will be paid from the funds of the Ministry of Justice (MJ) or, as the case may be, from the funds of the local public administration bodies. Considering the fact that most beneficiaries from the special protection measures are children coming from families with major financial difficulties and who cannot afford paying a lawyers' fee, the budgets of the local/county councils should be provided with amounts allowing the granting of this type of legal assistance.

519. The measure of the foster care is defined within article 58 of Law 272/2004 as an extemporary measure, at the same time indicating the cases when such a measure can be enforced, i.e. a person/family, foster carer, residential-type service licensed under the law.

520. Law 272/2004 constitutes as general rule the possibility to place the child who is not 2 years old yet only within the extended or surrogate family. The rule is imposed by the

child's special needs, deriving from the very small age it has, as well as from the numerous psychological studies which revealed the negative impact precocious institutionalization of small child has on its subsequent development (art. 60).

521. Exceptionally, the foster care of the child younger than 2 years old may be ruled in a specialized residential service, only when the child suffers from a severe handicap and is dependent on special care.

522. The child's handicap and dependence on certain services is attested by the child protection commission (by registering it among challenged persons) or, as the case may be, by the specialist doctor (if the child does not hold a challenged person's certificate).

523. At the same time, a series of general conditions which are to be met at the time of deciding upon the measure of foster care, regardless of the child's age, is set. Thus, the body authorized to enforce the measure of foster care must check the fulfillment of measures for the purpose of prior identification of the child's extended family members or that of another person/family where it can be placed, the possibility to keep siblings together, as well as the existence of conditions to ensure the maintenance of personal relations between the child and its parents.

524. Unless the right to visit the child and to maintain a personal relationship with it has been restricted under the law, the selection of the person/family where it is to be placed will be performed by also taking into consideration their capacity to assure the effective fulfillment of the right to visit and of personal relations (closeness of domiciles, the relations existing between parents and the person/family where the child is to be placed, etc.).

525. Art. 61 of Law 272/2004 specifies the bodies authorized to set the measure of foster care, at the same time showing the situations in which taking this measure will be proceeded to.

526. Thus, as a general rule, in all situations in which the consent of the parents to this type of measure cannot be attained, the authority of constituting the measure belongs to the court, and if the parents agree with the measure, it will be set by the child's protection commission.

527. At the same time, when deciding upon the body authorized to set the measure of foster care, the provisions of art. 53 paragraph (3) on the existence or inexistence of the consent of the child over 14 years old, must be considered and, depending on these aspects, the competence belongs to the court or, as the case may be, to the child's protection commission.

528. As far as the parents' consent is concerned, it may be expressed either in authentic form by notary act, or by a document under private signature, registered at the General Department of Social Assistance and Child Protection (DGSACP), or it may be expressed before the members of the commission upon hearing the parents, case in which this is to be specified in the meeting protocol. As for the inexistence of the parents' consent, case in which the foster care measure is set by the court, one must consider both the cases when parents explicitly refuse to give this consent, and the ones when this consent cannot be granted, due to various reasons.

529. Law 272/2004 regulates the manner in which parental rights and obligations are exercised, during the whole period when the measure of placing the child was set (art. 62).



530. Although in accordance to the provisions of paragraph (1), for all cases when this measure was set by the child's protection commission, the parents' rights and obligations are kept, one must note that the exercise of parental rights and obligations in relation to the child is however modified, as a result of the manner of performance of this for of protection - the child is in the effective care of someone else, other than its parents.

531. Thus, in practice, we are in the situation in which the exercise of parental rights and obligations in relation to the child is divided between the parent/parents (e.g. permanent and un-mediated relations with the child during the whole duration of the foster care, the visit of the child, correspondence with it, the right to supervise its upbringing, its education, studies and professional training) and the person assuring its care-taking (guard and surveillance of the child, the obligation to assure the care-taking and the conditions necessary for its development, the performance of the customary acts necessary for the fulfillment of this obligation or for the removal of any urgent situation which would endanger the child, its security, development or moral integrity).

532. Due to the specific of the manner in which this measure operates on the parental rights and obligations in relation to the child, the settlement of possible misunderstandings which might occur in practice in what concerns their exercise, if their amicable settlement is impossible, then this becomes the competence of the court. Also, it is necessary that the case manager proceeds to a proper notification of the parent(s) in relation to the concrete way in which they may exercise their parental rights and obligations in relation to the child (the observance of the child's rest schedule, and of the classes, the various manners of exercising the right to personal relations, the possibility to contact a reference person within the General Department of Social Assistance and Child Protection (DGSACP) authorized to offer actual information on the child concerning the manner in which it is raised and taken care of, its school performance, state of health, etc.).

533. The situation changes when the parental rights and obligations in relation to the child's assets (the right to manage the assets, to represent or consent to the child's deeds) are in question, as they are the exclusive responsibility of the parent(s)' for the entire period when the child is placed under the decision of the child's protection commission.

534. As far as the considerations above are concerned, one must emphasize the fact that the constitution of the foster care measure by the child's protection commission does not affect in any way the parent's quality as legal representative of his/her child.

535. In the case of the child for which the tutorship could not be obtained, and the court's measure to place the child was ruled, the parental rights and obligations are exercised by the president of the county council, or by the district mayor of the municipality of Bucharest, respectively.

536. These rights and obligations concern both the child, and its assets, and they cannot be commissioned to a third party, legal or natural person. A problem the practice of this provision rises is the situation in which the foster care of the child is decided for a person or a residential type service with the domicile, or head office, respectively, within an administrative territorial area different from the one where the competent court setting the measure operates. In such a situation, the parental rights and obligations must be exercised by the President of the county council/district mayor of the municipality of Bucharest where the child effectively lies.

537. Law 272/2004 constitutes an exception from the provisions on the exercise of parental rights by the President of the county council/district mayor of the municipality of Bucharest, the latter not being able to express the consent to the child's adoption in exchange for the parents, right which is being maintained in the case of parents whose parental rights have been declined and those whose were enforced the punishment of parental rights interdiction.

538. In all other cases in which the measure of foster care is set by a court, the possibility or impossibility of the parents to exercise their parental rights and obligations is left for the court to decide. The latter is obliged that, at the same time with the setting of the foster care, it also rules on aspects as well as concrete manners in which these rights and obligations are to be exercised, and fulfilled respectively, both in what concerns the child, and its assets.

539. Together with the constitution of the foster care measure, the body authorized to take this action also has the possibility to decide the forcing of the parent(s) to contribute to its monthly allowance (Art. 63 - Law 272/2004). According to the clauses of the Family Code, while under-aged, the descendant is entitled to receive allowance, irrespective of the cause of the need it finds itself in, and, in compliance with art. 110, the decline of the parental rights does not exempt the parent from his/her duty to maintain the child. As for the setting of the amount for the contribution, it is set in compliance with art. 94 (paragraph 3) of the Family Code, respectively up to fourth of the income from labour per child, a third per two children and a half for three or more children.

540. Although these provisions on the obligation of the parent(s) to maintain the child were part of the former legislation as well, i.e. EO No. 26/ 1997, the actual regulation form is a progress, as the clauses on the possibility to rule the parent's obligation to provide an unpaid activity for the benefit of the community in case the parent could not provide the contribution, was eliminated. Thus, what was eliminated is the characteristic of a true sanction of this measure, whose direct consequence was the inobservance of the maintenance obligation finality, as it is provisioned by the Family Code.

541. The emergency placement is a measure decided for cases which require rapid intervention; at the same time, it is an extemporary measure and - until its confirmation by the court - casual, and the circumstance explaining it are frequently due to the parents' fault (Art. 64 - Law 272/2004).

542. The article mentioned above specifies the categories of beneficiaries from the measure of urgent foster care: found children, abused children, neglected or abandoned in sanitary facilities.

543. In relation to the beneficiaries of this measure, a problem frequently claimed by the enforcement of this article is represented by the situation of the child found by the police to be in the progress of performing criminal acts and who, due to various reasons, cannot be consigned to its legal representative.

544. In such situations, one may decide upon the urgent foster care as a result of the fact that the situation requires the provision of urgent protection of the child found, until the clarification of its status and that of its legal representatives. Subsequent to the enforcement of this measure,

when handling the cause by the court, the aspects related to the performance of the criminal act are assessed as well, and the specific measures addressing the child performing criminal acts but who is not criminally liable, provisioned by art. 80 of Law No. 272/2004, are to be enforced:

- Also, the conditions to be met when enforcing urgent foster care, measure which corresponds to the care-taking needs of the child to be placed, are regulated
- The emergency placement of the babies than two years old may be enforced only to the extended or surrogate family, except for the case in which the child has severe physical or mental challenges, and is dependent on care in specialized residential type services; the prior taking into account of the possibility to enforce the urgent foster care within the extended or surrogate family
- Keeping siblings together

545. In what concerns the checking of the conditions which would provide the maintaining of personal relations between the child and its parents (art. 60 paragraph 3 letter c of Law 272/2004), in this case this obligation no longer operates, due to the fact that during the urgent foster care, the duly exercise of parental rights is suspended.

546. However, from the point of view of observance of the child's rights and if it is in its best interest, the director who decided the foster care may approve of maintaining personal relations with its parents for the period of urgent foster care included. This approval may be granted only on the express request of the child. During the entire period of urgent foster care, the duly parental rights are suspended. This suspension is casual and operates under the law (and not as a result of the decision of an administrative body or court), but as a consequence of the enforcement of urgent foster care.

547. This suspension is constituted for the purpose of providing the protection of the child's interests until the settlement in substance by the court of aspects which led to the enforcement of the urgent foster care. Thus, the court's control on the enforcement of this measure I constituted, as the clauses of paragraph 3 thesis I receive the fact that this suspension duly operates only until the court has decided upon the maintenance or refoster care of the measure, when it will also have to decide upon the rationality of the reasons which led to the urgent foster care, as well as upon the aspects of exercising parental rights.

548. Also, it contains regulations in what concerns the person who will exercise the parental rights and obligations during the suspension period, i.e.: the person, family or foster carer, or the chief of the residential service who received the child in urgent foster care (persons who will only exercise parental rights and obligations concerning the child), and the President of the county council/district mayor of the municipality of Bucharest, respectively (who will only exercise parental rights and obligations concerning the child's assets).

549. The setting of the competence concerning the enforcement of the urgent foster care is regulated expressly. Thus, the competence to set this measure regardless of the situation of the child (found, abused, or neglected, abandoned in sanitary facilities) belongs to the director of the

General Department of Social Assistance and Child Protection (DGSACP) from the administrative territorial unit where the child in need of taking such a protection measure effectively lies (art. 65-Law 272/2004).

550. One must mention that in the case of the abused or neglected child, the competence of the director to enforce this measure is limited only to the situations in which persons taking care of the child do not oppose such an enforcement, otherwise the competence belongs to the court.

551. The constitution of the obligation for the General Department of Social Assistance and Child Protection (DGSACP), to notify the court within 48 hours after the enforcement of the urgent foster care is meant to ensure the legal frame necessary for increasing the role of the court in what concerns its control over measures enforced by the administrative bodies involved in the child's protection (Art. 66 paragraph 1-Law 272/2004).

552. The competence to decide upon the rationality of the reasons which caused the enforcement of urgent foster care, on the opportunity of maintaining or, as the case may be, replacing it, as well as on the exercise of parental rights, belongs exclusively to the court (Art. 66 paragraph 2-Law 272/2004).

553. The introduction of these regulations comes as a response to the long-term critiques from the internal and international bodies in relation to the clauses of art. 15 of EO No. 26/1997 (abrogated), which allowed the interference with both family relations, and the exercise of parental rights, through the decision of an administrative body, not subjected to a court's review.

554. Starting from the premise that for the child, the family environment is the best option, specialized institutions must make sure that they can identify and precociously detect the hazard situations which may cause the separation of the child from its parents, as well as prevent abusive misconducts of the parents, and family violence from happening (art. 34, Law 272/2004).

555. Any interference of these institutions resulting in the separation of the child from its parents must be preceded by a series of proper measures which would help them remove the causes based on which the separation and the restoration of the rights' exercise whose duly holders they are take place.

556. As a main tendency is to be noticed that there is a decrease of the number of children placed in public institutions, accordingly a significant raise of the number of children protected within families being obvious (relatives/persons, foster parents).

557. The results registered within child protection field between December 2002 - June 2007 are the following:

- The number of institutionalized children in the public system has decreased from 37 781 to 20 990
- The number of children placed in substitute families has raised from 43 092 to 46 604
- The number of foster parents has raised from 9 170 to 14 926

558. Such an outcome is the result of the desinstitutionalisation politics applied to the children, either by reintegrating them within the natural or extended family, either by replacing the institutional protection with a family protection, being recognized that a child's proper development from all points of view is better within a family environment.

559. As far as children requiring asylum are concerned, the law provides that their not being separated from their parents is guaranteed through the obligation to place them together with their parents or any other relatives taking care of them.

560. Depending on the age and degree of maturity of the under-aged applicant for an asylum, its opinion will be listened to and taken into consideration upon the assessment of the application.

561. This category of children is also enforced the provisions of Law 272/2004 on taking measures of special provisions in accordance with its needs. If the application for an asylum submitted by an unattended under-aged child was rejected, the Romanian authorities have the obligation to provide it with the adequate measures of protection until its return to the country of residence of the parents or in the country where other members of the family were identified and found to be open for taking the child (Law 122/2006).

562. The situation of the children applying for the attainment of the refugee status is also clearly regulated by Law 272/2004. Thus, they are entitled to humanitarian assistance corresponding to the achievement of their rights. Such an application is analyzed with priority, and the rights of the child must be supported by an authorized person or authority, competent in this field.

563. If one finds that the person appointed by the General Department of Social Assistance and Child Protection does not fulfill the obligation to defend the child's interest in accordance, or he/he proves to be mala fide in fulfilling it, The Romanian Immigration Office may require the General Department of Social Assistance and Child Protection to replace this person.

#### **D. Family reunification**

564. Article 17 of Law 272/2004 regulates the situation of Romanian children whose parents are in various states, as well as the obligations of authorities to facilitate the connection between parents and children and to support the child's right to keep in touch with the parents under these circumstances.

565. The need to introduce the normative act of article 17 occurred at the same time with the liberalization of Romanian borders, when more and more citizens started traveling abroad and establishing their domicile/residence in another state. In this form, the exercise of the right to free circulation generated a series of problems in cases in which only one of the parents was established abroad, and the other remained on the Romanian territory with the child, or vice versa.

566. To the same extent, the provision envisages the situation of divorced parents who do not allow for the child thus consigned to them to maintain the relation with the other parent.

567. For the purpose of assuring the keeping in touch between the child and its family, the Romanian legislation provides any foreign citizen on the Romanian territory with the right to

apply for the restoration of the family for unmarried under-aged children, resulted from marriage or outside it, as well as adopted by both parents or only one of the spouses, as well as those consigned to both or only one of the spouses through the decision of a competent authority of the origin state, on condition that they are effectively in the care of any of the parents.

568. Such a request is assessed and settled within 3 days, according to the same legislative provisions. For the purpose of assurance of a dignified and non-discriminating treatment of persons in this situation, the Romanian law also specifies that:

569. (1) Under-aged foreign persons living in Romania have access to the compulsory studies under the same conditions as the Romanian under-aged citizens.

570. (2) According to the law, the Ministry of Education and research sets the limits of acknowledgement and equivalence of the studies performed in the origin country, for the matriculation of foreign pupils within the national education system (art. 122, EO 194/2002).

571. The state acknowledges the right to the restoration of the family for the children whose parents are holders of the right to permanent residence, and the children have the possibility to attain the establishment of their domicile in Romania, at the same time with their parents. If only one of the parents is holder of the right to permanent residence, the consent in authentic form of the other parent is necessary.

572. In what concerns hearing the opinion of the child when making decisions regarding its fate, i.e. the restoration of the family, the Romanian law provides that a child considered to have sufficient judgment, in accordance to the internal code, is entitled, except the case when this is obviously contrary to its best interests:

- To receive any relevant information
- To be consulted
- To express its opinion

573. The opinions and desires, as well as the feelings found, must be considered accordingly. (Law 87/2007 - art. 6 - paragraphs 1, 2).

574. If an under-aged child enters the Romanian territory unattended, the competent authorities must take the necessary actions to find its identity, as well as the manner it managed to enter the Romanian territory and the identification of its parents, for the purpose of family reunification.

575. If the residence of the under-aged child's parents does not lie in Romania, the child is to be returned in the country of residence of its parents or where other members of the family were identified, with their approval. In case of non-identification of the parents or other members of the family, or if the under-aged child is not accepted in the state of origin, then it is granted extemporary right of residence in Romania. (art. 121, EO 194/2002).

576. As for the return of foreign citizens on the Romanian territory, the law forbids taking any actions against persons in one of the following situations:

- (a) The foreigner is a minor and the parents have the right to stay in Romania;
- (b) The foreigner is a parent whose minor child has Romanian citizenship, and the duration of the illegal stay does not exceed one year, if:
  - (i) The minor is kept by its parent; or
  - (ii) The foreigner is obliged to pay alimony, and he/she does so regularly;
- (c) The foreigner is a person married to a Romanian citizen, if the period of illegal stay does not exceed 6 months, and the marriage is not a formal one ; (art. 89, EO 194/2002).

### **E. Recovery of maintenance for the child**

577. The Romanian law provides the obligation which is the responsibility of the parents or of the legal representatives of the child to grant the latter the best conditions of upbringing, education, etc, etc. When the resources at the disposal of the family are proven to be insufficient, it has the right to benefit from assistance and social insurance, depending on the seriousness of the situation it finds itself in (art. 45, paragraph 1, Law 272/2004).

578. If due to reasons which they cannot be blamed for the parents cannot assure the fulfillment of minimum needs of accommodation, food, clothing and education of the child, the law constitutes the obligation of the competent public authorities to provide them with appropriate support, in the form of financial services, services in kind, as well as services, under the law, being at the same time obliged to provide them with the information they need in relation to the rights they have, as well the manner of granting the rights to social assistance and insurance.

579. For the purpose of fulfilling these duties, the parents also have an obligation to apply for the granting of allowances, compensations, services in money or in equity and other facilities provisioned by the law for children or for the families with children. (art. 45, paragraph 3, Law 272/2004).

580. In compliance with the measures recommended by Habitat II - Methodological Norm 2006 - it is provisioned that the services may be in money or in kind, and they comprise: children's allowances (in the case of children in familial foster care), family allowances (complementary and mono-parental), the minimum guaranteed income, other special help (for example, the provision of transportation to school, daily care or treatment), the foster care allowance, the food allowance, bedding, money for personal needs ("pocket money"), social scholarships, high school allowance and others.

581. These are granted by city halls, dialogue departments and social solidarity, other central and local public institutions, OPA etc., which the case-prevention assignee must contact to find the eligibility of the child and of the family and to check the manner of supply. If the case-prevention assignee finds that the family and/or the child in question are entitled to a certain service, then he/she is to support the family in its demarches to attain the respective right (e.g. to contact the authority or organization supplying the service in question, to support the family in drawing up the necessary documentation, to accompany the family when this is considered necessary etc.).

582. Romania joined the Convention on the Recovery Abroad of Maintenance, signed in New York, on 20 June 1956, through Law No. 26/1991.

#### **F. Children deprived of a family environment**

583. Romania's accession to EU has meant among other things opening the borders and another reglementation of the labour relationships in what the Romanian citizens were concerned.

584. Such an option being offered, in a systematic manner has become more and more obvious a phenomena, whose result was a massive migration of whole communities to other European countries, considered to offer better work conditions superior to those offered within the country of origin.

585. Besides the economic impact of such migration, whose effects will be more obvious in time, an immediate and visible result was the increasing number of children remained at home.

586. The concern of the Romanian authorities toward such a phenomena was justified by the serious emotional impact generated by the absence of parents from the children lives. There were situations when, justified by such an absence, real drama took place and the victims were obviously the children left at home.

587. At the local level, the responsibility for identifying and supporting those social cases concerning the children whose parents went abroad, goes to the to the Public Services of Social Assistance, which according to the provisions of art. 33 of the Law 47/2006 are the ones that should identify the social needs of the community and solve them according to the legislation in force.

588. In this context, it was decided to adopt a number of measures meant to help for a better quantification of the number of families affected by the migration to work abroad and the number of children left at home into the care of the extended family or the special protection services, together with the identification of the appropriate solutions for development of the services that are to be offered to the children according to the particularity of each case.

589. The National Authority for the Protection of Children Rights has manifested a continuous concern for a proper administration of this phenomena, taking a number of measures meant to allow a better monitoring and the implementation of some measures meant to easy up or even limit the negative effects that the missing of one or both parents could generate.

590. Thus it was elaborated and approved by the Secretary of State of the National Authority for the Protection of Children Rights the Order 219/2006 concerning the identification, intervention and monitoring activities aimed at the children who are missing the parental care, while they are working abroad.

591. The purpose of adopting such a document was to make aware the institutions with competencies into this field and involve them in an active manner in the identification of children with parents left abroad and the offering for them adequate services, together with the involvement of the local General Direction of Social Assistance and Child Protection within the every county/sector of Bucharest.



592. On the other hand it was introduces the measure of notifying the Public Services of Social Assistance/town halls from the place of residence, about leaving of the country by the persons wanting to get a labour contract abroad, with the nominalization of the person who will take care of the child while they are gone.

593. The purpose of introducing such a measure, as a novelty, was that of allowing in a clearer and transparent manner the monitoring at the local and central authorities level of the exact situation of the number of children left in the country, after their parents left to work abroad, in the care of the extended family, relatives, etc. Through the same order it was made available also a new instrument of reporting and registering with the NAPCR of the cases transmitted by the local authorities.

594. Centralizing the data reported according to the Order above mentioned proved not to reflect the actual situation of the total number of children with parents left to work abroad, since the Order was referring only to the parents with children into their care who would like to get a labour contract abroad. At 30.09.2006 the number of children reported by the Public Services of Social Assistance was very low, 20 945 children, compared to the number of persons left to work abroad.

595. In the context of continuing the efforts to find solutions for this category of children, NAPCR has decided to extend the monitoring process for these children, thus including this aspect into the Trimestrial Monitoring Fiche - of a separate chapter destined to this category. The data centralized are more accurate, the Public Services for Social Assistance reporting separately the number of children with both parents left to work in another country or with only one parent left.

596. Centralized data at the end of June 2007 shown that there were more than 82.000 children identified whose parents left the country for working abroad, out of which 35.000 children were with both parents or only parent or legal representative left. We should mention the fact that this is the number of identified children, but it does not necessarily grant that this is the real number.

597. Out of the total number of children left at home, more than 77.800 were into the care of their relatives, without having a protection measure established and only 2400 were into the special protection system.

598. Also in the line of measures adopted by the NAPCR in order to support the children whose parents left the country in order to work abroad was approved for 2007 (Decision No. 633/2007) a National Interest Programmes destined also to this category of beneficiaries - "Development of the social communitarian services network for child and family in crisis in order to prevent the child separation from his/her family".

599. The purpose for implementing such programmes was that of diversifying and develop the day care services, already existing, especially the day care centers as well as facilitating the access of more children whose parents are left to work abroad to these services.

600. For the purpose of avoiding situations which might lead to the separation of the child from its parents, as well as for the stimulation of promoting family relations between the child and its parents, The Ministry of Labor, Family and Equality of Chance adopted a series of normative

acts meant to help young parent in what concerns the raising of the child from its very first months of life. Thus, EO 148/2005 with the subsequent modifications and completions, article 1, provides that “As of 1 January 2006, the persons who, in the year prior to the birth of the child, achieved professional incomes subject to revenue taxation for the last 12 months, according to the provisions of Law No. 571/2003 on the Fiscal Code, with the subsequent modifications and completions, benefit from a leave for the raise of the child up to 2 years old or, in the case of a challenged child, up to 3 years old, as well as from a monthly compensation in the amount of 800 lei (RON).”

601. This compensation may be granted to the father as well as the mother of the child, without discrimination, as well as to the person who adopted the child, to whom the child was consigned for the purpose of adoption or who has a child in foster care or in urgent foster care, except for the professional foster care, as well as the person appointed curator.

602. If the authorities decided to separate the child from its parents, the making of a foster care decision has in view with priority the foster care of the child within the extended family, so that it is not bereft of the specificity offered by being raised in the middle of a family.

603. The obligation of the state authorities to assure the care and adequate upbringing of children bereft of their familial environment is revealed by the series of measures focusing on the social services granted to all children, irrespective of their situations.

604. According to the provisions of Law No. 61/1993, republished, the state allowance was constituted as a universal right of children, guaranteed by the Constitution. Under this law, all children in the care of their families or of surrogate families received state allowance. However, there were some conditions. The then increased rate of school abandonment and the illiteracy found within certain segments of the population imposed the granting of the allowance to school children on condition that they attend at least the compulsory general school classes. Also, the children in the state protection establishments did not receive this allowance, as they benefited from it during the period of complete care within the institution.

605. Through Decision No. 277 of 21 March 2006, The Constitutional Court acknowledged that the provisions of art. 1 paragraph (2) and art. 5 paragraph (1), Law No. 61/1993 on the children’s state allowance, republished, with the subsequent modifications and completions, i.e. the provisions related to conditioning the granting of state allowance for children of school age on attending the classes of a type of education organized under the law, as unconstitutional. Pursuant to this Decision, Law No. 61/2003 was modified and completed through EO No. 44/2006. Thus, the children’s allowance is granted as follows:

- To children up to 18 years of age, included, without conditioning this on attending the classes
- For the youth who are already 18, on condition that they attend the high school or vocational school, until graduation

- The payments performed by the Ministry of Labour, the Family and Equality of Chance for pre-school children and for the ones who do not attend any type of education, by the Ministry of Education, Research and Youth, for children registered at school, and through the general departments of social assistance and child protection for challenged children, as well as by other specialized bodies of the public administration

606. As of the year 2002, the programme of granting newly born children's allowance is in progress, according to the provisions of Law No. 416/2001 on the minimum guaranteed income. The allowance provided is granted only once, per child born alive, within maximum 12 months after the birth of the child. The allowance may be granted to the legal representative of the child when the mother is not in the situation of benefiting from this right. Each year, the amount of the allowance is indexed through the decision of the Government, depending on the inflation index. In 2002, the amount of the allowance was 1.400.000 lei, and in 2007 it is 204 RON.

607. The programme of granting additional allowance to families with children, which was initiated in 1997 through Law No. 119/1997 on the additional allowance for families with children, continued until 31 December 2003. Under this programme, the additional allowance was granted to families who kept two or more children of up to 16 or 18 years of age, if the latter attended the daily classes of an education institution, organized under the law, or if they were declared challenged and registered in the I or II degree of invalidity. The additional allowance for families with children was granted on a monthly basis, in differential amount, depending on the number of children in the care of the family. The amounts of the additional allowance in the period 1 October 2000 - 31 December 2003 were:

- 62.500 lei for families with two children in care
- 125.000 for families with three children in care
- 156.250 for families with four or more children in care

608. As of 1 January 2004, this programme was continued by the programme of granting complementary family allowance for the support of mono-parental families, in accordance to the provisions of the Government Emergency ordinance No. 105/2003. Through this normative act, new allowances were introduced, based on testing income to complete the children's state allowance, as universal service.

609. Through the introduction of these new family allowances, both the increase of incomes for families with children, and the diversification of means of support for these were achieved. According to the provisions of the mentioned normative act, the complementary family allowance is a benefit for all families with children whose monthly income is up to 176 lei RON per family member, and the support allowance for mono-parental families is a benefit for one-parent families and children in care, whose income is up to 176 million lei per family member. Both services are granted on a differential basis, per income tranche and depending on the number of children in the family. The income limits and the amount of these allowances are corrected annually, based on the evolution of consumer prices, and are approved by governmental decision. At present, the amount of these allowances is:

- Complementary familial allowance:
  - 36 lei RON for the one-child family
  - 42 lei RON for the two-child family
  - 47 lei RON for the three-child family
  - 52 lei RON for the four-child family or families with more than four children
- The support allowance for the mono-parental family:
  - 52 lei RON for the one-child family
  - 62 lei RON for the two-child family
  - 70 lei RON for the three-child family
  - 79 lei RON for the four-child family or families with more than four children

610. The programme for granting the monthly allowance for maintenance of children consigned or placed took place under the Government Emergency Ordinance No. 26/1997 on the protection of the child in distress, approved by Law No. 108/1998, republished and with the subsequent modifications and completions, until 2004. The aim of the programme was to support the families or authorized private bodies to whom the child was consigned or placed materially. The allowance is supported by the state budget and is granted on a monthly basis for the purpose of supporting each consigned or placed child. The evolution of the allowance in the period 2002-2004 is as follows:

- Until June 2003 - 500.000 lei
- July 2003 - June 2004 - 670.000 lei

611. Law No. 272/2004 on the protection and promotion of the child's rights made this programme continue in the form of the programme of granting the monthly foster care allowance. Thus, according to the provisions of art. 20 of the Emergency Ordinance No. 26/1997 on the protection of the child in distress, as well as those of art. 119 paragraph (1) of Law No. 272/2004 on the protection and promotion of the child's rights, each child placed or on whom tutorship was constituted is granted a monthly foster care allowance for the purpose of its appropriate raise and education. The amount of the allowance is 86 lei, and is indexed through a Government's decision. The foster care allowance is supported from the budget of the Ministry of Labor, the Family and Equality of Chance.

612. Through programme of family support for the purpose of the child's upbringing, according to EO No. 148/2005 on the family support for the child's upbringing, with the subsequent modifications and completions, the government intended to decrease the children's abandonment

and the increase of the birth rate, through the passing of specific measures, the diversification of the forms of social protection meant for families with children up to 2 years old, 3 years old respectively, in the case of challenged children.

613. For this purpose, as of 1 January 2006, an “outsourcing” of the compensation for the child’s upbringing and education was achieved, supported from the state social insurance, through Law No. 19/2000 on the public pension system and other social insurance rights. Through the Government Emergency Ordinance No. 148/2005 on the family support for the purpose of the child’s upbringing, the compensation for the child’s upbringing is granted from the state budget for persons taking care of children up to 2 (3) years. In compliance with this normative act, the compensation for the child’s upbringing or, as the case may be, the monthly incentive, is a benefit for persons who, in the last 12 months prior to the child’s birth made professional incomes subject to the income taxation, according to the provisions of the Fiscal Code.

614. As of 1 January 2007, the amount of the monthly compensation for the child’s upbringing is of 600 lei RON and the amount of the monthly incentive for persons choosing to return on the labour force market is of 100 lei RON monthly, until the child reaches de 2 - 3 years of age. These compensations are supported from the state budget. These rights are benefits for one of the natural parents of the child or, as the case may be, the person who adopted, the person where the child was placed or who is appointed tutor.

615. The Government Emergency Ordinance No. 148/2005 was modified by the Government Emergency Ordinance No. 44/2006. Through this normative act, other categories of persons were included in the category of beneficiaries, and certain provisions related to the granting of monthly compensation for the child’s upbringing and of the monthly incentive for certain categories of persons were clarified.

616. Also, the normative act helped the introduction of the possibility that, after the first three births, the parents may benefit from a vacation for the child’s upbringing each, but without the payment of the compensation, in compliance with the European Council Directive 96/34/CE.

617. Through Law No. 448/2006 on the protection and promotion of the challenged persons’ rights, with the subsequent modifications and completions, the persons with challenged children, as well as the challenged persons with children in care are entitled to compensations for the child’s upbringing, approved by GEO 14/2007 for the modification and completion of Law No. 448/2006 on the protection and promotion of the challenged persons’ rights, as follows:

- Compensation for the upbringing of the challenged child in the amount of 450 lei RON, for the challenged child between 3 and 7 years of age
- Monthly compensation for the upbringing of the challenged child, in the amount of 450 lei RON, granted to the challenged person who does not achieve incomes until the child reaches 3 years of age
- Monthly compensation for the upbringing of the challenged child, in the amount of 300 lei RON, granted to the challenged person who does not achieve incomes, for the child between 3 and 7 years of age

- Monthly compensation for the upbringing of the challenged child, in the amount of 300 lei RON, granted to the person who does not meet the conditions provided by the Government Emergency Ordinance No. 148/2005, until the child reaches 3 years of age, and for the child between 3 and 7 years of age a monthly support in the amount of 150 lei RON
- Monthly foster care allowance, granted under the law, in an amount increased by 50 per cent

618. Through Law No. 193/2006, the granting of nursery tickets was constituted, in the amount of 310 lei RON for the 1st semester, 2007, for the purpose of supporting persons who do not benefit from the compensation for the child's upbringing regulated by GEO No. 148/2005, with the subsequent modifications and completions. The granting of nursery tickets is an incentive for the mother's return on the labour market, for the decrease of exclusion of women and for granting them equal chances on the labour market, as well as a support for families through the harmonization of personal life with the professional one and for the prevention of children's abandonment.

619. For the purpose of stimulating the birth rate in Romania, as well as for averting abandonment, the Parliament passed Law No. 482/2006 on the granting of new-born layettes. Also, the Law seeks to stimulate the mother as well, so she may spend a time as long as possible with the newly-born, which will contribute to the diminishment or even the disappearance of the decision to abandon or to give the new-born child to adoption.

620. The law provides the granting of a gratuitous layette per new-born child, which comprises clothing, lingerie and care products, in the amount of 150 lei RON. The new-born layette is granted once by the authorities of the local public administration upon the exit of the child from maternity or upon the issuance of the birth certificate. The funds for granting layette for the newly-born is supported from the state budget, through the budget of the Ministry of Labour, the Family and Equality of Chance.

621. Through the programme of fighting social marginalization - Law No. 116/2002 on the prevention and fighting of social marginalization, the youth's access to elementary and fundamental rights is granted, as well as measures of prevention and fighting of social marginalization, and the mobilization of the institutions with responsibilities in the field for the following rights, are constituted:

- Access to a job for the youth with ages comprised between 16 and 25 years, in distress or confronted with the risk of professional preclusion. This measure is supported based on a customized social accompaniment. The social accompaniment is achieved through professional counseling and mediation assured by the National Employment Agency, followed by the employment at employers approved by the agency. For this purpose, the youth will conclude with NEA solidarity contracts, and individual labour contracts with the employers, for a definite period of 1-2 years. The priority upon the conclusion of the solidarity contract belongs to the youth coming from foster care centers, young family persons or single youth with children in care, youth who underwent penalty with the deprivation of freedom, etc.

- Access to a house for the persons up to 35 years of age, in the impossibility to purchase a house by themselves. For the setting of criteria for granting these facilities, the county councils will consider with priority the youth coming from foster care centers, family persons aged up to 35, with or without children in care, etc.
- Access to education for persons of school age, which are part of families benefiting from the minimum guaranteed income. The children attending the compulsory education classes provided by the law benefit from a scholarship whose annual amount is granted as follows: 40 per cent in August, for the preparation for the beginning of the school year, and the difference of 60 per cent granted monthly or quarterly, on condition that the children attend the classes within pre-academic studies institutions, and in academic studies institutions, the scholarships are granted for the continuation of studies, conditioned by the attending of faculty classes and by the attainment of the promotion standard. Also, the children and youth benefiting from grants and from scholarships for the continuation of studies have free access to vacation or training camps. The attendants of literacy programmes elaborated by the Ministry of Education and Research benefit from literacy scholarships set and paid by the local councils.
- Access to health assistance for all persons who are part of the families benefiting from the minimum guaranteed income, who have the quality of insured person without the payment of the contribution to the health social insurances.

### **G. Adoption**

622. On 8.10.2001, through GEO No. 121/2001, approved by Law No. 347/2002, which suspended the procedures whose object was the adoption of Romanian children by foreign citizenship persons/families, or by Romanian citizenship persons/families with the domicile or residence abroad, in Romania a moratorium on international adoptions was constituted in Romania.

623. On 7.12.2001, GEO No. 161/2001 entered into force, completing GEO No. 121/2001, as follows:

- Provided that the international adoption requests pending in the courts on 7.12.2001 (whose trial by the court has been suspended through GEO No. 121/2001) are to be settled according to the provisions in force on the date of their introduction, i.e. in compliance with GEO No. 25/1997
- Introduces a derogation to the suspension provided by GEO No. 121/2001 thus constituting a special procedure through which, in exceptional situations imposed by the child's superior interest, the National Authority for the Child's Protection and Adoption had the legal authority to:
  - Assess international adoption requests
  - Check the fulfillment of the legal conditions and the existence of documents on the child and on the potentially adopting person/family

- Submit to the Government's General Secretariat the request for international adoption

624. On 6 February 2004, GEO No. 1/2004 entered into force, introducing regulations as follows:

- Abrogates the provision introduced by GEO 161/2001 under which the Government could approve international adoption requests to be sent to courts. Pursuant to this, after 6 February 2004, no international adoption request was assessed by the National Authority for the Child's Protection and Adoption any longer, as there was no legal frame
- Provides that the rights of international adoption approved by the Government until 6.02.2004 - the exceptional cases - are to be settled in compliance with the regulations in force on the date of their introduction

625. During the moratorium on international adoptions, upon the proposition of the National Authority for the Child's Protection and Adoption, the Government approved 1115 requests to be sent to court, through 12 Memorandums.

626. For the 1115 approved requests, which the Government considered to be exceptional cases, the Romanian state, through its authorities took the responsibility and the Government approved their being sent to court.

627. Only 1003 adoption requests were submitted to the trial court. In 112 cases, the potential adoption parties gave up the submitted requests.

628. On 1 January 2005, Law No. 273/2004 on the legal regime of adoption entered into force. According to art. 72. paragraph (1) of this normative act, "the applications for the consent to adoption pending in courts on the date of entering into force of the herewith law are to be settled in compliance with the legal clauses in force, at the date of submittal of the application". This provision refers to both national, and international adoptions.

629. As a result, in 2005 the courts trailed only international adoption applications approved by the Government until 6.02.2004 and which, on 1 January 2005, were pending in the courts.

630. The following normative acts regulating adoption in Romania entered into force on 01.01.2005:

- Law No. 273/2004 on the legal regime of adoption
- Government Decision No. 1435/2004 for the approval of methodological norms of enforcement of Law No. 273/2004 on the legal regime of adoption
- Law No. 274/2004 on the establishment, organization and operation of the Romanian Adoption Office



- Government Decision No. 1433/2004 on the approval of the organizational structure, of the maximum number of jobs and of the Organization and Operation Regulation of the Romanian Adoption Office
- Government Decision No. 1442/2004 on the services and activities which may be performed by the Romanian private bodies within the internal adoption procedure
- Order 45/2004 of the state secretariat of the National Authority for the Child's Protection and Adoption, for the approval of compulsory minimum standards on the internal adoption procedure
- Government Decision No. 1441/2004 on the authorization of foreign private organizations to perform activities in the field of international adoptions
- Government Decision No. 1436/2004 for the deduction per categories of expenses on the sole and fixed tax afferent to the services performed by the Romanian Adoption Office for the fulfillment of the international adoption procedure on the Romanian territory

631. The new legislation in the field of adoption starts from the decisive role the family has in the harmonious development of the child's personality. This legislation is aligned to the frame set both through the Law on the protection and promotion of the child's rights (Law No. 272/2004), and through the provisions of the international conventions in the field, ratified by Romania.

632. The novelties brought by the new legislation in the field of adoption are:

- Adoption is treated as a civil duly institution, not as a measure of protection (as it was regulated in the prior legislation), in other words, it no longer automatically addresses all children in need of a measure of protection, but only to those for which such a legal operation is fit for the particular needs and situation of the child
- The new legislation expressly regulates the situation and the procedure through which a child becomes fit for adoption, i.e. when the customized child protection plan provides as finality internal adoption, finality which could only be provided if the demarches for the child's reintegration in the biological family or its integration in the extended family failed
- The initiation of the procedure for national adoption is performed only by the court, and only after it has performed a rigorous control of the demarches performed for the purpose of the child's reintegration in the biological or extended family
- Provides the maintenance of the right to consent to the adoption of the child from the parent whose parental rights were declined, or of the parent who was punished to the interdiction of parental rights
- Expressly stipulates the situations in which national adoption intervenes, which is explicitly favoured

- Distinctly sets the situations in which international adoption can be considered: “international adoption of the child who is domiciled in Romania may be consented to only if the adopting party or one of the spouses from the adopting family domiciled abroad is a grandparent of the child for whom the initiation of the internal adoption procedure was approved”
- The Romanian accredited private bodies are no longer involved in the process of international adoption, as they may perform activities only within the nation pre- and post-adoption services
- Law No. 47/1993 on the court statement of the abandonment of the child is abrogated, law which was criticized because it did not stimulate the activities of the child’s reintegration in the family, and the child was declared fit for adoption, thus giving priority to adoption, not to the child’s return near its parents
- For the purpose of constitution at a national level of records on adoptions, at the level of the Romanian Adoption Office, the National Adoption Registry is drawn up, comprising data on the adopter or adopting family, Romanian or foreign, as well as on the children for which an irrevocable court decision for the consent to the initiation of the adoption procedure was ruled, as well as for consignment for the purpose of adoption, consent for the purpose of adoption or its infirmity declaration

633. For the purpose of implementing the new legislation in the field of adoption, the Romanian Adoption Office elaborated the Action Plan for the implementation of the primary and secondary legislation on adoption; this action plan was approved through a Memorandum within the Government decision on 29 June 2005. Through the same memorandum, the constitution of the Working Group for the elaboration of the audit of international adoption files submitted between October 2001 and December 2004 by foreign citizens for the purpose of adopting Romanian children was approved.

634. As a result, in June 2005, The Romanian Adoption Office (RAO) made the decision of assessing all files submitted by foreign citizens during the moratorium period on international adoptions in Romania (October 2001 - December 2004) which were not approved, according to the legislation in force at the time.

635. This decision was made as families/persons applying for adopting children from Romania still had files submitted when RAO started its activity in March 2005 (the files were taken over from the former Romanian Adoption Committee). Moreover, part of these families/persons were still requesting the approval of adoption for the children they wanted to adopt.

636. Considering that GEO No. 1/2004 totally suspended all procedures related to international adoption (except for the cases pending in courts), and Law No. 273/2004 (which entered into force on 1 January 2005) regulates international adoption to the situation in which the child fit for adoption is applied for international adoption by the grandparents, in 2004, the former National Authority for the Child’s Protection and Adoption sent answers to all foreign persons/families, through which the latter were informed that the Romanian legislation no longer

allows the settlement of international adoption applications and that their applications were not approved; however, the documents filed for the purpose for adoption were not returned to them in that period of time.

637. Until the end of March 2006, answers were sent to all foreign persons/families (110 persons/families) who filed for international adoption, for a number of 1,092 children; also, the files (documents) submitted by these persons/families for the purpose of adoption were returned.

638. On 27 March 2006, pursuant to the performed assessment, the working group approved the Final Audit Report mentioning that no application for international adoption was settled. In the Government's meeting on 12 April 2006, the Government took note of the Final Audit Report.

639. The main conclusion of the audit report is that none of the unapproved cases during the moratorium represented a special case.

640. The working group assessed each international adoption application/file unsettled during the moratorium but, in these cases, international adoption could not be considered, according to the legislation in force.

641. Also, none of these cases could be settled in accordance to the prior legislation, as none of them met the criteria in order to be deemed a special case during the moratorium and, as a result, none followed the legal procedures existent at the time.

642. Furthermore, the psychological-social and medical and legal situation of the children did not change in the meantime, and they are either reintegrated or adopted, or are benefiting from an appropriate measure of protection in Romania.

643. In 2005 and 2006, the following normative acts on the child's protection through adoption were approved:

- Government Decision No. 1075/2005 for the modification and completion of the Government Decision No. 1433/2004 (on the approval of the organizational structure, of the maximum number of positions and of the Regulation of Organization and Operation of RAO), which entered into force as of 01.01.2006.
- Order No. 136/2006, which approved the Methodology for the Evaluation, model and content of forms and documents used in the assessment procedure for the purpose of attainment of the certificate of person/family fit to adopt. This methodology entered into force on 20 January 2007.

In 2006, the elaboration of the National Adoption Registry in electronic form was finalized, for the purpose of drawing up and organising at a national level of records in the field of adoption. The computerized system assures the security and the confidentiality of the registered data, in compliance with the standards in force existent at the level of the European Union and with the Romanian legislation in force.

644. The situation of adopted children between 2002-June 2007 is the following:

Total number of children adopted irrevocably	2002	2003	2004	2005	2006	2007
Domestic adoptions	1 346	1 383	1 422	1 136	1 421	485
International adoptions	407	279	251	2	0	0
Total	1 753	1 662	1 673	1 138	1 421	485

#### **H. Illicit transfer and non-return**

645. Romania joined the Hague Convention on the Civil Aspects of International Child Abduction of 25 October 1980, ratified by Law No. 100/1992, article 2 of the joining law of which appointed the Ministry of Justice as central authority facilitating the enforcement of this convention both in the situation in which Romania is an applicant state, and the one in which it is applied to.

646. For the settlement of the cases in which Romania is the state applied to, Law No. 369/2004 was elaborated and is enforced.

647. The Convention on the Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children concluded in The Hague on 19 October 1996 is currently in the stage of public debate, the ratification law project is already elaborated.

648. Romania also joined the European Convention on the acknowledgement and performance of decisions in the field of child consignment and restoration of child consignment, Luxembourg 1980, through Law No. 216/2003 (art. 12 is on illicit dis foster care situations, unduly). But, once the EU was joined, Regulation 2201/2003 is enforced.

649. Romania did not conclude any bilateral conventions on civil aspects of the international children kidnapping.

650. The phenomenon of illegal child transfer across the border was a point of interest for the Romanian authorities once the phenomenon reached a high level, as a result of relaxation of the means of circulation within the borders of the European Union. Stopping this phenomenon, as well as the practical or procedural measures, should be justified and supported by a legal frame as well, which should provide a series of measures able to stop the easy exit out of the country of Romanian minors from happening.

651. Article 18 of Law 272/2004 provides that any child unattended by a parent or its legal representative must be provided with its return in the country in the shortest time possible. Considering the confusion which could occur due to the lack of specifying certain differences between the situation provided by paragraph 1 of article 18, which made reference to the situation of children unattended by a parent/legal representative on a different territory, and article 18 (2), which speaks about the children's dis foster care in the country and abroad with the notification and approval of both parents, need was felt to introduce some nuances through art. 30 of Law No. 248/2005 on the regime of free circulation of Romanian citizens abroad.

652. For the purpose of strengthening customs control, a series of restrictions was introduced in what concerns the issuance of individual passports for children, while their exit out of the country became possible only under the condition of submittal upon the crossing of the border of a declaration legalized by the notary from the other parent, declaration through which the latter expresses its approval for the respective dis foster care, with the exact indication of destination and duration of the travel.

653. In case of misunderstandings between the parents on this issue, the court is the only authorized body for the settlement of the potential disputes.

654. If the parent or the person responsible for the supervision, upbringing and care of the child finds its disappearance, they are obliged to notify the police within 24 hours, so that the legal procedures for such situations are initiated.

655. In the case of Romanian citizen-children on the territory of another state, the diplomatic missions of our country have the liability to inform the National Authority for the Protection of the Child's Rights on this situation, so that the measures necessary for their return in the origin country. If, once back in the country, the child is rejected by its family or legal representative, who refuses to take it back, the court will consider taking an appropriate protection measure for the purpose of foster care within a service of special protection of the child.

656. Should additional factors occur and lead to the delay of procedures for the return of certain children to the residence country of their parents or in the country where other members of the family were identified, and willing to take the child, the measure of foster care constituted for the respective child will be extended accordingly (art. 20, paragraph 2, Law 272/2004).

657. For the purpose of performance of these procedures, the Romanian authorities concluded cooperation treaties with the vise states, under the propositions forwarded by the National Authority for the Protection of the Child's Rights (NAPCR) and the Ministry of Foreign Affairs (MFA), as well as by other interested institutions.

658. As far as the coverage of alleged costs for the return of the child for the purpose of its reintegration in the natural familial environment are concerned, the alleged costs for the repatriation procedure, and of other procedures related to this case will be set through a Government Decision.

659. Law 272/2004 provides that the Ministry of Administration and Interior and the National Authority for the Protection of the Child's Rights, in cooperation with the Ministry of Education and Research shall perform the demarches necessary for the passing of all legislative, administrative and educational measures intended for the provision of the effective protection against any forms of internal or international child traffic, for any purpose or in any form, by their own parents included.

660. For this purpose, the public authorities mentioned at paragraph (1) have the responsibility of elaborating a new strategy at a national level, for the prevention and fighting of this phenomenon, including an internal mechanism for the coordination and monitoring of performed activities (Art. 98. - (1), (2)).

661. Starting from the idea that prevention can only be efficient if it is systematically and in a coordinated manner allotted all social resources, especially in the case of human being traffic or family violence, the Romanian Government passed a series of normative acts through which the establishment, organization and operation of special bodies authorized for this purpose.

662. Thus, GD 1.584/08.12.2005 for the establishment, organization and operation of the National Agency for the Prevention of Human Trafficking and for the Monitoring of Assistance granted to the Victims of Human Trafficking was approved - published in the Official Gazette No. 5/04.01.2006, through the reorganization of the National Bureau for the Prevention of Human Trafficking and for the Monitoring of Victim Protection within IRPC - The Institute for the Research and Prevention of Criminality.

663. The prevention of criminality is a complex activity to which numerous governmental and non-governmental bodies may and should contribute. Thus, there is the need to promote a systemic approach, of a coordinated and comprehensive involvement in the prevention of effective criminality, and to penetrate certain areas where competence no longer belongs to the police alone.

664. The Institute for the Research and Prevention of Criminality initiated a series of projects which were materialized in the form of a programme for the prevention of offences against children, in cooperation with other governmental institutions, NGOs and international organizations.

665. Thus, the programme for the Prevention of Human Trafficking, women and children, was performed with the purpose of contributing to the strengthening of the institutional capacity of bodies authorized for the intervention for the purpose of diminishment of this phenomenon. The set objectives upon the initiation of this project were: the training of specialists for the prevention of human trafficking (policemen, teachers, journalists, priests), the development of abilities of identification and settlement of situations which might lead to trafficking, the appreciation of various experiences for the purpose of prevention and fighting against human finite trafficking, the initiation of a network for regional cooperation between the authorities, NGOs, churches, international agencies, media.

666. The outcomes of the project materialized themselves in the form of better inter-institutional contacts between various entities which, in their own manner, may play an important role in fighting the phenomenon or in the mending of its effects on its victims.

667. Thus, new lines for the conclusion of efficient partnerships were opened and various aspects related to the common achievement of campaigns of prevention of this rod were discussed.

668. The programme for the prevention of human trafficking was a programme meant to diminish women and children trafficking, and its objectives consisted of the training of specialists for the prevention of the forms of manifestation of human trafficking, the development of their abilities to identify potential victims and situations which might lead to human trafficking, as well as the initiation of a network for regional cooperation between the authorities, NGOs, churches, international agencies.

669. The project "Prevention of children trafficking" performed in 2005 meant the organization and the performance of a number of 78 sessions of training of a number of 2,340 pupils, for the purpose of decrease of their risk to become victims within the human trafficking phenomenon.

670. The programme of prevention of minors' illegal migration had as an objective the diminishment of the phenomenon of illegal migration on the part of Romanian minors and of the criminal acts performed by them on the territory of other states. The aim of such a programme was to promote an action executive line in the field of prevention and fighting of minors' illegal migration to various states of the European Union.

671. The specific objective of this programme was the decrease of the number of minors who reach other states illegally, the identification and neutralization of networks contributing to the keeping of a high level of this phenomenon, as well as the provision of some specific assistance measures by the authorized governmental structures and by NGOs relevant in the field, for the purpose of social reintegration of the returned minors.

672. Project "Court for minors" performed in a series of counties in partnership with UNICEF, The Association of Social Alternatives -Iași, The Court of Appeal Iași, The Magistrates Association Iași, The Prosecutor's Offices attached to these courts and the County Police Inspectorates, resulted in the development of those working within these institutions in what concerns the work with the victim minor or with the delinquent one.

673. Besides these aspects, a series of practical activities consisting of the equipment of minor hearing rooms with specific equipment at the level of each county Police Inspectorate, the arrangement of court rooms intended for the trial of minors' cases, the performance of information materials on this subject were registered, activities which afterwards were disseminated among the ones in question or the ones interested in this matter.

674. In 2005, through the agency of a project financed by NAPCR, which was called "Services for the assistance and reintegration for children who fell victim to human trafficking or unattended children" sessions of training were organized for 180 social workers working in transit centers for unattended repatriated children, or children who fell victim to human trafficking.

#### **I. Abuse and neglect, including physical and psychological recovery, and social reintegration**

675. Article 89 of Law 272/2004 brings something new in the definition of abuse and neglect, notions which were not regulated until the occurrence of this law. According to specialists, these notions were used and operated a series of definitions which were not regulated in a normative act though, thus not being able to produce legal effects.

676. Abuse against a child involves the voluntary action of the abuser, which endangers the existence and development of the child, regardless of the existence of a possible consent on the part of the child.

677. The text of the law regulates the neglect of the child as conditioned by the following elements: the existence of relations involving responsibility against the child (in what concerns

its upbringing, care and education), the lack of action of the person responsible in the accomplishment of the activities in his/her duties, fact which results in the impairment of the child's development, integrity and health. As for the volitional aspect, the omission of the person responsible for the fulfillment of its obligations may be voluntary or involuntary.

678. An abuse against the child by its relatives may constitute one of the criminal acts provided by art. 180 paragraph (2) and art. 181 paragraph (2) of the Criminal Code, on hitting and other forms of violence, body injury respectively, committed against a member of the family (according to these clauses, hitting or any act of violence causing physical pain is deemed a criminal act; body injury is the injury of the bodily integrity or of the health, which needs medical care. In such cases, such facts committed against a member of the family are aggravating circumstances).

679. Also, if the child is abused by parents or by another person to whom the child was consigned for the purpose of upbringing and education, this can be the element constituting the criminal act of "bad treatment applied to the minor", provisioned by art. 306 of the Criminal Code, if the physical, moral and psychical development of the child is seriously endangered through such actions or treatments.

680. Article 90 of Law 272/2004 starts from the acknowledgement and awareness of existence of such violent phenomena against children, both at a familial level, and at an institutional one, and of the need to take some actions for the prevention and fighting violence against children.

681. The text explicitly forbids the application of any physical penalties, as well as of the deprivation of rights of the child, fact which could endanger its life and development, anywhere and in any context the child might be. The article sets the child's right to its dignity and integrity as a person, to be protected against any form of physical abuse or other acts which could endanger it both within the family (natural or surrogate), and within any institution where the child is (nursery, kindergarten, school, foster care center etc.).

682. Article 91 of the same law regulates the obligation of any person (medical staff, teacher, familial worker etc.), having a relationship with the child which would allow him/her to observe it for a sufficient period of time, to notify the authorities in charge on potential acts of abuse or neglect, for the purpose of assessment and intervention for the removal of the danger the child may find itself in. In the context of the herewith article, it is not necessary for the person wording the notification to have concrete evidence, as the existence of some elements generating suspicions in relation to a potential abuse is sufficient.

683. Also, the notifications may be based on observations regarding the concrete manner of relation between the child and the alleged abuser, which could generate such suspicions.

684. The provisions of this article may be corroborated with the clauses of art. 85, paragraph (3) which provisions the obligations of any institution's personnel to notify the cases of child abuse or neglect.

685. At the same time, one must mention that the non-fulfillment of the obligation to notify the potential cases of abuse and neglect by the persons provided in this article results in sanctions, as it is considered a serious disciplinary deviation, according to the legal provisions in force; also,



the lack of notification by the familial worker of acts of violence against children is a summary offence, under art. 29, paragraph (1), letter b) of Law No. 217/2003 on the prevention and fight against family violence.

686. The notifications on potential abuse or neglect situations will be addressed to the Public Social Assistance Service (PSAS) from city halls, or the general department for social assistance and child protection (GDSACP) at a county level, and at the level of local councils within the district halls of the municipality of Bucharest, respectively, in whose administrative territorial area the respective case was identified.

687. For the purpose of facilitation of sending the notifications on these aspects, and for an operational intervention, Law 272/2004 regulates the obligation of the general departments for social assistance and child protection (GDSACP) to establish the child's line and to make this number public.

688. The child's line is a service whose mission is to receive the notifications on the child abuse, neglect or exploitation, to obtain a series of preliminary information, which would facilitate intervention, to provide basic phone assistance and to urgently intervene through the agency of mobile teams. These aspects are regulated by Order 177/2003 of the State Secretariat of the National Authority for the Child's Protection and Adoption (NACPA).

689. The text of article 92 of Law 272/2004 regulates the obligation of the general department for social assistance and child protection (GDSACP) to check and settle all notifications on potential abuse and neglect.

690. For the exercising of these duties, the department checks and settles all notifications received on this subject, regardless of whether the identity of the person formulating the notification is known or not.

691. The notifications may be received from:

- Persons who, for the exercise of their duty or job, have suspicions on a possible hazard in which the child is (according to provisions of art. 85, paragraph (3), art. 91, paragraph (1))
- Any other person who notices or knows something about abuse or neglect (art. 85, paragraph (2))
- The child in question (art. 85, paragraph (2)). The checking should consider the establishment of the truthfulness of the notifications, the setting of the level of danger of the situation in which the child is and, at the same time, the ways of correct intervention
- Child abuse or neglect takes place within institutions providing the care/protection/education of the child, then the department is responsible for notifying the police or, as the case may be, of the employer of the person who committed the respective acts

- If after the checking performed the child abuse or neglect is confirmed, then the general department for social assistance and child protection (GDSACP) has the obligation to provide the supply of specialized services for the children in question

692. The specific activities and the quality standards which must be observed when supplying these specialized services are approved by Order 177/2003 of the State Secretariat of the National Authority for the Child's Protection and Adoption (NACPA).

693. When choosing any type of service provided to the children, one should take into account the particular situation of each case, the seriousness of the committed acts, so that the actions taken are proportional to the characteristics of each situation, while serious reasons are needed in order to justify the potential separation of the child from its parents.

694. In this respect, one must note that art. 26 paragraph (1) of Law No. 217/2003 on the prevention and fight of family violence provides that if there is evidence or thorough clues that a member of the family caused physical and psychical suffering to another member, the court may rule, upon the request of the victim, or by default, the action of forbidding the abuser from returning in the family home.

695. Also, one must mention that for victims of physical abuse within the family, children included, there is a series of services established based on Law No. 217/2003 on the prevention and fight of family violence, with the subsequent modifications and completions, as follows:

- Shelters for victims of family violence - providing assistance in cases of emergency and when immediate separation from the abuser is needed
- Centres for the recovery of family violence victims

696. In order for someone to benefit from the provisions of Law 217/2003, it is necessary that the cases of family violence are notified to the familial workers registered in the departments responsible for fighting family violence within the County Directorates on Labor and Social Protection, and of the municipality of Bucharest respectively; notifications may be addressed directly or by the doctors or policemen involved in such cases.

697. In this context, it is underlined that intervention in cases of abuse or neglect focus not only on the provision of appropriate services to the victim child, but also on the correlation with the provision of services for aggressors. They may benefit from counseling within counseling centers for the abused, neglected or exploited child, as well as from measures and services for aggressors, developed in compliance of art. 25, paragraph (2) of Law No. 217/2003 on the prevention and fighting of family violence.

698. The text of article 93 of Law 272/2004 regulates the right to access of the representatives of the general department for social assistance and child protection (GDSACP) at the headquarters of legal persons, as well as at the domicile of natural persons, for the purpose of checking the notifications on potential child abuse or neglect acts.

699. For the fulfillment of their duties in compliance with the clauses of this article, the representatives of the general department for social assistance and child protection (GDSACP) benefit from the compulsory support of the police.
700. If the checking performed by specialist reveals the existence of an imminent danger for the child, the director of the general department for social assistance and child protection (GDSACP) will rule the measure of placing in urgent foster care.
701. Within 48 hours after taking this action, the general department for social assistance and child protection (GDSACP) will notify the court, which is the only competent institution for ruling on the opportunity of maintaining urgent foster, on the need of replacing it , and on the exercise of parental rights.
702. If the legal or natural persons providing the care or the protection of the child oppose to the checking of the abuse or neglect notifications, then there is thorough reason to support the imminent danger in which the child finds itself due to abuse or neglect, the representatives of the general department for social assistance and child protection (GDSACP) will notify the court, requesting the ruling of the measure of urgent foster care through presidential ordinance; on this occasion, the court will be informed on the potential injury of the child and on its seriousness, on the actual state of the child and on its statement.
703. If emergency placement is ruled by presidential ordinance, within 48 hours after its performance, the general department for social assistance and child protection (GDSACP) is also obliged to notify the court, which will decide on maintaining/replacing this measure with the foster care measure, will decide on the necessity of total or partial decline of the rights of parents or one of them, as well as on the persons who will exercise this right. The court will be provided with evidence which will support it in making decision for the child's best interest (social inquiry, psychological evaluations, forensic reports, etc.).
704. The declaration of the child may be used by the court as means of evidence for the settlement of applications to set the measure of urgent foster care or replacement of this measure. This statement may be submitted in written form or as audio-video registration, and the child will be assisted by a therapist in these demarches.
705. Also, the law text conditions the registration of the child's deposition on its consent in this respect. The consent must be preceded by informing the child on this demarche, on the context in which it will be fulfilled, as well as on the consequences, so that it understands what is going on and so that the child's exposure to an additional emotional trauma is avoided.
706. If the court deems the hearing of the child as necessary and relevant, this may be performed only in the council chamber.
707. As for the hearing of the child, art. 81 of the Civil Procedure Code specifies that the minor may be heard as witness. Up to 14 years, the child's hearing is done in the presence of one of the parents or its tutor, or in the presence of the person to whom it is consigned for upbringing and education.

## **J. Periodic review of placement**

708. Law 272/2004 expressly provides the obligation to proceed in the case of each child for whom a special protection measure was constituted to the quarterly checking of the circumstances (reasons) which led to its constitution. The fulfillment of this obligation is provided by the need to observe the child's right to the regular checking of the foster care, right stated within art. 25 of the Convention on the Rights of the Child.

709. The obligation of achievement of these demarches belongs to the general directorate of social assistance and child protection (GDSACP) on whose proposition the special measure of protection was constituted.

710. The aim of re-evaluation of the circumstances which led to the constitution of the protection measure is to set a consistency between the protection measure and the concrete situation, and to assess the possibility to reintegrate the child in the family or, as the case may be, to protect it within a familial environment.

711. The checking is performed on a quarterly basis, and if one finds that the measure initially constituted needs to be changed or terminated, the directorate is obliged to notify the body which constituted the measure.

712. The right to notify for the purpose of modifying or terminating the special protection measure initially constituted also belongs to the parents or the legal representative of the child, as well as to the child who is already 14, in compliance with the general provisions of art. 57 of Law 272/2004.

713. Art. 69 of Law 272/2004 constitutes the obligation to check the manner of effective enforcement of the child's special protection measures (paragraph 1).

714. Unlike the checking of the circumstances which led to the setting of a protection measure, this checking is meant to effectively provide the care and development of the child by the person/family, foster care or residential service where it was placed, as well as the manner in which their obligations within the activity of protecting the child are exercised.

715. The obligation of operating this checking which must also be performed on a quarterly basis, belongs to the general department of social assistance and child protection (GDSACP) or to the private body which organized the residential-type service or, as the case may be, the familial-type service.

716. The fulfillment of obligations to perform the checking above is certified by drawing up quarterly reports which must be approved by the person coordinating this activity. The reports must be drawn up in any other circumstance which might require the modification or the termination of the protection measure (paragraph 2).

717. If the checking on the manner of enforcement of the special protection measures aim at propositions of modification or termination of the same, then the general department of social assistance and child protection (GDSACP) is obliged to immediately notify the court or, as the case may be, the commission for child protection which constituted the measure.

718. Art. 70 sets the competent institutions for the monitoring of the manner in which the child is taken care of, as a result of its familial reintegration. This obligation belongs to the Public social assistance services (PSAS) of the local councils from the parents' domicile/residence, and in the case of the municipality of Bucharest, the general department of social assistance and child protection (GDSACP) where the parents domicile or reside. The setting of the obligation in the duty of the social assistance services at a local level is in accordance to the duties and responsibilities of these services on child protection, provisioned by art. 106 of the law.

719. The checking on the manner in which the child evolves as a result of its familial reintegration is performed monthly, on which occasion reports are drawn up on the results of these demarches. The compulsory minimum period provided by the law for the monitoring is of three months, and it can be set by the body deciding on the reintegration and for a longer period of time, when such an extension is provided.

### **Vulnerable aspects**

(a) Capacity of institutions with attributions in the field to support the young people from the protection system having regard the social integration;

(b) Difficulties in the measures implementation concerning the establishment of the placement at one person or in residential service having the residence address in other administrative territorial unit different of that where is functioning the court who establishes the measure;

(c) Difficulties in applying of the emergency placement measure for the child found by the police, committing penal offences, and which could not be assign to the legal representative.

## **VI. BASIC HEALTH AND WELFARE**

### **A. Survival and development**

720. Law 272/2004 provides the assurance of the child's right to life and development through the provision of all medical and recovery services necessary for the assurance of the effective fulfillment of this right (art. 43, paragraph 1).

721. The child's access to medical and recovery services, as well as to the medication appropriate for its condition in case of disease is guaranteed by the state, and the afferent costs will be born by the budget of the Sole National Fund of health social insurance and by the state budget.

722. Also, the law provides the obligation of the specialized bodies of the local and central public administration to take all actions required to:

- Reduce infantile death rate
- Provide and develop basic and communitarian medical services

- Prevent malnutrition and disease
- Provide medical services for mothers with child in the pre- and post-natal period, regardless of whether they are insured in the health social insurance system or not
- Notify the parents and the children on the child's health and food, including on the advantages of breast-feeding, hygiene and salubrity of the environment
- Develop actions and programmes for the protection of health and for the prevention of diseases, for the assistance of parents and for education, as well as services in the field of familial planning
- Regularly check the children given in foster care for care, protection or treatment;
- Provide the confidentiality of the granted medical council upon the request of the child
- Systematically perform within school units programmes for education on life, including sexual education for children, for the purpose of preventing the catching of sexually transmitted diseases and minors' pregnancy

723. For the purpose of introducing appropriate measures for reducing infantile death rate, and maternal death rate, a series of health programmes and secondary programmes financed by the Ministry of Public Health and specially constitute budgets were performed. The stated aim of these programmes was to improve mothers' and children's health condition.

724. The outcomes of performing these national health programmes are materialized in a tendency to settle the main health condition indicators (infantile and maternal death rate) (see chapter VI.3), under the circumstances of registering a slight revitalizing of the birth rate.

725. As for abortions among the youth, the laws passed focused on the appropriate information of the persons in question on the risks and dangers involved in this operation, but also on the rights any pregnant woman in our country benefits from. Campaigns of awareness among the rural population were performed in order to promote this type of information, considering that in this environment information travels at a heavier pace or encounters a greater resistance.

## **B. Children with disabilities**

726. The National Authority for Disabled Persons (NACP) was established under GO No. 14/2003 approved, with modifications and completions by Law No. 239/2003, with the subsequent modifications and completions. The establishment coordinates the activities of special protection and promotion of disabled people's rights at a central level, elaborates the policies, strategies and standards in the field of promoting disabled people's rights and provides the supervision of the enforcement of regulations in the field.

727. In the very year of 2005, NACP in cooperation with governmental bodies involved in disabled peoples' protection and with non-governmental organizations active in the fields, initiated the elaboration of a new normative act for the provision of compliance with the human

being's fundamental rights and freedoms. Thus, in December 2006, Law No. 448/2006 on the protection and promotion of disabled people's rights, with the subsequent modifications and completions, was inured.

728. Among the principles at the basis of Law No. 448/2006 are: prevention and fighting of discrimination, equality of chance, equality of treatment in what concerns employment, making the community a more responsible one, adapting society to disabled people, the interest of the disabled person, protection against neglect and abuse.

729. Law No. 448/2006 promotes with priority active measures of protection and personal independence against dependence on institutional assistance, as provided by the prior legislation (GEO No. 102/1999). The provisions of the normative act are in compliance with the provisions of the revised European Social Charter, ratified by Law No. 74/1999, as well as the other internal and international acts in the field Romania is part of.

730. Social integration and inclusion of disabled persons, with the same rights and obligations of all other members of the society, is the desiderate of social policies in the field. The access to education, professional orientation and development, to social life of disabled persons is regulated so that discrimination is eliminated.

731. Art. 60 of Law No. 448/2006 provides the specific measures public authorities have the obligation to take for the purpose of providing disabled persons with access to the physical, informational and communicational environment:

(a) To promote and implement the concept of access for everybody, in order to stop the creation of new barriers and the occurrence of new sources of discrimination;

(b) To support research, development and production of new supporting information and communication technologies;

(c) To recommend and support the introduction in the initial training of pupils and students of lectures on the issues of handicaps and needs related to them, as well as on the diversification of ways to accomplish accessibility;

(d) To facilitate disabled persons' access to new technologies;

(e) To provide access to public information for disabled persons;

(f) To provide interpreters authorized in the mimic-gesture language and those authorized in the language characteristic of deaf persons;

(g) To design and perform, in cooperation with or in partnership with legal, private or public persons, programmes of accessibility or awareness on their importance.

732. These rights are guaranteed to all persons, children included, and by correlation with the provisions of Law No. 272/2004 we can deduce that, regardless of the degree of handicap or any other condition, the compliance with the rights and facilities provided by the law is opposable to each child in Romania.

733. As for the existence of certain independent assessment institutional mechanisms of certain aspects which may border the territory of discrimination, through GEO 137/200, with the subsequent modifications, the National Council for Fighting Discrimination was established, which is the state authority in the field of discrimination, autonomous, with legal personality, under parliamentary control and at the same time a guarantor of compliance with and enforcement of the non-discrimination principle, according to the internal legislation in force and the international documents to which Romania is part.

734. According to the provisions of Law No. 448/2006, all disabled persons are entitled to health protection, prevention, treatment and recovery. The state institutions have the obligation of providing these services to all holders of this right; at the same time, a series of facilities for persons who care, supervise or keep a disabled child are provided.

735. The persons who looks after, watches and keeps a disabled child benefits from the following rights, as the case may be:

(a) Vacation and allowance for raising the disabled child or, as the case may be, a monthly incentive, until the child reaches 3 years of age, under the conditions of granting provided by Government Emergency Ordinance No. 148/2005 on family support for the purpose of child raise, approved with modifications and completions by Law No. 7/2007, with the subsequent modifications and completions;

(b) Vacation and allowance for raising the disabled child in the amount of 450 lei, for the disabled child with an age between 3 and 7 years old;

(c) Work reduced to 4 hours for the parent taking care of a disabled child, with severe or emphatic handicap, until the child reaches 18 years of age, upon the request of the parent;

(d) Medical leaves, granted under the law, for taking care of the disabled child in need of checking in a hospital, ambulatory treatment or at the domicile, for inter-current conditions, as well as for recovery/rehabilitation, until the child reaches 18 years of age;

(e) Monthly compensation for raising the disabled child, in the amount of 450 lei, granted to the disabled person who has no other incomes than the ones provided by art. 57 paragraph (4) letter a), until the child reaches 3 years of age;

(f) Monthly compensation for raising the disabled child, in the amount of 300 lei, granted to the disabled person who has no other incomes than the ones provided by art. 57 paragraph (4) letter a), for the disabled child with an age between 3 and 7 years old;

(g) Monthly compensation for raising the disabled child, in the amount of 300 lei, granted to the person who does not meet the conditions provided by the Government Emergency Ordinance No. 148/2005, approved with modifications and completions by Law No. 7/2007, with the subsequent modifications and completions, until the child reaches 3 years of age; in the case of the child with an age between 3 and 7 years old, a monthly support in the amount of 150 lei;



(h) Monthly foster care allowance, granted under the law, in the amount increased by 50 per cent.

736. The disabled person who looks after, supervises and supports a child who does not have any other income than the ones provided by art. 57 paragraph (4) letter a), benefit from an allowance for upbringing the child up to 2 years old, in the amount of 450 lei until the child reaches 2 years, and a monthly assistance for upbringing the child, in the amount of 150 lei in the case of the child with an age between 2 and 7 years old.

737. From the rights provided at paragraphs (1) and (2) might benefit upon request one of the parents, the person having the child placed for adoption or who has the child in foster care or in emergency foster care, except for the professional foster parent, or the person who was appointed custodian.

738. Cannot benefit of these rights the persons who are also personal assistants of the same child at the same time, or if the other parent is a personal assistant for the child, except for the monthly placement allowance.

739. The payment of rights provided at paragraph (1) and (2) are granted, as the case may be, from the State budget, through the budget of the Ministry of Labour, the Family and Equality of Chance, or from the budget of the National Sole Fund for health social insurances, in compliance with the law.

740. The amount of allowances and assistance provided at paragraph (1) letters b), e) and f) and at paragraph (2) are updated with the indices of consumer price increase, through a Government's decision.

741. Disabled persons, including children, have a right constituted by the law, to have free access to all forms of education, irrespective of age, depending on their level of disability and their educational needs. They are provided with permanent education on equal basis, as well professional development during their entire life (Law No. 448/2006).

742. For the provision of the educational needs of each of them, one should also consider the will of the person in question, as well as the opinion of the family or legal representative. The educational system comprising disabled persons is an integrant part of the national educational system coordinated by the Ministry of Education and Research, as many units of special education are provided, as well as the individual integration in public educational units, groups or compact special forms, integrated in the public pre-school and school educational units, and other educational alternatives too.

743. Disabled pupils benefit from free food and accommodation in school boards, while students suffering from severe and emphatic handicaps benefit from a reduction upon request by 50 per cent of taxes for accommodation and food within hostels and canteens.

744. According to 15 of Law No. 448/2006 "The financing of special education and integrated special integration is to be performed based on county budgets, and on local budgets of districts of the municipality of Bucharest, respectively, where the special education unit operates, regardless of the domicile of children/pupils/youth with special educational requirements."

745. In addition to these measures, within the educational process, disabled persons are entitled to the following, irrespective of the level of disability:

- (a) Assistance educational services;
- (b) The endowment with technical equipment adapted to the type and level of handicap, and its use;
- (c) The adaptation of the furniture in the classrooms;
- (d) School textbooks and classes in format accessible to pupils and students with sight disabilities;
- (e) The use of supporting equipment and soft for taking examinations of any kind and level.

746. For the purpose of changing mentality, increasing the level of tolerance, and for assuring the inclusion of children and youth in the community, the normative act provides that disabled pre-school children, pupils and students, together with their personal assistant, as the case may be, are entitled to free vacation camp seats, once a year, regardless of the form of education.

747. The amounts afferent to this right are provided from the state budget, through the budget of the National Youth Authority.

748. As for access to cultural and artistic opportunities intended for disabled persons, their access to cultural values, patrimonial objectives, travel, sports and leisure objectives is guaranteed by the state.

749. For the purpose of assuring disabled persons' access to culture, sport and travel, the authorities of the public administration are obliged to take the following specific measures:

- (a) To support the participation of disabled persons and their families in cultural sport and travel events;
- (b) To organize, in cooperation or in partnership with public or private legal persons, cultural, port and leisure events and activities;
- (c) To provide conditions for practicing sports by disabled persons;
- (d) To support the activity of sport organizations of disabled people.

750. The disabled child, as well as the person assisting it, benefit from free tickets for shows, museums, artistic and sports events.

751. The amounts afferent to this right are born by the state budget, through the budget of the Ministry of Culture and Cults, of the National Sports Agency, from the local budgets or, as the case may be, from the budget of public or private organizers.

752. All these measures are also sanctioned, as previously shown, by the provisions of Law No. 272/2004 on the promotion and protection of children's rights, which, at art. 46, specifies that any disabled child is entitled to special care, adapted to its needs, to education, recovery, compensation, rehabilitation and integration, adapted to their own capacities, for the purpose of developing their personality.

753. Particular attention is granted through Law No. 272/2004 to disabled children, for which the express right to benefit from special care, adapted to their needs is specified (art. 46, Law 272/2004). The text regulates the disabled child's right to care adapted to its special needs. The disabled child is the beneficiary of all rights provided by Law 272/2004 but the article includes additional specifications to this child, in consideration of its special condition and needs (paragraph 1).

754. Clauses of paragraph (2) set the fact that for the purpose of developing its potential and personality, the disabled child is entitled to a series of educational and recovery services which would allow it to reach a maximum level of autonomy allowed by its condition, as well as social integration. The services offered to disabled children will be adapted to their special needs, both from an educational point of view, and from the point of view of their deficiencies (physical, sensorial, psychical, mental deficiencies).

755. One must mention that the rights of the disabled child are granted based on the certificate of registration within one category of disabled persons, issued by the Child protection commission at its domicile (in compliance with the dispositions of art. 2, paragraph (1), letter a) of GD No. 1437/2004 on the organization and operation methodology of the child protection commission).

756. For the purpose of granting the disabled child with the adequate education and recovery, together with the setting of the level of disability, the child's educational/professional orientation (if applicable) and the plan for its rehabilitation are assessed and set.

757. The correspondence between special measures and care and the child's needs and its and its family's individual characteristics is required. The fulfillment of this request involves the complex evaluation of the child's condition, which is performed under the provisions of order 12.709/2002 of the National Authority for Child Protection and Adoption (NACPA) on the criteria based on which the level of disability for children is set and their special protection measures are enforced, corroborated with the clauses of Order 18/2003 of the National Authority for Child Protection and Adoption (NACPA) on the methodological guide for the disabled child's evaluation. Subsequent to this evaluation, the complex evaluation service draws up the disabled child's rehabilitation plan, which will set specific targets, as well as the persons in charge with the fulfillment of these targets.

758. As for the disabled child's education, it is performed at home, within the special educational system or in the public educational system (in integrated forms or within usual forms, with assisting teachers). The services for the recovery/compensation of disabled children's conditions may be performed in:

- Recovery medical units within the health system, in compliance with the clauses of art. 84 from the frame-agreement on the conditions of granting medical assistance within the health social insurance system for the year 2007, approved by the GD No. 1842/2006; disabled persons under the coordination of the National Authority for Child Protection and Adoption (ANPPH) and subordinated to the county councils and local ones of the municipality of Bucharest. Within them, children may exclusively benefit from daily or residential recovery service, if they are extemporarily checking in a hospital together with their parents/legal representatives.

759. In the school year 2006-2007, 16,290 children with disabilities have frequented normal schools and 27,445 have frequented special schools. It is forbidden for these children to be kept in these institutions in other situations than those mentioned above, as any form of protection of the child extemporarily or definitively separated from its parent is granted only within the familial or residential-type services, licensed under the law, in the conditions of setting a special protection measure, in compliance with the provisions of Law No. 272/2004.

760. Unfortunately, the services for the disabled child are insufficient and this is why their development should be a priority. For this category of children, the legislation provides the assurance of the right to recovery, compensation, rehabilitation and integration, adapted to each person's capacities, so that their physical, mental, spiritual, moral or social development is assured. The assistance provided by the state addresses not only the child from a certain handicap group, but its family, or the persons taking care of it as well, so that their effective access to education, professional development, medical services, recovery, training for the purpose of employment, to leisure activities, as well as any other activities able to allow them full social integration and development of personality are assured without any discrimination.

761. Society as a whole is not left aside, its role within this process is a very clear one, and its obligation is to provide the resources necessary for the development of the services intended for the fulfillment of the disabled children's needs and those of their families, in conditions which would guarantee their dignity, favor their autonomy and facilitate their active participation in the life of the community.

762. Special care consists in assistance consistent with the situation of the child or its parents or, as the case might be, with the situation of those to whom the child is consigned, and is granted for free, any time possible, to facilitate the effective and without discrimination access of disabled children to education, professional development, medical services, recovery, training, for the purpose of employment, leisure activities, as well as to any activities meant to allow them full social integration and development of personality.

763. Specialized bodies of the central public administration and the authorities of the local public administration are obliged to initiate programmes and to provide the resources necessary for the development of services intended for the fulfillment of disabled children's needs and their families', in conditions which would guarantee their dignity, favor their autonomy and facilitate their active participation in the life of the community.

764. At 30.06.2007 within the evidences of the complex evaluation services, functioning within the General Directions of Social Assistance and Child Protection there were 77,940 children, out of which:

- Children with learning difficulties and social educational adapting problems, who have only school orientation and professional certificates 11,713
- Children with easy handicap 1,588
- Children with medium handicap 19,063
- Children with an accentuated handicap 13,864
- Children with a severe handicap 31,712

765. Out of these 14,797 children have benefited of services in the first semester of 2007 (counseling centers, recovery centers, day care centers). The number of 795 day care services, existing at the national level, is not enough in order to satisfy these children needs.

766. Out of the total number of children with disabilities 61,697 were in their biological family.

### **C. Health and health services**

767. The child's right to quality medical assistance is sanctioned by Law 272/2004 on the protection and promotion of the children's rights, which, at art. 43 provides that any child "is entitled to enjoy the best health condition it may reach and to benefit from the medical and recovery services necessary for the assurance of effective fulfillment of this right.

768. The child's access to medical and recovery services, as well as medication adequate for its condition in case of disease is guaranteed by the state, and the afferent costs are borne from the National Sole Fund of health social insurances and from the state budget."

769. These provisions are enforceable to all children without discrimination, and their access to units for disease treatment or recovery of health is provided by the authorized institutions.

770. In this context, the main responsibility in what concerns the provision of conditions on the decrease of infantile death rate, the provision and development of medical services, medical-social and communitarian services, belongs to the specialized bodies of the central public administration, the authorities of the local public or private administration with duties and responsibilities in the medical field.

771. A similar responsibility toward the promotion and respect of this right goes to the child's parents who have the obligation to ask for medical assistance for their children in order to prevent the situations that might endanger their lives, their development or evolution. In the same time, it was identified the needs of the parents and the necessity to make them aware of the role they are playing together with a better awareness of the local authorities to create the necessary framework that might subsequently allow to develop the parental skills, being well known the fact that the lack of such capacities is the main cause for infant and children under 5 years old mortality.

772. The opinion of the child is also observed in this respect, as the law provides the obligation of confidentiality for situations in which medical consultation is granted upon the child's request.

773. In what concerns the right of disabled children to proper medical care, this was detailed within chapter VI.2.

774. The law also provides the obligation of informing the parents and children on the proper health condition and food, including on the advantages of breast-feeding, hygiene and salubrity of the environment. Various programmes of familial planning were developed for making the public aware on the implications of unwanted pregnancy or of a pregnancy not supervised by medical specialized staff. medically. These were doubled by the obligation of authorities with responsibilities in the field to perform on a systematic basis within school units programmes for education on life, including sexual education for children, for the purpose of preventing the catching of sexually transmitted diseases and minors' pregnancy.

775. Regular calls of medical staff at the domicile of children until they reach 1 year of age are compulsory, for the purpose of following up the child's neuro-psychomotor growth and development, training mothers for the purpose of providing optimal conditions for the growth and development of the child, as well as for the prevention of occurrence of such situations (abandonment, abuse, negligence) which could have negative consequences in the harmonious development of the child.

776. In order to revitalize a system with many syncope, the Ministry of Public Health launched the fourth study on reproduction health in Romania after 1990 - The Study Of Reproduction Health (SRH) 2004, initiative supported by the World Bank, UNFPA, UNICEF, USAID, the John Snow Research and Training Institute, Inc., the Swiss Agency for Development and Cooperation and WHO - The study was characteristic at a national level, through a pattern of 4,441 women aged between 15 and 44 years, and 2.361 men, aged between 15 and 49 years.

777. As an improvement, unlike the previous editions, the study included a chapter especially intended for the appreciation of the medical services, including barriers in using the medical services supplied in the basic assistance medical services and hospitals, with which the population is confronted, especially the mother and the child, in using them. And this so that after 1995, when the results of the first study of the kind were available, in Romania took place numerous transformations due first of all to prior interventions, within which information and communication campaigns, and campaigns for the development of the public and private public services of familial planning, played a major role.

778. At a European level, the fertility rate in the last decades have undergone a spectacular transfer from the social and medical sphere to a social and political dilemma, with a long-term effect, whose neglect led to important phenomena, such as the ageing of the population and the increase of human migration.

779. According to the study, after a quick and major decline at the beginning of the 1990s, fertility in Romania proved to be amazingly constant in the second part of the decade, as in the interval 2000-2004. Since 1995, the fertility level has remained constant, with a fertility rate of 1.3, so that, in the period when the study was conducted, it was reaching 1.27, similar to the one offered by the official reports of governmental agencies for the recent years.

780. As of 2004, the fertility rate specific based on ages increased by approximately 80 per cent within the 30-34 years age group, it remained unchanged in the 25-29 years age group, and it decreased by 25 per cent in the 20-24 age group. The number of pre-natal consultations increased. One must not ignore the fact that national programmes for the improvement of mother's and child's health are basic elements for the medical systems of the European Union member states, through the enforcement of which a significant improvement of life in this segment was performed.

781. In exchange, despite the progress registered in the medical field, in the last decade, in developing countries such as Romania there is a constant number of annual deaths caused by complications during the pregnancy period or due to birth.

782. Familial planning and induced abortion - In Romania, the total rate of abortion was reported to the level of 3.4 in 1993 and 2.2 in 1999. This represents a decline by 35 per cent of the abortion rate, emphasized especially due to the period of special increase of using modern birth controls.

783. This descendent slope of the total rate of abortions reached its lowest point of 0.84 for a period of three years before the actual study. According to reports of the World Health Organization, approximately 201 million women, especially poor peasants, need modern and efficient birth controls.

784. In what concerns birth control, the rate of its prevalence in relation to women at a fertile age (15-44 years) registered a major increase in Romania, from 41 per cent, in 1993, to 48 per cent, in 1999, reaching a rate of 58 per cent, in 2004. But the birth control rate was not the only, modification, the alternation between traditional and modern birth control methods was even more spectacular. While in 1993 only one out of four users of birth controls resorted to a modern method, in 1999, modern means reached the level of 23 per cent, close to the one representing traditional means - 25 per cent. In 2004, the rate of women using a modern birth control method reached 34 per cent, and it was for the first time when the use of modern methods is related to a greater number of respondents, in comparison to the use of traditional methods.

785. In 2004, birth control pills and the condom were the most frequently used modern birth control methods, in proportion of 26 per cent of the total. In 2004, the main source of birth controls was the retail (pharmacies, stores). In the medical sector, hospital remained in the top of sources of modern birth control methods, but the proportion of women who provided themselves from these units registered a decrease, from 27 per cent, in 1993, to 20 per cent, in 1999, and 18 per cent in 2004, respectively. At the same time, an increase of the percentage of women supplying themselves with oral birth controls from the family doctor's office was registered, from 2 per cent in 1999, to 18 per cent in 2004.

786. The right to health is also guaranteed by the provisions of art. 33 of the Romanian Constitution, as well as by article 24 of the Convention on the Rights of the Child. According to the World Health Organization (WHO), health is the complete physical, mental and social wealth and not the lack of disease or infirmity. Thus, the best health condition that the child may reach is caused not only by its physical characteristics, by the lack of a certain medical pathology, but

it also focuses on the entire life environment of the child and the necessity to provide the optimal conditions for its growth and development, as well as for the prevention of occurrence of certain situations which could have an impact on the child's physical, mental and social wealth.

787. In this respect, the measures that need to be taken for the purpose of fulfilling the right to health are provided by art. 12 of the International Pact on Economic, Social and Cultural Rights, which Romania ratified through Decree No. 212/1974. The provisions of the herewith article are in full accordance to the clauses of this pact.

788. Paragraph (2) of the article guarantees the child's access to medical and recovery services, also setting forth the concrete ways of fulfilling the child's right to reach the best health condition (services for prevention and promotion of health, medical and recovery services, medication) and sets the financing sources for the services granted in this respect.

789. The main system for the protection of the population's health in Romania is the system of health social insurances, within which the equitable and non-discriminatory access of the insured to a basic medical package access is provided. The health social insurance system has been operating in Romania since 1997. During 2002-2006, the legal frame for the organization and operation of the health social insurance system was represented by GEO No. 150/2002 on the organization and operation of the health social insurance system, with the subsequent modifications and completions. This normative act was abrogated by the provisions of art. 317 paragraph (3) of Law No. 95 of 14 April 2006 on the reform in the health system, with the subsequent modifications and completions. At present, the organization and operation of the health social insurance system is regulated by the clauses of Title VIII Social Health Insurance of Law No. 95/2006.

790. According to the provisions of art. 213 paragraph (1) letter a) of this normative act, all children up to 18 years old, the youth between 18 and 16 years old, if students, including high school graduates, until the beginning of the academic year, but no longer than 3 months, apprentices or students, and who do not earn any incomes from labour, benefit from free insurance, without any contribution to the Sole National Fund for Health Social Insurance.

791. As insured of the health social security system, children benefit from a basic medical services package, set under the frame agreement elaborated annually by the National Health Insurance Fund, based on the council of the Romanian College of Physicians, the Romanian College of Dentists, the Romanian College of Pharmacists, the Romanian Order of Nurses and Midwives, the Order of Biochemists, Biologists and Chemists, as well as that of representative employers' and trade-unions' organizations in the medical field, with the approval of the Ministry of Public Health and approved through a decision of the Romanian Government.

792. The normative acts regulating the conditions for granting medical assistance within the health social insurance system for 2007 are as follows:

- RGD No. 1842 of 21 December 2006 for the approval of the Frame agreement on the conditions of granting medical services within the health social insurance system for the year 2007, with the subsequent modifications and completions



- The order of the Minister of public health and that of the President of the National Health Insurance Fund No. 1781/CV 558 of 28 December 2006 for the approval of methodological norms for the enforcement of the frame agreement on the conditions of granting medical assistance within the health social insurance system for the year 2007, with the subsequent modifications and completions

793. The basic medical services package is supported entirely by the National Sole Health insurance Fund, and it comprises:

- Prophylactic medical services for the prevention of disease and for the precocious detection of disease (the supervision of the new-born baby and the child's physical and psycho-motor development, regular medical checks for the detection of disease with major consequences for the death rate and morbidity, the performance of immunization in compliance with the national Vaccination Calendar, preventive dental medical services, familial planning services, etc.)
- Curing medical service for the treatment of disease, the prevention of complications, recovery or at least the amelioration of the condition (basic medical assistance, ambulatory assistance, clinically specialized, paraclinical and dental, hospital medical services, emergency medical services, sanitary transportation, recovery medical assistance)
- Medical treatment, surgical and certain recovery and physiotherapy procedures
- Medical services and care at home
- Pills, sanitary materials, medical devices for the recovery of organic and physiological malfunctions

794. The details on the medical services granted to the insured and the manners of granting them are set within the frame agreement.

795. In order to benefit from medical services, all children must be registered on the list of family physicians; the registration is performed by parents, the legal representatives or, upon the request of city halls, of communitarian nurses, upon the request of the general directorates of social assistance and child protection (GDSACP) or by default, on occasion of the first consultation of a child who was not registered on the list of a family physician.

796. For this purpose, art. 32 letter c) of the Frame Agreement on the conditions for granting medical assistance within the health social security system for 2007, approved by GD No. 1842/2006, sets forth the obligation of the family physician to register all children who have not been registered on the list of a family physician by default, on occasion of the first doctor's visit of the sick child in the domicile locality or, as the case may be, in its residence locality. The new-born will be registered on the list of the family physician who took care of the pregnant woman, if the parents have no other option expressed in writing, immediately after the child was born.

797. Also, the family physician must not refuse to register the children on the list of insured persons, upon the request of the parents, its legal representatives or upon notification by the health insurance fund with which a contract for services supply was concluded, or by the city hall, as well as on the notification by the representatives from the communitarian medical assistance system by of the child protection directorates, in the case of children in distress from the foster care centres or from surrogate families, in compliance with the provisions of letter e) of the above mentioned article.

798. Also, in order to benefit from medical services, it is necessary that the child's birth is registered, and the registration on the family physicians is conditioned by the existence of the social security number.

799. The medical services insured within the health social security system are not exhaustive, as they may be completed by any other interventions at a social and medical level, deemed as necessary.

800. During 2002-2006, until the entering into force of Law No. 95 of 14 April 2006 on the reform in the medical field, the legal frame of the public health activity was provided by Law No. 100/1998 on public medical assistance. Government Ordinance No. 53/2000 on the obligation to report diseases and to perform vaccination, approved by Law No. 649/2001 sets forth the obligation to perform vaccines by the family physicians.

801. Nowadays, The National Vaccination Calendar for 2007, approved by the Order of the Minister of Public Health and the president of the National Health Insurance Fund No. 570/116/2007 for the approval of the technical norms on the implementation, assessment and financing of national health programmes, responsibilities in monitoring and controlling them, details on secondary programmes and activities, characteristic indicators, as well as sanitary units through which they are performed in 2007 are the following:

Recommended age	Vaccine	Comments
The first 24 hours	Hep B	In maternity
4-7 days	BCG	
2 months	DTP - Hep B, VPO	Simultaneous
4 months	DTP, VPO	Simultaneous
6 months	DTP - Hep B, VPO	Simultaneous
12 months	DTP, VPO	Simultaneous
12-15 months	RRO	
30-35 months	DTP	
7 years (in the 1st grade)	DT, RRO	Schools campaigns
9 years (in the 3rd grade)	VPO	School campaigns
14 years (in the 8th grade)	DT, Rub (girls only)	School campaigns
18 years (in the 12th grade)	Hep B	School campaigns

DTP = Diphtero-tetano-pertussis vaccine

DT = Diphtero-tetano pediatric vaccine (used until 14 years old)

- VPO = Vaccine polio oral vaccine (for institutionalised children and children with VPO counter-indications, the VPI vaccine will be used = polio inactivated vaccine or in combination with DTP-VPI)
- Hep B = Hepatic B vaccine
- DTP-Hep B = Diphtero-tetano-pertussis-hepatitis B vaccine
- RRO = German measles - rubeoal - mumps vaccine
- BCG = Calmette Guerrin vaccine
- Rub = rubeola vaccine

802. The dynamics of the vaccine coverage during 2002-2006 is shown in the table below:

Vaccine	Vaccine coverage (%)				
	2002	2003	2004	2005	2006
Vaccine BCG	99.8	99.6	98.4	98.3	99.3
Diphtero-tetano-pertusis Vaccine	97.2	97.0	97.1	96.9	96.5
Polio oral vaccine	98.8	97.2	97.2	97.0	96.5
Hepatitis B vaccine	98.7	98.5	98.8	98.6	98.4
German measles vaccine	98.2	97.2	97.1	94.4	97.3

803. What is remarkable is that in 2007, for the first time, Romania participated in the “European Vaccination Week” campaign, action organized in the period 16-22 April, by the Ministry of Public Health, in cooperation with WHO, the Regional Bureau for Europe, on which occasion 26,545 additional vaccinations were performed.

804. The funds necessary for the annual performance of obligatory immunizations are provided by the state budget, through a National Public Health Programme. GD No. 292/2007 on the approval of national health programmes in 2007 sets the legal frame on the performance of this programme in 2007. Based on GD No. 292/2007, Order No. 570/116/2007 of the public health minister, which provides the objectives and activities connected to the implementation and financing of national health programmes was elaborated and approved.

805. The objectives of the National Public Health Programme are as follows:

- The performance of immunizations according to the National vaccination calendar
- AIDS prevention and supervision, consumption, sexually transmitted infections and other contagious diseases
- The supervision and control of nosocomial infections
- The prevention of disease through monitoring the decisive factors in the lifestyle and labour environment
- The promotion of health and of a healthy lifestyle

- Hematology and transfusion security
- Smoking control by stimulating quitting smoking

806. In what regards the sexually transmitted diseases control, also Romania registered progress shown by the decrease of their prevalence, as follows:

**The number of HIV/AIDS infected children 0-14 years (prevalence)**

Number of HIV/AIDS cases/year	2002	2003	2004	2005	2006
	184	142	90	41	14

**The number of syphilis and gonorrhoea cases among the 15-19 years old**

Number of cases/year	2002	2003	2004	2005	2006
Syphilis	1 593	1 293	1 144	827	668
Gonorrhoea	386	291	247	345	299

**Infantile death rate (deaths below 1 year per 1,000 born alive)**

807. The main indicator characterizing the health condition of children is infantile death rate. In Romania, this indicator showed an oscillatory evolution between 1996 and 2006, but with a constant decrease tendency (from 26.9 per thousand in 1990 to 13.9 infantile deaths per thousand born alive, registered in 2006). The dynamics of this indicator in the period 1990-2006 is shown in the table:

**Infantile death rate in Romania between 2002-2006**

Indices per 1,000 born alive	2002	2003	2004	2005	2006
	17.3	16.7	16.8	15.0	13.9

808. However, despite all progress registered in the recent years, Romania continues to range among the countries with the highest values in Europe in this respect. This indicator is characterized by:

- Higher levels constantly registered in the countryside (27.2 per thousand in 1994, 17.9 per thousand in 2005, and 17.1 per thousand in 2006, respectively) in comparison to the cities (20.1 per thousand in 1994, 12.4 per thousand in 2005, and 11.2 per thousand in 2006, respectively). This situation might be explained by both a lack of concern for the new-born on the part of the family in the countryside, or ignoring the disease symptoms in very young children, in the context of a very low educational level, as well as deficiencies of medical assistance provided at this level.
- A higher number of deaths at home (22.4 per cent). In this circumstance, what is remarkable is that in 37.8 per cent of the cases, the family did not ask for the doctor's advice in the case of the child's getting sick, and in other 36.7 per cent of the cases,

the progress of the disease was over-acute, which prevented a doctor's control; in 9.9 per cent of the cases, deaths were registered as a result of immediately deadly accidents, and only 12.3 per cent of the cases were examined by the family physician, and 1.1 per cent by another doctor, respectively (indicators for 2005).

- Deaths in hospitals and maternities are prevalent (from 68.9 per cent in 1990, to 74.3 per cent in 2004, and 73.6 per cent in 2006, respectively) with the mention that deaths in maternities and hospitals are increasing in comparison with the percentage reached in 2005.
- The assessment of deaths of 0-1 year olds in 2006 shows that from the deaths occurred in medical units, 20.1 per cent occurred during the first 24 hours (phenomenon due to the weak addressability of the family, but also to the deficiencies in the specialized medical assistance) and 39.8 per cent occurred in the 7th day and after.
- As for the structure of deaths of 0-1 year olds influenced by dystrophy and precociousness, in 1991-2006 there is a constant increase of the weight in the deaths of new-born babies of precociousness in the detriment of dystrophy, which indicates deficiencies in the quality of neo-natal services. Both dystrophy and precociousness are evident proof that we are dealing with a precarious social and economical condition.
- The conditions of the respiratory system at the age of 0-1 year is constantly one of the main cause of infantile death; infantile deaths due to respiratory conditions registered a descendent trend, from 39.3 per cent in 1990, to 33.6 per cent in 1999, pass to the second place in 2000, after perinatal causes, come back on the first place in 2002, with 31.3 per cent, and again come second in 2005 with 27.2 per cent and 27.5 per cent in 2006; in return, perinatal causes oscillate from 19.4 per cent to 1990, to 33.2 per cent in 2000 and 37.8 per cent in 2005; in 2006 they become the main cause of infantile death again, with 37.8 per cent; congenital anomalies also have a fluctuant progress, between 14.9 per cent in 1990 and 23.7 per cent in 2005.
- The infantile death rate raises proportionally with the rank of the baby born alive (the highest levels come to the 4th born child) and the mother's age (the highest levels are registered among babies born by mothers of over 40 years old).
- There is a correlation between infantile death rate and the mother's level of education, and the most numerous deaths are registered among babies born alive by mothers without any education or with elementary or intermediate education.
- Depending on the mother's occupation, the majority of deaths were registered among housewives and mothers without a job, followed (at a longer distance) by the category of employed mothers. This situation proves that it is not the lack of time, but the lack of education which influences infantile deaths.

Considering the complex interaction of medical problems with the social and economic phenomena and the educational ones, one may notice that the amelioration of this indicator cannot be settled on a strictly medical level.

### Maternal death rate (maternal deaths per thousand born alive)

809. As for the maternal death rate indicator, a tendency of recovery in what concerns the maternal death rate indicator was registered in the period 1990-2006. Thus, in comparison with 1990, when a 0.83 per thousand per born alive maternity death rate was registered, in 2006 there is a decrease of this indicator to 0.15 per thousand. The dynamics of this indicator is shown in the table below:

**Maternal death rate in Romania, between 2002-2006**

Indices per 1,000 born babies	2002	2003	2004	2005	2006
	0.22	0.30	0.24	0.17	0.15

810. The cause of the positive evolution of this phenomenon is, on the one hand, a better concern of the Ministry of Public Health for the familial planning activity, which has been quite intense in the last years, and, on the other hand, to the increase of efforts of registration of pregnant women and supervision of pregnancy evolution.

811. The characteristics of this indicator were:

- The increase of maternal death rate proportional to the mother's age.
- Most maternal deaths were registered among housewives.
- The highest rate of this indicator is registered among mothers without education or with elementary or intermediate education.
- Most maternal deaths occurred among women not registered as pregnant. In order to avoid such situations, a greater involvement of the medical network in the activity of finding and supervising pregnant women is required, as well as the intensification of efforts for the purpose of developing women's visiting the doctor for supervising the progress of the course of pregnancy.
- The majority of maternal deaths occur in medical units.
- The maternal death rate by direct obstetrical risk overcomes maternal death rate by abortion. The women exposed to the risk of maternal death constantly come from the countryside. This might be justified by a gap between the conditions offered in the medical units in the countryside and in the city, but also by the difference in what concerns education and perception on the necessity to supervise and control pregnancy in the very first weeks.
- The maternal death rate by abortion registered a constant recovery tendency. Thus, in 1990 the maternal death rate by abortion was 0.58 per thousand, in 2006 it reaches the level of 0.05 per thousand. This value of the maternal death rate by abortion is the consequence of the poor education of the female population and couples generally, on

the risks implied by an abortion, of the inefficiency familial planning proves in certain social and professional environments and, not least, the consequence of some deficiencies in the medical system in what concerns the correct supervision and optimal medical intervention for pregnant women.

812. Through the activities within the National Family Planning Programme, and for the amelioration of the value of this indicator, the Ministry of Public health undertakes to direct the familial planning services supply to the vulnerable population, at the same time with the increase of efforts for sensitization of hazard population groups on the danger represented by abortion and the multiple possibilities to avoid an unwanted pregnancy. A negative aspect of this indicator refers to the registration of maternal deaths occurring after empiric abortion. Such a situation registered in a country aspect where abortion is not forbidden by the law and where modern birth control methods are available, and intensely promoted, as well as facilities provided by the authorities for the purpose of using them represents perhaps the strongest argument in favor of the hazard on the woman practicing it this manner of getting rid of a pregnancy involves.

813. The dynamics of the maternal death rate by abortion is shown in the table below:

**Maternal death rate by abortion in 2002-2006**

Indices per 1,000 born babies	2002	2003	2004	2005	2006
	0.09	0.13	0.12	0.07	0.05

### **The National Programme for Women's and Children's Health**

814. As of 2001, the efforts Romania made for improving the mother's and the child's health condition improved. Thus, in accordance to the provisions of the Government's Programme, published in June 2001, which set the woman's and the child's health and wealth as one of the national priorities in the field of health, the Ministry of Public Health constantly took a series of measures focusing on the health policy, on the provision of the child and woman with curing and preventive services, on the training of the medical sanitary personnel and, not least, on the establishment of solid partnerships with governmental and non-governmental, national and international institutions.

815. In this respect, as of 2001, a national health programme for this category of beneficiaries, annually financed from the state budget, was implemented and has been performed since. For 2007, the programme is performed in compliance with the provisions of RGD No. 272/2007 on the approval of national health programmes in 2007 and with the Order No. 570/116/2007 of the National Health Insurance Fund President, on the approval of Technical Norms on the Implementation, Assessment and Financing of National Health Programmes, the responsibilities in monitoring and controlling it, the details per secondary programmes and activities, specific indicators, as well as medical units through which they are performed in 2007, and the following objectives are intended to be reached:

- The increase of access to the family planning services and health of reproduction, through the extension of providing them at the level of basic medical assistance, for the purpose of reducing the number of unwanted pregnancies and the decrease of child abandonment. This objective is accomplished in partnerships with international

governmental and non-governmental agencies and institutions (UNFPA, USAID, The John Snow Research and Training Institute- JSI), as well as numerous NGOs. A series of actions were performed, having in view:

- The provision of the population's reproductive rights, including their informed option.
- The increase of accessibility to quality familial planning services, including modern birth controls.
- The increase of the addressability to familial planning services.
- The provision of free birth control distribution for certain categories of the population (pupils, students, unemployed persons, social benefit beneficiaries, women with a fixed domicile in the countryside, women having abortions performed, persons without any income).
- The performance of communication campaigns, for the change of behavior, focusing on vulnerable groups (teenagers, socially under-privileged categories).
- The granting of equal chances to women and men.

816. As a result of these actions, in 2006 the following outcomes were registered:

- The provision of familial planning services through the agency of 3,600 family medicine offices and 200 familial planning offices.
- The increase of the number of qualified medical staff involved in the provision of familial planning services (4,500 doctors and 2,500 nurses).
- The provision of free birth controls distribution to 200,000 users (the source of these birth controls is represented by the state budget and donations of the above mentioned partners).
- The increase of the number of pregnant women registered in the first pregnancy semester, through the passing of legislative measures focusing on the identification and supervision of the pregnant women, regardless of their social condition, and the provision of gratuity of the services provided to the pregnant woman, irrespective of whether they are insured or not. The actions performed by the Ministry of Public Health for the accomplishment of this objective mainly focused on the improvement of the legislative frame favoring the pregnant women's access to medical assistance services and medication, irrespective of their status as an insured person (art. 213 letter l) of Law No. 95/2006 on the reform in the health field, with the subsequent modifications and completions). Also, Decision No. 458 of 23 April 2004 on the amelioration of pregnant women's access to paraclinical investigations and specialized visits, was issued by the Minister of Health, providing that "the medical services recommended to the pregnant woman are to be performed urgently".



- The increase of pre- and post-natal care; the development of integrated medical-social service at a communitarian level, to provide the increase of access to quality services of the entire population, but especially of under-privileged groups. The increase of pre- and post-natal care services quality is a permanent concern of the Ministry of Public Health, and there is a especially concern to attain consensus for pregnant woman supervising protocols, the elaboration of standard documents for the supervision of the pregnant woman, as well as the training of the medical staff to use them. The legal frame which regulates these activities is represented by Order No. 12 of 9 January 2004 on the passing of the Protocol on the Methodology of pre-natal and post-natal consultation, of the Minister of public health, the Pregnant woman's card and the Annex for medical supervision of the pregnant woman and the midwife.

817. The putting into practice of clauses of his normative act were materialized through:

(a) The development and the implementation of a unitary informational support for the registration of medical services intended for the pregnant woman, called the Pregnant woman's card. This is a medical document to bearer, an instrument for monitoring the progress of the pregnancy and midwifery, as well as a support of information for pregnant women (it includes information on rules of hygiene, alimentation, situations requiring medical advice, the care of the midwife and the new-born, as well as breast-feeding);

(b) The elaboration and the distribution of diagnosis and care protocols in basic medical assistance. (vol. I - the methodology on the performance of the pre- and post-natal consultation, and vol. II - gynecological and obstetrical investigation);

(c) The performance of activities for training the medical staff. For this purpose, a set of working instruments was developed, "Key-elements in pre-natal assistance", which makes a synthesis of protocols through a video material, "steps in performing the gynecological and obstetrical investigation", accompanied by a guide of the video user, to a technical poster "Key-elements in the pre-natal assistance of the pregnant woman without risk/with minimum risk and of technical sheets comprising methodologies on the performance of:

- (i) The visit for registration/supervision and identification of risk factors;
- (ii) Compulsory, optional and recommended assessment/investigations;
- (iii) Prophylactic treatment/handling in pre-natal medical assistance;
- (iv) Signs of alarm in pregnancy;

(d) The performance of information-education-communication campaigns, for example:

- (i) "Its life is your life!"; Partners: The Ministry of Public Health, CRED Foundation (The Romanian-Swiss Center for Development in the Health System), Romanian - Swiss Neonatology Project RoNeonat;
- (ii) "Its first steps are made by you"; Partners: The Ministry of Public Health, The National Center for the Promotion of Health, the Institute for Protection of Mother and Child;

- (iii) “Looking after is a custom” ; Partners: The Ministry of Public Health, UNFPA, USAID, UNICEF, JSI R&T;
- (iv) The promotion and the improvement of the nutritional condition of children, youth and women, by which there is a focus on the decrease of medical causes incidence for the institutionalization of children and the development of conditions necessary for the growth and development of children in a healthy environment.

818. The efforts made by the Ministry of Public Health for the improvement of the children’s nutritional condition are based on and have been directed by recent data provided by studies and research. The data of the National Nutrition Integrated Study (The Ministry of Public Health, the Institute for Protection of Mother and Child, UNICEF) 2004-2005 showed:

- An improvement of certain indicators of new-born baby nutrition, in comparison to the data in the period 1993-2003, but the age of weaning, of introducing the nursing bottle and diversification is still too young. In 2004, the medium age of weaning was approximately 6.66 months

819. Precocious weaning, before 3 months old, progressively increased: from 27 per cent for new-born babies in 1990, to 35 per cent for the babies born in 1998 (42.4 per cent in 1999!). According to the data from the National Nutrition Integrated Study in the period 2004-2005, over 50 per cent of new-born babies are weaned before reaching 4 months.

820. We note an emphasized increase of the proportion of children weaned from the first month in the city and under precarious cultural and educational conditions: mothers with 0-4 school grades precociously wean their babies, in a bigger proportion than the ones with a higher level of education.

821. The data from the Reproduction Health Study, performed in 2004, show that only 16 per cent of the children with ages between 0 and 5 months were exclusively breast-fed.

822. In 2004, the age of diversification of nutrition for the new-born baby was 4.04 months, much earlier than recommended by WHO (over 6 months).

- Weight at birth is an important predictive element of infantile death rate and morbidity, in Romania, and for the risk of abandonment in maternities and medical units

823. In Romania, the medium weight of children at birth is lower than the one of children in Western Europe (3,400 gr.), comprised between 3,150 and 3,200 gr. in the interval 1993-1998 and is maintained at 3,200 gr. in the years 2004-2005.

824. Weight at birth registers lower values in the case of:

- Female babies (3,150 gr. ) than in the case of male babies (3,220 gr.)
- In the countryside (3,130 gr.) than in the city (3,200 gr.)

- First rank children (3,140 gr.) than the next (3,200 gr.)
- Children with mothers with a lower education level (3,015 gr. in the case of mothers without any education, 3,075 in the case of mothers with uncompleted secondary school) in comparison with the children of mothers with post-secondary/academic studies (3,330 -3,340 gr.)

825. In what regards the waist indicator for age, in Romania there is a prevalence of small waist for especially high age - approximately 20 per cent in comparison to the prevalence of small waist per age among the reference population - 2.3 per cent. In 2004, the situation improved in comparison to the previous years. One should emphasize that this indicator shows a long-term nutritional deficiency of the child, fact mainly due to the precarious social and economical conditions or to the increased morbidity level. The phenomenon occurs at the age of 12-24 months. In the case of 6-7 years old, the persistence of a slight deficit of height is noted, as it is close to the level of reference. The prevalence of low height for the age is greater among the children of mothers with a low education level and/or high rank.

- Only 41.4 per cent of the mothers comprised in the study performed declared that they benefited from the rooming-in system. This means that more than half of the children whose mothers were comprised in the study did not stay with their mothers from birth to checking out of maternity. The number of mothers who stayed with their children was slightly increased in the case of mothers in the countryside than the one of mother in the city.
- Almost 40 per cent of the mothers declared that while in maternity, the child was breast-fed any time it required so, which is correlated with the percentage of those who benefited from the rooming-in system. This means that, although breast-fed, 60 per cent of the children were subject to timetable restrictions, which is a factor with a negative impact on breast-feeding.
- The medical staff offers the young mother some information on the importance of breast-feeding medical, but one quarter of the mothers stated that they did not receive such information from the medical staff. The prevalence of mother who stated that they received this type of information is similar in the countryside and in the city, but differs depending on the mother's level of education and the child's rank: the least informed mothers have a low level of education and/or many children, which means we are speaking about the population exposed to a higher risk.
- More than a quarter of the mothers state that they have not been trained on the stimulation and maintenance of the lactate secretion, and the prevalence of non-trained mothers is higher in the countryside; in this case also, the prevalence of uninformed mothers grows as the level of education decreases. No major variations depending on other assessed variables are registered.

826. In this context, the Ministry of Public Health performed a series of actions for the encouragement of pregnant women and mothers with children with ages between 0-1 years, for

them to choose for a natural nutrition of the child (exclusive breast-feeding up to 6 months and the continuation of breast-feeding until the child reaches 2 years, in compliance with the WHO recommendation), materialized through:

- The elaboration, passing and implementation of the National Strategy for the Promotion of Breast-feeding and of the National Plan for Implementation for the period 2003-2012, approved by Order 809/2003 of the Minister of Public Health, which comprise measures meant to lead to an increase of frequency and duration of correct child breast-feeding, premise of a good health condition. Also, the Ministry of Public Health is working on the elaboration of a normative act for the enforcement of the Marketing Code for the substitutes of mother milk, which will regulate the aspects related to the aggressive promotion of products under the Code and are constituted as obstacles in breast-feeding.
- The introduction of “The Initiative Hospital - Children’s Friend” WHO/UNICEF as quality standard of cares for the mother and the child at the level of maternity, and the encouragement of maternities to join this initiative. At the same time, helped by the UNICEF agency in Romania, the growth of the network of active maternities within this initiative was also a point of interest (22 at the end of the 2006), as well as the integration of the process of assessment and certification of maternities as “Hospital - Friend of Children” within the national programme of mother and child health.
- The performance of campaigns for the promotion of breast-feeding meant to contribute to the information of the population in what regards the benefits of natural nutrition and to encourage mothers to choose for exclusive breast-feeding up to 6 months, and to continue to breast-feed the child until it reaches 2 years, according to the WHO recommendations.

827. The data of the National Integrated Nutrition Study conducted in 2004-2005 registered a prevalence of anaemia of approximately 59.3 per cent for one-year olds, and 56.8 per cent for 12-23 month old children, respectively. The prevalence was constantly higher in the countryside, in Moldavia, and in the cases of children whose mothers had a low level of education.

828. According to the study conducted during 2004-2005, the medium value of haemoglobin was 10.49 g/dl for 1-year olds, significantly lower than the value 10.6-10.9 g/dl during 1991-1999, and seriously deteriorated in comparison to 11-11.23 g/dl, registered during 2000-2002.

829. Also, the decrease of the age when children are weaned has a strong impact on the child’s level of haemoglobin. Thus, in the case of children weaned at an age below one month, the medium value of haemoglobin was 10.78g/dl, and the prevalence of anaemia was 50.3 per cent, in comparison to children weaned at an age after 6 months, in the case of which the medium haemoglobin was 11.01 g/dl, and the prevalence of anaemia was 45 per cent (2002).

830. Also, the National Integrated Nutrition Study conducted in 2004-2005 showed that, in correlation with the new-born baby’s anaemia, pregnant women also register a very high prevalence, with a significant difference per residential environments, as the most severe cases

were registered in the countryside. The study revealed that 42.5 per cent of the pregnant women were suffering from anaemia. The number of women suffering from anaemia was significantly higher among women in the countryside than those living in the city, especially in the case of anaemia below 9g/dl. It was found that over half of these women underwent a prophylactic treatment based on iron and poly-vitamins, but the duration of this administration was not registered, and less than 30 per cent of the pregnant women took folic acid.

831. The certain degradation of the iron status was found both at the age of one year, and in the case of two-year olds. In the case of children up to 5 years old, anaemia is more frequent: the average value and the median of haemoglobin registered during 2004-2005 are lower than those in the previous studies.

832. The prevalence of anaemia among children under 5 years old, was greater in the countryside (two thirds of the 1-2 year old children in the villages registered a value of haemoglobin below 11 g/dl).

833. The higher the mother's level of education, the higher the average value and the median of haemoglobin, and the lower the prevalence of anaemia, in the case of all three levels of severity: the children whose mothers have a less than 5-grade education are anaemic in a percentage of 66 per cent; among them, almost a fifth suffer from severe anaemia (Hb below 9g/dl).

834. Also, children whose mothers gave birth to numerous children are more frequently anaemic: in the case of 1-2 year olds, the prevalence of anaemia of 4 ranked children or higher was over 60 per cent. A quarter of the children in the 4th or higher rank suffering from anaemia are registered within the group of severe anaemia.

835. In the case of the school child, iron deficiency anaemia also registers a high prevalence, of 23.4 per cent, with the same significant difference per residential environments, in the detriment of the countryside. The analysis of the evolution of prevalence in the case of school child anaemia shows a negative trend, i.e. a growth in 2004, in comparison to 2002.

836. The great prevalence of anaemia among a certain population shows a sure iron deficiency. The situation is even more serious as we know that to each case of manifest anaemia, found by determining haemoglobin, corresponds another case of latent anaemia, which becomes obvious on occasion of an aggression: infection or bleeding - traumatic, surgery, etc. - which causes the decrease of haemoglobin, thus anaemia.

837. It is because of this that the National Programme for the Woman's and the Child's Health, performed by the Ministry of Public Health, has been comprising over four years interventions focusing on the prevention of iron deficiency anaemia in the case of pregnant women and the new-born baby, by providing the iron preparations and folic acid to pregnant of the prevalence of anaemia in the case of all population groups studied women and children for free. Yet, the results are not the ones proposed, as an increase was registered.

838. The progressive worsening of iron deficiency under the circumstances of national programmes for gratuitous addition for new-born babies and the pregnant woman raise the question of efficiency in the case of these interventions. Also, the issue of effective monitoring of enforcing protocols for the prevention and treatment of anaemia in the case of pregnant

women and new-born babies is questioned. Since the first cause of iron deficiency anaemia is the low infusion of iron, both qualitatively and quantitatively, the development of inter-divisional cooperation for the passing of synergic efforts on children and pregnant women's nutrition, as well as the manufacturing of iron enriched foods, is a must.

839. In such circumstances, also knowing from the experience of other countries that one of the most efficient ways of combating the anemia is the bread fortification with iron, the Ministry of Public Health is trying to elaborate and adopt as soon as possible a legislation that might state the obligation for the producers to fortify the bread with iron.

840. In what concerns the dynamics of iodine in the child, appreciated based on the iodide median and the prevalence of different levels of severity, as of 2002 and up to present there has been a favorable evolution, as a result of the government's decision on the obligation to universally introduce iodine in salt. In 2004, the number of children without any deficit was double in comparison with the values registered within the previous studies. Thus, the greater part of the population in Romania uses iodine salt (almost 97 per cent of the population), which contributes to the amelioration of the iodine deficit and which may explain the improvement of the iodine level at the school child. However, the study emphasized that the current level of putting iodine in the table salt does not cover the necessary value of iodine during the pregnancy period. Such a thing has generated on one hand the raise of the level of Id enriching of the salt (G.D. No. 1904/2006 for the modification of the G D No. 568/2002 concerning the universal use of Id for the salt products destined to human consume, animal food and the use within the food industry) and on the other hand the analyze of the opportunity to administrate to all pregnant women medical supplements based on Id.

841. However, the dosage of iodine in the salt of families comprised in the study (the component referring to 6-7 year-old children) shows that the level of iodine in the salt used in housekeeping is below the recommended one (between 14. 2 and 31 mg potassium iodate/kg salt, which corresponds to an interval of concentrations between 8.35 and 18.23 mg iodine/kg of salt). Thus, 63 per cent of the families of 6-7 year-old children use insufficiently iodated salt; in the countryside, the proportion is valid for more than three quarters of the houses within the study.

842. The differences between the countryside and city found may be explained by the choice of the type of salt used in nutrition (iodated/non-iodated), by the improper conditions of transport and storage in village shops, the orientation of the village population towards an increased consumption of non-iodated salt (usually, alt not recommended for human consumption or bought directly from salt mines, before it is iodated), which is a, issue related to education, mentality and resistance to novelties.

843. Other actions meant to contribute to the improvement of the nutrition condition of the child are represented by:

- The free distribution of iron and vitamin D preparations to children, for the purpose of preventing anemia and rachitis, respectively
- The provision of specific dietetic products, medicine products (amino-acids, lipidic solutions, vitamins, erythropoietin) necessary to prevent malnutrition in grown-ups

- The free distribution of powder milk to children with ages comprised between 0-12 months who do not benefit from the mother milk (Law No. 321/2001 on the free distribution of powder milk to 0-12 month-old children and the Methodological norms of enforcement of this law, approved by Decision No. 267/1253/2006 of the Minister of Public Health, setting the criteria of distributing powder milk)

844. Other measures passed in the medical system include:

- The establishment of social services in maternities and the improvement of relations with the social protection services at a local level, for the improvement of new-born babies abandonment prevention; this contributes to the strengthening of the relation between the services granted in maternities and the integrated services at a communitarian level, for a better supervision and protection of pregnant women and babies within the under-privileged and vulnerable groups. (the Minister's of Health Order No. 756/276 of 12 July 2005, on the coordination of activities for the prevention of abandonment in medical units whose structure comprise new-born babies and/or pediatric units, the Minister's of Health Order No. 660 /2005 on the improvement of social Assistance activities in medical units whose structure comprise new-born babies and/or pediatrics units).
- The issuance of regulations on the ways of identification of the new-born at birth, approved by the Minister's of Health Order No. 418/2004 on the identification of the new-born at birth. The elaboration of this normative act was necessary due to the fact that the procedure of identification of the new-born at birth was not established and standardized, and because the specific responsibilities for this activity were not provided. This order provides that the responsibility of identification of the new-born at birth belongs to the staff who assisted the birth, and the neo-natology departments/units personnel is responsible for checking the truthfulness of the data registered on the identification bracelet upon the taking over of the new-born.
- The reorganization of the maternal assistance and neo-natal system in compliance with the international standards and related to the actual and prospective structure of the Romanian population (especially the fertile one) and of specific morbidity. This activity focused on the improvement of hospital medical assistance in the obstetrical, gynaecology and neo-natology field, by creating a regional network for specialized care. The regional network represents the territorial structure organized on three levels of competence of the specialized units granting the best care to the pregnant woman and to the new-born. The network comprises a 3rd level Regional Centre, granting care in the most difficult cases, as well as more level I and II units. In this respect, Order 1881/2006 of the Minister approved the hierarchical organization of hospital units, units and departments of obstetrics and gynaecology per levels of professional competence.

845. The care of pregnant women and new-born babies will comply with the principle of regionalization and transfer of hazard cases at a superior level of granting specialized medical assistance, depending on the competence of each level, thus providing access of all pregnant

women and new-born babies to the specialized medical assistance most fit to the case. The transfer of the hazard pregnant woman and new-born baby will always be done depending on the seriousness of the case to the superior level unit which:

- Is skilled to solve the case and is the closest or most accessible under the given weather conditions, regardless of these units' appurtenance to one region or another.
- The establishment of three transport units for new-born babies, in compliance with the provisions of the Minister's of Health Order No. 417/2004 on the establishment of the Specialized neo-natal Transport Unit for the provision of fully secured transportation of babies born unexpectedly in a medical unit which does have the competence to ensure medical assistance to babies with low and very low weight at birth.
- The improvement of accessibility to medical assistance of babies in distress, especially those without any identification, through the national implementation of communitarian programmes: communitarian medical assistance, the Rom medical mediator. These programmes initiated by the Ministry of Public Health are meant to facilitate the access of these under-privileged persons to medical assistance, through a direct collaboration with the social protection services.

846. Together with the Ministry of Education, the Ministry of Public Health contributed to the development of a health education programme in schools. A pilot until last year, this programme comprises 12,000 of the 24,000 schools in Romania. The Curricula is optional, but the Ministry of Education intends to generalize the programme and make it part of the compulsory curricula. It is performed during the 12 years of pre-academic studies, with messages adequate to each age.

847. In conclusion, as a result of the activities within the national programme of woman's and children's health, the Ministry of Public Health, in cooperation with international agencies/NGOs, constantly improved the woman's and the child's health condition, which is reflected by the decrease of infantile and maternal death rate indicators.. However, despite the improvement of these indices, the results attained still makes us take trailer come last among the European countries. This prior issue cannot be solved only at a medical level, as it is necessary for the ensemble of the factors (medical, social, economic, educational factors) involved to assume responsibilities, besides an adequate financial support. In the context of limited budget resources, the Ministry of Public health defined its prior action directions for the next period of time:

- The improvement of current resources within the national programme of woman's and child's health
- The keeping of partnerships for the optimization of this programme's activities
- The provision of countryside woman's accessibility to obstetrical-gynecological medical services
- The continuous support of maternities for their benefiting from neo-natology and obstetrical departments properly registered and equipped



- The generalization of the rooming-in system within maternities and the development of the “Hospitals- Children’s Friends” network
- The strengthening and the improvement of activities for the promotion of breast-feeding and the inclusion of breast-feeding in the initial and continuous development of doctors and nurses
- The national enactment of the Marketing International Code for the Maternal Milk Substitutes, which would develop the formal frame for the limitation of the aggressive political influence of companies manufacturing formula for new-born babies and diversification food (complementary nutrition)

848. This seems more necessary as Romania is one of the 118 countries which, in 1981, signed Resolution 34.22 of the 34th World Health Meeting, through which the Marketing International Code for the Maternal Milk Substitutes was passed as an official document. Through the respective resolution, the signatory countries were undertaking that, in the shortest time possible, they would pass a national legislation to include the provisions of the Code. In Romania, this has not taken place yet.

- The quickest elaboration of the legislation to provide the fortifying by iron of flour, knowing that this measure is the most efficient public health intervention for the prevention of anaemia at a population level
- The approach of mother and child nutrition must be an integrant part of a coherent policy which promotes the child’s health and the health of each member of the family, as fundamental rights of human beings
- The strengthening of the pediatrics networks at all levels
- The development and consolidation of familial planning offices and the directing of these medical services to the more vulnerable population
- The improvement of quality in the case of medical services provided to the woman, mother and child at the basic and secondary level of medical assistance
- The development and distribution of updated practice guides for the health services providers at a basic level (e.g. Nutrition Guide 2006)
- The development of medical and social integrated services at a communitarian level, which would ensure access to quality services of the under-privileged population and vulnerable groups
- The increase of involvement and participation of health services providers at a basic level for the development of parental abilities for a better care of the new-born baby and small child

- The improvement of communitarian health services, the direction and development of services especially towards families and communities high risk of death and sickness, even at home, with a direct implication of communitarian medical assistants, Roma sanitary mediators and social assistants
- Access to the granting of children medicine and the efficient and total use of amounts for this purpose
- The development and implementation of information campaigns related to healthy lifestyle and nutrition for the improvement of the population's behaviour
- The initiation of characteristic programmes for the countryside women
- The improvement of the nutritional supervision at the level of the entire country, the monitoring of the nutritional status and the health condition of the woman and child

849. In the same respect of protecting the child's health condition and for preventing the consumption of products inadequate to its age or which might damage its health due to the food composition, art. 138 (3) of Decision 194/2007 provides that "In the advertising of food intended for the children, it is forbidden to use celebrities, personalities, doctors or popular characters, such as cartoons ones, fairytales, stories and other such characters; an exception to the makes the healthy foods advertising.

850. It is forbidden to promote foods in association with other non-food products intended for children, such as toys, stickers and other such item."

851. In what regards the provision of the right to medical services of the child applying for an asylum, the Romanian law provides that medical staff performs a general medical investigation of the minor applicant for an asylum, and the resulting data are annexed to the personal file. In case of disease, these children are provided with free medical help, and in cases of emergency, they benefit from emergency medical assistance.

852. The applicants for the refugee status, possibly traumatized and tortured persons benefit from psychological counseling.

#### **D. Social security and childcare services and facilities**

853. Law 272/2004 sets the child's right to social protection, considering the fact that, in most cases, children depend on their parents to be provided with the resources necessary to grow and develop. The child's social protection is performed through the system of social insurance or social assistance. As a general rule, the child benefits from the measures of social protection in situations in which the parents or the persons responsible for supporting them cannot provide them with a series of minimum conditions.

854. Generally, these rights are granted based on a previous contribution performed by the person insured or by a member of its family to the insurance fund.

855. But there are also situations in which certain rights are granted to the children universally, without the condition of prior contribution, such as the case of granting state allowance for children (under Law No. 61/1993 with the subsequent modifications and completions) or the birth indemnification. The child may benefit from the measures of social protection directly, as holder of the right (state allowance, social grant, successor pension), or indirectly, through the supplies, allowances and services provided to their supporters (e.g. vacation and indemnification for child upbringing, vacation and indemnification for the care of the sick child).

856. The medical services are granted based on the child request, or that of the parent or legal representative of the child, addressed to the family physician, specialized doctor or medical units.

857. These rights are granted upon request, worded on behalf of the child or on their behalf, by the parent/legal representative, and based on the certificate of registration of the child within a certain degree of disability.

858. The majority of these rights are granted if the child is not from residential institutions, which involve its full care and maintenance by the state.

859. The pupils and students grants (talent scholarships, study scholarships, social grants, study scholarships for the youth attending classes abroad, grants for students in the countryside) also represent a right granted upon request, worded on their behalf by the pupils and students in question, addressed to the head of the attended education unit.

860. The social assistance system grants support and protection to the ones who do not have the opportunity to integrate themselves socially, through their own means and efforts. The rights and benefits are granted within the social assistance system after the assessment of the child's and its family means, so that the resources are directed and the support granted to the ones who really need them.

861. The intervention of the state is materialized through financial allowances, in kind or by granting certain services, as follows:

- For facilitating the access to a job for the children who attained the ability to work, as well as of youth with ages between 16-25 years, they may benefit from customized social accompaniment, through the Agency of County Employment (AJOFM) and the municipality of Bucharest, under the clauses of Law No. 116/2002 on the prevention and fighting of social marginalization

862. For this purpose, the potential employers benefit from incentive measures.

863. The customized social accompaniment of beneficiaries is performed under their registration in the records of the territorial employment agency.

- For the fulfillment of accommodation need - social or necessity lodgings may be granted by the local councils at the domicile of the family in need (in this respect, see the clauses of art. 42, 43 and 55 of Law No. 114/1996 - Housing Law). The criteria under which these houses are granted are set by the local councils. The applications for

the attainment of this right are addressed to the local council at the domicile of the beneficiary and the lease agreements for these houses are concluded between the mayor/the person commissioned by him/her and the beneficiary of the house.

864. Also, based on the clauses of Law No. 116/2002 on the prevention and fighting of social marginalization, the persons up to 35 years old, unable to attain a house may benefit from facilities to purchase, build or rent a house, based on the facilities granted by the county councils, and by the General Council of the Municipality of Bucharest, respectively, depending on the amounts intended for this in the budget of the councils.

865. In order to benefit from these provisions, the wording of an application in attention of the mayor of the domicile locality of the applicant is required, accompanied by documents in proof.

866. Also, for the heating of the house, financial help is granted under Ordinance No. 55/2004 on some financial measures for the purpose of granting help for the heating of houses, as well as in compliance with the clauses of Ordinance No. 91/2005 on the constitution of the Programme for granting money help to the population with low income, used natural gas for the heating of the house.

867. The help is granted on request, based on an application (accompanied by a series of documents), addressed to the Labour, Social Solidarity and Family (DTMSSF) where the house or residence of the beneficiary lies:

- For the removal of necessity situations generated by natural calamities, fire, accidents or other special circumstances, the mayors, as well as the Government, upon the proposition of the Ministry of Labour, the Family and Equality of Chance (MMFES), may grant emergency help, depending on the existing funds (art. 28, paragraph (1) of Law No. 416/2001 on the minimum guaranteed income, with the subsequent modifications and completions).
- For the addition of family incomes, if their incomes are below the minimum set by the law, the complementary familial allowance is granted, as well as the allowance for mono-parental family (according to the clauses of GEO No. 105/2003, approved by the Law No. 41/2004), the monthly social benefit and the social benefit for the wives attending the compulsory military service and who are under conditions expressly provided by the law (in compliance with the clauses of Law No. 416/2001 with the subsequent modifications and completions); the applications in this respect are addressed to city halls at the domicile of the applicants.
- Social benefit may be granted in cash or in kind.
- For the provision of food needs, services through the social assistance cafeterias may be granted, operating under the local councils, financed from their budgets (according to Law No. 208/1997, on social assistance cafeterias). The applications for the benefit from this kind of services are addressed to the mayor of the locality where the beneficiary domiciles.

- For the support of children and youth in view of participation to the instructional and educational process, they benefit from social grants, if their families' incomes are below a certain limit; the applications are worded on their behalf and are submitted to the head of the attended education unit.
- Foster care allowance, granted under the conditions provided at art. 119 of Law 272/2004.
- Indemnity granted to children, and the youth protected in residential institutions, as well as to mothers protected in maternal centers, after leaving these services, in compliance with the clauses of art. 3 Law No. 326/2003 on the rights from which the children and the youth protected by public services specialized in the protection of the child, mothers protected in maternal centers, as well as children benefiting from foster care at foster carers, with the subsequent modifications and completions.
- Also, children and families may benefit from daily services organized by the local council, county councils or private bodies, as the case may be.
- The children who cannot be taken care of within their families, benefit from special protection measures provided by the law on the protection and promotion of the children's rights.

868. One must underline the fact that all these rights are granted upon request, and the steps for the purpose of attaining them are performed by the parents or the legal representatives, on behalf of the child.

869. It is extremely important that this aspect is known by parents/legal representatives, taking into account the fact that the non-performance of these steps deprives the children of these rights, considering the fact that they are not granted retroactively.

870. For the fulfillment of the children's right to benefit from social assistance and services, the parents are obliged to require the authorities to be granted the necessary support. The non-performance of this obligation by the parents and the endangering the child may be considered as negligence, under art. 89, paragraph (2) of Law No. 272/2004.

871. The information on the rights to attain allowances, indemnification and supplies and other facilities may be required from the authorities in charge in the respective field: the family physician, the local or county public authorities and their specialized services, the General Directorates for Labor, Social Solidarity and the Family (DGMSSF), The County Employment Agencies (AJOFM).

872. In order for the parents to be able to fulfill their duties, the local public administration authorities are responsible to inform the parents and the children on their rights. For the performance of this obligation, the local public authorities will provide the necessary information on both the rights the parents and children may benefit from, and on the steps they need to make and the authorities they are to address.

873. The evolution of labour allowances will be presented in Annex 3 "Statistical data".

874. The National Strategy of Social Inclusion of youth leaving the child protection system in the period 2005-2008 was passed through the Government Decision No. 669/2006. Its purpose is to constitute a legal and institutional frame in view of supporting social and professional integration of youth leaving the child protection system, as well as the implement policies and social assistance programmes intended for the provision of their right to an independent and dignified life.

875. The integration of youth in society and active life, as well as the optimal use of potential are essential elements for the reduction of the risk of social preclusion and the attainment of a durable growth of any society. The settlement of issues characteristic of the youth leaving the child protection system needs an immediate intervention, and is a priority of the Government Programme for the period 2005-2008.

876. Thus, an integrated national approach was needed, through a National Strategy, which includes the Plan of Measures for Social Inclusion of the young people who do not benefit anymore from protection under the legal norms for protection granted to institutionalized children. The national strategy for social inclusion of youth leaving the child protection system was founded on the basic values and principles of social policy and focused on the medium and long-term incentive of responsibility and solidarity of the communitarian environment meant to support the social inclusion of these young people.

877. Starting from the premise that almost all institutionalized children need special attention, as they have been deprived of the support of the natural familial environment, the obligations of legal system for the protection of the child stops when they reach 18 years of age, when the youth needs to undertake the responsibilities of grown-ups, unless they continue their studies. Annually, approximately 5,000 young people are estimated to leave the protection system and to integrate in the social and professional life.

878. For the purpose of fulfillment of actions provided by the Measure Plan of the Strategy, comments were performed and propositions were made in relation to Law No. 95/2006 on reform in the health field, so that the youth belonging to the target group may benefit from health services without actually contributing until they reach 26. At the same time, in the interval February- July 2006, the loan agreement with BIRD for the financing of the programme for social inclusion, in the amount of EUR 47,200,000, was prepared, negotiated and approved. Through component 3, "Social Assistance", the programme will finance the establishment of an approximate number of 10 centres for the youth leaving the child protection system, as well the rehabilitation of 26 buildings with the same purpose.

879. At 30 of June 2007, 20.990 children were in public institutions, out of which a more significant number is represented by the children with ages between 14 and 17 years old, respectively 6 864 children and 5 921 young people of 18 years old and more. The percentage is lower in the case of the younger children as a consequence of the fact that the alternative measures to institutionalization have begun to function, through the development of the day care services destined to children in difficulty placed in substitute families (maternal assistants, relatives up to the IV-th degree).

880. In the school year 2006/2007 2,202 children reached the age of 18. Out of these only 722 intended to continue their studies.

881. These youth represented a vulnerable category, exposed to the risk of social exclusion and marginalization, as they do not have a house to stay, or possibilities to rent or purchase, they come across difficulties at getting hired, are exposed to unemployment, do not have own means of subsistence and often fall victims to criminality.

882. Regulations on the social protection of under-privileged population categories, with special reference to the youth, including institutionalized youth, were promoted, as follows: Law No. 76/2002 on the system of unemployment benefit and the stimulation of employment, with the subsequent modifications and completions, provides the measures for the fulfillment of the strategies and policies elaborated for the purpose of protecting the persons exposed to unemployment, and the provision of a high level of employment and adaptation of the labour force to the requirements of the job market. The National Employment Agency develops free services financed from the unemployment insurance budget, in the field of professional information and counseling, of labour mediation and professional development.

883. The Methodological Norms for the Enforcement of Law No. 116/2002 on the prevention and fighting of social marginalization, approved by GD No. 1149/2002, develop important instruments of support for the youth leaving foster care centers, and who represent a prior target group, but also for other under-privileged groups.

884. The following are regulated:

- (a) The measures for granting access to a job;
- (b) The measures for granting access to a house (in the case of persons aged up to 35 years, unable to acquire a house by their own);
- (c) The granting of access to health assistance in the case of youth coming from families benefiting from the minimum guaranteed income;
- (d) The granting of access to education, through giving grants to the youth attending pre-academic and academic types of education, conditioned by the attendance of classes and the attainment of promotion limits, coming from foster care centers and from the families meeting the conditions for benefiting from the minimum guaranteed income;
- (e) Free access to leisure and training camps for the youth benefiting from grants for the continuation of studies;
- (f) Participants in the literacy programmes, selected in compliance with the methodology elaborated by the Ministry of Education and Research may benefit from literacy grants set and paid by the local councils;
- (g) The development of a coherent and coordinated system of measures and actions to provide the social inclusion of the youth defined in the target-group;
- (h) The reduction of risk of social marginalization and preclusion of the youth defined in the target-group;

(i) The integration and active participation in the community of the youth defined in the target-group.

**Programme for the Implementation of the Anti-poverty National Plan and for the Promotion of Social Inclusion (PNAinc) for the period 2006-2008**

885. The role of such a document was to avoid excessive social polarisation through the introduction of measures meant to provide a series of facilities that would lead to avoiding social exclusion and promoting social development within the community, for the purpose of caring for children and persons dependant on the family.

886. Thus, a series of programmes were provided for facilitating mono-parental families to the social services in the community, for caring children and persons depending on their families.

887. At the same time, measures meant to provide universal access to primary and secondary education were provided, by reducing the cases of non-registration in school and promoting opportunities meant to reduce school abandonment, such as granting free services and facilities to pupils coming from socially under-privileged families.

888. These facilities consisted in the granting of financial incentives (grants, etc.), food supplements, the granting of financial assistance for the purchase of computers, the provision of seats in school camps, school transportation, the development of transport facilities.

889. Another set objective was the development of the communitarian social services network for school children (daily centres, school boards, etc.).

890. The promotion of social cohesion through the equalisation of educational chances sets the implementation of the project “the support for the education of Roma children” and the growth of educational opportunities of children coming from under-privileged families in the countryside, through the performance of externally financed specific programmes.

**E. Standard of living**

891. Article 47 from the Romanian Constitution, al. (1), states that: “The State should take measures for the economical development and social protection, in order to provide the citizens a “decent life level”.

892. As well, art. 135, al.(2), f), states the fact that “The state should provide the creation of the necessary conditions in order to increase the life quality”.

893. Based on these principles, the Romanian authorities with competencies in this field have initiated a number of politics meant to provide maintaining a decent living level for all families with children. The level of living aimed by all these politics reflects the authorities concern for providing the families with the necessary resources for caring, educating and offering the appropriate life conditions to their children.

894. By the meaning of art. 44 of Law 272/2004 the child is entitled to a decent standard of living, provisioned in the art. 47 par. 1 of the Romanian Constitution, republished. The article shows that the child’s development cannot be dissociated from the living standard offered. The



living standard represents the degree of satisfaction of a person's needs, (economic and on-economic) as well as by the quality of the various life components (the quality of the environment, social relations). Therefore, the living standard is not limited to the satisfaction of the basic needs of the child but is extended to covering its mental, spiritual, moral development needs - the access to education, participation to cultural and spiritual manifestations, health education, ensuring a healthy and unpolluted environment etc.

895. Par. (2) of the article includes the persons responsible for ensuring the conditions for the raising and development of the child. The parents have the main responsibility, or as the case may be, the legal guardians of the child, confirming the primary nature of the parent's responsibility and the secondary nature of the local collective afferent to the parents and child.

896. By the meaning of these provisions, the parents or, as the case may be, the legal guardians of the child undertake to ensure to the child, among other, a home, food, clothes, office stationary, proper hygienic-sanitary conditions, counseling, possibility of participating in the instructive-educational process, possibilities of participation in the cultural and spiritual life, making the steps to ensure a good state of health for the child.

897. More information referring to the allowances granted by the State for children were presented in chapter IV.4.

### **Vulnerable aspects**

- (a) Insufficient development of the services addressed to the children with handicap, inclusive of the day care services. Necessity of de development of these;
- (b) The constant number of annual deceases, caused by the pregnancy and birth problems, despite the progress in the medical field;
- (c) The infantile mortality rate placed Romania in the top of European countries;
- (d) Women exposed to risk of death at birth mostly coming from rural areas;
- (e) Insufficient use of iodine salt.

## **VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### **A. Education, including vocational training and guidance**

898. Law 272/2004 establishes the fundamental right of the child to education, the instructive educational process targeting the development of the child's aptitudes and of its personality. The right to education of provisioned in art. 28 of the Convention on the Rights of the Child, as well as in art. 32 from the Romanian Constitution.

899. The general framework is given by Law No. 84/1995 - Education law, republished. For the realization of the parents' obligations and rights or as the case may be, the legal guardians of the child have the right to choose the type of education their child will receive, with the obligation if taking the necessary measures for registering the child at school and for ensuring the necessary

conditions for participating at the educational process (office stationery, food, identifying means of transport, etc.). The child's registration at school is made on the basis of the written request of the father or legal tutor of the child (art. 20 and 180 from Law No. 84/1995). If the parents do not fulfill the obligation of ensuring their child's attendance to obligatory education, the deed is an offence and is sanctioned according to the law (art. 180, par. 2 from the Law No. 84/1995).

900. In exercising this right, parents can act according to their own convictions, taking into account the recommendations given by specialists, especially in case of children with special educational needs.

901. The possibility of changing the type of education or the professional training is regulated by the court of law, at the request of the child who turned 14 years old if disputes appear between the child and the parents or legal representatives regarding these aspects. The court rules bearing in mind the child's best interest.

902. Article 48 of law 272/2004 regulates a series of obligations for the central and county public authorities with prerogatives in the domain of education, mainly targeting the following action division: realization of the steps for the children's participation at pre-school and obligatory school education.

903. Pre-school education is made in authorized public and private kindergartens. Beneficiaries of the pre-school education are children with ages between 3-6/7 years old. The local public administration bodies and the school inspectorates are responsible for organizing the pre-school education and ensure the necessary resources for the operation of kindergartens (art. 18 and 19 from the Law No. 84/1995).

904. The compulsory education is of 10 classes, the attendance is obligatory, in day form, terminating at the age of 18 (art. 6 - Education Law).

905. With reference to children with special educational needs, these can be brought to school in special pre-school and school education facilities, in special classes in mass education facilities or can be integrated in classes for mass education units. The special primary and secondary inferior education is obligatory and has a duration of 10-11 years.

906. Children with walking deficiencies can benefit from school at home and for children with chronic diseases in hospitals, education groups can be created in the medical facilities in which they receive treatment (art. 15, par. 10 and art. 47, par. 3 from the Education Law).

907. For ensuring the access to the instructive-educational process especially for small children, the Ministry of Education, Research and Youth (MEdCT), the school inspectorates and public authorities undertake to organize education facilities, pre-school, primary and gymnasium, in the children's localities of residence.

908. If this is not possible, children are given transport services, lunch and boarding school.

909. Consequently, children coming from families with economic needs have the following rights (additional in relation to the rights of the pupils in general):

- Benefit from free school manuals; have gratuity for the public transport and internal car, railway and naval transport - for children in the special protection system or for orphan children (art. 176, par. 2 - Education Law)
- Office stationeries can be offered, according to the existing funds
- Benefit from social assistance scholarships and other occasional benefits (in this sense see the Romanian Government Decision No. 1488/2004 on the approval of the criteria and financial support balance granted to pupils within the National Programme “High School Money”)
- Benefit from the services of the day centers founded for preventing the school abandonment by school inspectorates, local public authorities or private bodies

910. Similar provisions are also included in the Rules of Organization and Operation of pre-university school institutions, approved by Decision 4747/2001 - 3rd section of the minister of education and research and art. 157 from the Education Law interdicts the application of body corrections, the breach of these dispositions leading to administrative sanctions or others, according to the severity of the deeds.

911. The child’s right to contest is decided on the basis of the means and results of its school evaluation, assisted by its legal representative, by the meaning of the law and school regulations. For the execution of such right, pupils have the right to request and receive information on the criteria of evaluation.

912. The provisions of law 272/2004 compels the academic staff who while exercising the function observes or suspects situations of abuse, bad treatments, neglect of children by parents or by their legal representatives, publicly informing the social assistance public service or the general direction of social assistance and child protection.

913. Analyzing the school abandonment phenomenon, among the most frequent causes which determine the apparition and perpetuation thereof, there were identified:

- The poor social-economic conditions of the family, with an impact on the possibility of supporting the children’s education
- Some parents’ reserves towards the children’s education
- Risk situations of certain categories of children (orphans, home runaways, abused, exploited)
- Families in risk situations (poor, ill parents/drug/alcohol consumers, divorced, etc.); ethnic groups with limited access to education

914. For reducing the school abandonment and the absenteeism, the Ministry of Education, Research and Youth initiated and developed educational programmes for supporting the school participation of pupils from the entire pre-university system:

- Supporting the education of disadvantaged groups (PHARE Programme Access to education for disadvantaged groups, the Programme the second chance)
- The financial state and school transport (Programmes: Money for high school, EURO 200, Roll and milk)
- Re-launching the rural education
- Rehabilitation of the education facilities and building new educational spaces (kindergartens, school campus)

915. With the projects and programmes initiated or elaborated in partnership with other government and non-government institutions, the Ministry of Education, Research and Youth has concentrated its interest on the support of disadvantaged pupils or in risk situations, for fighting against the different negative phenomena affecting the development of their personality (illiteracy, absenteeism, school dropping out, delinquency, violence, abuse, exploitation, drug, alcohol tobacco consumption).

916. Aside from the programmes presented in the Governing Strategy equipped with computer with Internet access and with the necessary basis for this type of instruction.

### **Relaunching the education at the countryside and in disadvantaged areas**

917. The school rehabilitation programme targets the rehabilitation, increase of the capacity of the MEdC institution of planning, development and maintenance of buildings from the public educational sector, at central and county level.

918. From the partnership between the Romanian Government - MEdCT, the European Investment Bank, the Bank of Development of the European Council, performed works of rehabilitation reconstruction of schools, thermal-sanitary installations and water adductions to 1200 school facilities.

919. The school rehabilitation programme aims at rehabilitating, modernizing and providing furniture for 1200 schools from the pre-university education, restoring the safety in the exploitation of school buildings in imminent danger of collapse, as well as the increase of the institutional capacity of MEdC of planning, development and maintenance of buildings from the public educational sector, at central and county level. Period of rehabilitation is 2003-2009.

920. The programme for re-launching rural education aims at ensuring the hygienic-sanitary conditions in schools from poor areas without material possibilities and securing furniture for a 1500 schools from the pre-university education. The programme extends for the period 2003, 2009, presently working at the rehabilitation of 250 school facilities.

921. The programme for re-launching rural education performed in partnership with the Romanian Government, through MEdCT and the World Bank aims at improving the access to quality education for pupils from the rural education, expressed in the best school results and a high graduation rate and absenteeism. The programme extends for the period 2003-2009.

922. Ensuring compensatory education programmes or for the second chance for the ones momentarily excluded from the formal system of the basic education (the Programme “A second Chance”).

923. Elaborating programmes for preventing the abandonment and school failure, at county/local level, each school inspectorate/education unit processes its own project for the prevention and fight against school abandonment according to the educational reality (e.g. ISJ Neamț, through CJRAE, unfold a similar project having as target group pupils whose parents have left abroad, partnership projects with various non-government organizations etc.).

924. With reference to the organization, structure and administration of the Romanian educational system, the educational policies are based on a series of general principles, such as:

- Education takes place on the entire life duration, without restrictions or discriminations
- Education represents a national priority
- The education must not be influenced by the various political ideologies
- Romanian education is democratic, opened to the European and Universal values
- The educational system must offer equal opportunities for all citizens
- State institutions must offer free education for the pre-university level and for the university level, within the limit of the state aided places
- Persons coming from ethnical minorities are entitled to study their tongue language
- The education network must be permanently adapted to the demographic evolutions and the professional training requirements
- The Minister of Education and Research is the central public institution which defines and implements the policies in the education domain

925. According to the structure of the education and initial professional training system, implemented from the education year 2003/2004, Romanian education includes the following levels:

(a) Pre-primary Education (ISCED 0 level) is a part of the educational system and follows the children’s socializing and development from a physical, emotional and cognitive point of view, through specific activities. This education level includes children between 3 and 6 years old which takes place in specialized facilities called kindergartens, mostly public. The children’s participation to kindergartens is free and optional, the last year ensuring the preparation for the accession to the primary education.

926. The percentage of participation at the pre-primary education was in 2002/2003 of 69, 2 per cent, overall, while last year (of the school preparing group) the percentage of participation was of over 90 per cent. Pre-primary education is organized per groups (small

group, middle and major-preparation group) corresponding to the ages (3-4, 4-5, 5-6 years) and can be developed in a normal programme (5 hours/day), extended programme (10 hours/day) or weekly programme (5 days/week).

(a) Compulsory education lasts 10 years and includes 3 stages, respectively: primary education (ISCED 1 level, duration of 4 years), the first stage of lower-general secondary education (ISCED 2 level, 4 year duration), at the gymnasium and the secondary stage of the inferior secondary education (ISCED 2 level, 2-year duration), which can offer a general, specialized or professional training and can take place in the lower high school cycle (general or specialized education) or in the school of arts and crafts (professional education).

927. This new structure of the compulsory education is the result of the change of the Education law in June 2003. The duration of the compulsory education was extended with 2 years, after the general lower secondary education.

928. The gymnasium graduates continue their studies on two cycles:

- Either in the inferior high school cycle, which offers a comprehensive education, including elements of pre-specialization necessary for the direction towards the continuation of the studies in the upper secondary education (upper high school cycle)
- Either at arts and crafts schools, offering a professional education, corresponding to various occupational domains and which leads to the labour market; for the latter, graduates must follow a year of completion of studies before acceding in the high school education upper cycle

929. Classes can have between 10 and 28 pupils, in the school year 2005/2006 17 pupils were allotted to a teaching staff in the primary education and 15 pupils to a teacher staff in secondary education (Ministry of Education and Research, Report on the state of the national education system, 2006). At the secondary lower level pupils 2 years older or more, that the theoretical age for the respective class can continue the education at evening school or in the low frequency education.

930. In the primary education, subjects are taught by the same professor, except for religion, foreign languages. Physical education and plastic education, which can be taught by specialized professors while at the secondary lower education all subjects are taught by specialized professors.

931. At the end of the gymnasium, the national tests are examined, with subjects processed by the Minister of Education and Research, and the results obtained in these tests, together with the results obtained during the gymnasium will be the grounds on the basis of which graduates will be able to choose the continuation of the lower high school cycle or in the school of arts and crafts. Pupils can continue their studies in the arts and crafts school also without passing the national tests.

932. Graduates of the lower high school cycle receive a graduation certificate, a personal portfolio for permanent education and on request a copy of the grades roll. The methodology of acceptance in the high school upper cycle is established by the Ministry of Education and

Research and is published a year previous. The graduates of the arts and crafts school receive the same documents of graduation as the graduates of the lower high school cycle and also a 1st level certificate of professional qualification after passing the exam of certification of the professional competences. After the graduation of the school of arts and crafts, the education can continue with the year of completion and then the upper high school cycle.

933. Upper high school Education (ISCED 3 level) is made of an upper cycle of the high school (2-3 years), preceded by the year of completion for the graduates of the arts and crafts school. The year of completion offers graduates of the school of arts and crafts the possibility of reaching the educational level needed for continuing the studies in the upper high school cycle and to obtain the upper professional qualification. The upper high school cycle offers general and specialized classes, which lead to the continuation of the studies in the post-secondary education (post high school - ISCED 4 level) or in the upper education (ISCED 5 level).

934. The Ministry of Education and Research defines the methodology on the acceptance in the year of completion, as well in the upper high school cycle, announced at the beginning of the school year in which the admission takes place.

935. The graduates of the year of completion receive a graduation certificate, a portfolio for a permanent education, and on demand a copy of the grades roll. After passing a professional evaluation exam they can obtain a professional qualification certificate 2nd level and can continue their studies in the upper high school cycle, on the basis of the methodology published by the Ministry of Education and Research a year before starting a new education year.

936. At the end of the upper high school cycle the final national exam is held (high school leaving exam), and the diploma obtained is necessary for continuing the studies in the upper education. The upper education institutions can decide on the manner in which they should organize the admission (based on an exam, or on the results obtained at the high school leaving exam). Any graduate of the upper high school cycle, with a high school leaving diploma can give the exam of admission in post-high school education preparing students for obtaining a professional upper qualification and which leads to the labour market. The admission in the post-high school education is generally made on the basis of the results obtained after taking the admission exam.

937. Among the aspects targeted by the legal changes from this period there are a series of aspects such as the ones provisioned by Law No. 268/2003 for the change and completion of the Education Law No. 84/1995 such as:

- (a) Extending the duration of compulsory education to 10 years;
- (b) Reducing the age of starting the compulsory education to 6 years;
- (c) Defining the possible routes of continuation of the compulsory education after the first eight classes, respectively the lower high school cycle or the arts and crafts school;
- (d) Changing the structure of the high school and defining two high school cycles: lower cycle (2 years) lower secondary level and upper cycle (2-3 years) of upper secondary level;

(e) The change of the institutional structures associated with the initial professional training by replacing the professional schools and apprenticeship schools with arts and crafts school;

(f) Creating a route of progressive professionalizing in the domain of initial professional training, proposed to start off at the secondary lower educational level, through the arts and crafts school, offering the 1st level of professional qualification with the possibility of continuing the studies in a upper secondary level, as a consequence of the introduction of a year of study completion, with a double purpose: offering an upper professional qualification and ensuring the necessary basis for continuing the studies in the upper high school cycle;

(g) Increase of quality at all the education levels.

938. The new law for the professional adult training (375/2002) focuses on the authorization of professional training suppliers, with the purpose of increasing the public offer, as well as the offer of private suppliers. It gives the National Council for the Professional Training of Adults the main role in the realization of these authorizations.

939. In its turn, the new Labour Code, issued in March 2003, stimulates the development of the continuous professional formation by obliging employers to ensure the periodical participation of employees to courses of continuous training, on the basis of training plans, set by mutual agreement between the employers and the representatives of the employees or the unions.

940. In this context, two social laws must also be mentioned: Law No. 219/2001 on the equality of chances and Law No. 16/2003 for the approval of the Government Emergency Ordinance No. 96/2002 on the offering of milk bread products for the pupils in the classes I-IV.

### **Curricula policies, contents and strategies of teaching and learning**

941. The main aspects which consist of the development of the curricula, imposed by the new structure of the education system were the following:

- (a) Ensuring the conceptual and methodological coherence of the National Curriculum;
- (b) Ensuring the coherence from the curricula content and the changes in the education structure;
- (c) Ensuring the quality of the curricula offer;
- (d) Centering on the pupil and the school needs;
- (e) Extending the curricula offer with components destined for various target groups;
- (f) Introducing the new basic components especially of the ones recommended by the European Union.

942. According to the report according to the results of the public consulting on the project of the new frame education plan for the 9th and 10th class, performed by the Institute of Education Sciences in June 2003, the entire curricular reform focused on a series of action directions as:



- (a) Decentralization;
- (b) Flexibility;
- (c) Efficiency;
- (d) Compatibility with international standards;
- (e) Selecting and grouping domains of knowledge in curricula areas;
- (f) Ensuring the functionality and coherence of the school course;
- (g) Ensuring the equality of the chances and the individual learning route;
- (h) Ensuring the social relevance of the teaching /learning process, etc.

943. For the elaboration of the new framework educational plans for the lower high school cycle and for the arts and crafts school, which after the change of the educational structure were included in the compulsory education, the following aspects were taken into consideration:

- (a) Major aspects which lied at the basis of the grounding of the reform process of the pre-university education;
- (b) Changes aiming the finalities, programme and structure of the compulsory education;
- (c) The engagement by Romania of the Detailed Working Plan on the objectives of the educational and professional training objectives in Europe, ratified by the European Council in Barcelona in 2002 and of the Declaration of Education Ministers on the consolidation of the European cooperation in the professional training - approved in Copenhagen in 2002;
- (d) The results of the public sessions on the curricular modification projects.

944. The frame education plans processed for the lower high school cycle and for the school of arts and crafts were structured on three components: common body (TC), differentiated curriculum (CD) and school curriculum (CDŞ).

945. The common body represents an education offer made of common disciplines to which the same number of hours is allotted for all sections, profiles and specializations from a type of education. Focused on the key-competences, the common body must be attended by all pupils, irrespective of their formation profile. By grouping disciplines from the structure of the common body in the same 7 curricula used for the primary and gymnasium education, ensures the continuity between the frame educational plans for the classes I/VIII and the frame education plans for high school and school of arts and crafts.

946. Differentiated curriculum represents an educational offer, defined centrally, made of a series of disciplines to which certain schedules are associated and is divided per profiles (in case of theoretical and technological profiles) and on specializations (in case of vocational profile), offering a sufficiently diversified base to allow the academic and professional direction. This offer is obligatory for the pupils registered at a certain specialization profile.

947. School Curricula represents a curricular offer afferent to each education unit, specifying a certain number of classes. This type of educational offer ensures the satisfaction of the specific learning needs and interest of the pupils.

948. In case of the professional and technical education the curricular changes made for the lower high school cycle - technological profile and school of arts and crafts also aimed:

(a) The preparation of pupils for a double recognition of the education results, respectively the educational recognition, needed for continuing the studies, and the professional recognition, needed for continuing the professional formation as well as for occupying a job position;

(b) Ensuring the coherence of the professional formation, performed in the existing formation routes, by harmonizing the levels of qualification acquired in the lower secondary education and in the upper secondary education and by structuring the frame education plan on the basis of professional training standards;

(c) Harmonizing the content of the courses for professional training at the requirements of the labour force market by elaborating the corresponding training modules corresponding to the units of competence within the standards of professional training; the professional training standards were validated by the social partners, thus increasing the graduates' standards for occupying a working place;

(d) Increase of the attractiveness of the professional and technical education by focusing the process of professional formation on the learning results and increase of the transparency of the formation process.

949. The technological profile of the lower high school cycle aims at ensuring the acquiring of the key competences via the curricular general culture areas (educational scope), as well as at ensuring a pre-professionalizing for one of the technical profiles, services and natural resources and environmental protection through a "Technologies" curricular area and through disciplines included in the curriculum at the school decision (professional scope).

950. The key competences acquired are certified through the certificate of graduation from the compulsory education, and the pre-professional competences are certified through the permanent education portfolio.

951. The technological profile of the upper high school cycle aims at ensuring the acquiring the social competences and knowledge through the curricular areas of general culture (educational scope), which offer the possibility of continuing the studies in the post high school or tertiary education, as well as acquiring the technical and professional competences corresponding to the 3rd level of qualification, through the "Technologies" curriculum and through disciplines included in the curriculum at the school decision (professional scope).

952. The knowledge and social abilities are recognized through the high school leaving diploma, and the technical and professional competences are recognized through a 3rd level professional qualification certificate.

953. Although the 3rd level of professional qualification is projected as a autonomous level, equivalent to a form of training, irrespective of the qualifications previously acquired, the professional training for this level of qualification, is achieved for two distinct categories of qualifications: (totally or partially) conditioned by the practical experience in the domain of training and the ones with this conditioning.

954. The practical experience can be demonstrated through a 2nd or equivalent qualification certificate obtained by the recognition of the informal and non-formal experience.

955. The differences of practical experience (respectively obtaining the practical instruction credits) can be recovered during the two years of the upper high school cycle, if the pupil chooses this form and the school agrees.

956. For the graduates of the School for arts and crafts, obtaining 3rd level qualification is conditioned by the running through the year of completion, finalized with the granting of the 2nd level certificate, while for the graduates of the lower high school cycle, technological profile, acquiring the same qualification is regulated by the Ministry of Education and Research through specific methodologies.

957. For the three levels of professional qualifications, the following credits associated to the various competent categories were defined (according to the conventions, 1 credit is the equivalent of 60 hours of training):

(a) 1st Level - 30 credits, of which 15 for key competences and working experiences and 15 for technical and professional competences;

(b) 2nd level - 15 credits, of which 5 for key competences and working experiences and 10 for technical and professional competences;

(c) 3rd level - 30 credits, of which 10 for key competences and working experiences and 20 for technical and professional competences.

958. A general tendency, observed in the process of curriculum review is connected to the efforts of transition from a didactic process focused on the professor, to a pupil-centered one, respectively on the competences it must acquire during the education years. In this context, the frame education plan and the school programmes represent the educational offers of various disciplines destined for running through distinctly defined school routes.

959. The new teaching and learning strategies propose:

- The elaboration of a variety of problematic context, generating openings to other domains connected to the discipline studied
- Promoting the diversity in approaching the solution to the problems
- Organizing varied teaching activities
- Cross-curricular experience

- Making up a learning sequence allowing activities of exploration/investigation at the level of the concepts studied

960. A bigger accent is placed on promoting active learning, the pupils having a more important role in the education process, as well as on learning by cooperation, replacing the activities based on competition, with the ones based on team work, for reaching common learning objectives.

### **Access to education**

961. One of the basic principles of the educational policies is to ensure the access to education, in the direction of “free, full and harmonious development of the human individuality and shaping the autonomous and creative personality”.

962. Facilitating the access to education by:

- (a) Gratuity of the public education;
- (b) Gratuity of the manuals for compulsory education;
- (c) Gratuity of the medical and psycho-pedagogical assistance for pupils and students;
- (d) Covering from the national budget of expenses connected to the education of children in the training year for starting the school years, held within the pre-school education;
- (e) Subsidizing the accommodation and food services for the pupils and students;
- (f) The free distribution of dairy and bread products for pupils in the primary education and kindergartens with normal schedule, of four hours;
- (g) Subsidizing the extra-curricular activities organized by schools;
- (h) Granting scholarships for pupils and students who obtain special results and for the ones coming from families with low income;
- (i) Offering discounts for the use of public transportation by pupils and students;
- (j) Placing at the disposal means of transport for pupils from the compulsory education residing in isolated locations;
- (k) Free distribution of school instruments for pupils in the obligatory education, coming from families with low income;
- (l) Offering possibilities such as, aside of the day courses, pupils and students can follow secondary level courses (especially the courses of the upper secondary education), respectively of the upper education, night school, low frequency or through the distance education;

(m) Offering the possibility for pupils in the pre-university education to transfer from a school to the other, from a domain of study to another or from a profile (specialization) to another, according to the law in force;

(n) Offering the possibility for graduates of the upper education to obtain two specializations;

(o) Offering the possibility for college university graduates to continue their upper long term education studies, after giving transfer examinations;

(p) Organizing programmes for offering a second chance to persons who want to pursue their general and professional training.

963. The preoccupation for ensuring the overall access to education is underlined in the Strategy of Development of the Pre-University Education in the period 2001-2004, updated in 2002, which contains “a prospective planning until 2010”. According to this strategy, the creation of a competitive economy, the reinforcement of the democracy and the participation at the society of knowledge inflicts new conditions for the educational system.

964. Rate of participation of children in the pre-school education has increased, according to the statistic data supplied by the National Institute of Statistics, from 66,1 per cent in 2000/2001 to 76,5 per cent in 2006/2007, the share of 1st grade pupils from the preparing group reaching in 2006/2007 over 90 per cent. Furthermore, based on the data supplied by the same source, the degree of participation of the population aged between 7 and 29 years old from various forms of formal education could be evaluated, this increasing from 50,0 per cent in 2000/2001, to 53,8 per cent in 2006/2007.

965. Because it was observed that the access is increasingly restricted in the rural areas and due to the large number of population working in the agriculture (40 per cent of the employed population), a major concern is manifested regarding the increase of the participation of the rural population to continuous formation courses and the implementation of measures for facilitating the access of this population to various types of continuous training. Thus, the rural population will be prepared to activate in other economic sectors and will be able to adapt to the needs in continuous change of the labour market.

### **Education equity**

966. The concern on ensuring the equity in education has followed many objectives:

(a) Adapting the teaching/learning processes to the individual needs and personal learning rhythms of the pupils;

(b) Guaranteeing the equality of chances of access to the pre-university education;

(c) Removing any forms of discrimination of racial, social xenophobe, religious, linguistic exclusion or other type;

(d) Reinforcing the system of social facilities for pupils and promoting the policies and programmes afferent to vulnerable groups;

(e) Developing programmes aimed at fighting against and preventing the school abandonment;

(f) Developing an open educational system, to allow the mobility of pupils and the teaching staff inside;

(g) Ensuring the development of the fundamental competences for everybody.

967. The concrete measures for ensuring the equity were the following:

- Improving the quality of the rural education and of the education in disadvantaged areas by framing the qualified management and teaching staff
- Actions of formation and periodic evaluation of this personnel
- Developing the distance learning
- Ensuring the additional means of transport for the isolated localities
- Developing the counseling services of the management and teaching staff
- Developing the infrastructure and the equipment of the teaching staff from the rural educational places
- Offering the proper conditions for the education of national minorities by elaborating school manuals in the national languages of minorities for the compulsory education, according to the new structure of education
- Stimulating the elaboration and/or translation of manuals for the upper secondary level
- Developing the networks of school mediators encouraging the participation of the Roma population to the compulsory education
- Initial and continuous formation of the teaching staff for teaching in the languages of national minorities
- Ensuring the access of every child coming from national minorities to the basic education and stimulating its participation at various upper levels of education
- Ensuring the access to education for Roma by attracting children from tender ages in pre-school education, by stimulating the social and educational development thereof
- Measures for increasing the degree of completion of the compulsory education and of prevention of school abandonment

- Offering a second chance to persons who have not graduated from the compulsory education
- Supplying the inspector positions for the education of the Roma population in each county
- Introducing the school mediators
- Allocation of special places for Roma at the admission in high schools, schools of arts and crafts, universities

968. Supporting teenagers capable of special performances by:

- Establishing centers of excellence
- Identifying the teenagers capable of special performances, irrespective of the environment they come from or in which they learn
- Offering specific programmes for supporting, stimulating and valorizing these teenagers
- Developing partnerships with institutions interested in the development of these teenagers

969. Ensuring the education for children with educational conditions or vulnerable persons through:

- Measures of including all children with special or mass educational needs
- Practicing programmes for integrating children from special education in the mass education system, under various forms, taking into account the specific requirements of each child
- Offering the counseling and support professors needed
- Rendering the curricular offer more flexible
- Formation of the teaching staff from the mass education to work with children with special education needs
- Preparing mass school to receive and integrate children with these needs
- Transformation of special schools in resource centers for special and mass education

### **Quality of education**

970. In the last years, the improvement of the quality of education and professional formation represented a priority of the education policies. In the pre-university education, the measures taken with this purpose have aimed at:

- (a) Improving the methods and strategies of teaching-learning for:
  - (i) Developing the critical thinking of pupils;
  - (ii) Motivating them and acquiring the capacity to react positively to changes;
  - (iii) Active participation at the building of a society based on knowledge;
- (b) Increasing the standards of training at the level of the present and future requirements;
- (c) Professionalizing the teaching staff through courses of initial and continuous formation regarding:
  - (i) The new conceptual approaches in the theory and implementation of the curriculum;
  - (ii) The evaluation of the teaching performances and the identification of the progress registered, on the basis of national standards;
  - (iii) Centering the didactic process on the pupil and adapting the curriculum to the various rhythms and learning styles as well as to the specific educational context;
- (d) Developing and increasing the quality of the programmes of initial and continuous formation of the teaching staff as a consequence of:
  - (i) The development of a market of formation programmes based on a loyal competition system;
  - (ii) Reviewing the ratio between the theoretical component and the practical one in training the teaching staff;
  - (iii) Developing the cooperation between the upper education and the pre-university education, for harmonizing the formation of the personnel staff to the new requirements of the pre-university education;
  - (iv) Projection and implementation of national management standards for educational management;
  - (v) Introducing the system of professional transferable credits in the formation for a teaching career;
  - (vi) Promoting the flexibility of the offer of formation and adapting it for remedying the dysfunctions noticed during the educational process;
- (e) Professionalizing managers of educational institutions for monitoring and improving the quality of the education offered through the education facilities they coordinate and supporting them by:



- (i) Initiating a management assistance programme to facilitate the elaboration, implementation and monitoring and evaluation of the institutional development plans;
  - (ii) Nationally defining the standards of institutional evaluation;
  - (iii) Granting services for specialized counseling;
- (f) Extending and diversifying the offer of programmes of initial and continuous formation of managers by:
- (i) Organizing master programmes, post-university and doctoral studies in the domain of educational management;
  - (ii) Organizing classes for remedying the dysfunctions noticed at the management level based on the institutional evaluations made;
  - (iii) Implementing a professional transferable credit system related to the management career;
- (g) Creating a new quality system in education, materialized by the proposal of a new law for ensuring the quality in education;
- (h) Improving the methods of evaluation of the school results and of examination of pupils aiming at:
- (i) Measuring and monitoring the added value through the teaching-learning process to the personal and professional development of each pupil;
  - (ii) Diversifying and promoting the activities of evaluation which encourage creativity, active participation, team work, learning motivation, etc.;
  - (iii) Facilitating the obtaining of the necessary information for the realization of a diagnosis on the state of the education system;
- (i) Investing in the development of the educational infrastructure, mainly for facilitating the use of technologies of information and communication in the educational process.

971. For ensuring the quality of professional and technical education, the Ministry of Education and Research has decided to adopt the European Quality Frame. Starting with the school year 2004-2005, some of the priorities included in the auto-evaluation guide of the supplier of professional training, part of the European standard will be implemented in 22 education facilities.

972. With reference to the underage applicants of asylum, these are entitled to access to the compulsory education, in the same conditions as the underage Romanian citizens. (Law No. 122/2006 on asylum in Romania, chapter III, article 18, Government Ordinance No. 44/2004 on the social integration of strangers acquiring a form of protection in Romania, with further additions and changes, chapter II, section 3, art. 9, 10).

973. Underage children who obtained a form of protection in Romania have access to all forms of education in the conditions set by law for Romanian citizens.

974. For facilitating the access to the Romanian education system, underage children wanted by the asylum and the ones who obtained a form of protection, benefit from a free preparation course for initiation in the Romanian language for a school year. The preparation course is held by the Ministry of Education and Research, in collaboration with the National Office for Refugees. At the end of the initiation course in the Romanian language, a commission of evaluation, the structure and composition thereof are set by order of the minister of education and research, appreciate the level of knowledge of the Romanian language and registers the underage children in a proper school year.

#### **B. Aim of education with reference also to quality of education**

975. Taking into account the need to ensure the quality of the education, by instituting a legal framework to allow the development of an institutional culture of the quality of education and protection of the education beneficiary, taking into account the need to change the situation in which Romania is one of the few European countries which did not have a quality education mechanism, in 2005, through the Ordinance of 75 the education quality insurance was adopted.

976. By the meaning of the above ordinance:

(a) Education refers to programmes and activities of academic and initial and continuous academic formation;

(b) The organization supplying education is an education unit, a non-government organization or a commercial company, which, according to the statute, develops legally authorized activities or programmes of continuous and initial formation;

(c) The education programmes materialize the educational offer of an organization supplying education;

(d) The direct beneficiaries of education are pupils and students, as well as adult persons in a forms of education;

(e) The indirect beneficiaries are the employers, employees, families of the direct beneficiaries and in generally speaking the entire society;

(f) The national framework of the qualifications includes progressively and correlated the degrees, diplomas or educational certificates attesting the distinct levels of qualification, expressed in the terms of the educational results. The national framework of the qualifications is comparable and compatible to the corresponding European one.

977. The quality of the education represents a permanent priority for any organization supplying education, as well as for the employees thereof. It is therefore important that:

978. The quality is a fundamental financing from public sources criterion of the education. In the upper education frame, the inter-institutional comparative evaluation of the university programmes leads to the differentiated financing according to the different quality of the programme offered.

979. The suppliers of education must operate so that the quality of their work satisfies the public trust, and the education asserts itself as a public good.

980. The policies of quality of the Romanian education are permanently correlated to the actions promoted internationally.

981. The methodology of ensuring the quality in education includes the following components:

- Criteria
- Standards and reference standards
- Performance indicators
- Qualifications

982. The quality in education is ensured by the following actions:

- Planning and effective performance of the learning results
- Monitoring the results
- Internal evaluation of the results
- External evaluation of the results
- Continuous improvement of the education results

983. Components and processes for quality insurance and relations which differentiates them according to:

- The level of education and, as the case may be, of qualification
- Type of education supplying organization
- Type of education programme

984. For the external evaluation of the quality in education, the present emergency ordinance regulates the institution of the Romanian Quality Agency in the Upper Education, hereinafter called ARACIS, and the Romanian Quality Agency of Pre-university Education, hereinafter called ARACIP.

985. The external evaluation can also be made by other agencies of evaluation of the national or international quality, based on a contract between the ministry of Education and Research and the external evaluators or between the university/pre-university educational institutions/units and external evaluators.

### **C. Rest, leisure, recreation and cultural and artistic activities**

986. By the meaning of Law 272/2004 on the protection and promotion of the child's rights it is expressly stipulated the child's right to rest and vacation, the resting needs of the child being tightly connected to the age and its level of development.

987. In the light of the new legal provisions, the local authorities have the responsibility of seriously treating the problem of ensuring the optimal necessary conditions for respecting this right.

988. With reference to the children's resting time the dispositions of Law No. 53/2003 - Labor Code, with further changes and additions must be mentioned, referring to the resting time of working underage children: a lunch break, a 2 consecutive day rest and an additional resting leave (art. 130, par. (2), art. 132 (1), art. 142). Furthermore these will benefit from leaves without pay as well as leaves for professional formation, by the meaning of art. 148-152.

989. The public authorities undertake to ensure sufficient and corresponding playgrounds for children especially in urban areas where the spaces in which children can play safely are insufficient. Law No. 215/2001, republished regulates the prerogatives of the local councils and duties of the mayor's offices for instituting and organizing entertainment places and parks being obliged to ensure the good operation thereof, respectively the use of the control attributions and taking the necessary measures for the proper operation of these spaces.

990. The children's palaces and clubs are educational institutions in which instructive-educative activities are held, outside the school classes, in which knowledge is deepened and completed, vocational aptitudes are developed and the children's option, educational programmes for the spare time activities are developed.

991. The children's palaces and clubs are organized and function on the basis of the general and special law, of the normative acts issued by the Ministry of Education and Research, as well as on the basis of the Organization and Operation Norms and the Interior Rules for each unit. The children's palaces and clubs are education units with legal personality with right to seal and signature.

992. For the activities organized inside palaces and clubs, children can participate, at their free choice, the pre-school and primary school pupils (classes I-IV), gymnasium (classes V-VII), professional and high school (classes IX/XII), from the care centers, without nationality, gender, religion discrimination, according to the interests, abilities and preferences, free of charge.

993. For the realization of the objectives proposed, the children's palaces and clubs can collaborate in partnership conditions, observing the law in force with other educational units,

research and personnel preparation institutes, centers of formation and the House of the Teaching Body, decentralized government structures, associations and non-government organization with prerogatives in the domain of education, culture and public health and with economic agents.

994. Technical-applicative, scientific, informational, cultural-artistic, sport-travel and entertainment activities are held in the children's palaces and clubs. The following objectives are targeted:

- Preparing the child in collaboration with the school and family, for the formation and assertion of its individual and creative personality in the spirit of the peace principals, dignity, tolerance, freedom and solidarity
- Deepening, completing and materializing the knowledge obtained in the teaching-learning process, according to the each child's calling, through complementary activities to the school ones
- Stimulating the creative, innovating spirit of selflessness and offering help, specific for the team work
- The formation and development of the intellectual capacity, affective availabilities and practical abilities, for using the talents, aptitudes and individual initiative
- Intensifying the patriotic educational activities, for the learning of the history and traditions of the Romanian people, by organizing symposiums, excursions and visits to museums and historical monuments
- Increase of the contribution of the educational activities to the formation of the moral-civic profile of children to the knowledge and development of the country laws
- Extending and diversifying the content of the vacation activities, by organizing vacation clubs, with corresponding educational offers, based on programmes attractive to children
- Learning the norms which lie at the basis of a healthy lifestyle, as well as educating the pupils in an ecologic spirit, contributing to the protection of the environment
- Civic education of the child in the spirit of the participating democracy, within the community in which it was born and lives, as well as developing the abilities
- Usefully and pleasantly using the spare time

995. There is a number of 41 palaces in the county residential town and 208 children's clubs. 840 technical-applicative and scientific circles, 978 cultural-artistic circles and 240 sport-travel profile circles operate in these institutions. 2120 teaching staff is registered in the children's palaces and clubs, 400.000 pupils take part in the activities held at the children's palaces and clubs, developing activities afferent to their options.

996. The activities in the children's palaces and clubs spread for the entire duration of the school year and in the school vacations. The activities operate per groups of beginners, advanced and professionals, for at least 2 weeks a week. The activity if each group is developed on the basis of an activity project, with the following structure: educational offer of the activity; curricular documents approved at the level of the institution; means of monitoring the offer and the educational performances; long term and short term budget plan for the realization of advanced teaching activities.

997. In the education units, coordinated extra-curricular activities are performed at the level of the class by teachers/class professors/teaching staff, and the level of the school by the coordinator of programmes and educational projects (which exist in each school unit). Pupils are trained in various educational activities organized locally, at the level of the county, nationally (through national programmes coordinated by MECT) and internationally (some coordinated by MECT - for example Global Education, Model European Parliament, Global Teenager, Europe at school, and others being accessed by the educational units/ISJ - partnerships with the school units from other countries, SOCRATES, COMENIUS, LEONARDO, PHARE programmes).

998. At the same time MECT finances the national stages of the competitions included in the Calendar of Educational Projects (to which an annual budget of 11.5 billion was allotted) with 600.000. beneficiary pupils.

999. The Youth National Authority is a specialized body of the central public administration, with a legal personality, subordinated to the Government, with financing from the budget of the Prime-Minister's Staff Office, with the purpose of applying the government policy in the Youth field. The legal grounds for the operation of the institution is the Government Decision 384/2005 on the organization and operation of the Youth National Authority.

1000. The implementation of the Youth National Authority policy within the territory is made according to the Government Decision 753/2005, through the County Youth Direction, respectively that of Bucharest, public institutions with legal personality subordinated and resulting from the organization of territorial Agencies of school camps and traveling and of the Youth Department.

1001. The Youth National Authority collaborates with institutions and education units for the execution of cultural-educational programmes and activities for children and teenagers, as well as popularizing the travel offers.

1002. In 2005 and 2006, a number of 3437 children affected by the disasters happened in the counties Tulcea, Caraş, Timiş, Buzău, Vrancea, Bacău, Prahova, Argeş, Gorj, Hunedoara, Mehedinţi have spent their vacation in the seaside entertainment centers. These children have benefited from free transport and travel from their domicile to the camps.

1003. In 2007, the Youth National Authority intends to diversify the offer of thematic camps and to increase the number of free time animators, as well as financing the projects of the youth non-government organizations corresponding to the objectives of the Authority.

1004. The Ministry of Culture and Cults has organized a number of activities destined to the children:

- The Festival “Mamaia of Children”
- The National Festival of Young Theater, “Ideo Ideis”
- Collection shows of the Țăndărică Theater - “Joy for Children”
- “The International Festival of the Marionettes Theaters” organized by the Gulliver Marionette Theater
- “The International Festival of the Marionettes Theaters - Puck” organized by the Puck Theater in Cluj Napoca
- The International Animation Art Festival “Euro marionete” organized by the Theater of Arad
- The International Children Theater festival, “100, 1000, 1000000 stories”, organized by the Ion Creanga Theater

1005. The Ministry of Culture and cults together with the Romanian branch of the European Youth Card Association (Euro 26 Association), had the initiative of making available for the young people under 26 years old an electronic card whose possessors benefit of a 50 per cent cut from the costs associated with the access in the institutions subordinated to the Ministry of Culture and Cults.

1006. The institutions subordinated to the Ministry of Culture and Cults also promotes actions whose main targets are the children.

1007. Thus, the Village Museum organizes:

- The International Child Day, at the 1st of June, with a multiethnic and multinational
- Musical Pedagogy programmes
- The Creation Camp “Summer on the Streets”, divided into creation work shops which enjoys the participation of children from Romania and also children from Afghanistan, Lebanon, residing in Romania, children from abroad, Roma children, etc. he purpose of this camp was that of discovering the creative talents of these children and their involvement into recreational activities, games and contests
- The Day of the Village Museum, an event where Turkish, Tatar, Roma children have participated as well as other children belonging to different ethnics
- Weekly activities in collaboration with the American school and the Japanese one
- The activities for protection of the environment and its cultural and material values

1008. The National Art Museum is an institution subordinated to the Ministry of Cultures and Cults also organizes activities and develops projects destined to the children.

1009. Thus the programmes for schools and kindergartens addresses to pupils from primary classes, high school, etc. The programmes are structured into creation activities which come to complete the school curricula being an alternative to the school education. The teacher can choose one of the thematic cycles according to the discipline they are teaching. The themes are available for all levels of education being different only from the point of view of the children's age and level of understanding. The themes proposed focus on the following disciplines: art education, literature, history, religion, biology, geography, mathematics. During 2006, approximately 5000 children have benefited of these programmes.

1010. The programmes for the families are addressing to the families with children between 4-12 years old proposing activities that might be accomplished in a playful and interactive manner, following to stimulate the creativity and education of the analytical spirit of the children.

1011. These programmes take place in the permanent galleries and in the temporary exhibitions periodically organized by the Romanian National Art Museum.

1012. The programmes are structured in active visits, creation work shop (the materials working with being offered by the museum). The participants are also made available with a Programme's fiche, an introductory funny text.

1013. The programmes took place on Saturdays and Sundays in the first three weeks of each month, in total being organized 12 programmes/month.

1014. The painting classes are organized by the Theodor Pallady Museum, a satellite museum of the Romanian National Art Museum, and addresses to the children with the age between 5 and 10 years old, on a weekly basis, on Saturday beginning with 11 o'clock.

1015. The special events organized at Christmas, the International Day of Museums, the Night of the Museums are events that the Romanian National Art Museum is organizing every year. On these occasions there are openings, youth programmes, exhibitions showing works created within the creation working shops, concerts, dance shows, etc.

1016. Also at the category of special events we are including the special programme for families named "My Story", which the Village Museums has developed in 29 of October 2006. This event addressed the children with the age between 6 and 12 years. The programme was a part of the campaign named "The Unseen Children" initiated by Freedom House Romania and UniCredit Group in partnership with the NAPCR, Romania Film and ProRom. The works realized by the children within the working shops have participated at the creation contest organized by Freedom House.

1017. The campaign named "The Unseen Children" has as purpose, on one hand, sensitizing the public opinion and stimulating the debates over the issues the children are confronted with, and on the other hand, to inform them about the rights they have.



1018. The Romanian National Art Museum has accomplished during years free educational programmes for the children protected in placement centers, associations and foundations such as Chance for Life Association, Icon Foundation, Casitas association, The Parade Foundation, The Open House Foundation.

1019. For the teenage public The Romanian national Art Museum has organized in March 2007 a new show performed by a group of teenagers in the XI-th degree of the George Cosbuc High School. The name of the show was “Mask- person, character or another kind of language” and took place within the Italian abstract Art Exhibition 1910-1960, carried out in the avant-garde spirit of the beginning of the XX century.

1020. The museum has organized from 2001, at the request of the authorized institutions programmes for the children with special needs. In 2007 the Romanian National Art Museum has begun to collaborate a long term relationship with the School for Children with Hearing Problems and the School for Children with Deficiencies having as purpose realizing adequate educational programmes for this category of public.

### **Vulnerable aspects**

(a) Lower access to education in rural areas. The necessity of raising the school attendance to continuous training classes in the rural areas;

(b) Development of the local authorities capacity to provide adequate playgrounds for children in a sufficient manner.

## **VIII. SPECIAL PROTECTION MEASURES**

### **A. Children in situation of emergency**

1021. According to the governing law for the asylum seekers in Romania, the unaccompanied underage children have access to the Romanian territory and cannot be subjected to the frontier procedures. Any request submitted by them will be analyzed within the ordinary procedures applicable in this field (Law No. 122/2006 on the asylum in Romania art. 75, par. 2, art. 84).

#### **1. Refugee children**

1022. The principle of child’s best interest is explicitly stipulated in the asylum law from 2006 (Law No. 122/2006 on asylum in Romania, modified and completed through the Government Emergency Ordinance 55/2007 on the foundation of the Romania Immigration Office), so that the rules according to which all decisions regarding underage children are taken with the observance of this principle, are stated. Furthermore, the family reunification in case of unaccompanied minors benefiting from a form of protection is made in the best interest of the child.

1023. By the meaning of Law No. 248/2005 on the regime of free circulation of Romanian citizens abroad, it was regulated the underage child’s right to leave the Romanian borders, if he is accompanied by a major physical person in certain conditions as well as certain guarantees to ensure the protection against any kind of transfer actions thereof without the parents’ permission.

1024. The text refers to the protection of children requesting the status of refugees as well as of the ones who already obtained that status.

1025. The refugee is the persons living outside the country of origin because of persecution on grounds of race, religion, nationality, gender, political opinion or affiliation to a group, and who cannot and does not want to go back to his country for the same reasons.

1026. The forms of protection which can be granted by the meaning of Law No. 122/2006 on the asylum in Romania, modified and completed by the Government Emergency Ordinance OUG 55/2007 on the establishment of the Romanian Immigration Office, are the following:

- Refugee status
- Subsidiary protection
- Temporary protection

1027. The status of refugee can be granted at the request of the foreign citizen who, on the grounds of well-supported fears regarding a possible persecution for race, religion, nationality, gender, political opinion or affiliation to a group reasons, has left his country of origin not being able to receive, or as a consequence of this fear, non wanting the protection of the respective country, as well as to the person without a citizenship who being outside the country of residence, for the same aforementioned reasons, does not want to return. The status of refugee is also granted to the wife, and ad the case may be, to the husband at request, as well as to the underage children. With reference to the husband or respectively to the wife the provisions of this article apply only if the person with a confirmed refugee status has closed the marriage before entering on the Romanian territory.

1028. The conditioned humanitarian protection can be granted to the foreign citizen or to the stateless person who does not meet the conditions for being declared a refugee and with respect to which there are good reasons to believe that, if he will be returned to the country of origin, respectively in the country in which it usually resides, he will be exposed to a serious risk and which cannot or, due to this risk, does not want the protection of the respective country.

1029. A serious risk means:

- Death penalty or exercise of such punishment; or
- Torture, inhuman or degrading treatment or punishments; or
- A serious, individual threat to the life and integrity, as a consequence of the general violence in situations of internal and international armed conflict, if the applicant is part of the civil populations

1030. Subsidiary protection is granted on request to the members of the family on the Romanian territory.

1031. The temporary humanitarian protection can be granted in periods of armed conflicts, in which Romania is not engaged, to persons coming from areas of conflict.

1032. The rights and obligations of the people requesting asylum until the solving of the request for the definitive and irrevocable decision as well as the specific rights given by the benefit of one of the forms of protection above, are stipulated in art. 17, 19, 20 and 21 from the Law No. 122/2006 on the right to asylum in Romania, modified and completed by the Government Emergency Order 55/2007 on the establishment of the Romanian Immigration Office.

1033. Methodological norms were elaborated and approved through the Government Decision No. 622/2001, modified and completed by the Government Decision No. 922/2004, for the proper application of this normative act.

1034. The central authority responsible for the application of the dispositions of the Government Decision No. 102/2000, republished as well as for the implementation of the Romanian policies in the domain of refugees is the National Immigration Office, institution with territorial structures.

1035. With reference to the social integration of strangers who obtained a form of protection by the meaning of the provisions 122/2006 for asylum in Romania, modified and completed by Government emergency Order 55/2007 on the institution of the Romanian Immigration Office, it must be specified that this aspect is regulated by the Ordinance No. 44/2004 on the social integration of strangers who obtained a protection form in Romania, with further changes and additions, as well as through Government Decision No. 1483/2004 for the approval of the Methodological Norms of implementation of this ordinance, modified and completed by the Government Decision 543/2007. The normative acts mentioned contain regulations regarding the children's access to the children from the education, health system, the payment of the state alimony, participating in programmes of integration as well as regarding the role of state institutions and local public administration authorities within the process of social integration of refugee children.

1036. Article 73 of Law 272/2004 refers to the situation of children demanding the refugee status and accompanied by parents or other legal guardian, this category of children not being correspondingly covered from the point of view of the regulations, by the provisions of the Government Decision No. 102/2000, republished. Although the emergency ordinance stipulates the possibility of appointing a legal guardian for such children, by the meaning of the Romanian law, the implementation of this norm is laborious, with the need to institute a body to represent and assist the child for the duration of the procedures imposed by the granting of the refugee status. The general direction of social assistance and child protection undertakes to appoint a person (who may be a part of the personal employees or can be the employee of a private body), who will support in front of the authorized bodies the children's rights and will participate together with it to the entire procedure for granting the status of refugee. Actually, the person nominated will act a true legal representative of the child requesting the refugee status.

1037. The person appointed must oversee that:

- All the decisions are taken in the best interest of the child

- The requests formulated by the child are rapidly solved
- The child has access to information on his rights in his own tongue

1038. The same law regulates the possibility of ensuring a basic care of the children non-accompanied by parents or other legal guardian and who request the refugee status, by accommodating them in a residential service belonging to the general direction of social assistance and child protection or to a private body (par. 1).

1039. For children turning 16, their accommodation can be made in one of the centers of receipt and accommodation subordinated to the Romanian Immigration Office. These centers are set through the Order of the Minister of Internal Affairs and Administrative Reform (MIRA) and address to adults and to children.

1040. After the obtaining the status of refugee, the child's situation is assimilated from a legal point of view with the one of the child temporarily or definitively separated by its parents, benefiting from the special protection measures instituted by law for these children.

1041. The authorized body to set the special protection measure is the court of law.

1042. In 2006, in the context of the need to transpose the entire *acquis* undertaken by Romania by signing the Treaty of Accession, a normative act plan was initiated for the change and completion of the law in force by fully transposing the provisions of the:

- Directives of the Council 109/2003 regarding the status of citizens of third parties long term residents
- Directive of the Council 86/2003 regarding the right to the family reunification
- Directive of the Council 81/2004 regarding the residence permit issued by the citizens third states, victims of the traffic of human beings or the ones who are subject to actions for facilitating the illegal immigration, cooperating with the competent authorities
- The European Convention of Human Rights, 1950
- The Convention on the Rights of the Child (1990)
- Directive of the Council 114/2004 regarding the conditions of the admission of citizens of third states for education, exchange of studies, exchange of pupils, non-paid training or volunteer services

1043. The simplest distinction is that while the asylum applicant, respectively the person who received a form of protection were forced to leave the countries of origin because their life or liberties were threatened, for emigrants, they choose for various reasons, to leave their countries of origin and to temporarily or definitively set on the territory of another state, these reasons can be economic, social, cultural, familial, etc.

1044. The obligations of states to ensure the restricted access to the asylum procedure and the observance of the principles of non-returns (interdicting measures of returning, expulsion, extradition, etc. of the asylum applicant and a person which received a form of protection) as well as the granting of a corresponding assistance for these categories of persons during and after the asylum procedure for the ones receiving a form of protection, were set starting from these premises through the international documents to which Romania is part of.

1045. The current legal frame from the national level has the following configuration:

(a) Law No. 46 of 1991 for Romania's accession to the Geneva Convention of 1951 and to the 1967 Protocol Relating to the Status of Refugees;

(b) Government Ordinance No. 44/2004 on the social integration of strangers who acquired a form of protection in Romania, modified by the Government Decision No. 41/2006;

(c) Government Decision No. 1483/2004 for the approval of the Methodological Norms of implementation of the Government Ordinance No. 44/2004 on the social integration of strangers who obtained a form of protection in Romania;

(d) Law No. 122/2006 on the Romanian asylum;

(e) Government Decision No. 1251/2006 for the approval of the Methodological Norms of implementation of Law No. 122/2006 on asylum in Romania.

1046. The new asylum law in Romania ensures the conformity with the names used at European level, by defining frequently used terms in the domain of asylum and which are included in the specific terminology, for avoiding the confusions and the misinterpretations. Terms like: form of protection, asylum applicant, request for obtaining a form of protection/asylum request, foreigner, country of origin, asylum procedure, refugee status, subsidiary protection which replaced the conditioned humanitarian protection term, temporary protection, members of the family, unaccompanied underage child, displaced persons, massive flow etc, were expressly defined.

1047. The Law also includes the principles and procedural guarantees applicable in the domain of asylum such as: insuring the access to the asylum procedure to any foreign or stateless citizen who requests protection to the Romanian state, non-discrimination on grounds of race, nationality, ethnicity, language, religion, social category, convictions, sex, sexual orientation, age, handicap, chronic disease, affiliation to a disfavored category, material situation, birth or acquired status etc. non-return - which stipulates the fact that no measure of expulsion, extradition or forced return from the frontier or from the Romanian territory can be taken against the asylum applicant, observance of the principle of the unity of the family, confidentiality of the data and information regarding the request of asylum, observance of the child's best interest, guarantees for unaccompanied minors, good faith assumption.

1048. The most important changes and completions brought to the new normative act target the following aspects:

(a) Family Reunification - the possibility of family reunification is stipulated and in case of the beneficiaries of the subsidiary protection or of temporary humanitarian protection and, respectively, of the temporary protection (the old law gave the possibility only to persons who acquired the statute of refugee). By introducing the legal provisions allowing the members of the family of the beneficiary of the subsidiary protection to obtain the same form of protection the principle of family unit is observed;

(b) Furthermore the law extends the possibility of granting the statute of refugee to underage children from marriages closed after the entry on the Romanian soil, outside the marriage or adopted by the main beneficiary of a form of protection, observing the non-discrimination principle (art. 14 from the European Convention on Human Rights);

(c) Procedure in case of unaccompanied underage children requesting asylum - the provisions regarding the moment of request of the appointment of a legal representative and of performance of the expertise for determining the age, the effects of the refuse to follow the expertise for establishing the age being also regulated. Provisions regarding the finding and reunification of the family of unaccompanied underage children requesting asylum.

1049. The legal changes introduced regarding the unaccompanied underage children requesting asylum were determined by the dispositions of the new Law on the protection and promotion of the child's rights, effective from January 2005. Furthermore, the legal framework needed for allowing the submission of the asylum requested by a legal representative of the unaccompanied underage child who did not turn 14, was ensured.

1050. The applicable law for underage children requesting asylum includes Law 122/2006 on asylum in Romania and the Government Decision No. 1.251/2006 for the approval of the Methodological norms of implementation of the Law No. 122/2006, and in case of underage children who obtained a form of protection in Romania is the Government Decision No. 44/2004 on the social integration of foreigners who obtained a form of protection in Romania, with further changes and additions and the Government Decision No. 1.483/2004 for the approval of the Methodological Norms of implementation of the Government Ordinance 44/2004.

1051. According to the Law 122/2006 on the asylum in Romania, art.2, lett.j, an unaccompanied underage child is "the underage child, foreign or stateless citizen, who came to Romania unaccompanied by parents or by a legal representative or who is not in the care of another persons, according to the law, as well as the minor left unaccompanied after entering the Romanian territory".

1052. For the implementation of the provisions of law 122/2006, all decisions regarding minors are taken with the observance of the best interest of the child.

1053. Unaccompanied underage children requesting asylum have access in Romania and cannot be subjected to a frontier procedure (Law No. 122/2006 on the asylum in Romania, art. 75, par. 2, art. 84).

1054. Their request is analyzed in the ordinary procedure and cannot be the object of an accelerated procedure as obviously ungrounded.

1055. After obtaining the identification elements, the asylum applicants (aged and underage) are registered. In case of unaccompanied minors, these are registered as asylum applicants in a special register, the effective submission of the request being made by the legal representative, after its appointment. Unaccompanied underage children over 14 years old can deposit the request personally, a legal representative being appointed to him according to the dispositions of the Romanian law.

1056. If the manifestation of will of one of the unaccompanied underage child to request asylum is made to other competent authority for the receipt of the asylum request, a temporary certificate which will constitute a temporary identity document is issued to the unaccompanied underage child and he is ensured the transport to the headquarters of the Romanian Immigration Office, where the formalities mentioned in the abovementioned paragraph.

1057. A personal file is processed for each applicant for the asylum, the applicants are photographed and fingerprinted (the fingerprinting is made in case of minors under 14 years old). Moreover, the asylum applicants are informed on the rights and obligations they have as well as regarding the procedure of asylum.

1058. At the moment of submission of the asylum application, a temporary identity documents is issued for the applicant for the asylum (in case of unaccompanied underage children is issued after their registration at the Trade Register Office).

1059. The accommodation of the underage children requesting asylum is made together with the accompanying relatives, regardless of the degree of kinship.

1060. The accommodation of the unaccompanied underage children under 16 is made at the centres of the General Direction of Social Assistance and Child Protection in the territory area where the Romanian Immigration Office is located, where the request of granting of a form of protection was registered.

1061. For unaccompanied underage children who have turned 16 and who do not dispose of the material means for maintenance, their accommodation can be made in the welcoming and accommodation centres subordinated to the Romanian Immigration Office, until the expiration of the 15 day term from the date when a definitive and irrevocable decision was issued for the rejection of the request of granting a form of protection.

1062. The opinion of the unaccompanied underage child requesting asylum regarding the place in which he would be accommodated is taken into account and is given the proper attention, according to the age and maturity. Unaccompanied underage children with the age between 16-18 years can choose to remain in the welcoming and accommodation centers administered by the Romanian Immigration Office.

1063. Unaccompanied underage children who received a form of protection on the territory of Romania according to the law, on the basis of a definitive and irrevocable decision, are included in the child's protection system, benefiting from all the rights the Romanian children have, considering the best interest of the child. The main institution liable with assisting the unaccompanied underage children who obtained a form of protection in Romania, is the National Authority for the Protection of the Child's Rights. The Romanian Immigration Office informs

the National Authority for the Protection of the Child's Rights on the existence of unaccompanied underage children who received a form of protection in Romania, which takes the necessary measures for including them in the child protection system within 15 days from the date of notice.

1064. Law No. 122/2006 stipulates certain guarantees regarding unaccompanied underage children requesting asylum, so that the request of asylum of an unaccompanied underage child is analyzed with priority, and the Romanian Immigration office takes measures for the appointment in the shortest time of a legal representative assisting the unaccompanied underage child across the asylum procedure.

1065. For facilitating the access to the Romanian education system, underage children requesting asylum freely benefit of a preparing course for a year, for the registration in a national education system. This preparing course is organized by the Ministry of Education, Research and Youth in collaboration with the Romanian Immigration Office.

1066. The underage foreigner submits the asylum request through the legal representative, and the minor over 14 years, the asylum application can be personally submitted.

1067. The reunification of the family in case of unaccompanied underage children who benefit of a form of protection is made to the child's best interest.

1068. Unaccompanied underage children requesting asylum are given a legal representative within the GDSACP, who undertakes to defend their interests for the period of the procedure.

1069. According to Law No. 272/2004 on the protection and promotion of the child's rights, for unaccompanied underage children requesting asylum who were rejected and who finalized the asylum procedure, GDSACP requests the court to institute a protection measure or to be taken over by the institution.

1070. Regarding the number of persons internally displaced, requesting asylum, unaccompanied or refugee children, it is stipulated that in this period the following number of asylum requests were received from unaccompanied underage children:

- 53 applications for asylum (2002)
- 21 applications for asylum (2003)
- 7 applications for asylum (2004)
- 7 applications for asylum (2005)
- 14 applications for asylum (2006); and
- 10 applications for asylum until April 2007

1071. The number of unaccompanied underage children who requested asylum in Romania was in 2002 and until now 112, the main countries of origin being: Iraq, Sudan, Somalia, Sri Lanka, Afghanistan, Iran and the Russian Federation.



1072. As for the number of children who received a form of protection in Romania, at the end of February 2007, 268 children were registered of which 161 cu Romanian citizens coming from mixed families. As for the number and percentage of this category of children who attended school classes and benefited from health services, it must be specified that of the total of 246 school aged children 146 representing 59,3 per cent were registered in the Romanian education system, 84 children representing 34,1 per cent are registered in Arab school and 1.6 children, representing 6,6 per cent do not attend any form of education.

1073. Underage children who obtained a form of protection in Romania benefit of medical care in the same conditions set by law for, Romanian underage children.

1074. With respect to the access to means and forms of education for children in emergency situations it must be specified that Law No. 122/2006 on asylum in Romania, chapter III, art. 18 and the Government Ordinance No. 44/2004 on social integration of strangers who obtained a form of protection in Romanian, with further changes and additions, chapter II, section 3, art. 9, 10 stipulate the fact that the underage children requesting asylum have the right to compulsory school education, in the same conditions as Romanian underage children.

1075. Underage children who obtained a form of protection in Romania have access to all the forms of education in the conditions set by law for Romanian citizens.

1076. Regarding medical and psychological care, the medical staff performs a general medical control of the underage child requesting asylum, the resulting data being attached to the personal file. In case of illness, they receive free medical help, and in cases of emergency they benefit of emergency medical care.

1077. The applicants to the refugee status, possibly traumatized or tortured persons, benefit from psychological counselling. (Law No. 122/2006 on asylum in Romania, chapter III, art. 17, par 1, lett. m,n, and the Government Decision No. 1.251/2006 for the approval of the Methodological norms of implementation of Law No. 122/2006, chap. II, art. 5, par. 2.)

1078. In case of unaccompanied underage children, the asylum applicants, the asylum procedure is suspended until a legal representative is appointed. (Law No. 122/2006 on asylum in Romania, chapter III, art. 16, par. 2,3, chap. V, section 1, art. 40; Government Decision No. 1.251/2006 for the approval of the Methodological norms of implementation of Law No. 122/2006, chap.III, section 2, art. 3.)

1079. The public servant who registers the unaccompanied underage child will immediately request a legal representative to be appointed. It is not necessary to appoint a legal representative for an unaccompanied underage child, if he is about to turn 18, within 15 days from the submission of the request of asylum.

1080. The General Direction of Social Assistance and Child Protection, in the territory area of the ORI structure where the request for asylum was deposited, will appoint the legal representative, The direction will appoint a person with legal or social assistance high education from its own personnel or of an authorized private body, to support the child's rights and to participate with him at the entire asylum procedure.

1081. If the unaccompanied underage child cannot prove its age and there are serious doubts regarding its underage status, the Romanian Immigration Office demands the Forensic Institute to perform a forensic exam for establishing the age, with the previous written approval of the underage child and the legal representative. (Law No. 122/2006 on asylum in Romania, chap. V, section 1, art. 41. Government Decision No. 1.251/2006 for the approval of the Methodological norms of implementation of Law No. 122/2006, chap. III, section 2, art. 22.)

1082. In this sense, ORI informs, in writing the unaccompanied underage child and its legal representative, in a language the minor knows, on the possibility to perform a forensic test for determining the age. The note includes specifications regarding the methods of forensic tests, the possible consequences of the result of such examination and the effects of a possible refusal to submit to a forensic test.

1083. If the representative or underage child refuse to perform the forensic expertise for the assessment of the age and no conclusive evidence are brought regarding its age, the underage child will be deemed to have turned 18 on the date of submission of the request of asylum. If solid reasons lie at the basis of the refusal of performing the forensic test for establishing the age, ascertained after the evaluation made by a psychologist from ONR, the age declared by the unaccompanied child will be accepted without performing the forensic expertise for determining the age.

1084. The purpose of the interview of the underage asylum applicants, within the asylum procedure, is to collect the necessary information for making a decision, taking in account the child's interest. (Law No. 122/2006 on asylum in Romania, chap. V, section 1, art. 47.)

1085. The interviewing of the underage applicants is made in the presence of their legal representatives.

1086. For unaccompanied underage applicants, the Romanian Immigration Office takes urgent measures for tracking down their families. (Law No. 122/2006 on asylum in Romania, chap. V, section 1, art. 72, 73.)

1087. The opinion of the unaccompanied asylum applicant regarding the tracking down of its family is taken into account and granted the proper importance, according to the age and maturity thereof.

1088. In case of underage children who obtained a form of protection in Romania, according to the asylum law, the family reunification is made in the child's best interest.

1089. The Romanian Immigration Office initiated by default the procedure of reunification of the family, requesting the approval of the legal representative or, as the case may be, of the unaccompanied underage child.

1090. Assistance and protection of the victims of trafficking in human beings can be submitted, in residential regime, in an assistance and protection centre offering accommodation, food, medical assistance, legal, psycho-social services, the victims of trade of human beings can chose to return to the family or in the community equally benefiting of the specialized assistance services.

1091. The victim of traffic of human beings, will be informed in writing and verbally on the types of assistance available in the centre as well as on the assistance offered by other agencies involved in the fight against the trafficking in human beings, in a language understood and mastered.

1092. Other measures taken into account for a good integration of a victim of human trafficking:

- Finding a shelter (center or apartment) and protecting the victim of human trafficking in a specialized assistance system for the possible repercussions from traffickers and the risk of disclosing its identity, is immediate
- Taking part in an assistance programme made in confidential conditions with the observance of the person's right to a private life
- If the victim of human trafficking wants to return to its family, it is informed that it can benefit from the specialized day assistance services, the center/shelter/institution offering the assistance establishing the manner of granting the assistance according to the particularities of the case
- In the talks they will have with the trafficked person, institution or organization responsible for offering the assistance, the desires and point of view of this persons will be respected as well as the current physical and mental state
- The approval of the victim of human trafficking for participating in the assistance programme will be asked, approval made in writing
- If the trafficked persons cannot express its point of view regarding the assistance needs, caused by the damaged state of health or the temporary or permanent impossibility of the person to express its will, the assistance will be offered by taking into account the person's right to a proper life standard and to the protection of the security thereof

1093. Institutions and organizations involved in the fight against human trafficking ensure the access of the victims of human traffic to special medical, psychological, educational, legal, socio-professional and special protection services. (Law No. 122/2006 on asylum in Romania, chap. III, second section, art. 20. Government Ordinance No. 44/2004 on the social integration of strangers who obtained a form of protection in Romania, with further changes and additions, chap. V, second section, art. 33, 34.)

1094. Underage children who obtained a form of protection in Romania benefit from medical care in the same conditions set by law for Romanian underage children.

## **2. Children in armed conflicts, including physical and psychological recovery and social reintegration**

1095. Art. 38 of the Convention on the Rights of the Child institutes a series of obligations for the member states on the observance of the children's rights in case of armed conflicts.

1096. The norms provisioned in the content of art. 76-79 from the Law 272/2004 regarding the protection and promotion of the child's rights includes a series of general norms aimed at ensuring the protection of children in case of armed conflict. They represent an implementation of the principles and obligations imposed by art. 38 from Convention on the Rights of the Child, especially the one aiming at taking feasible measures to ensure the protection and care of children affected by armed conflict.

1097. In case of armed conflicts, the state institutions take the necessary measures for the development of special mechanisms aimed at ensuring the monitoring of measures adopted for the protection of the child's rights.

1098. No child will be used as spy, guide or courier during armed conflicts (art. 77 from the Law 272/2004).

1099. In case of an armed conflict, the National Authority for the Protection of the Child's Rights, in collaboration with the Ministry of Internal Affairs and Administrative Reform, with the Ministry of National Defense, as well as with other institutions with specific prerogatives, undertakes to initiate and implement strategies and programmes, including at the family and community level to ensure the mobilization of children soldiers and respectively, to remedy the physical and psychological effects of the conflict on the child and to promote its social reintegration.

1100. It is expressly provisioned that the County Council has the obligation or as the case may be, the mayor of Bucharest, to forward to the general direction of social assistance and child protection, within 24 hours from the initiation of an armed conflict, a complete list of all children on the territory of the respective administrative-territorial unit, for monitoring their state (art. 79 from the Law 272/2004).

1101. The infrastructure for the protection and promotion of the child's rights will not be used for military purposes.

1102. In case of actions of evaluation held after armed conflicts, children have the priority. The General Direction for social assistance and child protection, in collaboration with the civil protection, will take the necessary measures to ensure the surveillance of the children evacuated by persons who can take over the responsibility for their protection and safety. Whenever it is possible, the members of the same family will be accommodated together.

1103. Regarding the fulfillment of the obligations afferent to the Romanian state regarding the granting of a proper protection for children involved in armed conflicts, it must be specified that Romania has ratified the Optional Protocol to the Convention on the Rights of the Child regarding the children's participation in armed conflicts (Law No. 567/2001) as well as the Worst Form of Child Labour Convention (Law No. 203/2000) the latter including in the category of the most serious forms of labour for children and situations of forced or obligatory recruitment for the purpose of using them in armed conflicts.

## **B. Children in conflict with the Law**

1104. Law 272/2004 on the protection and promotion of the child's rights regulates the protection of the child who committed a deed stipulated in the criminal law and is not liable in front of a court of law by instituting special protection measures addressing these children.

1105. According to art. 50 from the Criminal Code: "The deed stipulated by law of commitment thereof, did not meet the legal conditions to be criminally liable, is not a crime".

1106. Regarding the criminal limits of the underage child, these are stipulated in art. 99 of the Criminal Code:

(a) The underage child who did not turn 14 is not criminally liable;

(b) The underage child between 14 and 16 is criminally liable, only if it is proved that he committed the crime with power of judgment;

(c) The underage child who has turned 16 is criminally liable.

1107. The legal norms invoked above observe the provisions of art. 40 pct. 3 lett. a) from the Convention on the Rights of the Child which stipulates that: "The member states will make their best efforts to promote the adoption of laws, procedures, the creation of authorities and institutions specially instituted for children suspected, accused or declared to be committed breaches of the criminal law, and especially to set a minimal age under which children can be presumed not to have the power of judgment to breach a criminal law".

1108. The underage status of the offender is a cause which removes the criminal character of the deed, on the grounds that the offender does not have the capacity of realizing the social meaning of its deeds of conduct and to control its behaviour in relation thereof. The criminal status of the deed is removed, in these situations, as a consequence of the removal of the underage child's guilt of committing the deed, and the underage child's fault is removed, because of the insufficient psychical development, which allows the underage child not to understand the character and the effect of its deeds and cannot control them. This is exactly what explains the apparently paradoxical need to protect a child author of a deed stipulated by the criminal law. Given the personality under formation, the lack of judgment, the child's sensitivity to suggestion, but also family, educational, socio-cultural, material factors that caused its deviant behaviour and the criminal deed, the need to take measures is evident. These measures aim on one hand to attract the child's attention on the social reaction with respect to the negative character of its deeds, and on the other hand to supply a source of surveillance and additional attention, of isolation of the disturbing negative factors.

1109. Even if the anti-social deed committed by such an underage child does not trigger its criminal liability, it must nevertheless constitute the reason for taking measures aimed at ensuring the child's protection with respect to the factors which might jeopardize the harmonious development of its personality and the prevention of the future commitment of such deeds.

1110. Consequently, the measures to be taken for the child who committed a criminal deed and who either did not turn 14 or has between 14 and 16 years of age (for which the investigations

applied did not lead to the removal of the relative presumption of lack of judgment - instituted by art. 99 par. 2 Criminal Code) are the specialized surveillance and the placement in a care center.

1111. The competent bodies to dispose of protection measures are: the commission for child protection - if the parents or the child's legal representative approve - and respectively the court of law in the absence of such approval.

1112. As for the causes subjected to be solved by the court of law, it must be specified that the provisions of art.130 par. (2) from the Law 272/2004 imposes the drafting of a report by the victims' service of protection and social reintegration of offenders who operate at the court of law.

1113. Art. 81 from the Law 272/2004 on the protection and promotion of the child's rights stipulates the content of the specialized surveillance measures as well as the conditions for disposing the measure of placing in a care centre the child who commits the actions included in the Criminal law and who is not criminally liable. Thus, the specialized surveillance is a rule for taking protection measures for these children. It always involves the child's support in its family and, at the same time, conditioning to observe one or more obligations.

1114. Establishing one or more obligations which will be fulfilled by the child on the entire duration of the specialized surveillance measure is made according to the particularities of each and every case, taking into account the individual criteria abovementioned as well as on the basis of the conclusions of the reports made by the general direction of social assistance and child protection and respectively the service of reintegration and surveillance (if the measure is applied by the court of law, requirement imposed by art. 130 par. 2 Law No. 272/2004).

1115. The situations in which you can take measures of care centre placement are the following:

- The measure of specialized surveillance cannot be inflicted (including here not only objective situations which make it possible, but also situations in which the measure for keeping the child in its own family is considered from the start undesired and or insufficient)
- The measure of specialized surveillance was set by the child did not fulfill its obligation/s imposed

1116. The responsibility of monitoring the execution of the obligations imposed to the child is first of all of the general direction of social assistance and child protection in the administrative-territorial area in which the family/person taking care of the child resides (subject to the prerogatives this institutions has in monitoring the measures of protection).

1117. Regarding the conditions in which it can be decided to place the child who performs criminal deeds and is not criminally liable in a specialized residential service, motivated by the fact that such measure is drastic, it involves the removal of the child from the family, this can be disposes only if the criminal deed constitutes a high social danger or if the child who committed a criminal deed and was inflicted a measure, continues to perform the deeds considered criminal.

1118. The interdiction to make public any kind of data regarding the commitment of criminal deeds by the child who is not criminally liable is regulated, interdiction which also involves the data regarding the child. The need to institute this interdiction derives from the obligation of observing the child's right for the protection of its private family life.

1119. The failure to observe the dispositions of this article is deemed to be an offence and is sanctioned according to art. 135 par. (2) lett. d) from the Law No. 272/2004.

1120. Specialized services such as activities performed here with the purpose of correcting and social reintegration of children committing deeds provisioned by the Criminal law and not liable are regulated in the Government Decision No. 1439/ 2004. According to this normative act, specialized services destined to this category of children can be organized as residential services or day centres for the direction, surveillance and support of the child's social reintegration as well as family services.

1121. The institution of specialized surveillance is new, this being regulated in the previous law and is disposed - according to the distinction which generically governs taking special protection measures - by the child protection commission , with the previous approval of the parents or legal representative or by the legal court in the absence of such an approval.

1122. According to the legal provisions in force it is prohibited to make public clues that might lead to the identification of the child under 14 years of age, if this is a victim of a sexual crime, is accused of committing crimes or witnessed their commitment.

1123. If the child under 14 years is a victim of a number of offences, different from the ones stipulated in par. (1), or has been subjected to physical or psychological abuse, the display of images or declaration is allowed only with the written approval of the parents, of the person assigned to its care or of the legal representative of the child.

1124. If the child under 14 years of age was subjected by parents or legal representatives to physical or psychological abuse, the display of images and or declaration is allowed only with the written approval granted by one of the parents, not the author of the abuse, of the person assigned to its care or of the legal representative of the child.

1125. The child under 14 years of age cannot participate in audio-visual shows which reconstitute crimes, abuses or dramatic events.

1126. Radio programmes cannot broadcast interviews, declarations or accounts taken directly from the child under 14 in connection to dramatic events from the community or family, to which he was a witness.

1127. The child between 14 and 16 years of age, accused with committing a crime or a victim of a crime or physically, psychologically or sexually abused can be presented in news shows, in shows of audio-visual debates and reportages, by fulfilling the following conditions:

- His approval

- The parents' written approval, of the person assigned for its care or of its legal representative
- Assistance across the transmission or registration by a parent or legal representative, respectively by a lawyer in case of criminal investigation or arrest

1128. For the child between 16 and 18 years old, accused of committing a crime, the explicit approval of the respective child is needed and its assistance by a lawyer if he is criminally charged, detained or arrested.

1129. In case of the child between 16 and 18 years of age, a victim or witness to a crime or was physically, psychically or sexually abused, the following are needed:

- Its explicit approval
- The removal at the child's request, of any elements which might lead to its identification

### **1. The administration of juvenile justice**

1130. In the period 2004-2005, at the level of the Bucharest municipality, the General Police Inspectorate in collaboration with a series of educational units initiated a pilot project "Camarad", with the purpose of reducing the juvenile delinquency committed by pupils.

1131. Among the results obtained consequently to this project, we can mention the pupils' awareness of a law regarding the underage children's responsibility, rules of conduit in society and measures to be taken to foresee the situations in which these can fall the victims of crimes. In this purpose a series of interactive meetings between pupils and professors were held. Simultaneously the National College "Mihai Eminescu" was established, a pilot information and documentation centre on issues of juvenile delinquency and victimization of children.

1132. In the line of concerns of the state institutions to ensure the proper training and information of all the social actors which activate in the domain of child's rights protection, in the period August 2005-January 2006, the General Police Inspectorate was a partner of the education campaign of the National Authority for the Protection of the Child's Rights regarding the organization of professional training workshops.

1133. The workshops aimed at offering the participant a good knowledge of the law 272/2004 on the protection and promotion of the child's rights and of the instruments of implementation of this in the professional practice.

1134. The workshops were held in 6 counties (Cluj, Timișoara, Iași, Craiova, Constanța, Bucharest), in the period 29 August-28 October 2005, and between November 1st, 2005 -January 20th, 2006 the follow-up sessions took place. As a result of this measure, 260 policemen from the operational structures were trained in 99 workshops held in January 2006.

1135. Another project from this domain was called "Underage Children Court", held in the counties Iași, Vaslui and Botoșani.



1136. The partners of this project were UNICEF, Social Alternatives Association -Iași, the Appeal Court Iași, Association of Magistrates Iași, Prosecutor's Office of the Appeal Court Iași, the Botoșani and Vaslui Tribunals; The Prosecutor's Office of the Tribunals, the County Police Inspectorates.

1137. The purpose for the organization of such a programme was the completion of the works in the domain by organizing seminars for training activities in the line of the work with a underage child victim, as well as with a delinquent. Another purpose of this programme was to achieve a good equipment of the locations specially destined for the hearing of minors at the level of each County Police Inspectorate , the fitting out of the courts destined for cases with underage children, as well as the realization of informational material regarding the mechanisms of investigation and trial of the cases with underage children victims and offenders, as well as social and psychological services offered for free to institutions and partner non-governmental organizations.

## **2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings**

1138. Underage children staying in prison and re-education centres, units subordinated to the National Administration of Prisons, are executing the measure of preventive arrest, the sanction of placement in a re-education centre or executing the freedom depriving punishments. For each case the acts connected to detention, preventive arresting mandate, decision of placement in a re-education centre in a first or definitive instance and mandates of execution of jail time, are issued by the courts of law.

1139. The implementation of alternative sanctions to the freedom depriving punishments results from the following comparative situation:

Reference date	Definitively sanctioned to a reeducation center	Sanctioned in a first instance to a reeducation center	Definitively charged with prison	Preventively arrested	Total
31.12.2005	260	19	329	248	856
21.12.2006	257	13	318	167	755
05.06.2007	262	9	281	130	682

1140. The activities of psycho-social intervention are limited to the desire to observe the rights of the persons deprived of freedom by the personnel of the place of detention. Similar to the adult persons deprived from freedom, underage children have the following rights, stipulated by Law 275 regarding the execution of punishments and of the measures disposed by the legal bodies during the criminal trial:

- The right to information, the right of imprisoned persons to have access to public information cannot be restricted.

- The right to the personal documents, thus the convicted person or any other person, with the approval of the convicted person has access to the individual file, medical file and incident reports and can obtain, at requests copies thereof.
- The right to petitioning, thus the right to petitioning of imprisoned persons is guaranteed, and petitions and the answers are confidential and cannot be opened or withheld.
- The right to correspondence of persons executing freedom depriving convictions, and the correspondence is confidential and cannot be opened or withheld outside the meaning of the law.
- The right to telephone calls; the persons executing freedom depriving punishments are entitled to perform telephone calls to public phones with cards installed in penitentiaries. Telephone calls are confidential and are made under visual supervision.
- The right to a daily walk and to receive visits. A daily stroll in the open air of at least one hour is ensured for each person convicted, when the weather allows it. If the weather conditions do not allow the open air stroll, this is done in a corresponding space. Persons executing freedom depriving punishments can receive visits, in specially fitted spaces, under the visual supervision of the personnel of the prison's administration.
- The right to receive goods, thus the persons executing freedom depriving punishments can receive goods and will receive sums of money.
- The right to medical care, the right to medical assistance of persons executing freedom depriving punishments is guaranteed.
- The right to diplomatic assistance, the persons executing freedom depriving punishments of a different nationality, are entitled to address to the diplomatic or consular branches in Romania of the state they are citizens of and to be visited by the diplomats working in these diplomatic and consular branches, in confidentiality.
- The right to close a marriage; persons executing freedom depriving punishments can close a marriage in the penitentiary, within the meaning of the law.

1141. It must be mentioned that underage children execute the freedom depriving punishments separate from adults or in special places of detention, and girls separate from boys.

1142. The administration of the detention place undertakes to urgently inform the person appointed by the underage child, of the place in which he is being held, according to art. 29 par. 4 from the Law 275/2006. Underage children can receive at any time, in confidentiality conditions, visits of the lawyer.

1143. No deaths or suicides were registered at the level of underage children taken under the custody of the National Administration of Penitentiaries. The notices received regarding the bad

treatments applied to persons executing freedom depriving punishments are alertly monitored at the level of the abovementioned institution, taking measures of control for each and every case, through the specialized direction thereof.

1144. The application of the penitentiary regime is not based on age, except for a positive discrimination form of underage persons executing freedom depriving punishments, taking into account the child's best interest. In this sense, the observance of the provisions of Law No. 275/2006 regarding the execution of the punishments and of the measures disposed by the legal bodies during the criminal process for prohibiting the acceptance of persons executing freedom depriving punishments, of torture, inhuman, degrading treatment and other bad treatments and prohibiting any form of discrimination by the personnel in the penitentiary system is a sufficient conditions for underage persons deprived of freedom to benefit of the same rights and liberties, as the other persons deprived from freedom.

### **3. The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment**

1145. All the guarantees required by art. 40, pct. 2 from the Convention are ensured by the provisions of the Constitution or of the Criminal procedure code:

- Non-retroactivity of the law, except for the more favorable criminal law;
- Presumption of innocence
- The right to the defended by a lawyer
- The right to be assisted by a translator or interpreter
- The right to exercise the appeal measures provisioned by law
- The inexistence of the capital punishment and the non-applicability of the life sentence for the underage person

### **4. Physical and psychological recovery and social reintegration**

1146. A special accent is placed on the education and psycho-social assistance of underage persons in places of detention. Thus, underage persons are accommodated in separate sections, during the period of execution of the freedom depriving punishment in penitentiaries, where they are given social, school, educational, professional, psychological, medical and physical protection and assistance, needed according to the age, gender and distinct personality.

1147. The measures or decisions of the personnel of the detention places concerning underage children take into account the observance of the children's rights, the prevalence of the educational aspect, so that a proper psychic-physical state is preserved, the self respect is stimulated for the development of the responsibility and encouraging the abilities and competences to facilitate the future integration.

1148. The administration of the place of detention after the evaluation and identification of the individual needs of the underage child or according to the local possibilities, undertakes to organize educational and social assistance activities within penitentiaries, with the participation of probation counsellors, volunteers, associations and foundations, as well as other representatives of the civil society.

1149. The purpose of the psycho-social assistance activities destined for underage children is the formation and development of their personality, as well as materializing their capacities, for adopting some means of living in conformity with the social norms, after being released from prison.

1150. The psycho-social particularities and the specific needs of underage children impose an individualized intervention, which includes planned activities and programmes according to the time they spend at the penitentiary.

1151. Psycho-social assistance of underage children is materialized on the following areas of intervention:

- (a) Social assistance;
- (b) Psychological assistance;
- (c) Religious assistance;
- (d) Preparation for freedom.

1152. The activities and programmes for psycho-social intervention are held individually or in group or outside the place of detention, in similar community life conditions.

1153. The education and psycho-social intervention service drafts the Plan of evaluation and educational and therapeutic intervention for each newly received underage child deprived from freedom, plan brought to its knowledge under signature and which is reviewed every time needed. The plan includes biographical data, information on the place of origin, the criminal record, data on the level of school and professional education, general psychological data or the psychological profile. On the basis of the aforementioned, the areas of individualized intervention can be set.

1154. The educational activity performed by underage children ensures their preparation for work and life, the development of the spirit of discipline, the respect of the law and the social co-living norms.

1155. The education of minors and young people is materialized in activities and programmes structured on the following areas of intervention:

- (a) Adapting to the freedom depriving conditions;
- (b) School and professional training;
- (c) Educational and entertaining activities;

- (d) Hobby activities;
- (e) Preparing for freedom.

1156. Schools of arts and crafts are set up in units of detention for underage children, in school facilities, according to the legal norms according to which the state education is built.

1157. Underage children compulsory participate at the school classes held in the underage and youngster's penitentiaries, with the possibility of registration on the entire course of assistance, even when they are transiting in the adults penitentiaries. The illiterate underage persons are compulsory included in a literacy programme taught by a teaching staff or by an educator.

1158. Boys and girls can take part together in the activity of school instruction and professional training, as well as in other education activities.

1159. Underage children, convicted to freedom depriving punishments, who turned 15, can provide a labour afferent to their physical development, abilities or knowledge, only at their request and with the approval of the parents or of the legal representatives if their state of health is not jeopardized. Underage children convicted to freedom depriving punishments, who turned 16, can deliver a work only at their request.

1160. Underage children in penitentiaries spend at least four hours a day outside their detention room in which a corresponding programme is set.

1161. Occupational activities are created (theatre, fretwork, collage, making decorative objects, puzzle, drawing, painting), to which underage children at least once a week.

1162. At least a contest is organized with an educational character at an interval of a month. Monthly, it is organized in the space of detention, meetings of educational, artistic, entertainment character with the personalities or representatives of institutions of culture: museums, libraries, theaters, sport clubs etc.

### **C. Children in situation of exploitation, including the physical and psychological recovery and social reintegration**

#### **1. Economical exploitation, including child labour**

1163. Par. (1) of the text art. 87 from the Law 272/2004 regarding the protection and promotion of the child's rights regulates the child's right to be protected against the economical exploitation and interdicts the involvement of children in working activities that can present a risk for the health and development or can affect the training-educative process.

1164. Regarding the age from which the children can be employed within the labour field or used in various activities, the International Labour Organization Convention No. 138 (1973) on the minimum age for admission to employment and associated Recommendations, ratified by Romania through the Decree No. 83/1975 sets as the minimum age of framing or use of teenagers in labour, 16 years old. At the same time, this convention stipulates that the national law can authorize the framing or execution by children with ages between 13-15 years, of easy

labors. Easy labors are characterized by the fact that they do not damage the health and development of children and do not affect the interest for school the participation to the programme of professional training and orientation, the possibility to benefit from the training received (according to art. 7, sub-par. 1 of the International Labour Organization Convention No. 138 (1973).

1165. Furthermore, art. 6 of the same convention allows the performance of the labour for children if it is performed for the professional training or in a programme of professional orientation, within profile institutions and with the approval of the national competent authority.

1166. Furthermore, references to the age of the working children and to the types of activities developed exist in the provisions of art. 13 from the Law No. 53/2003 - Labor Code, with further and subsequent changes which decides that:

- The child acquires the labour capacity at the age of 16
- Persons who turned 15 can be included in the labour with the approval of the legal representatives and in the conditions in which their development, health and professional training is jeopardized; persons turning 16 years can close labour contracts without the need of the approval of the legal representatives
- It is forbidden to develop hard activities, in dangerous or harmful working places for children who did not turn 18 years old

1167. As a penalty, the Labour Code, with further changes and completions stipulates in art. 280 that the including into labour underage children breaching the legal age obligations or use of the provision of activities with the breach of the legal provisions referring to the working regime of minors is an crime and is punished with prison from 1 to 3 years.

1168. The dispositions referring to the exploitation of children is also found in the content of Law No. 678/2001 regarding the prevention and the fighting of person trafficking, with the further changes and additions, being defined in art. 2, pct. 2, as an exploitation, among others, including the execution of a work or fulfilling services in a forced way or with the breach of the legal norms on the working norms remuneration and security; art. 13 of the same normative act sets that the recruitment, transport, hosting or receipt of an underage child with the purpose of exploiting it is a crime of underage trafficking and is punished with jail from 5-15 years and prohibiting rights.

1169. The education units undertake to inform the public service of social assistance or the general direction of social assistance and child protection, if it is ascertained that there are children who do not participate in the educational process and are involved in labour activities breaching the legal provisions previously mentioned.

1170. Another normative act which regulates this field is the Order No. 1769/2004 on the approval of the national plan of action for the removal of the labour exploitation of children. This normative act sets in the liability of the county councils/local councils of the district of Bucharest

the obligation of closing protocols of collaboration with relevant institutions in the domain of prevention and fighting the exploitation of children through labour and establishing an inter-district local team made of representatives of these institutions.

1171. By the meaning of Law 272/2004 the Labour Inspection, together with the National Authority for the Protection of the Child's Right, have the duty to develop campaigns for the prevention of children exploitation through labour, by the meaning of the specific attributions afferent to the two institutions to control the legal provisions regarding the implementation of the labour law and the notification of the interested parties on the means of observance of the labour law, respectively of monitoring, coordinating and controlling the activities of protection and promotion of the child's rights.

1172. The objectives of the campaigns for information and awareness are the following:

- Informing children on their rights, consequences and risk of labour exploitation as well as of the measures and services they can benefit of
- Informing parents on their rights and obligations, regarding the authorized institutions to offer support, informing persons who, in the course of their profession, come in direct contact with children, on the signs and risks of exploitation and regarding their obligations or, as the case may be, the obligations of the authorized institutions
- Informing employers on the consequences of involvement of children into labour, the legal provisions regulating the work made by children, the conditions in which children can be involved in labour, the sanctions applied

1173. Such campaigns are held on the basis of the International Programme for Eliminating Child Labour with the début in 2000, presently at the 2nd stage, 2004-2007.

## **2. Drug abuse**

1174. The documents ratified by the Romanian state in the field of drugs and the legal dispositions presently in force are:

- By the meaning of the Decree No. 626/1973 of the State Council, Romania acceded to the Sole Convention against narcotic drugs from 1961, modified with the Protocol from 1972.
- By the meaning of the Law No. 118/1992, Romania entered the Convention on Psychotropic Substances from 1971 and to the Convention against Illicit Traffic of Narcotic Drugs and Psychotropic Substances in 1988.
- By the meaning of the law No. 143/2000 on the fight against the traffic and illicit consumption of drugs, with further changes and additions, drugs are defined as plants narcotic or psychotropic drugs or mixtures containing such plants or substances. According to art. 27, par. 1, of the present law, the illicit consumption of drugs under

national control, without medical prescription, is forbidden on the Romanian soil. By the meaning of art. 4 “the growing, production, manufacture, experimenting, extraction, preparation, transformation, purchase or detention of drugs for personal consumption, without a legal right, is punished with jail from 2 to 5 years”.

- Law No. 143/2000 on the fight against the traffic and illicit consumption of drugs, with further changes and additions, according to art. 2, prohibits and sanctions: the cultivating, production, manufacturing, experimenting, extracting, preparing, transforming, offering, selling, distributing, delivery with any title, transmission, transport, procurement, purchase, detention or other similar operations regarding the circulation of risk drugs, without a legal right”.
- Law No. 143/2000 on the fight against the traffic and illicit consumption of drugs, with further changes and additions, art. 14 par. c and par. d, stipulated additional sanctions, regarding as aggravating circumstances the situations in which drugs were sent and delivered, distributed or offered to an underage child, or other similar actions prohibited by law were performed regarding one of the persons or if the deed was committed in a medical, educational, military, place of detention, social assistance centers facilities or institutions, of reeducation or medical-educational institutions, places where pupils and students and teenagers perform their educational, sports, social activities or close by.
- Underage children are used for the commitment of deeds sanctioned by the present law (art. 2-11).
- According to art. 8 from the Law No. 143/2000 on the fight against the traffic and illicit consumption of drugs, with further changes and additions, “the supply, for consumption, of toxic chemical inhaling drugs to an underage child is punished with 6 months to 2 years in prison or with a fine”.
- According to the provisions of Law No. 348/2002 for preventing and fighting the effects of the consumption of tobacco products, with further changes and additions (art. 3, par. 7) and of Law No. 61/1991 for sanctioning the breaches of the social norms of companionship order and public peace republished (art. 2, par 24), the minimal age for trading tobacco and alcohol products is 18 years.

1175. With the Government Decision No. 1489/2002, the National Anti-drug Agency was founded, a central body subordinated to the Ministry of Administration and Internal Affairs which establishes on the basis of the national anti-drug strategy, the general conception and ensures the unitary coordination of the fight against traffic and illicit consumption of drugs held by the competent authorities, by other state institutions and by non -government organizations, centralizes and monitors the results of the cooperation between the authorized Romanian institutions and the foreign organizations with attributions in this field. Through the subsequent changes and additions to the Government Decision 1489/2002, the centres for anti-drug preventing, evaluating and counselling offering local communities services of prevention of drug consumption, as well as services of evaluation, case management, medical, psychological and social assistance for drug consumers function subordinated to the Agency at the level of the county and district.



1176. Through the Government Decision No. 154/2003 the first National Anti-drug Strategy for the period 2003-2004 was adopted.

1177. Subsequently, through the Government Decision No. 73/2005 the National Anti-drug strategy in the period 2005-2012 was adopted, which sets the specific objectives for: reducing the request, reducing the offer, international cooperation, information and evaluation, inter-institutional coordination and financial resources, with the purpose of maintaining a low level of drug consumption in the lines of the general population, in the first stage (2-4 years), and of reducing the cases of new consumers, in the second stage in parallel with the reduction of the organized crime related to drug.

1178. The responsibility for the implementation of the specific activities of the drug demand (prevention, medical, psychological and social care for the drug consumers, reducing the risks, social reinsertion), belongs to the: National Anti-Drug Agency, the Ministry of Education, Research and Youth, the Minister of Public Health, the National Sports Agency, the National Youth Authority, the National Agency for the Support of the Teenagers' Initiatives, Ministry of Labour, Family and Equality of Chances, National Authority for the Protection of the Child's Rights. The National Anti-drug Agency performs an annual or semi-annual evaluation of the implementation of the Action Plan for the realization of the national Anti-drug Strategy, on the basis of the data supplied by the government institutions with responsibilities in the field.

1179. Furthermore, the review of the law in the domain of fighting traffic and drug consumption has also targeted the particularization of the interventions of medical, psychological and social assistance for children drug consumers. Therefore, through the Decision No. 16/2006 of the President of the National Antidrug Agency for the approval of the Minimal Compulsory Standards regarding the case management in the domain of assistance of the drug consumer special measures are stipulated for cases in which the centres of prevention, evaluation and anti-drug counselling perform the evaluation of the underage child for including him in an integrated assistance programme (Law No. 522/2004 for the change and completion of Law No. 143/2000 on the fight of the traffic and illicit consumption of drugs and Government Decision 860/2005 for the approval of the Norms of Implementation of the Law provisions No. 143/2000).

1180. The "acquis" in the domain of drugs was implemented in the Romanian law after a process of comparing and completing the old law with the new corresponding European provisions. Thus, the Law for fighting against the traffic and illicit consumption of drugs in 2000 was revised in 2004, approaching the drug consumer not involved in the traffic of these substances as patient, who can choose the treatment option as an alternative to the jail sentence.

1181. Through the Order No. 1862064/23.01.2006 of the ANA President, the minimum quality standards of the programmes for school prevention were adopted together with the Order No. 1862065/23.01.2006 of the ANA President, through which the standards of elaboration of the school programmes for spending the spare time, information, education, communication in school were adopted as a result of the activity of common working groups between the Ministry of Education and Research and the National Anti-drug Agency.

1182. The main role of the National Anti-drug Agency is to collect, process and interpret data regarding the consumption of drugs and to standardize them according to the statistic instruments

of the European Union (standard indexes and tables), to offer confident and comparable data on the situation in the field of drugs at national level. Based on this data, the Agency identifies the tendencies and elaborates the reaction policies, monitoring their implementation by the institutions with liabilities in the field.

1183. The institutional capacity of the Agency was increased through the establishment of 47 Centres of Prevention, Evaluation and Anti-drug Counselling (in the 41 national counties and in each of the 6 districts of Bucharest municipality), called Centres of Prevention, Evaluation and Anti-drug Counselling, with inter-disciplinary teams as personnel (doctor, psychologist, education specialist, social assistant and specialist in crime prevention).

1184. As national coordinator in the field of reduction of the drug demand, the Agency developed, through its specialized division, approximately 213 programmes and activities for the prevention of the drug consumption at national level in 2005. A special attention was placed on preventing it in schools, through extra-curricular activities and interventions in entertainment environments for teenagers, such as clubs, discos, concerts, workshops, round tables, etc.

1185. In the period 2003 - 2004 at the level of the National Anti-drug Agency, the efforts were concentrated on the operating of the 47 Centres of Prevention, Evaluation and Anti-drug Counselling. But, at the same time, programmes and national projects were initiated and projected for informing and educating children on the risk of tobacco, alcohol and drug consumption. These projects were developed in the following years (My anti-drug message”, “No smoking classes”). On the National Day without tobacco and on the International Day of Fight against the consumption and illicit traffic of drugs, national campaigns of information-education-sensitizing were organized annually, targeting children. Here are the campaigns: “Children act a they see” (2003), “Offer health to you child” (2004), “Open your eyes” (2005), “Drugs are not a children’s game” (2006).

1186. Through the Government Decision No. 323 from April 14th, 2005 the Action Plan for the implementation of the National Anti-drug strategy was implemented in the period 2005-2008 which included the objectives and specific activities for preventing the drug consumption in schools, family and community. Along with the National Anti-drug Agency the responsibility for the implementation of the specific activities for the prevention of tobacco, alcohol and drug consumption, with children and parents acting as direct beneficiaries, goes to: The Ministry of Education and Research, the Ministry of Public Health, the National Sports Agency, the National Youth Authority, the National Authority for Supporting the Youngster’s Initiatives, the Ministry of Labour, Family and Equality of Chances, the National Authority for the Protection of the Child’s Rights.

1187. In this sense, the Ministry of Education, Research and Youth and the Ministry of Public Health are responsible for the national implementation of the Programme “Health Education in the Romanian School”.

1188. The National Education Programme for Health in the Romanian School was initiated in 2001 in collaboration with the Ministry of Health and consisted of three components: activity in class, school contests and spare time activities. The programme ensures the formation of abilities and “healthy life” behaviour for children and youngsters (rules of hygiene, food health, environmental health, activity and rest, prevention of toxic consumption, of violence, promotion

of humanitarian values, etc.). By the Order of the Ministry of Education and Research No. 4108/05.06.2003, the programme became an optional discipline for 2nd-12th grade pupils. The programme aims at specific themes of prevention of tobacco, alcohol and narcotics consumption, being structured modularly, it approaches in a differentiated and gradual manner the issue of consumption of substances, according to the year of study.

1189. The National Education Programme for Democratic Citizenship elaborated and coordinated by the Ministry of Education, Research and Youth and with the UNICEF Romania financing targets the formation of children for a democratic society. The programme addresses pupils from the 1st to the 12th grade and approaches the principle of fragmented information in the various themes and issue of drug consumption.

1190. For increasing the efficiency of preventive interventions in the school area, due to the collaboration with the National Anti-drug Agency and the Ministry of Education, Research and Youth, sections for preventing the drug consumption was added in the calendar of educational projects within the school contests and festivals, such as:

- The project “Together”, contest of anti-drug projects made by high school students (2 Mai)
- The national contest of photography and cineclub (Tg. Mureş)
- The international contest of traveling “Europe - a future together” (Poiana Pinului)
- The contest of educational projects “Educational partnership - present and perspectives” (Tulcea - Sulina)

1191. In 2006, the National Anti-drug Agency has initiated its 3rd edition of the National Contest, “My anti-drug message”, structured on 5 sections: web page, short film, digital photography, literary essay and sports, offering the possibility of promoting the alternatives of a healthy lifestyle for pupils and students. The contest reunited 140.000 participants. The project is also held in the school year 2006-2007.

1192. Another project addressed to the school population is “Classes without smoke”, held in the period November 7th 2005 - July 30th 2006 in Bucharest and 19 counties, with direct beneficiaries 28.685 pupils between the 5th and the 8th grades, as well as 1.237 teaching staff and approx. 50.000 parents, as indirect beneficiaries. 80 per cent of the classes registered have finished the project.

1193. At the same time, the project, Vigilant - Independent - Strong (VIP), no alcohol” held in the period February 1st - July 31st 2006 aimed at preventing the alcohol consumption through the development of personal and social abilities for high school pupils in Bucharest and other counties. 10.952 pupils, 470 teaching staff and approx. 20.000 parents benefited from this project, 78 per cent of the pupils registered finalized the project.

1194. “High School - the life threshold”, is a new project initiated by the National Anti-drug Agency in partnership with the School Inspectorate of the Bucharest municipality and the General Police Department of Bucharest, whose objective is to promote the active partnership by

creating teams for the prevention of delinquency, crime and drug consumption for pupils from 102 high schools in Bucharest. The teams are made up of specialists of the National Anti-drug Agency, proximity policemen and educational counsellors from the capital's high schools.

1195. For enhancing the involvement of pupils and teaching staff in the activities of drug prevention, the National Anti-drug agency has initiated the project, "I have the right to be informed". In this project, the President of the National Anti-drug Agency addressed an open letter to the teacher staff and informative materials addresses to pupils were distributed.

1196. In the period October 2005 - July 2006, the National Anti-drug Agency, in partnership with the Ministry of Education and Research, the Regional Office ICAA for Eastern Europe and Asia and the General Direction of Social Assistance and Child Protection - 1st district Bucharest, have implemented the pilot project, "PROTEGO", aimed at creating the educational abilities for preventing drug consumption for parents of 7th grade pupils. In the school year 2006 - 2007 the project is implemented nationally in 64 general schools, with direct beneficiaries 1000 parents. This project was implemented locally by 53 psychologists and social assistants within the centres of prevention, evaluation and counselling and 53 psychologists and school psycho-pedagogues.

1197. For informing and sensitizing the future mothers regarding the risks that tobacco, alcohol and drug consumption might create for the foetus, in June 2006 the project, "Risks of drug consumption for the mother and child" was set off". In this project a conference of international participation and in family planning cabinets took place in which 600 future mothers were informed.

1198. With reference to the campaigns held in the community with the purpose of preventing and fighting tobacco consumption, the campaign "Tobacco - lethal in any form or content" was held by the National Anti-drug Agency and through the centres of anti-drug prevention, evaluation and counselling, for marking the National and World Day without Tobacco.

1199. 56.000 pupils, 9,750 students, 11.300 professionals, 3.170 parents and members of local communities participated in this campaign. The campaign included all the objectives proposed by the World Health organization and also included the broadcasting of an audio commercial at the national and local radio stations, in trains and metro stations.

1200. The National Anti-drug Agency, together with Romfilatelia, launched the philatelic issuing dedicated to the June 26th, respectively a post whole, containing a stamp, an envelope "the First Day" and a stamp from the campaign "Drugs are not a child's play" (Drugs are not child's play) proposed by the United Nations Office for Drugs and Crime (U.N.O.D.C.) for celebrating the 26th of June - The International day against the consumption and illicit trafficking of drugs.

1201. In the same context, at the headquarters of the Cultural Centre of the Ministry of Administration and Internal Affairs, a cultural manifestation with the theme: "Drugs are not a child's play" was held. The event ended in an anti-drug theatre show sponsored by UNITER (The Theatre Union in Romania), called "100 per cent Drug Risk". Nationally, activities of informing and sensitizing were organized with 15,400 pupils and students, 1.192 professors, 1.238 professionals, 1.095 parents and 73.327 members of local communities as beneficiaries.

1202. At the same time, centres for prevention, evaluation and anti-drug counselling were implemented in the priority areas identified at the level of each county, 84 prevention projects in schools. The evaluation of the activities held by the centres of prevention, evaluation and anti-drug counselling highlighted the fact that over 500.000 pupils, representing approximately 20 per cent of the school population were involved in 2006.

1203. Based on the local maps on the priority areas for family awareness for the reduction of the drug demand, the centres of prevention, evaluation and anti-drug counselling initiated and held in 2006, a number of 15 projects, the following examples being relevant:

- “Parents’ school” - family awareness project for reducing the risk factors and increasing the protection factors with respect to drug consumption; the project was implemented in the period April - June 2006 and the Center for prevention, evaluation and anti-drug counseling Cluj, in partnership with the Preventis Association and the Children’s Friends Association. The project was addressed to 100 parents.
- “Anti-drug partners” - project implemented by the Center for prevention, evaluation and anti-drug counseling Constanta, in partnership with the County School Inspectorate, in the period February - April 2006 and aimed at informing, sensitizing parents of 9th grade pupils from three high schools in Constanta. It must be specified that after this, 32 parents have been involved voluntarily in prevention activities in the local communities.
- “Anti-drug training for parents” - project of prevention implemented in the period March - May 2006 by the Centers of prevention, evaluation and anti-drug counseling Timis, in partnership with the University of Medicine and Pharmacy Timisoara. The project aimed at the involvement of 54 family doctors and 80 medical assistants from the Timis, Arad and Caras Severin counties in activities of informing and building awareness in parents as well as young mothers, to cultivate the children’s abstinence with respect to alcohol, tobacco and drug consumption.
- “Maternity without risks” - project held in the period May 15th - August 30th 2006, organized by the Center of Prevention, evaluation and anti-drug counseling Teleorman, Association “Clubul Rotary” Alexandria, National Society, Crucea Roşie” - Teleorman Branch, with partners such as the Public Health Department Teleorman, The General Direction for social assistance and child protection Teleorman and the Bishopric of Alexandria and Teleorman. The project aimed at developing a healthy and responsible lifestyle, without alcohol, tobacco and drug consumption for women. 100 pregnant women from the Obstetrics - gynaecology section of the county hospitals, 20 mothers from two maternal centers, 6 sanitary mediators and 120 women from 5 Roma communities in the county participated in this project.
- “Taboo subjects: Drugs...Do we really have to talk about them...?!” - universal project for drug prevention implemented by the Center of prevention, evaluation and anti-drug counseling 1st district Bucharest in partnership with the School Inspectorate of the 1st district Bucharest, in the period October 2005 - May 2006. The direct beneficiaries were 450 parents who were informed on the factors of risk and protection triggered by the alcohol, tobacco and drugs consumption.

- “Be informed” - project developed by the Center for prevention, evaluation and anti-drug counseling Botoșani in partnership with D.G.A.S.P.C. Botoșani and the non-government organization, Hand of Help”. The Project aimed at informing medical assistants regarding the risks of drug consumption.
- “Education starts in the family” - project developed by the Center of prevention, evaluation and anti-drug counseling Harghita in partnership with D.G.A.S.P.C., having as public target the coordinators of family centers, maternal assistants and educators from the care centers.
- “For a healthy child” - project held by the Center of prevention, evaluation and anti-drug counseling Vaslui in partnership with the Association “Myosotis” Bârlad. The project consisted of 4 sessions for informing young mothers.
- “Stop to family violence” - campaign for prevention developed by the Center of prevention, evaluation and anti-drug counseling Giurgiu with the purpose of protecting and supporting the family.

1204. We observe the difficulty of family involvement in the projects for the prevention of drug consumption.

1205. In 2006, specialists of the centres of prevention, evaluation and anti-drug counselling participated in 344 meetings with parents, organized at the initiative of the education units.

1206. Although there is an institutionalized system allowing the consultation of children for the elaboration of policies and anti-drug strategies, the National Anti-drug Agency encourages their participation in projects for preventing drug consumption. For ensuring the active involvement of children in the elaboration and implementation of projects to the activities in which volunteers are involved, a new working methodology with volunteers was adopted by order of the president of the Anti-drug Agency. In 2006, at the level of the Agency and centers of prevention, evaluation and anti-drug counselling, 217 volunteers were recruited. We draw the attention on a few projects developed by the centers of prevention, evaluation and anti-drug counselling with the involvement of volunteers, pupils and students:

- Summer campaign “Seaside without drugs” held on the Romanian coastline (Mamaia, Năvodari, Costinești and Constanța)
- Anti-drug clubs coordinated by volunteers (Ialomița, Tulcea and Constanța)
- The campaigns “Anti-drug caravan” held by the centers of prevention, evaluation and anti-drug counseling Harghita and Covasna together with the County Youth Department and the Association for the Community

1207. Centres of prevention, evaluation and anti-drug counselling were organized in 2006, 2483 informative activities in schools and 174 care centres.

1208. For informing teenagers from closed institutions or under detention, in 2006, the Centres of prevention, evaluation and anti-drug counselling held 61 thematic meetings in the

re-education centres. At the same time, in 2006, the Centres of prevention, evaluation and anti-drug counselling closed 29 protocols of collaboration with General Direction of social assistance and child protection.

1209. The project evaluations are performed by the institution/initiating organization. Such national projects initiated by the National Anti-drug Agency were evaluated, and in case of local projects the evaluation is made by the Centre of prevention, evaluation and anti-drug counselling who initiated the project.

1210. With reference to the activities of formation, in 2006, the Centres of prevention, evaluation and anti-drug counselling organized in collaboration with institutions / local non-government organizations, 551 sessions of formation with beneficiaries 23473 professionals (teaching staff, medical personnel, social assistants, policemen, workers in non-government organizations, volunteers).

1211. There are 3 centres of assistants for children consuming drugs in the clinical psychiatrics hospital "Prof. dr. Al. Obregia", Clinical Children's Hospital "Grigore Alexandrescu" and in the Child And Teenager Clinic of Psychiatry in Cluj-Napoca.

1212. In 2006, from a total of 1912 cases of treatment after drug consumption, 376 were registered for persons under 19 years old, as follows: 57 cases for persons under 14 and 319 cases for the age group 15-19 years old. From the total of these cases, 187 persons have presented themselves for the first time to treatment, and as to the gender distribution - 240 were women and 136 were men.

1213. For 55 per cent of the persons less than 19 years old, nicotine was the main drug of consumption (206 persons), a number of 45 cases of persons under 14 years and a number of 161 persons in the age group 15-19 years old were registered. From the total cases of nicotine consumption for persons under 19 years (206 cases): 78 were new cases (38 per cent), 61 per cent were registered for male persons (126 cases) and 39 per cent for female persons (80 cases).

1214. For 28 per cent of the persons less than 19 years, heroine was the main drug of consumption (104 persons), all cases being registered in the age group 15-19 years. From the total of cases of consumption of heroine at this age group (104 cases): 63 were new cases (60 per cent), 72 per cent were registered for male subjects (75 cases) and 28 per cent for female subjects (29 cases). From the total of new cases of admission to treatment as a consequence of the heroine consumption, for all age groups (915 cases), 11 per cent were registered for persons under 19 years old.

1215. Volatile substances as a main drug were registered for approximately 4 per cent of the total cases reported for persons under 19 years, alcohol and cannabis for 2 per cent of cases each, and stimulating substances amphetamines and MDMA for 1 per cent of the cases.

1216. The age of beginning of the consumption, for 14 per cent of the persons admitted to treatment in 2006, was before 14 years old and for 29 per cent in the interval 15-19 years. For heroine as main drug 8 per cent of the cases begun the use before 14 years, while 42 per cent of the cases of consumption started between 15-19 years.

1217. For specific activities held with the purpose of preventing the alcohol consumption in schools and high schools, in collaboration with the Association, Berarii României” in 2006 the campaign, “Alcohol doesn’t make you an adult” was held.

1218. Among the achievements of this campaign we mention the training of 50 proximity policemen in a session of formation on the theme of preventing the alcohol consumption, where teenagers were informed on the campaign.

1219. Simultaneous with the distribution of informative materials on these themes, an opinion poll was made regarding the teenagers’ alcohol consumption, with the purpose of identifying the dimension of the teenagers’ alcohol consumption, 600 pupils from 12 Bucharest high schools being surveyed.

1220. The research report made on the basis of the results of the opinion poll on the teenagers’ drug consumption was presented in a press conference, promoted on the central TV channels through the apparition of thematic articles in 10 central publications.

1221. Given the results of this campaign, the authorities decided to extend the campaign at national level and to make an opinion poll for pupils and educational films for supporting the informative activities promoted by the campaign.

1222. The National Anti-drug Agency through the County centres of prevention, evaluation and anti-drug counselling have organized together with the county school inspectorates and County Department of Public health, in the period June - September 2005, various activities celebrating the International Anti-drug Day, press conferences, campaigns for informing the population, campaigns in places frequented by teenagers, artistic contests on anti-drug themes completed with exhibition shows organized in public places, realization and distribution of anti-drug materials, articles and local mass - media shows.

1223. The Ministry of Education, research and Youth has recommended: including in the spare time activities organized by the school units of county inspectorates locally, at county level or between counties and nationally, a component for preventing the drug consumption for school population. Examples of such activities are: meetings with proximity policemen and other specialists; workshops on the theme of developing project for the prevention of drug consumption, games, exhibitions, distribution of specific materials, developing sports contests with the theme of a healthy life, without use of damaging substances.

1224. The centre of prevention, evaluation and anti-drug counselling Iași in partnership with the County Library, “Gh. Asaefai” and the Organization, “Save the Children” Iași have set up in 2006, the project, be informed!

1225. “And You win!”. The project aims at setting up a preventive network, through libraries, in the urban an rural areas, encouraging and offering consultancy for the development of educational preventive services for the informative centres of the libraries in the rural area.

1226. Starting with May 16th, 2005, the national campaign of prevention of drug consumption was initiated, called “Open your eyes”, activity destined for young people between 14 and 25 years old.



1227. The campaign was held in the period May-September 2005, within the PHARE project of institutional brotherhood between Romania and Spain, Fight against the drug consumption and trafficking”.

1228. The National Anti-drug Agency in collaboration with the Organization, “Save the Children”, has developed in the period July 25th - August 21st 2005 the campaign for the prevention of the drug consumption The sea - our only addict”, the targeted group being represented by teenagers and young people in vacation in 9 resorts of the Black Sea coast. The purpose of this campaign initiated for the first time in Romania was to inform and build awareness in the young people on the effects of drug consumption through the organization of cultural-artistic and sporting activities.

1229. The Romanian Police initiated in collaboration with Government institutions, non-government organizations and with international organizations a series of projects which were projected in various programmes of prevention of crimes against children. These aimed at increasing the institution’s capacity to intervene in the reduction of this phenomenon and aimed at building specialists for preventing the forms of manifestation of the human being trafficking (policemen, professors, journalists, priests), the development of the abilities for the identification and solving situations which might lead to the traffic, materialization of various experiences in the prevention and fighting the human being traffic, the initiation of a regional collaboration network between authorities, non-government organizations, churches, international agencies, media, reduction of the illegal migration phenomenon of Romanian underage children and of the crimes committed by them in other states, as well as the prevention and fighting against the violence in the area of the education units.

1230. The results of these projects were projected by the public order and criminal investigation structures by directing the specific discouraging and fighting actions mainly in this areas, as follows:

- Activities of training were initiated for policemen who will be involved in the programme for the development in the programme, for the development of preventive educational activities in education units, starting with the school year 2006-2007
- In the majority of counties, pupils were instructed in special courses, they will subsequently present educational-preventive themes addressed to their colleagues
- With the support of the groups of criminal investigation and public order the school areas were monitored especially high schools and other places frequented by young people (discotheques, parks, bars) where actions for preventing the absenteeism, the frequentation of bars by pupils, serving them alcoholic drinks, were performed
- The local mass-media was present at the activities held as part of the projects, bringing support especially by informing the population on the conclusions of the analysis and also by promoting anti-criminal and anti-victimizing messages

1231. The National Education Programme for health in the Romanian school, initiated in 2002, is implemented according to the already known strategy, with the purpose of extending the

discipline in all school units in the country. Currently, schools units all over the country apply the syllabus of Education for health, as an optional course, this object of study being taught by approximately 12.000 teaching staff at national level. The Education syllabus for health contains themes on the use and abuse of illegal substances, with a content adapted for the children's age, from the 2nd to the 12th grade.

1232. After centralizing the data regarding the choice of the optional courses for the school year 2006 - 2007, the number of schools which choose this discipline is growing, similar to the National Programme of Education for a democratic citizenship. Until now, in school and extra-school activities afferent to this programme, over 2.000.000 pupils and teaching staff were involved. Starting with 2007, the national contest, "discover a healthy world", is held as an extra-school activity of the programme. Furthermore, a radio commercial was made promoting the adoption of a healthy lifestyle, which, according to the analysis, was received, directly or indirectly, by 70 per cent of the school population.

1233. Support materials for the implementation in class of the National Education Programme for democratic citizenship are used within the optional object of study Education for democratic citizenship, including themes on the prevention of drug consumption as well as activities connected to the increase of the self-esteem, self-evaluation, the value of friendship, the importance of a correct and complete knowledge in decision making etc., aimed at removing the causes which lead to the adoption of a life damaging conduit.

1234. Annually, through the Calendar of Educational Activities, within cultural-artistic, technical-scientific and sports projects it is aimed at preventing the unhealthy lifestyles by offering pleasant variants of spending leisure time. The summer season is the period in which a big part of these activities are held in which the organizers received instructions to organize, with the help of specialists, activities of informing on the various social issues among which alcohol, tobacco, drugs consumption.

1235. The great majority of the programmes of drug prevention held by County School inspectorates are the representation of partners with government and non-government institutions; schools units and county school inspectorates have generally provided the material base and the attendance of the teaching staff and pupils at the activities. Using the experience of specialized institutions and persons in the fight against drugs, volunteer work, education among equals, etc. in schools, actions of prevention, such as debates within the homeroom classes, round tables with specialists in the domain of public health and safety are held across the school year; as well as lectureships with parents on the subject of the drugs phenomenon for children and young people; methodical activities of the class master commission; realization of brochures, leaflets, video cassettes, editorials in school magazines; drawing, posters, sports contests, etc.; contests on projects implemented by pupils, leisure time activities aimed at promoting a healthy lifestyle.

1236. Such activities were implemented by school units, in partnership with county centres of prevention and anti-drug counselling, at the celebration of the International Anti-Drug Day, June 26th.

1237. After the completion in all counties of the positions of education specialists in the county centres of prevention and anti-drug counselling, the collaboration between the county school inspectorates and the above is more and more tight. The majority of the programmes of prevention by informing and education, through educational and modern methods, are made in partnership by the two institutions.

### **3. Sexual exploitation and sexual abuse**

1238. Law 272/2004 on the protection and promotion of the child's rights pronounces at article 85, par. (1) the principle according to which any child can be protected against any form of violence, abuse, bad treatment or negligence.

1239. According to the definitions offered by the Criminal Code of Romania, the notion of exploitation of a person includes with the definitions offered by the Criminal Code of Romania, the notion of exploitation of a person includes other actions and activities obliging the practice of prostitution, at pornographic manifestations for the production and broadcasting of pornographic materials or other forms of sexual exploitation (art. 207 Criminal Code).

1240. For preventing the exploitation of children in pornographic activities Law No. 96/2003 on the prevention and combating pornography was adopted. This normative act instituted measures for preventing and combating pornography, for protecting the dignity of a persons, the chastity and public morality and ensured the limitation of distributing pornographic materials which harm the human dignity and public moral, prohibiting the access/participation of underage children to pornographic activities, that affect their harmonious development and their health, as well as setting the conditions for the development of the activities which include erotic programmes.

1241. By the Decision No. 1504/2004 the National Action Plan for preventing and fighting the sexual abuse of the child and the sexual exploitation of children for commercial purposes (2004-2007) was adopted.

1242. The approval of such an action plan considered the strengthening of the political engagements, the initiation and development of strategies/action plans for preventing and fighting the sexual abuse of the child, the sexual exploitation of children, the sale and traffic of children; publishing these documents and disseminating them to be widely known.

1243. Establishing a working methodology in the domain of preventing and fighting the sexual abuse of children and the sexual exploitation for commercial purposes, by involving government and non-government factors, will be the basis for the creation of a proper institutional framework that will facilitate the work in the network.

1244. Other efforts made by authorities have aimed at supporting and developing specialized services accessible to abused or sexually exploited children/young people, and the creation of specialized emergency centres as well as psycho-social rehabilitation centres for children/young people victims.

1245. Regarding the under age child's age, the Criminal Law incriminates aside from the serious forms of sexual offences including the deed of the one who by making promises of marriage, determines a persons of female sex who did not turn 18 to have sexual intercourse with him,

being punished with 1 to 5 years in jail. To underline the seriousness of such a deed, the same law stipulates that the reconciliation between the parties does not remove the criminal liability.

1246. Also on the line of definitions gave by the Romanian law to sexual activities in which underage children are involved, art. 217 Criminal Code. Shows that the “Sexual act, of any nature, with a person of the opposite sex or of the same sex, by forcing her/him or taking advantage of his/her ability to defend itself or express its will, is punished with 3 to 10 years in prison and the removal of rights. An aggravating factor for such deed is when the victim is a minor who did not turn 15 years.

1247. Aside from the general regulation of this issue, the Criminal Code of Romania in its last updated variants incriminates the sexual intercourse with an underage child, showing that:

- Art. 218. - The sexual act, of any type, with a person of the opposite sex or of the same sex, who did not turn 15, is punished with 3 to 10 strict jail and removal of rights
- The same punishment applies for the sexual act, of whichever type, with a person of the opposite sex or of the same sex, with the age between 15 and 18 years, if the act is committed by the legal guardian or trustee, or by the supervisor, caretaker, treatment doctor, professor or educator, using its position, or if the doer has abused the victim’s confidence or his/her authority or influence on her/him
- If the sexual act, of whichever type, with a person of the opposite sex or of the same sex, under 18 years old, was determined by offering or granting money or other material goods by the doer, directly or indirectly, to the victim, the punishment is 3 to 12 years of strict jail, and the removal of rights
- If the deeds provisioned in par. (1)-(3) were made with the purpose of producing pornographic materials, the punishment is 5 to 15 years in prison and removal of rights, and if force was used for the realization of this purpose, the punishment is severe detention from 15 to 20 years and removal of rights

1248. Furthermore, actions of sexual perversion made in public are punished with 1 to 5 years of strict jail.

- Actions of sexual perversion with a person under 15 years old are punished with 3 to 10 years of strict jail and removal of rights
- The same punishment applies for the actions of sexual perversion with a person aged 15 to 18, if the actions is performed by the legal guardian or trustee, or by the supervisor, caretaker, treatment doctor, professor or educator, using its position, or if the doer has abused the victim’s confidence or his/her authority or influence on her/him
- If the actions of sexual perversion with a person who did not turn 18 were determined by offering or granting money or other material goods by the doer, directly or indirectly, to the victim, the punishment is 3 to 12 years of strict jail, and the removal of rights

- If the deeds provisioned in par. (2), (3) and (4) were made with the purpose of producing pornographic materials, the punishment is 5 to 15 years in prison and removal of rights, and if force was used for the realization of this purpose, the punishment is severe detention from 15 to 20 years and removal of rights

1249. Another deed punished by law is sexual corruption, which is the total of obscene deeds committed to an underage child or in the presence of an underage child, punished with one to 5 years of strict jail.

- When the deeds provisioned in par. (1) are performed against a member of the family, the punishment is 2 to 7 years of strict jail
- If the deeds provisioned in par. (1) and (2) were accomplished with the purpose of producing pornographic materials, the special maxim punishment is increased with 2 years
- Luring a person for the commitment of sexual acts with an underage child of an opposite sex or of the same sex is punished with 1 to 5 years of strict jail. 221 Criminal code.

1250. With regard to child pornography, article 18 from Law No. 678/2001 on the prevention and fight against human being trafficking, published in the Official Gazette of Romania, Part I, No. 783 as of December 11th, 2001, was modified with the following content:

- Art. 18. - the action of exhibiting, selling or distributing, leasing, spreading, manufacturing or producing in another way, sending, offering or placing at the disposal or holding with the purpose of spreading objects, films, photographs, slides, symbols or other visual supports, which represent pornographic positions or sexual acts displaying or involving underage children who did not turn 18, is a juvenile pornography crime and is punished with 3 to 10 years in prison
- The same punishment is applied for the import or delivery of objects stipulated in par. (1) to a transport or distribution agent for trading or distribution thereof

1251. With regard to taking corresponding legal measures on ensuring the guarantees for handing in a person who committed a criminal deed on the Romanian territory aimed at the sexual exploitation of children or juvenile pornography, Law 224/2006 for the change and addition of Law No. 302/2004 on the international legal collaboration in criminal matters stipulates that the doer will be handed in, even if the condition of double incrimination was not met.

1252. The obligation of informing the competent authorities to intervene if there is the suspicion of an abuse made over an underage child, is of the natural or legal person, to the employees of public or private institutions who, by the nature of their profession, come into contact with the child or have suspicions on a possible case of abuse, neglect or bad treatment.

1253. The child's parents have similar responsibilities, or as the case may be, another legal representative thereof, the public authorities and private bodies having the obligation of taking

all the corresponding measures to facilitate the physical and psychological re-adaptation and social reintegration of each child who was a victim of any form of negligence, exploitation or abuse, torture or punishment or cruel, inhuman or degrading treatment.

1254. The starting point to this issue was the need to correlate the national policy for the protection of the sexually exploited child to the international policy, based on the Convention on the Rights of the Child as well as based on the Declaration and Agenda for Action issued during the First World Congress against Commercial Sexual Exploitation of Children in Stockholm in 1996 and the Yokohama Global Commitment issued during the Second World Congress against Commercial Sexual Exploitation of Children in 2001.

1255. Romania acceded and ratified almost all the conventions elaborated internationally on this issue, to be permanently aligned to the newest standards in the field.

1256. Romania decided to have an active role within the regional and international networks of fight against the sexual abuse of children and young people, and the sale and trafficking for commercial purposes. This would not have been possible without the promotion of mechanisms of regional and international cooperation for the discovery and fighting of trafficking networks.

1257. The Romanian authorities developed a series of programmes and campaigns for building awareness to the public regarding the risk implied by trafficking human beings, respectively children.

1258. With the project, "Behaviour Code for the prevention of sexual exploitation of children from the travel industry" 5000 posters and a manual were processed for the instruction of the personnel from the hotel chains Sofitel and Golden Tulipe.

1259. The programme of prevention and fighting sexual abuse against underage children, made by IGPR nationally, in 2006 aimed at reducing the risk of victimization of underage children at the level of the entire country performing analysis and criminological maps of the areas where such crimes were committed.

1260. Educational - preventive activities were initiated in education units for the organization of meetings with pupils and debating themes on the personal safety.

1261. Partnership protocols were closed with local institutions and non-government organizations for the realization of efficient activities and arousing the responsibility of all institutions in prerogatives in the field.

1262. Based on the protocols of collaboration closed between the county police inspectorates and the institutions with prerogatives in the field, a system of collaboration and assistance of victims of such crimes was implemented, taking into account the particularities of each case.

1263. This chapter is also destined to child abuse, in various forms reported to the level of the central institution with responsibilities in this field. Thus, quarterly, information and statistic data on the cases of abuse signalled through various means to the specialists of this institutions or the local responsible subjects, are sent to ANPDC by the county divisions of social assistance and child protection.

#### 4. Other forms of exploitation

1264. The article 99 of Law 272/2004 on the protection and promotion of the child's rights regulates the child's right to protection against any form of exploitation, at the same time pronouncing a series of other forms.

1265. The public institutions and authorities must create the legal frame, according to their specific prerogatives and implement the existing norms for preventing the children's form of exploitation. With this purpose it is essential that the competent authorities identify the eventual existing gaps in the legal domain and to act for creating the necessary base for implementing the legal provisions.

1266. Authorities undertake to adopt measures for the prevention and removal the illicit transfer and non-return of the child.

1267. It is also stipulated the need to adopt regulations to prevent the child's adoption for other reasons that he child's best interest. The corresponding general frame is given by Law No. 273/2004 on the legal regime of adoption who also stipulates in art. 2 that the child's best interest shall be obligatorily observed during the adoption procedures, national or international. The methodological norms of implementation of the provisions of Law No. 273 are approved by the Government Decision No. 1435/2004.

1268. Lett. c) and d) of the aforementioned article stipulate that the exploitation and sexual violence, the abduction or traffic of children are forms of exploitation and public authorities and institutions must intervene to prevent them.

1269. Regarding these aspects, it must be mentioned that by the meaning of Law No. 470/2001 Romania ratified the Optional Protocol to the Convention on the Rights of the Child, regarding the sales of children, child prostitution and juvenile pornography, signed at New York on September 6th, 2000. Art. 3 of Law No. 470/2001 obliges the ratifying states to incriminate in the internal law the following deeds:

- Offering and delivering or accepting a child, for the sexual exploitation, transfer of organs for profit and submission of children to forced work; obtaining the fraudulent approval for adoption and breach of the legal instruments for adoption.
- Offering, obtaining, procurement, supply of children for prostitution.
- Activities which involve juvenile pornography. Furthermore the same law stipulates that states undertake to take the necessary measures for rapidly implementing and for sanctioning these deeds as well as for the protection of the victims of thee crimes.

1270. The transposition in the Romanian law of the dispositions of the Protocol is found in the Criminal code - crimes over the sexual life, illegal depriving of freedom as well as the provisions of the Law No. 678/2001 on the prevention and fighting the traffic of human beings with further changes and additions, in Law No. 196/2003 on the prevention and fighting pornography as well as Law No. 203/2000 of ratification of the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (2000). With

reference to the norms that aim at protecting the victims of crimes, including in their quality as witnesses, we remind Law No. 211/2004 on measures for ensuring the protection of crime victims, as well as Law No. 682/2002 on witness protection. Moreover, we mention the fact that Romania ratified through Law No. 304/ 2005 the European Convention on the Compensation of Victims of Violent Crimes.

1271. Also, by Law No. 567/2001, Romania ratified the Optional Protocol of the Convention on the Rights of the Child, regarding the involvement of children in armed conflicts.

1272. The provisions of the Decision 248/2004 of the National Council of the Audio-Visual on the protection of human dignity and the right to self image, apply in this domain.

1273. At the same time, for children in a special protection system, the provisions of Decision No. 1018/2002 shall apply, with which the Norms on the obligations of the specialized public services for protecting the child's rights for guaranteeing the observance of the right to an image and intimacy of the children, were approved.

1274. As for the exploitation of children in experiments, we mention that art. 7 of the International Covenant on Civil and Political Rights (1976) ratified by Romania by the Decree No. 212/1974 prohibits subjecting a person to medical or scientific experiences, without the approval of the person in question; as it is obvious, subjecting humans to certain experiments and medical researches is conditioned but not totally restricted, the research and realization of experimental treatments are necessary for the medical progress sometimes for some persons being the only hope.

1275. If a child is in this situation, it is necessary, on one hand, to get the approval of its legal representative and on the other hand for children of elder ages it implies their information, listening and consent. At the same time, the ethical and deontological code must also be observed by doctors and other categories of professionals involved.

1276. By the Decision No. 686/2005, the national strategy in the domain of prevention and fighting the violence phenomenon in the family was regulated.

1277. The reason for which such a national strategy in the domain of prevention and fight against violence in the family was taken was because of considering the family as a main cultural model in the complex process of educating children, in the context in which the responsibility of the Romanian state is in creating a favourable opportunities for finding solutions for preventing family violence as well as of support of persons subjected to family violence.

1278. The prevention of violence through active measure and by involving all social actors was one of the desires of the current strategy, trying to identify solutions which would lead to a more efficient taken by the society.

1279. By Decision No. 726/2004, the Priority Action Plan in the field of child protection against the abuse, neglect and exploitation for the period 2004-2005 was approved.



1280. The premises for the elaboration and approval of such an Action Plan were the following:

- Harmonizing the legal frame regarding the child protection against abuse, neglect and exploitation with other connected normative acts
- Introducing legal measures for temporary removing the aggressor from the family environment
- Ensuring the gratuity for the medical-legal certificates of children in situation of abuse, neglect, exploitation as well as domestic violence

1281. On the other hand it was aimed at introducing in the legislation the obligation of the initial and continuous formation in the domain of child protection against abuse and exploitation by professionals interacting with the child, simultaneous with the enhancement of their training in these fields.

1282. With reference to the programmes organized by the state authorities for preventing and fighting certain forms of exploitation, within the AGIS programme, in partnership with the Academy of management staff from Munster, Germany the project “Let’s work together for the protection of the child - a better handling of the child abuse cases and prevention opportunities” was implemented.

1283. In this context, 2 seminars with the theme “Child protection in Romania” and “Violence in schools - forms of manifestation and measures of prevention” to which the specialists from the Ministry of Administration and Internal Affairs, the General Direction of Social Assistance and Protection, NAPCR, representatives of the Institute of Sciences of Education, representatives of cultures, professors, school instructors, participated.

1284. Another project held in collaboration with the Department of Analysis and Prevention within the general Department of the Police of Bucharest, in collaboration with NOI Foundation, Identity and of SIVCO SA was the project “BE SMART, DON’T BE VIOLENT!” (January 30th, 2006 - June 2006) for pupils from I/XII.

1285. The purpose of this project was to reduce the violence phenomenon in schools. The objectives proposed by this project consisted on the organization on January 30th 2006 of the International Day of Non-violence in schools - “Moment of noise” in which 2800 posters, 240 000 fliers and 23000 leaflets were printed, a contest of non-violence projects was held and the Olympics of the intelligence were held for discovering, promoting, encouraging the pupils’ talents and performances, in extra-school domains of activity. A Non-Violence march was also organized on a route in the centre of Bucharest.

1286. The project for preventing and fighting against violence in the area of education units “Let’s expel violence”, was implemented in collaboration with the Ministry of Education, Research and Youth and was sent to the territorial structures for local implementation, in the period 2006 - June 2007.

1287. According to the agenda of the programme analysis and criminological maps were created in which the education units are located for knowing the local situation regarding acts of violence in their perimeter.

1288. The results were used by the structures of public order and criminal investigations by directing the specific actions for discouraging and fighting especially towards these areas. At the same time, activities of training for the policemen involved in the programme were initiated for the development of preventive educational activities in the education units, in the school year 2006-2007.

1289. In the majority of the country's counties, in special courses, a series of pupils which subsequently presented educational-preventive themes in front of the colleagues, were instructed.

1290. The development of this programme meant also the affective involvement of proximity policemen who made maps for each school, which contained the protocol of collaboration, the site sheet (location, security, contact data of persons responsible for connection with the police), event slip and other documents. These reports allow a pertinent analysis at each end of the month and directing the activities towards education units with a high degree of risk.

1291. Along with the groups of criminal investigations and public order the schools, especially high schools and other places frequented by pupils were monitored (discotheques, parks, bars) where actions for preventing the absenteeism, the frequentation of bars by pupils, serving them alcoholic drinks, were performed.

## **5. Sales, trafficking and abduction**

1292. In the last period, Romania was more and more confronted with illegal migration and with children trafficking. Becoming the source-country for children illegally staying on the territory of some European countries, Romania legally reacted towards the two phenomena. For the traffic of human beings, the legal frame was Law No. 678/2001, law offering a legal definition to this notion. One of the forms of traffic provisioned by law and to which a high number of children were subjected is the recruitments, transfer, transport, accommodation or receipt of persons by deceit, abuse of authority or profiting from the a person's impossibility to defend itself or to manifest its will, or by offering, giving, accepting or taking money or other material goods with the purpose of exploiting the person.

1293. A series of normative acts were elaborated and approved across time for finding the most efficient legal methods to fight this phenomenon.

1294. By Decision No. 1216/2001 the National plan for fighting the traffic of human beings was elaborated which aimed at building the awareness of the population in the danger that the traffic of human beings represents and for setting conduct codes for national workers from the domain of traffic of persons.

1295. Simultaneously it was decided to organize courses and campaigns to strengthen the feeling of human dignity and of self-protection, educating people belonging to groups with a high risk of trafficking, for the protection for the protection thereof.

1296. By the order of the Ministry of Justice No. 1.806 from the 2nd of July 2004, with provisions completed by the CSM Decision No. 269 from July 6th, 2005, the network of specialized judges for solving the causes of traffic of human beings was set; this is made of 56 judges, one judge from each Court of Appeal and tribunal. The network will be internationally notified to the European Commission, Eurojust, European Council, United Nations Organization and the international bodies with prerogatives in the field.

1297. By the meaning of the Government Decision No. 1584/2005 for the institution, organization and operation of the National Agency against Traffic of Human beings, modified and completed by the Government Decision No. 1083/2006, the establishment and organization of the National Agency against the Traffic of Human Beings was approved. The need to establish such a structure was imposed by the big proportions taken by the traffic of human beings, this being a reason of concern for the majority of the world states.

1298. The national law in the field of traffic of human beings includes a series of normative acts elaborated on new basis, aimed at increasing the efficiency of the fight against this phenomenon: Law No. 678/2001 on the prevention and fighting of traffic of human beings, with further changes and additions, Norms of applications of the provisions thereof, approved by the Government Decision No. 299/2003 and Law No. 211/2004 on measures for ensuring the protection of victims (effective from January 2005).

1299. By the meaning of Law for the prevention and fighting against the traffic of persons the forms of traffic of human beings were incriminated, the legal frame for the use of modern techniques of investigations were created, needed for discovering facts, norms of protection and assistance of traffic victims, their families and the witnesses, were implemented.

1300. Law No. 211/2004 institutes two categories of measures directly addressing the needs of crime victims:

- (a) Informing victims on the crimes performed on their rights;
- (b) Psychological counselling;
- (c) Free legal assistance.

1301. The main international instruments in the domain of trafficking of human beings to which Romania is part of are:

- Romania signed on December 14th, 2000 in Palermo, the Convention against Transnational Crime and the two related protocols adopted in New York on November 15th, 2000, international instruments ratified by Law No. 565/2002 for the ratification of the United Nations Convention against Transnational Crime, especially women and children, additionally to the United Nations Convention against Organized Transnational Crime, as well as the Protocol against the Smuggling of Migrants by Land, Sea and Air, additionally to the United Nations Convention against Transnational Organized Crime adopted at New York in November 15th, 2000, published in the official Gazette of Romania, Part I, No. 813 of November 8th, 2002

- Romania signed the European Council Convention on Action against Trafficking in Human Beings, international instrument ratified by Law No. 300/2006 for the ratification of the European Council Convention on Action against Trafficking in Human Beings adopted on May 3rd, 2005, opened for signing and sealing by Romania in Warsaw on May 16th, 2005, published in the Official Gazette of Romania, part I, No. 622 on July 19th, 2006

1302. In the period 2001-2005 campaigns for preventing the traffic of persons, by the state institutions in partnership with organizations of the civil company, international and mass-media organizations, were held.

1303. The representative investigations at the level of the population over 18 years in Romania (According to the sociologic research IMAS, 2005) show that the great majority of the population (85 per cent) has heard of the traffic of human beings. Persons with a low level of education, with small income and the ones from the rural area and small towns, which means the very social context which constitute the traffic risk groups, have a more sensitive level of knowledge of the phenomenon. The most efficient channels of communication for the traffic of persons are the TV and written press.

1304. In the National Education Programme for democratic citizenship implemented by the Ministry of Education, Research and Youth, themes which discusses the issue of the children's rights, risk situations for children, methods for preventing and reduction of risks, bodies and organizations authorized to offer support, concrete measures for solving these phenomena. The course supports destined for pupils, as well as the methodological guides destined for the teaching staff are available on the website [www.edu-media.ro](http://www.edu-media.ro). Currently, the programme Education for democratic citizenship is developed in 1500 school units, in the urban and rural area. MECT elaborated programmes for informing parents on the consequences of these phenomena within the project, "Parents' Education", executed in partnership with UNICEF Romania.

1305. At the same time, in each county there are centres of resources and educational assistants with cabinets in schools and high schools from the territory, where psycho-pedagogues work. 1209 counsellors work in the County Centres and assistance cabinets in schools, with the tasks of assisting pupils and their families, in the most various situations, furthermore counsellors are the ones supporting the class master professors in approaching themes corresponding to the risk reduction and preventing harmful behaviours. Each year these centres elaborate county strategies which include various activities among which of preventing the traffic of human beings or of various exploitation forms.

1306. A project for preventing the traffic of children and other forms of exploitation was completed, implemented by the Ministry of Education, Research and Youth, the International Labour Office and the "Association of Social Alternatives". In this project 14 youth centres were founded (in Bucharest, and the counties Giurgiu, Iași and Botoșani), for informing, educating in order to reduce the vulnerability at traffic and other serious forms of children exploitation.

1307. In the attempt of imposing a solution to the situation of children staying illegally on the territory of other states, either consequently to the trade, or to the illegal migration, art. 18 par. 1 from the Law No. 272/2004 stipulates the children's right who are unaccompanied

by parents or by a legal representative, or who do are not under the legal surveillance of a person, to ensure their return to the legal representatives. The provisions of article 18 shall not apply however if the child is abroad accompanied by one of its parents and as a consequence of breaking of court order regarding the entrustment of the child for raising and education after a divorce. In these situations the provisions of the international conventions are incident, ratified by Romania, where there already is a reference in the statement of the previous articles.

1308. Connected to the child's right to be ensured the return to its representative, par. 3 of art. 18 stipulates the obligations of the person responsible with the surveillance and care of the child to announce the disappearance thereof from the residence in 24 hours from the ascertaining of the disappearance.

1309. For underlining the role the parents should equally exercise, in the supervision of children and building their responsibilities in front of a negative phenomenon, which unfortunately is serious - the high number of cases in which children leave their home, abandon school and with the explicit or tacit approval of the parents, or at the prompting of one of them, start looking for sources of own revenues - the text par .2 of art. 18 was introduced according to which the travelling of children to the countryside and abroad is made with the notification and approval of both parents.

1310. It's obvious that we are talking about the situation in which the practice of the parent rights is equally incurred to both parents.

1311. Thus, it must be specified that the Family Code stipulates in art. 97 and art. 99 that both parents with rights and obligations towards their underage children and that in case of misunderstanding between the parents regarding a exercise of the parent's rights, the court can decide to the child's best interest.

1312. In the sense of this interpretation are also the provisions of Law No. 248/2005 on the regime of free circulation of Romanian citizens abroad, which in art. 17 stipulates that Romanian underage children are issued passports at the request of the legally responsible parent according to the definitive and irrevocable court order.

1313. At the same time Law No. 248/2005 stipulates that according to the provisions of article 30 letter c) allows the Romanian underage citizen to cross the country border, registered in the passport of a parent and who travels abroad together with him or as the case may be is the holder of an individual passport and travels together with him, without the need of the other parent's declaration, except if the accompanying parent attests that the underage child was assigned to him by definitive and irrevocable order.

1314. With the purpose of ensuring the protection of children unaccompanied on the territory of other states and for enhancing the efforts for reducing the children Romanian citizens which are illegally staying outside the Romanian Borders, the law expressly institutes the obligations of diplomatic and consular missions of Romania to signal the cases they know regarding unaccompanied underage children abroad.

1315. If on the Romanian territory there are children of foreign citizenship, who are unaccompanied by parents for different reasons and for whom the foreign diplomatic and

consular missions have informed the Romanian authorities, the law clearly states that the child will be placed in a service of the type of the ones stipulated in art. 107 from Law No. 272/2004, only by a court order.

1316. The exclusive competence for the implementation of the protection measure goes to the Bucharest Tribunal, and the National Authority for the Protection of the Child's Right must propose to the court the service of special protection where the placement will be disposed.

1317. The placement of the child in a care centre will always be for a determined period of time, respectively until the child's return to the country of residence of the parents or in the country in which other members of the family willing to take over the child, were identified. Consequently the measure of protection will be doubled by the legal procedures in the competence of the Romanian Office of Immigrations and according to which the foreign competent authorities must be notified on the existence of children of foreign citizenship unaccompanied by parents or legal representative on the territory of the Romanian state. There is also the possibility for the Romanian authorities to be noticed and to notify the foreign competent authorities in parallel with the institution of child protection measures.

1318. Therefore expressed prerogatives are attributed to the National Authority for the protection of the Child's Right in full agreement with Law No. 590/2003 on the treaties in the sense that this can initiate the procedures for closing treaties, agreements of collaborations with the states in which Romanian children are located in the various isolation situations.

1319. The text of article 98 from the Law 272/2004 on the protection and promotion of the child's rights regulates the child's rights to be protected against any form of internal and international traffic of children and by other persons, including by parents.

1320. The general frame in the field is given by Law No. 678/2001 for the prevention and fighting the traffic of persons which qualify the traffic of underage children as an aggravating form of the crime of trafficking human beings being defined as recruiting, transporting, transferring, sheltering or receipt of an underage child with the purpose of exploiting it, punished with prison (art. 13, par. 1); the punishment is increased if the deed is made by threat, violence or other forms of constraint, abduction, fraud or deceit, abuse of authority or profiting from the under age child's impossibility of defence or to express its own will, by offering, giving, accepting to receive money or other materials goods for obtaining the approval of the persons who has the authority over the underage child.

1321. We specify at the same time that the normative act also qualify the attempt of children trafficking as an offence.

1322. Children can be internally trafficked, nationally or internationally, in the majority of cases the purpose of trafficking being the sexual or labour exploitation.

1323. We specify that according to the internal and international normative acts in force, the children victims of traffic benefit from special protection and assistance according to their age, their identity and private life being protected.

1324. Regarding the processes and concrete solution for the return to the country of Romanian children victims of underage children traffic, these are regulated by the Romanian Government Decision No. 1443/2004 regarding the methodology of repatriation of unaccompanied Romanian children and ensuring the special measures of protection in their favour, together with the provisions of chapter III from the Rules of implementation of the Law No. 678/2001.

1325. The normative act mentioned stipulates the procedure of repatriating children in the country, of identifying their parents or legal representatives, the manner of advancement of the expenses incurred at the return in the country as well as special protection services for ensuring the urgent protection of unaccompanied repatriated children.

1326. Therefore if the diplomatic missions, respectively consular offices of Romania abroad, enter in the possession of information on the existence in the country of residence of unaccompanied children, it must request the competent foreign authorities the identification data of the children in question, as well as other useful information for repatriating them. The same procedures will also be made in case of the signalling of the child's presence in a foreign state is made by the child, his family, a government organization or a local authority with competences in the assistance and protection of underage children, as well as if Romanian authorities notifies it.

1327. If it requests the identification of the family members, or a legal representative of the child, as well as the repatriation agreement, the general direction of passports (DGP) performs the following activities (the term is of 7 days).

1328. If persons aforementioned are not found at the residence or they do not grant their permission, the general direction of passports (DGP) will notify the National Authority for the Protection of the Child's Rights.

1329. In this context, the National Authority for the Protection of the Child's Right informs the general direction of social assistance and child protection from the last residence known to the child's parents who, within 7 days must express its approval and ensure the implementation of the child's protection measures in case of its repatriation. The terms stipulated by law want to avoid keeping the child in an unsafe situation, especially if he is on the territory of a foreign country, without its family and cultural environment, being exposed to major risks.

1330. Consequently, the general direction of social assistance and child protection must place a special importance on the terms for the performance of the social investigations requested and to the granting of the approval, with the family's simultaneous preparation for the receipt of the repatriated child.

1331. By Order No. 107/2005 of the State Secretary of the National Authority for the Protection of the Child's Rights, the model of social investigation was elaborated and approved, regarding the social-family status of the Romanian child unaccompanied on the territory of the other state, for repatriating it and for its social reintegration as well as the frame-structure of the plan regarding the preparation of the social reintegration of child who is unaccompanied on the territory of another state and who will be repatriated, The model of social investigation as well as the frame structure of the plan represent two important instruments for the activity of social assistants with responsibilities in the handling of such cases.

1332. The general direction of social assistance and child protection from the repatriated child's home will take all the necessary measures for its reintegration in the family or, as the case may be, will ensure the child's take over in the protection system. The monitoring of the cases regarding the evolution of the situation of repatriated children will be made by the general direction of social assistance and child protection for at least months after the repatriation, reports being closed every 2 months.

1333. If foreign children accompanying victims of traffic or are themselves victims of traffic, are subject to the provisions of art. 41 from Law No. 678/2001 and to the provisions of art. 121 from the Government Emergency Ordinance No. 194/2002 on the regime of foreigners in Romania.

1334. For the execution of these measures, the prerogatives of the Ministry of Administration and Internal Affairs (MAI) for preventing and fighting the traffic of persons, are established in art. 23-27 from the Rules of implementation of Law No. 678/2001, approved by the Government Decision No. 299/2003 and consist of the development of activities for preventing the traffic but also the effective intervention for discovering, ascertaining and investigating the crimes of traffic with underage children and crimes connected to this deed.

1335. For signaling cases of trading and for the assistance of the victims of traffic, the Ministry of Administration and Internal Affairs (MAI) undertakes to set up a permanent telephone line, with a free call, according to art. 28 from the Rules of implementation of the Law No. 678/2001.

1336. The prerogatives of the National Authority for the Protection of the Child's Rights are to evaluate and analyze the phenomenon in collaboration with other competent institutions, to identify the legal gaps and to give recommendations on the change or completion of the law, development of activities for preventing the traffic with children (informing-educating, development of services of assistance for children and their families in the places of risk for children trade), to sustain the development of specialized services destined for children victims of internal and international trade, cooperation with competent bodies from the countries affected by the phenomenon of children trading.

1337. At the same time, for the achievement of its prerogatives in this field, the National Authority for the Protection of the Child's Rights collaborates with public institutions and private, local or county organizations.

1338. Regarding the development of specialized services for the rehabilitation and social integration of children victims of internal and international traffic, transit centres were built for repatriated children or victims of traffic, through the implementation of national programmes (this type of services exist in Bucharest - Gavroche Center, Iași, Botoșani, Galați, Satu-Mare, Timiș, Arad, Mehedinți, Giurgiu, Ilfov, subordinated to the general direction of social assistance and child protection; where children are offered a temporary home, psychological, family, legal counselling).

1339. The prerogatives of the Ministry of Education, Research and Youth are established in art. 16-18 from the Rules of implementation of the provisions of Law No. 678/2001, approved by the Romanian Government Decision No. 299/2003, aiming at executing activities of prevention (including in the syllabus themes on the traffic of human beings stipulating the context in which children can be lured in various traffic and exploitation networks, the causes



and consequences of trafficking, the institutions with prerogatives in the support of victims, the rights of victims of children trafficking; the development of activities of informing the teaching staff and families on the present issue, creating extra-school activities and offering educational alternatives for children with risk of school abandonment, supporting mass-media campaigns regarding children trafficking, etc.) as well as activities of school reintegration of pupils victims of traffic of human beings.

1340. Furthermore, for the achievement of the prerogatives in each field and for an unitary approach and coordination of the issue, the Inter-ministry working group was set up at central level for the coordination and evaluation of the activity of prevention and fight against trafficking of human beings as well as the Sub-group for the coordination and evaluation of the activity of prevention and fight against children trafficking, consisting of the representatives of the Ministry of Internal Affairs and Administrative Reform, the National Authority for the Protection of the Child's Rights, the Ministry of Education, Research and Youth and other ministries (Rules of implementation of Law No. 678/2001 approved with the Government Decision No. 299/ 2003, Government Decision No. 1295/2004 on the approval of the National Action Plan for the prevention and fight against children trafficking and Decision No. 429/2004 on the approval of the rules of organization and operation of the sub-group for the coordination of the activity of prevention and fight against children trafficking).

1341. For achieving this mission, the Sub-group has the following main prerogatives:

(a) Proposes means of collaboration between public, central or local institutions with prerogatives in the field of prevention and fight against children trafficking and protection of the child's rights, as well as means of collaboration among these and non-government and international organizations involved in this matter;

(b) Coordinates the implementation of the activities included in the National Action Plan for the prevention and fight against children trafficking and oversees the development of these activities and the stage of realization of the objectives;

(c) Oversees the implementation of the provisions of the corresponding internal law and the international law, as well as the harmonization of the interventions of various responsible institutions to the evolutions in the field, at national, regional and international level;

(d) Proposes to the inter-ministry group, to approve and send to the competent bodies the legal, institutional or operational measures, on the basis of the conclusions taken from the activity of monitoring the actions performed by the group of partners for the implementation of the National Action Plan for the prevention and fight against the children trafficking.

1342. The fight against the children trafficking and the realization of the National Strategy for preventing and fighting the phenomenon of children trafficking is a liability of the Ministry of Internal Affairs and Administrative Reform, the National Authority for the Protection of the Child's Rights, the Ministry of Education, Research and Youth and of other ministries.

1343. This obligation was materialized through the realization of the National Action Plan for the prevention and fight against children trafficking, approved by the Government Decision No. 1295/2004, and the internal mechanism of coordination and monitoring of the activities

performed for the implementation of the plan is performed by the Sub-group for the coordination and evaluation of activities of prevention and fight against children trafficking, with norms of organization and operation approved by the Order No. 123/429 of the National Authority for the Protection of the Child and Adoption (ANPCA), respectively to the Ministry of Administration and Internal Affairs (MAI).

1344. Considering that, as previously mentioned, children trafficking has in many cases the purpose of sexual exploitation we specify that by the meaning of the Government Decision No. 1504/2004 the Actions plan for preventing and fighting against the sexual abuse of the child and the sexual exploitation of children for commercial purposes (2004-2007) was approved.

1345. Consequently, it is necessary to promote a systematic approach, for a coordinated and thorough support for the prevention of effective crime and acceding in areas where the competence does not exclusively belong to the police.

1346. The Institute for the Research and Prevention of Crime from the General Romanian Police Inspectorate initiated a series of projects materialized in Programmes of prevention in collaboration with other government institutions, non-government organizations and international organizations. The partnership was the basis of all the efforts of preventing crimes against children.

1347. Thus the programme of prevention of trafficking human beings, women and children, aimed at increasing the institutional capacity to intervene in the reduction of this phenomenon through the formation of specialists for preventing forms of manifestation of trafficking human beings (policemen, professors, journalists, priests) and the development of the abilities of identification and solving of situations which may lead to traffic. These objectives were achieved by valorizing the different experiences in preventing and fighting the traffic of human beings, simultaneous with the initiation of a network of regional collaboration between authorities, non-government organizations, churches, international agencies, media.

1348. Activities organized in this programme:

- Organization of an International Seminar called “Trafficking in Human beings in the South-Eastern European region” - 19-23 March, 2003 in Bucharest
- Elaboration of a guide on “Preventing the Trafficking of Women and Children”
- Organizing 4 seminars with the theme: Means of prevention of traffic of women and children (addressed to target groups with prerogatives in preventing the traffic: policemen, priests, local authorities, mass media and non-government organizations)
  - Trafficking in human beings - a social risk, the Local Council of the 1st district, 1, 11 of June 2003
  - Mass-media against trafficking in human beings, 25 June 2003

- Traffic in human beings - a social danger, Mangalia, 3 July 2003
- Further information-a lower risk, Jilava, 3-4 November 2003

1349. The target group was made of persons with risk, on one hand and specialists with prerogatives in the prevention and fight of trafficking in human beings, on the other hand.

1350. The results obtained consequently to the actions made aimed at the realization of a beneficial exchange of experience, connected to the good practices for the prevention and fight of the phenomenon, in assisting victims nationally and internationally as well as establishing contacts with policemen, priests, mass media representatives, pupils, parents discussing the possibilities of a partnership.

1351. Discussing aspects connected to the realization of prevention campaigns, especially the press role in objectively presenting the phenomenon, protecting the victims' rights and assisting them was also doubled by the elaboration of the Guide for preventing the traffic of women and children. The Programme was organized in Bucharest and all the counties of Romania financed by UNICEF Romania and AIDRom.

1352. Another programme organized by the Romanian Authorities was a programme for the prevention of trafficking in human beings, for the purpose of reducing the phenomenon of women and children traffic.

1353. The objectives of this programme were directed towards the formation of specialists for the prevention of forms of manifestation of trafficking in human beings (policemen, professors, journalists, priests), the development of the abilities of identification and solving the situations which may lead to traffic and the materialization of different experiences and fighting the traffic in human beings.

1354. In order to increase the efficiency for the popularization of measures to be taken in this field, a network of regional collaboration between authorities, non-government organizations, international agencies, media, was established.

1355. The activities of this programme were the organization of an International Seminar called "Regional Cooperation for the prevention of traffic in human beings" - 25-28 March, 2004 in Bucharest and publishing the guide of "Preventing the Trafficking of Women and Children" along with the issuing, distribution of the guide and organization of seminars with the theme: "Methods of use of the guide for preventing the traffic of women and children and assisting victims".

1356. An opinion poll was also made targeting the persons with prerogatives in the domain of preventing the traffic for identifying the concrete means of intervention at the level of local communities from the selected counties.

1357. The target group was made of persons with risk and specialists with prerogatives in the prevention and fight of trafficking in human beings. The programme was financially supported by AIDRom, Partners in Change and UNICEF Romania and was organized nationally.

#### **D. Children belonging to a minority or an indigenous group**

1358. The Emergency Ordinance 78/2004, approved by Law 7/2005, established the National Agency for the Roma (ANR).

1359. A first measure taken by ANR was to modify the objectives and prerogatives of the institutions, initially provisioned by the Government Decision No. 1703/2004, on the organization and operation of the National Agency for the Roma.

1360. If initially, the National Agency for Roma, had specific prerogatives specific for the ministries of resort, signing the Government Strategy of improvement of the Roma situation, through a new order No. 1124/ September 2005, the National Agency for the Roma applies, coordinates, monitors and evaluates the domain of social intervention, included in the Strategy of the Romanian Government for the improvement of the situation of the Roma, approved by the Government on April 2001.

1361. According to the legal provisions, the role of the National Agency for the Roma is to:

- Elaborate the Government policy and strategy in the domain of protection of the rights of the Roma minority
- Coordinate, monitor and assess the sector measures of social intervention, included in the Strategy of the Romanian Government of improvement of the situation of Roma population, approved by the Government Decision No. 430/2001
- Initiate, participate and promote, together with specialized non-government institutions and organizations, of actions and sector programmes, destined for the improvement of the situation of Roma, political criterion of Romania's accession to the European Union

1362. The National Agency for the Roma consider that the public policy of the Roma can be coordinated by consulting the institution with strategic partners from central and local level, but especially Roma specialists engaged in central and local structures and civil company.

1363. According to the provisions of the Government Decision No. 750/2005 on the establishment of the Permanent Inter-ministry Councils, the Working group for coordinating the public policies for the Roma population was established on November 16th, 2005, within the Inter-Ministry Council for education, culture, research, youth, sport and minorities.

1364. In January 2006, the Inter-ministry council adopted the rules of organization and operation of the working group, which replaces the Mixed Committee of Implementation and Monitoring the Government strategy of improvement of the situation of Roma. Regarding the collaboration with the civil society and other social actors, ANR introduced in ROF, their participation to the works of the Working group, as guests.

1365. In 2006, the programme of improvement of the situation of Roma was modified, and the new general plan of measures was elaborated for the period 2006-2008.

1366. On July 4th, 2006, the Memorandum for contracting a loan of USD 58,5 million (Euro 47,2 million) was signed between the European Bank for Reconstruction and Development (BERD) and the Romanian Government.

1367. The programme stipulates the improvement of the living conditions and the social inclusion for one of the most disadvantaged categories of the population, among which the Roma minority and will be implemented by the Ministry of Labour, Family and Equality of Chances, the Ministry of Education and Research, the Romanian Fund of Social Development and the National Agency for the Roma and has four components:

- The programme of primary intervention of Euro 11 million, implemented by FRDS (the Romanian Social development Fund) in collaboration with the National Agency for the Roma and will give grants for financing projects from poor Roma placements, for small infrastructure projects, including roads, water supply and sanitation system and local community services (education, health and social assistance)
- Component for the early inclusive education, in total of Euro 6,1 million implemented by the Ministry of Education, Research and Youth, in collaboration with the National Agency for the Roma and will increase the access to the pre-school education of children between 3 and 6 years old, including of children from disadvantaged groups, as well as the Roma minority
- Component of social assistance, in total of Euro 28,6 million implemented by the Ministry of Labour, Family and Equality of Chances in collaboration with the National Agency for the Roma and will be focused on the rehabilitation of the care facilities for persons with disabilities, building new assistance facilities, training the personnel and granting services of occupational consultancy for persons with disabilities. Similarly, this will set a national network of integrated services for young people exposed to risks and will support the services for the victims of family violence
- The component for institutional consolidation totaling 800.000 EURO, ANR aims at financing an organization for monitoring the social inclusion of Roma people, simultaneous with the strengthening of the capacity to access post-accession funds

1368. In the new vision, ANR wants to play the role of catalyst between the institutions of the central, local public administration and the non-government organizations of the Roma, being liable for the elaboration, coordination, monitoring and evaluation of the public policies for the Roma in Romania.

1369. The children's rights by the meaning of the Law 272/2004 are observed and guaranteed for all children, regardless of their belonging to a certain ethnic group.

1370. An ample collection of laws and normative acts regulates the rights of the national minorities in Romania from different fields of activity, as well as the framework for ensuring and maintaining the linguistic and cultural identity thereof. This collection includes acts containing provisions connected to the rights of the national minorities in domain such as education, local public administration, political rights, anti-discrimination, as well as domains such as the status of the policemen, children's rights, etc.

1371. Regarding the law adjacent to the domain of child protection, this comes to reinforce these provisions. Thus the Education Law No. 84/1995, with further changes stipulates that “The education of all degrees is made in Romanian language. This is made (...) also in the languages of the minorities, as well as in languages of international circulation.

### **E. Children living or working on the street**

1372. The transitions period to a market economy generated a series of bad social consequences and a series of risk factors which favoured the appearance and the increase of the number of street children: the increase and polarization of poverty, together with the reduction of the living standards for many families, the increase of the unemployment, the family abandonment, the incapacity of families to ensure an increase and harmonious development.

1373. In this general context, the phenomenon of “street children” has complex causes: economic, socio-demographic, family, political.

1374. The appearance especially in large cities of the children generically called “street children” is one of the most important phenomena of the last decade and in relation to the measures made and the results obtained, they proved to be less efficient than expected. The most numerous services for this category of beneficiaries were developed by the non-government organizations but the lack of coordination made their intervention clash or more than that, by offering street help, to favour the phenomenon.

1375. The image of street children represented an indicator of the conditions in which many underage children live.

1376. Research shows that institutions are no longer the main place of origin of street children, the majority of them being abandoned children or belonging to separated families. A third of these children are illiterate, 40 per cent hardly know how to read and write, and 20 per cent have never been to school. The majority of children of the street suffer from skin diseases, tuberculosis and hepatitis. Life on the streets is correlated with delinquency, prostitution and drug consumption. The estimated number of the children living on the streets has dropped from 3.200 in 2000 to 1.900 in 2003, and 300-400 of these live in Bucharest.

1377. By the Order No. 100/2006 of the State Secretary of the National Authority for the Protection of the Children’s Rights the frame Action Plan was approved for the social reintegration of street children.

1378. The operational objectives of such an Action Plan were to reduce the number of children on streets by creating/developing/diversifying specialized services, addressed to this category of children, at the level of the Mayor’s Offices from the districts of Bucharest/local councils/DGASPCs.

1379. Along with the achievement of these objectives measures were taken to specialize the personnel involved in the activity of evaluation, protection, recovery and reintegration of street children and establishing teams inside the DGASPCs of street teams/street social services.

1380. This measure was based upon the authorities' intention to spread the measures included in Law 272/2004, on the protection and promotion of the child's right on the sanctions applied to the people who encourage or facilitate the practice of begging by an underage child, by informing its parents on the obligations and sanctions introduced by law in this moment.

1381. It is stipulated that "The encouragement or facilitation or collecting benefits from the practice of begging by an underage child is punished with 1 to 3 years in prison; the recruitment or constraint of an underage child to begging is punished with 1 to 5 years in prison; if the deed is made by a parent or legal representative of the underage child, the punishment is 2 to 5 years in prison, respectively 2 to 7 years and removal of rights, for forcing an underage child to begging. The action of the parent or of the legal representative of a child to use it to repeatedly appeal to the public's mercy, claiming financial or material help, is punished with 1 to 5 years in prison and removal of rights."

1382. The general police of the Romanian Government for improving the situation of street children is based on the principles of the Convention on the Rights of the Child. In this context, with financing from BDCE or from the World Bank, the Romanian Government initiated in 1997 the Project for reforming the child protection system which among the 165 alternative services financed (of which 143 currently functional) has also created 10 day and night shelters for street children (Bucharest - 2nd, 3rd, 4th and 5th district and the localities Arad, Timișoara, Constanța, Iași, Petroșani and Brașov).

1383. From June 2001, the measures taken by the authorities are more firm and better coordinated. A programme of intervention in favor of street children was initiated for the significant reduction of the phenomenon.

1384. From the analysis of the particularities of the phenomenon, street children can be framed in one of the following target groups, accepted by specialists as the most frequently encountered:

- (a) Families with children on the street;
- (b) Street children - who permanently live on the street and have no connection with the family;
- (c) Street children - who circumstantially are on the street and keep occasional connections with the family;
- (d) Street children - the ones permanently sent on the streets by the family to earn money doing various labours, begging or other thefts.

1385. If in 2000 it was estimated a number of approximately 2500 children of the street, of which in Bucharest approximately 700 (their number varying from season to season), as a consequence of the measures taken, the number of street children dropped.

1386. After the estimates of the street social workers, as well as after the Police reports, at the end of 2005 there were approximately 400 children of the street in Bucharest, and at the level of the entire country approximately 1700.

1387. At 30.06.2007 the total number of street children was of 1393, out of which:

- Children living in the street with their family 150
- Children living in the streets without their families 436
- Children working on the streets and returning to their families at nights 807

1388. 607 have benefited of services in the first semester of 2007, 300 day and nights shelters, 120 emergency centres and 187 other types of services destined to street children.

1389. Under the coordination of the General Secretary Office of the Government, periodical meetings were held among the representatives of the authorities involved in solving the street children's problems: the National Authority for the Child Protection and Adoption, specialized public services from the capital districts, the Ministry of Internal Affairs, The Capital Police, the district mayor offices, the Ministry of Public Health, the Sanitary Department Bucharest, the Bucharest prefecture, the Ministry of Transport and Railway Police.

1390. At the same time for increasing the efficiency of these interventions, NAPCR drafted and signed together with the General Police Inspectorate an "Action Plan for the social reintegration of street children", which entered into force on November 1st, 2001.

1391. Furthermore street children have become one of the priorities of NAPCR, being allotted sums for the development of services for them within national programmes performed annually for the integration of street children.

1392. In 2002, NAPCR, provisioned a budget of 50 billion lei for this category, to be spent by auction of the projects deposited by the active non-government organizations. The weak participation at the auction allowed only the allotment of 7 billion lei for establishing/developing three services, in Bucharest, Iasi and Constanta.

1393. In 2003 funds were also allotted for establishing services addressed to this disadvantaged category, part of "The national programme for social integration of street children".

1394. In this programme, a "night counselling centre" for street children, was established in the 4th district of Bucharest, which offered its services in the period December 2003 - November 2004, to a number of 268 street children, among which 22 per cent were reintegrated in their natural family.

1395. Taking into account the need for developing the services to support street children and the need of an intervention especially in the domain of drug addiction, on the basis of the research presented by the experts of the Europe Council on the child protection, at the beginning of 2003, the Romanian Government elaborated the Project "Street Children Initiative". The most important directions of action for the elaboration of the project were:

- (a) The need to help the street children using drugs, through general services within the integrated policies of child protection;



(b) The need to create mechanisms and procedures for inter-sector coordination, on all levels, with the purpose of offering integrated services;

(c) The need to develop the administrative and institutional capacity, especially locally to allow the effective implementation of the strategy for school children.

1396. Acknowledging the need to regulate the specific issue of the “street children” phenomenon, Romania substantially developed its legal frame in the last years, with normative acts which cover multiple areas of intervention, stipulating measures and concrete actions for the improvement of the situation of street children, such as:

- The Order No. 132/2005 for the approval of the minimum compulsory standards for the services destined for the protection of street children, published in the Official Gazette, part I No. 743 from 16.08.2005
- Order No. 100/2006 for the approval of the Action Plan framework for the social reintegration of street children, for the period 2006-2008, published in the Official Gazette, part I, No. 297 from 03.04.2006
- Law No. 388/2006 for the ratification of the Framework Loan Agreement between Romania and the Development bank of the Europe Council, for financing the project “The Street Children Initiative” published in the Official Gazette Part I No. 898 from 06.11.2006
- Law No. 678/2001 subsequently modified and completed for the prevention and fight against traffic of human beings
- Government Decision No. 1295/2004 on the approval of the National Action Plan for the prevention and fighting the children trafficking
- National Anti-drug Strategy 2005-2012

1397. The complexity of the phenomenon “children/teenagers on the street” needs a unitary, inter-institutional and inter-sector approach. The levels of responsibility are complementary and can be regrouped according to the following scheme:

1398. Nationally, the National Authority for the Protection of the Child’s Rights NAPCR (MMFES), The Ministry of Internal Affairs and Administrative Reform (MIRA), The Ministry of Public Health (MSP), The Ministry of Education, Research and Youth (MECT), The National Anti-drug Agency (ANA), The National Agency against the Traffic of Persons (ANITP).

1399. At county level, the General Direction of Social Assistance and Child Protection, with responsibilities and handling of the issue of street children. Within each GDSACP there are specialized compartments of street children. At the level of DGAS of the Bucharest municipality, subordinated to the Mayor’s Office of the Capital, operates the Centers of Coordination and Informing regarding the State of Street Children.

1400. Furthermore, the National Agency Against the Traffic in human beings established in the counties according to the effective law on the legal organization, 15 Regional Centers against the Traffic of Human Beings.

### **Vulnerable aspects**

(a) The situation of children asking for the refugee status, who are not accompanied by their legal representative: difficult procedures for applying the Romanian legislation in the field of appointing a legal representative;

(b) Accelerating the discussions concerning the administration of juvenile justice (judging and administrating cases only by persons/institutions specialized in this issue);

(c) Small number of centers, existing at the national level, for the children who are drug consumers.

## **IX. OPTIONAL PROTOCOLS TO THE CONVENTION ON THE RIGHTS OF THE CHILD**

### **A. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography**

1401. Understanding the importance of assuming the responsibility as a state that has signed the Convention on the Rights of the Child, Romania has also signed the Optional protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. The entering to force of the new legislative package at the beginning of 2004 has also meant a new regulation, in clearer manner and beyond any doubt of a number of aspects concerning this issue. All these aspects are stated through the principles of the best interest of the child and that of offering him/her an equal treatment without discrimination and in an unitary manner.

1402. Romania has been confronted recently with more and more cases of illegal migration and child traffic situations. Becoming a source country of children entered illegally on the territory of other European state, Romania has reacted to those phenomena by creating and implementing a new legislative framework. In what the traffic of persons is concerned the legal framework is designed by the Law No. 678/2001 which gives a legal definition to this notion. One of the trafficking aspects to whom a great number of Romanian children became victims is represented by the recruitment, transfer, transportations, hosting or receiving a person through cheating, abuse of authority or by taking advantage of the impossibility of expressing his/her own wishes or to defend itself or by offering, giving, accepting money or other benefits in order to exploit such a person.

1403. The main international instruments within the trafficking field of activity where Romania is a part of are:

- Romania has signed at 14th of December 2000, at Palermo, the Convention against Transnational Crime and the two related protocols adopted in New York at the 15th of November 2000, international instruments which have been approved by the

law 565/2000 for the ratification of the above-mentioned convention, the Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Optional Protocol to the Convention against Transnational Crime as well as the Protocol against the Smuggling of Migrants by Land, Sea and Air, as well as the Convention against Transnational Crime, adopted in New York at 15th of November 2000, published in the official Gazette of Romania, Part I, No. 813 of 8th of November 2002

- Romania has signed also the European Council Convention on Action against Trafficking in Human Beings, instrument that has been ratified by the Law No. 300/2006 for the ratification of the European Council Convention on Action against Trafficking in Human Beings, adopted at the 3rd of March, opened for signatures and signed by Romania, in Warsaw at the 16th of May, published in the Official gazette of Romania, part I, No. 622 of 19th of July 2006

1404. The mirroring of those legal provisions is to be found in the Penal Code of Romania - crimes against the sexual life, illegal privation of liberty as well as the provisions of the Law No. 678/2001 concerning the prevention and combating of pornography as well as Law No. 203/1999 for the ratification of the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (2000).

1405. With reference to the norms that aim at protecting the victims of crimes, including in their quality as witnesses, we remind Law No. 211/2004 on measures for ensuring the protection of crime victims, as well as Law No. 682/2002 on witness protection. Moreover, we mention the fact that Romania ratified through Law No. 304/ 2005 the Council of Europe Convention on the Compensation of Victims of Violent Crimes.

1406. Decision No. 726/2004 has approved the Action Plan within child protection against abuse, neglect and exploitation for 2004-2005.

1407. By Order No. 726/2004, the Priority Action Plan in the field of child protection against the abuse, neglect and exploitation for the period 2004-2005 was approved.

1408. The premises for the elaboration and approval of such an Action Plan were the following:

- Harmonizing the legal frame regarding the child protection against abuse, neglect and exploitation with other connected normative acts
- Introducing legal measures for temporary removing the aggressor from the family environment
- Ensuring the gratuity for the medical-legal certificates of children in situation of abuse, neglect, exploitation as well as domestic violence

1409. On the other hand it was aimed on introducing in the legislation the obligation to initial and continuous training in the field of child protection against abuse and exploitation by professionals interacting with the child, simultaneous with the enhancement of their training in these fields.

1410. With reference to the programmes organized by the state authorities for preventing and fighting certain forms of exploitation, within the AGIS programme, in partnership with the Academy of management staff from Munster, Germany, the project “Let’s work together for the protection of the child - a better handling of the child abuse cases and prevention opportunities” was implemented.

1411. A series of normative acts were elaborated and approved in time in order to find the most efficient legal methods to fight this phenomenon.

1412. By the order No. 1216/2001, the National plan for fighting the traffic of human beings was elaborated which aimed at building the awareness of the population in the danger that the traffic of human beings represents and for setting conduct codes for national workers from the domain of traffic of persons.

1413. Simultaneously it was decided to organize courses and campaigns to strengthen the feeling of human dignity and of self-protection, educating people belonging to groups with a high risk of trafficking, for the protection for the protection thereof.

1414. By the order of the Ministry of Justice No. 1.806 from the 2nd of July 2004, with provisions completed by the CSM Decision No. 269 from July 6th, 2005, the network of specialized judges for solving the causes of traffic of human beings was set; this is made of 56 judges, one judge from each Court of Appeal and tribunal. The network will be internationally notified to the European Commission, Eurojust, European Council, United Nations Organization and the international bodies with prerogatives in the field.

1415. By the meaning of the Government Order No. 1584/2005 for the institution, organization and operation of the National Agency against Traffic of Human beings, modified and completed by the Government Order No. 1083/2006, the establishment and organization of the National Agency against the Traffic of Human Beings was approved. The need to establish such a structure was imposed by the big proportions taken by the traffic of human beings, this being a reason of concern for the majority of the world states.

1416. The national law in the field of traffic of human beings includes a series of normative acts elaborated on new basis, aimed at increasing the efficiency of the fight against this phenomenon: Law No. 678/2001 on the prevention and fighting of traffic of human beings, with further changes and additions, Norms of applications of the provisions thereof, approved by the Government Order No. 299/2003 and Law No. 211/2004 on measures for ensuring the protection of victims (effective from January 2005).

1417. By the meaning of Law for the prevention and fighting against the traffic of persons the forms of traffic of human beings were incriminated, the legal frame for the use of modern techniques of investigations were created, needed for discovering facts, norms of protection and assistance of traffic victims, their families and the witnesses, were implemented.

1418. Law No. 211/2004 institutes two categories of measures directly addressing the needs of crime victims:

- (a) Informing victims on the crimes performed on their rights;

- (b) Psychological counselling;
- (c) Free legal assistance.

1419. In the period 2001-2005 campaigns for preventing the traffic of persons, by the state institutions in partnership with organizations of the civil company, international and mass-media organizations, were held.

1420. The representative investigations at the level of the population over 18 years in Romania (According to the sociologic research IMAS, 2005) show that the great majority of the population (85 per cent) has heard of the traffic of human beings. Persons with a low level of education, with small income and the ones from the rural area and small towns, the very social context which constitute the traffic risk groups, have a more sensitive level of knowledge of the phenomenon. The most efficient channels of communication for the traffic of persons are the TV and written press.

1421. In the National Education Programme for democratic citizenship implemented by the Ministry of Education, Research and Youth, themes which discusses the issue of the children's rights, risk situations for children, methods for preventing and reduction of risks, bodies and organizations authorized to offer support, concrete measures for solving these phenomena. The course supports destined for pupils, as well as the methodological guides destined for the teaching staff are available on the website [www.edu-media.ro](http://www.edu-media.ro). Currently, the programme Education for democratic citizenship is developed in 1500 school units, in the urban and rural area. MECT elaborated programmes for informing parents on the consequences of these phenomena within the project "Parents' Education", executed in partnership with UNICEF Romania.

1422. At the same time, in each county there are centres of resources and educational assistants with cabinets in schools and high schools from the territory, where psycho-pedagogues work. 1209 counsellors work in the County Centres and assistance cabinets in schools, with the tasks of assisting pupils and their families, in the most various situations, furthermore counsellors are the ones supporting the class master professors in approaching themes corresponding to the risk reduction and preventing harmful behaviours. Each year these centres elaborate county strategies which include various activities among which of preventing the traffic of human beings or of various exploitation forms.

1423. A project for preventing the traffic of children and other forms of exploitation was completed, implemented by the Ministry of Education, Research and Youth, the International Labour Office and the "Association of Social Alternatives". In this project 14 youth centres were founded (in Bucharest, and the counties Giurgiu, Iași and Botoșani), for informing, educating in order to reduce the vulnerability at traffic and other serious forms of children exploitation.

1424. In the attempt of imposing a solution to the situation of children staying illegally on the territory of other states, either consequently to the trade, or to the illegal migration, art. 18 par. 1 from the Law No. 272/2004 stipulates the children's right who are unaccompanied by parents or by a legal representative, or who do are not under the legal surveillance of a person, to ensure their return to the legal representatives. The provisions of article 18 shall not apply however if the child is abroad accompanied by one of its parents and as a consequence of breaking of court

order regarding the entrustment of the child for raising and education after a divorce. In these situations the provisions of the international conventions are incident, ratified by Romania, where there already is a reference in the statement of the previous articles.

1425. Connected to the child's right to be ensured the return to its representative, par. 3 of art. 18 stipulate the obligations of the person responsible with the surveillance and care of the child to announce the disappearance thereof from the residence in 24 hours from the ascertaining of the disappearance.

1426. For underlining the role the parents should equally exercise, in the supervision of children and building their responsibilities in front of a negative phenomenon, which unfortunately is serious - the high number of cases in which children leave their home, abandon school and with the explicit or tacit approval of the parents, or at the prompting of one of them, start looking for sources of own revenues - the text par .2 of art. 18 was introduced according to which the travelling of children ton the countryside and abroad is made with the notification and approval of both parents.

1427. The legal framework within this field is given by the Law No. 678/2001 for preventing and combating the trafficking of persons which qualifies the trafficking of minors as a more serious form of the traffic, being defined by recruiting, transporting, transferring, hosting or receiving a minor in order to exploit him/her, such an action being punished with jail time (art. 13, alin. 1); the punishment is augmented when such a deed is accomplished through violence or other forms of forcing, abduction, fraud or cheating or by taking advantage of the minor's impossibility of defending himself or expressing his wish, or by offering, giving, accepting or receiving of money or other benefits in exchange for obtaining the agreement of the person who has the authority on the child.

1428. It is to be also underlined that the legislation also incriminates the attempt associated with any action of trafficking the children as defined by the penal legislation.

1429. The children might be subject to trafficking at the national or international level, in most of the cases the final purpose being that of sexual or labour exploitation.

1430. We should also mention here that according to the national and international legal framework the children victims of trafficking benefits of special protection and assistance according to their age, their identity and private life being also protected.

1431. In respect of the concrete modalities applied whenever is the case of returning the Romanian children victims of trafficking into the native country the legal framework is governed by the Government Decision No. 1443/2004 concerning the repatriation methodology of the Romanian unaccompanied children and providing the necessary special protection measures, corroborated with the dispositions of the 3rd chapter of the Applications rules of the Law No. 678/2001.

1432. The above mentioned document establishes the procedures for the repatriation of this category of children, the identification of their parents or legal representatives, the way of

performing the financial procedures referring to such an activity as well as the identification of the special protection services able to provide the emergency protection of all the unaccompanied children subject to repatriation.

1433. In this way whenever the diplomatic missions or consular offices of Romania abroad have an information about Romanian children unaccompanied on the territory of the foreign state they should ask the competent authorities of that country all the identification data of those children as well as any other relevant information concerning them in order to organize their return to the country of origin. The same steps should also be performed when the child presence on the foreign territory is signalled by the child himself, his/her family, an NGO or a local authority with competencies within the social assistance field and minors protection or when the Romanian authorities inform the foreign partner about the existence of such cases.

1434. When there is a need for the identification of the family members or any other legal representative of the child, or the agreement for the return of the child is asked the General Direction of Passports is enabled to perform all the necessary activities mentioned above (within 7 days).

1435. When the persons above mentioned are not to be found at home or do not accept to give their agreement for the return of the child the General Direction for Passports will notify the National Authority for the Protection of Children Rights.

1436. In these circumstances NAPCR informs the General Direction for Social Assistance and Child Protection from the place where the child has resided recently, which within 7 days should express its agreement for the return and provide with the necessary protection measures adequate for the child. The time limits stated by the law are to avoid the maintenance of the child in an insecure situation, giving the fact that he/she resides on the territory of a foreign country, missing his/her family or cultural environment, so being exposed to considerable risks.

1437. When foreign children are accompanying the victims of traffic or are themselves victims of traffic activities they are subject to the provisions of the Law No. 678/2001 and the dispositions of the Government Ordinance No. 194/2002 concerning the foreigners regime in Romania.

1438. In accomplishing these measures the attributions belonging to the Ministry of Internal Affairs for preventing and combating the human beings traffic are established in the statements of the art. 23-27 of the Rules for the application of the Law No. 678/2001 approved by the Government Ordinance No. 299/2003 and mainly consists in developing traffic prevention activities as well as actual intervention for discovering and investigating the crimes which have as subject minors trafficking.

1439. In order to help people who would like to inform about the existence of situations pertaining to this issue the Ministry of Internal Affairs had also set up a toll free line according to the provisions of the Rules of applications of the Law No. 678/2001.

1440. The attributions belonging to the National Authority for the Protection of Children Rights consist in evaluating and analyzing the phenomena in collaboration with other relevant institutions, identifying the eventual aspects missing from the regulation in force, developing

activities aimed to prevent child trafficking, developing specialized services destined to the children victims of national or international trafficking activities, cooperation with the competent authorities from the states affected by this phenomena.

1441. In the same time in accomplishing its duties NAPCR collaborates with the public institutions or private NGOs acting at the local level.

1442. In what the development of services destined to the children victims of traffic aimed to their rehabilitation and social integration is concerned a number of transit centres was set up for the repatriated children or children victims of trafficking activities by implementing national interest programmes (such centres are in Bucharest, Iasi, Botosani, Galati, Satu Mare, Timiș, Arad, Mehedinți, Giurgiu, Ilfov, and they are under the subordination of the local competent authorities, the children benefiting here of temporary hosting, psychological counselling as well as familial and legal).

1443. From the Rules of implementation of the provisions of Law No. 678/2001, approved by the Romanian Government Order No. 299/ 2003, aiming at executing activities of prevention (including in the syllabus themes on the traffic of human beings stipulating the context in which children can be lured in various traffic and exploitation networks, the causes and consequences of trafficking, the institutions with prerogatives in the support of victims, the rights of victims of children trafficking; the development of activities of informing the teaching staff and families on the present issue, creating extra-school activities and offering educational alternatives for children with risk of school abandonment, supporting mass-media campaigns regarding children trafficking, etc.) as well as activities of school reintegration of pupils victims of traffic of human beings.

1444. Furthermore, for the achievement of the prerogatives in each field and for an unitary approach and coordination of the issue, the Inter-ministry working group was set up at central level for the coordination and evaluation of the activity of prevention and fight against trafficking of human beings as well as the Sub-group for the coordination and evaluation of the activity of prevention and fight against children trafficking, consisting of the representatives of the Ministry of Internal Affairs and Administrative Reform, the National Authority for the Protection of the Child's Rights, the Ministry of Education, Research and Youth and other ministries (Rules of implementation of Law No. 678/2001 approved with the Government Order No. 299/ 2003, Government Order No. 1295/2004 on the approval of the National Action Plan for the prevention and fight against children trafficking and Order No. 429/2004 on the approval of the rules of organization and operation of the sub-group for the coordination of the activity of prevention and fight against children trafficking).

1445. The fight against the children trafficking and the realization of the National Strategy for preventing and fighting the phenomenon of children trafficking is a liability of the Ministry of Internal Affairs and Administrative Reform, the National Authority for the Protection of the Child's Rights, the Ministry of Education, Research and Youth and of other ministries.

1446. This obligation was materialized through the realization of the National Action Plan for the prevention and fight against children trafficking, approved by the Government Order No. 1295/2004, and the internal mechanism of coordination and monitoring of the activities



performed for the implementation of the plan is performed by the Sub-group for the coordination and evaluation of activities of prevention and fight against children trafficking, with norms of organization and operation approved by the Order No. 123/429 of the National Authority for the Protection of the Child and Adoption (ANPCA), respectively to the Ministry of Administration and Internal Affairs (MAI).

1447. Considering that, as previously mentioned, children trafficking has in many cases the purpose of sexual exploitation we specify that by the meaning of the Government Order No. 1504/2004 the Actions plan for preventing and fighting against the sexual abuse of the child and the sexual exploitation of children for commercial purposes (2004-2007) was approved.

1448. Consequently, it is necessary to promote a systematic approach, for a coordinated and thorough support for the prevention of effective crime and acceding in areas where the competence does not exclusively belong to the police.

1449. The Institute for the Research and Prevention of Crime from the General Romanian Police Inspectorate initiated a series of projects materialized in Programmes of prevention in collaboration with other government institutions, non-government organizations and international organizations. The partnership was the basis of all the efforts of preventing crimes against children.

1450. Thus the programme of prevention of trafficking human beings, women and children, aimed at increasing the institutional capacity to intervene in the reduction of this phenomenon through the formation of specialists for preventing forms of manifestation of trafficking human beings (policemen, professors, journalists, priests) and the development of the abilities of identification and solving of situations which may lead to traffic. These objectives were achieved by valorising the different experiences in preventing and fighting the traffic of human beings, simultaneous with the initiation of a network of regional collaboration between authorities, non-government organizations, churches, international agencies, media.

1451. Activities organized in this programme:

- Organization of an International Seminar called “Trafficking in Human beings in the South-Eastern European region” - 19-23 March, 2003 in Bucharest
- Elaboration of a guide on “Preventing the Trafficking of Women and Children”
- Organizing 4 seminars with the theme: Means of prevention of traffic of women and children (addressed to target groups with prerogatives in preventing the traffic: policemen, priests, local authorities, mass media and non-government organizations)
  - Trafficking in human beings - a social risk, the Local Council of the 1st district, 1, 11 of June 2003
  - Mass-media against trafficking in human beings, 25 June 2003

- Traffic in human beings - a social danger, Mangalia, 3 July 2003
- Further information-a lower risk, Jilava, 3-4 November 2003

1452. The target group was made of persons with risk, on one hand and specialists with prerogatives in the prevention and fight of trafficking in human beings, on the other hand.

1453. The results obtained consequently to the actions made aimed at the realization of a beneficial exchange of experience, connected to the good practices for the prevention and fight of the phenomenon, in assisting victims nationally and internationally as well as establishing contacts with policemen, priests, mass media representatives, pupils, parents discussing the possibilities of a partnership.

1454. Discussing aspects connected to the realization of prevention campaigns, especially the press role in objectively presenting the phenomenon, protecting the victims' rights and assisting them was also doubled by the elaboration of the Guide for preventing the traffic of women and children. The Programme was organized in Bucharest and all the counties of Romania financed by UNICEF Romania and AIDRom.

1455. Another programme organized by the Romanian Authorities was a programme for the prevention of trafficking in human beings, for the purpose of reducing the phenomenon of women and children traffic.

1456. The objectives of this programme were directed towards the formation of specialists for the prevention of forms of manifestation of trafficking in human beings (policemen, professors, journalists, priests), the development of the abilities of identification and solving the situations which may lead to traffic and the materialization of different experiences and fighting the traffic in human beings.

1457. In order to increase the efficiency for the popularization of measures to be taken in this field, a network of regional collaboration between authorities, non-government organizations, international agencies, media, was established.

1458. The activities of this programme were the organization of an International Seminar called "Regional Cooperation for the prevention of traffic in human beings" - 25-28 March, 2004 in Bucharest and publishing the guide of "Preventing the Trafficking of Women and Children" along with the issuing, distribution of the guide and organization of seminars with the theme: "Methods of use of the guide for preventing the traffic of women and children and assisting victims".

1459. An opinion poll was also made targeting the persons with prerogatives in the domain of preventing the traffic for identifying the concrete means of intervention at the level of local communities from the selected counties.

1460. The target group was made of persons with risk and specialists with prerogatives in the prevention and fight of trafficking in human beings. The programme was financially supported by AIDRom, Partners in Change and UNICEF Romania and was organized nationally.

1461. According to the provisions of the Law 272/2004 concerning the promotion and protection of children rights, the child is defined as any person who is not 18 years old yet and had not full legal capacity according to the law. Such provisions are to be connected in the aspects that make the object of the Optional Protocol to which the Penal Code of Romania which states clearly the legal regime of the crimes concerning the traffic of minors, exploitation, forced labour or compulsory, sexual activities involving minors, etc.

1462. Under these circumstances the penal law states clear punishments for any activities concerning the recruitment, transporting, transfer, hosting or taking any person with the age between 15 and 18 years old for the purpose of exploiting it. The punishment for this kind of activities is of 3 to 12 years of prison and the prohibition of some rights.

1463. The punishment consists of severe prison time from 15 to 20 years and the prohibition of some rights if:

- (a) The fact is committed against a person who is not 15 years old yet;
- (b) The fact was committed through violence, menace or other forms of force, through abduction, fraud, abuse of authority or by taking advantage of the victims impossibility to express his/her wish, or by giving, accepting, or receiving money or any other benefits in order to have the agreement of the person responsible for the child;
- (c) The action was performed by two or more persons together;
- (d) The victim was caused a severe injury of its integrity or his/her health;
- (e) The fact has produced important material benefits.

1464. In case that such an action had as consequence the death of the victim or the suicidal the punishment is prison for life or severe prison time for 15 to 25 years and the forbidden of certain rights.

1465. According to the Romanian law by exploitation of a person is understood (Art. 207):

- (a) The execution of an activity or fulfilling some services, in a compulsory manner, by disregarding the legal regulation concerning the labour conditions, payment, health or security;
- (b) Slavery or similar procedures that lead to the lack of freedom or slavery;
- (c) Obligation to get involved into prostitution activities, pornographic manifestations in order to produce and broadcast pornographic materials or other forms of sexual exploitation;
- (d) Obligation to begging;
- (e) Organ removal.

1466. In regard to the notion of submitting to forced or compulsory labour, the Romanian law defines it as being the fact of submitting a person, in other circumstances than those stated by the law to perform an activity against his wish, such a fact being punished with prison time from 1 to 3 years.

1467. In what the crimes against the sexual life are concerned the law states clear punishments whenever we are talking about sexual relationships of any nature with a person of the same or different sex as a consequence of force use or the victim's impossibility of expressing his/her wish.

1468. When the victim is under the care, protection, education, guardianship or treatment of the person committing the fact incriminated by the penal law or was a minor who was not 15 years old yet, the punishment is prison time from 15 to 20 years and forbidden of certain rights.

1469. A separate regulation has the crime known as "sexual act with a minor", the law stating that the sexual act of any nature performed with a person which is not 15 years old yet is punished with prison time from 3 to 10 years and forbidden of some rights.

1470. With the same punishment is sanctioned the sexual act of any nature performed with a person under 15 years old if committed by a tutor, teacher, tutor, doctor in the use of its position or quality or if that person has abused of the victim's trust or authority or its influence over the victim.

1471. If such an act has as consequence receiving material benefits by the victim which is not 18 years old yet, the punishment is prison time from 3 to 12 years old and forbidden of some rights.

1472. If the facts mentioned above have been committed in order to produce pornographic materials the punishment is prison time from 5 to 15 years, forbidden of some rights and if the victim was forced to do such activities the punishment is prison from 15 to 20 years.

1473. If the fact has as consequence the death or suicidal of the victim the punishment is severe prison from 15 to 25 years.

1474. Another fact incriminated by the Romanian law is the "sexual corruption" which represents the acts with an obscene character done with a minor or in the presence of a minor, such activities being punished with prison time from 1 to 5 years. If those activities are to produce pornographic materials the prison time increases with 2 more years.

1475. A fact that should be underlined is the fact that in all those cases the attempt to commit such facts is also incriminated.

1476. In what the child pornography is concerned this is defined as being the fact of exposure, sell, broadcast, rent or distribute, made or produce in any other way, offer or make available in order to broadcast or to keep without any rights pornographic materials with minors. The punishment for such an action is prison time from 3 to 12 years.

1477. With the same punishment is sanctioned also the import or export of such materials to a transport or distribution agent, in order to sell or distribute them.

1478. In a time when information technology has known a real boom, the Romanian legislation has incriminated also a number of activities which are subject to the Optional Protocol as well, such as child pornography through computer systems or distribution of such materials by the same channels. So it is incriminated and punished with prison time from 3 to 12 years the production in order to distribute, offering or making available, transmission, obtaining for the own use or for the others of any kind of pornographic materials with minors through the Internet or a device used for stocking computer data.

1479. By pornographic materials is defined any material which presents a person having a sexual explicit behaviour or images which although do not present a real person simulates, in a credible way, a minor with an explicit sexual behaviour.

1480. Now with respect to the territoriality of the penal law according to the Romanian legislation the penal law is applied to all the crimes committed on the Romanian territory, understanding by this notion all the land and the waters existing within the state borders, including the interior maritime waters, the underground and the aerial space as well as the territorial sea with the land, the underground and the aerial space belonging to it.

1481. The crime is considered to be done on the Romanian territory even when is committed on the board of a ship under the Romanian flag or a Romanian plain as well as when on the Romanian territory or on a ship under a Romanian flag or a Romanian plain was performed only an execution of the incriminated fact or the result of such an act was achieved. The oil maritime platforms are assimilated to the ships under Romanian flag.

1482. In the same time the penal law is applied to all crimes committed outside the national territory by a Romanian citizen or a person without citizenship with a domicile in Romania if that fact is incriminated by the penal legislation of the country on whose territory the crime was committed.

1483. The extradition in cases when the facts mentioned in the optional protocol are committed by citizens of other states living on the Romanian territory may be given or granted based on an international convention or on a mutual basis.

1484. The conditions in which the extradition is asked and granted, stated in the international agreements or mutual declarations are completed with the provisions of a special legislation in this field.

1485. The special law which govern this field is Law No. 302/2004 concerning the international legal cooperation in penal field and states that might be extradited from Romania, at the special request of a foreign state, all the persons which are subject to penal inquiries or are to be sent in front of a Court of law for committing such kind of crimes, or are to be found in order to execute a punishment or a security measure in the origin state.

1486. The extradition might be admitted if the person whose extradition is requested has committed a crime which is incriminated in the legislation of both countries.

1487. In case of children sexual exploitation and child pornography in case a European mandate for arrest is issued, no matter the name given to such an activity under the legislation of that country, if the fact is incriminated with prison time for minimum 3 years, the extradition is given if the condition of double incrimination is not fulfilled.

1488. Law 272/2004 concerning the protection and promotion of children rights states in article 85, ali. 1 the principles according to which any child has the right to be protected against any form of violence, abuse, evil treatments or negligence.

1489. In order to prevent children exploitation by involving them in activities with a pornographic character was adopted Law No. 96/2003 concerning the prevention and combating of pornography. Such a law instituted a number of measures for preventing and combating and pornography in order to protect the person's dignity, morality and has intended to limit the broadcasting of materials with an pornographic character which might harm the human dignity and the public morality, forbid the access/participation of minors to such kind of activities which might affect their development, their health as well as generating a general framework for the conditions in which activities with involved programmes with an erotic character are to be developed.

1490. Decision No. 1504/2004 approved The National Plan of Action for the prevention and combating the sexual abuse over the child for commercial purposes (2004-2007).

1491. By approving such a plan of action was meant to strengthen the public political commitments, initiating and developing strategies for the prevention and combating the sexual abuse on the child, the sexual exploitation of children, the sell and trafficking of children.

1492. The efforts performed by the Romanian authorities have been focused on the support and development of specialized services accessible to children/young people abused or sexually abused, as well as rehabilitation centers for the children/young people victims of traffic.

1493. In report to the victim's age the law incriminates the deed of the persons who by promising marriage to a person under the age of 18 convince her to have a sexual relationship, punishing it with prison time from 1 to 5 years. In order to underline the gravity of such a fact the same law stated that the parts reconciliation do not constitute a reason for avoiding penal responsibility.

1494. The obligation of notifying the competent authorities in order to intervene in case there is a suspicion of an abuse committed against a minor comes to any representatives of public institutions or private as well who by the nature of their profession have direct contact with children and might observe a possible abuse, neglect or bad treatments.

1495. Similar responsibilities are corresponding also to the child's parents or his/her legal representative, the public authorities or private NGOs which have the obligation to adopt all the necessary measures in order to facilitate the complete rehabilitation and social reintegration of a child who was a victim of any form of neglect, exploitation, abuse, cruel treatments, inhuman or degrading one.

1496. The principle of the best interest of the child as stated in the law 272/2004 is the one that governs the actions performed within the penal system aiming at children victims of any form of exploitation.

1497. Now in the Penal Procedure Code and the Penal Code there is no specific provisions aiming the protection or procedural approach of the children who are victims of different kinds of anti social activities. There is no particular provision for a special distinctive procedure for the children victims hearing, their treatment being the same as that stated for the adult victims.

1498. In what the modalities of notifying about the existence of a fact that might determine the beginning of a judicial procedure the procedures applied are similar to those existing in case of the adults. The specificity existing in case of minors resides in their capacity of exercise (no capacity until 14 years old, restrained capacity between 14-18 years old).

1499. In case such facts subject to penal exploitation are committed against children within the family environment the penal action is started implicitly. This is possible whenever the prosecutor appreciates that the victim cannot express such a complaint and the penal responsibility should be applied. When the victim expresses its wish for a possible reconciliation the penal action is extinguished.

1500. It should also be mentioned that the minor who is a victim is also part within the penal trial, such a quality not being assumed by his legal representatives. The child victim is assisted by the his legal representatives all over the trial period such an assistance being meant to exercise his legal capacity. The law does not state the obligation for the guardianship office representatives to be summoned throughout the penal inquiry procedures, a procedure which is compulsory instead in case of the minors who have committed a crime.

1501. Romania has committed itself to play an important role within the regional and international networks of fight against sexual abuse on children and young people, selling and their trafficking for commercial purposes. Such a thing cannot be made possible without promoting mechanisms of regional and international cooperation for discovering and combating the traffic networks.

1502. Some programmes and campaigns have been developed by the Romanian authorities in order to raise awareness of the public opinion on the risk involved by the traffic of persons, especially children.

1503. With the project "Behaviour Code for the prevention of sexual exploitation of children from the travel industry" 5000 posters and a manual were processed for the instruction of the personnel from the hotel chains Sofitel and Golden Tulipe.

1504. The programme of prevention and fighting sexual abuse against underage children, made by IGPR nationally, in 2006 aimed at reducing the risk of victimization of underage children at the level of the entire country performing analysis and criminological maps of the areas where such crimes were committed.

1505. Educational - preventive activities were initiated in education units for the organization of meetings with pupils and debating themes on the personal safety.

1506. Partnership protocols were closed with local institutions and non-government organizations for the realization of efficient activities and arousing the responsibility of all institutions in prerogatives in the field.

1507. Based on the protocols of collaboration closed between the county police inspectorates and the institutions with prerogatives in the field, a system of collaboration and assistance of victims of such crimes was implemented, taking into account the particularities of each case.

**B. The Optional Protocol on the Convention regarding the rights of the children involved in armed conflict**

1508. According to the art. 55, al. 3 of the Romanian Constitution, the Romanian citizens can join the army forces only from 20 years old up to the age of 35, except from the volunteers, according to the legal procedures.

1509. Law No. 446/2006 concerning the preparation of the population for defense states at art. 23 that "Can join the army forces all the men, Romanian citizens who are already 20 years old.

1510. At their special request they can be joined at the age of 18.

1511. The maximum age limit until which Romanian citizens can be asked to fulfill their military duties is the age of 35.

1512. Since Romania was not involved into any military conflicts there are no particular aspects to be mentioned at this chapter.



**ANNEXES**

Annexes can be consulted in the files of the Secretariat.

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