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ARTICLE 40 OF THE COVENANT

Initial reports of States Parties due in 1977

Addendum

ROMANIA

[29 July 1978]

I

The social and political system of the Socialist Republic of Romania is based on a body of principles and rules laid down in the Constitution of 1965. This basic law of the Romanian State enshrines, in legal form, the results of the whole process of social, economic and political evolution during the period following the Second World War - a period which led to far-reaching changes in Romanian life and the edification of a new society.

The revolutionary transformation of society and the taking of State power by the workers, created the necessary framework for the solution of man's basic problems and the exercise of his essential rights. Among the most significant achievements in this area are the abolition of exploitation and oppression, the equitable distribution of income among the various social categories, the guarantee of the right to work and to remuneration in accordance with a person's training, and optimum living standards for all citizens (free social welfare and medical care, maternity allowances, family allowances, an improved retirement pension scheme, free education, compulsory schooling from the age of 10, etc.)

Romanian society is also creating the conditions for active participation by the masses in the management of public affairs and the State, and in the conscious construction of the future. The practical framework exists for enabling every citizen to participate in the adoption of decisions affecting his vital interests and in the preparation, and also application, of the over-all national policy. The over-riding objective of Romania's policy in this area is the exercise of fundamental human rights and the broad-ranging development of democracy. Romania has an extensive network of bodies for the collective management of all economic and social enterprises and institutions, and organized forms of participation by its citizens in the planning and execution of work programmes in all sectors of social life.

As at 5 January 1977, the population of the Socialist Republic of Romania numbered 21,559,416. With the growth in the country's economic strength and the attainment of the basic objective of its society - the raising of the standard of living of Romania's citizens - the necessary conditions were assured for an increase of nearly 2.5 million inhabitants as compared with 1966.

Romania's population is made up of Romanians (88.137 per cent), Hungarians (7.912 per cent), Germans (1.616 per cent) and other nationalities (2.335 per cent), who work and live together inspired by the common ideal of a flourishing and prosperous Socialist Republic of Romania and who enjoy full equality of rights in all spheres of political, economic, social and cultural life.

The Constitution of Romania proclaims and guarantees full equality of rights for all its citizens, without distinction as to nationality or race. The nationality question is solved by providing the necessary conditions for all citizens to take part in the social and economic life of the entire society and in the management of its various sectors of activity. All nationalities in the country are assured free use of their mother tongue and also books, newspapers, magazines, theatres and education at all levels, in their own language. In territorial and administrative units inhabited by non-Romanian nationalities, all organs and institutions use also the language of the nationality concerned both orally and in writing, and appoint officials of that nationality or other citizens who know the language and way of life of the local population.

Implementation of the policy of expanding and modernizing the productive forces and the technical and material basis of society, as well as the policy of a balanced and harmonious development in all departments, has brought about profound changes in the use of the labour force, in the occupations of the population and in the structure of the labour force by sector of activity. Thus, 2,253,500 new jobs were created between 1966 and 1976. At the present time, 47.5 per cent of the country's population lives in municipalities, towns and suburban areas. During the same period, the number of towns increased by 53, and 17 municipalities now have more than 100,000 inhabitants.

The State is making substantial investments in the construction of housing for the population. During the period from 1971 to 1975, more than 550,000 apartments were built with funds provided by the State and the population. By 1980, more than 1,000,000 apartments will have been completed with help from the State in the form of investment, loans and operational support, and 250,000 to 300,000 dwellings with the population's own funds, giving an annual average of 13 dwellings per thousand inhabitants.

In country areas, structural changes have taken place in the training of the labour force as a result of continuing modernization and development in agriculture. The urbanization process has gathered momentum as a result of the ever-increasing number of dwellings being built and the large-scale execution of public works.

A broad programme of measures has been adopted in Romania for raising average real remuneration for all categories of workers by more than 32 per cent during the period 1976-1980. Thus, whereas in 1970 average remuneration was 1,289 lei and, in 1975, 1,595 lei, in 1980 it will be 2,200 lei. In the same context, it has been decided to proceed, as from 1 January 1978, to a progressive reduction in the working week from 48 to 44 hours. In certain jobs, personnel will continue to enjoy a reduced working schedule. Measures have likewise been taken to raise the income of the farming population, improve the retirement pension scheme, increasing pensions in town and country alike, and increase family allowances.

In 1976, the industrial production plan was fulfilled by 101.9 per cent, i.e. a growth rate of over 11.5 per cent as compared with 1975. An increase in agricultural production of over 17 per cent was recorded, the harvest being the largest ever in the history of the country (20 million tons). Targets for an increase in the people's standard of living were met, and further substantial progress was recorded in education, science, culture and all aspects of Romania's social life. Moreover, in 1977, notwithstanding the difficulties and losses caused by the disastrous earthquake of 4 March, the industrial production plan was fulfilled by 103 per cent, representing an increase of 12 per cent as compared with 1976.

The Romanian Government's concern to ensure fundamental human rights has also been manifested by the fact that on 27 June 1968 Romania signed the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. The two Covenants were ratified by the State Council of the Socialist Republic of Romania in Decree No. 212, of 31 October 1974.

In the view of Romania, as indicated in the Statement of reasons accompanying the above-mentioned Decree of ratification, "the Covenants on human rights embody principles and objectives that are important for the progressive development of contemporary international law, such as the right of peoples to self-determination, whereby they freely determine their political status and pursue their economic, social and political development, and the right to dispose of their natural wealth and resources; the Covenants prohibit warmongering propaganda; and they reaffirm democratic principles for protecting and promoting human rights".

Mention is made below of some important aspects of law and practice in the Socialist Republic of Romania relevant to the implementation of the International Covenant on Civil and Political Rights.

## II.

1. In connexion with Part I of the International Covenant on Civil and Political Rights, the Government of the Socialist Republic of Romania would draw attention to articles 1-4 of its country's Constitution, adopted by the Grand National Assembly on 21 August 1965:

"Article 1. Romania is a Socialist republic. The Socialist Republic of Romania is a State of workers of town and country and is sovereign, independent and unitary. Its territory is inalienable and indivisible.

Article 2. In the Socialist Republic of Romania, all power belongs to the people, which is free and the master of its destiny.

The people's power is based on the worker-peasant alliance. In close association, the working class - the leading class in society - the peasants, the intellectuals and the other categories of workers, irrespective of nationality, are engaged in building the socialist system and creating conditions for the transition to communism.

Article 3. In the Socialist Republic of Romania, the Romanian Communist Party is the leading political force of the whole society.

Article 4. The people, being the sovereign holder of power, exercises it through the Grand National Assembly and the People's Councils, which bodies are elected on the basis of universal, direct and equal suffrage by secret ballot.

The Grand National Assembly and the People's Councils constitute the basis of the whole system of State organs.

The Grand National Assembly is the supreme organ of State power, under whose direction and control all other State organs carry out their activities".

The Government of the Socialist Republic of Romania would also like to recall the following declaration made on depositing the instruments of ratification:

"The State Council of the Socialist Republic of Romania considers that the maintenance in a state of dependence of certain territories referred to in article 1 (3) and article 14 of the International Covenant on Economic, Social and Cultural Rights, and in article 1 (3) of the International Covenant on Civil and Political Rights is inconsistent with the Charter of the United Nations and the instruments adopted by the Organization on the granting of independence to colonial countries and peoples, including the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted unanimously by the United Nations General Assembly in its resolution 2625 (XXV) of 1970, which solemnly proclaims the obligation of States to promote the realization of the principle of equal rights and self-determination of peoples in order to bring an immediate end to colonialism".

2. In connexion with Part II of the Covenant (articles 2-5), attention is drawn to the following:

The Constitution of the Socialist Republic of Romania provides:

"Article 17. All citizens of the Socialist Republic of Romania, irrespective of nationality, race, sex or religion, have equal rights in all spheres of economic, political, legal, social and cultural life.

The State guarantees the equality of rights of citizens. Any restriction of those rights and any discrimination in the exercise thereof on grounds of nationality, race, sex or religion are not tolerated".

"Article 23. In the Socialist Republic of Romania, women have equal rights with men.

The State protects marriage and the family and defends the interests of mother and child".

Further, the Penal Code of the Socialist Republic of Romania provides:

"Article 247. If a public official limits any citizen whensoever in the use or exercise of his rights or places the latter in any situation of inferiority for reasons of nationality, race, sex or religion, he shall be liable to a penalty of imprisonment for six months to five years".

In this connexion, reference must also be made to the adoption of Act No. 1/1967 concerning the ruling of the courts on applications by persons whose rights have been infringed by illegal administrative acts.

With regard to the availability of remedies for the restoration of rights, attention is drawn to articles 34 and 35 of the Constitution:

"Article 34. The right of petition is guaranteed. State organs are required to settle petitions of citizens relating to personal or civil rights and interests.

Article 35. Any person whose rights have been infringed by an unlawful act committed by a State organ may request the competent authorities, in the manner prescribed by law, to void the act and make reparation".

Decree No. 534/1966 governs the receipt, examination and settlement of citizens' claims, complaints and proposals.

In pursuance of the general principle of equality laid down in article 17 of the Constitution, Act No. 58/1968 on Organization of the Judiciary expressly provides, in article 7, that, in the Socialist Republic of Romania, justice shall be administered equally for all persons. Similarly, there are no discriminatory provisions in penal legislation, criminal trials for all persons being conducted by the same bodies and in accordance with the same procedural rules, and there is neither privilege nor restriction nor any substantive provision of criminal law for certain persons, leading to inequalities in treatment unjustified by the specific circumstances of the criminal case.

3. With regard to Part III of the Covenant (articles 6-27):

As to article 6 of the Covenant relating to protection of life and guarantees in connexion with the death penalty;

The Penal Code provides:

Article 54, first, second and third paragraphs: Exceptionally, the death penalty may be imposed for the most serious offences, in the cases and circumstances provided for by law.

The death penalty may not be imposed on an offender who was under 18 years of age when the offence is committed.

Similarly, the death penalty may not be imposed on a woman who was pregnant or who has a child under three years of age at the time when the offence was committed or judgement was pronounced. In such circumstances, a sentence of twenty-five years' imprisonment is imposed.

Article 55, first and second paragraphs: The death penalty may not be imposed if the condemned woman is pregnant or has a child under three years of age; in such circumstances, the death penalty is commuted to imprisonment for twenty-five years.

The death penalty is commuted to imprisonment for twenty-five years where the condemned person was present when sentence was pronounced and the penalty was not carried out within two years thereafter, or where the condemned person was not present when sentence was pronounced or subsequently escaped execution and the penalty was not carried out within two years from the date on which he gave himself up or was apprehended, or within seven years from the date on which the sentence remained final.

Article 120, first and fourth paragraphs: The effect of clemency is to waive, in whole or in part, application of the penalty or to commute it to a lesser penalty.

Where the death penalty is commuted to a term of imprisonment, the supplementary penalty of forfeiture of rights is imposed, as provided for in the third paragraph of article 55.

The Code of Criminal Procedure stipulates:

Article 415, first paragraph: Decisions of criminal courts become enforceable on the date on which they are final.

Article 448, first paragraph: In the cases provided for by article 55 of the Penal Code, the death penalty is committed ex officio or at the request of the procurator or of the condemned person.

Article 459, second paragraph: Where the death penalty is commuted to a term of imprisonment, the clemency is exercised in accordance with the terms of article 448.

Act No. 23/1969 concerning application of penalties:

Article 31. The prison governor, on receiving a warrant of execution of the death sentence, informs the condemned person, in the presence of the procurator, that he has the right to appeal for clemency within a period of five working days, and makes an official record of the proceeding.

The appeal for clemency, together with the copies of the decisions handed down by the court of first instance and on appeal, is submitted by the president of the court indicated in article 424 of the Code of Criminal Procedure to the State Council of the Socialist Republic of Romania through the Ministry of Justice.

Romanian law provides for the death penalty solely for particularly serious offences and always with a penalty of imprisonment as an alternative. Thus, the death penalty is imposed for certain crimes against peace and humanity and certain offences against the security of the State (treason, espionage, undermining the authority of the State, undermining the national economy, etc.), for particularly serious crimes, for certain offences against the public welfare that have serious consequences (misuse of public money, banditry, fraud, etc.), destruction of railway-tracks causing a disaster, certain offences against the defence capacity of the Socialist Republic of Romania, and aerial hijacking resulting in particularly serious consequences.

As to article 7 of the Covenant on the elimination of inhuman treatment or punishment:

Penal Code:

Article 52, second paragraph: Penalties are applied in order to bring about a proper attitude to work, public order (ordre public) and the rules of social co-existence. Application of the penalty must not cause physical suffering or degrade the person of the offender.

Article 266, paragraph 1. Any unlawful detention or arrest, any application of a penalty or of a security or training measure in a manner other than that prescribed by legal provisions is punishable by a term of imprisonment of six months to three years.

Article 267. Anyone who subjects to ill-treatment a person being held in custody, detention or in pursuance of a security or corrective training measure is punishable by a term of imprisonment of one to three years.

The general regulations governing the organization and operation of health facilities, approved by Order No. 56/1974 of the Ministry of Public Health, impose an obligation on such facilities to provide medical care at the request and with the consent of the person concerned.

Article 358 of the Penal Code punishes any inhuman treatment or any medical or scientific experiment that is not warranted by medical treatment in the interests of the convicted person as well as the torture, mutilation or killing of wounded or ill persons, of members of a civilian health service or of the Red Cross or similar organizations, of shipwrecked persons, of prisoners-of-war and in general of any person who has fallen into the hands of the adversary.

As to article 8 of the Covenant relating to slavery and forced labour:

Penal Code:

Article 190. Any detention of a person in a state of slavery, as well as the slave-trade, is punishable by a term of imprisonment of 3 to 10 years and by forfeiture of certain rights.

Any attempt of such a nature is also punishable.

Article 191. Forcing a person, in cases other than those prescribed by law, to perform labour against his will or to perform compulsory labour, is punishable by a term of imprisonment of 6 months to 3 years.

As to article 9 of the Covenant relating to deprivation of liberty:

Constitution of the Socialist Republic of Romania:

Article 31, first and second paragraphs:

"Citizens of the Socialist Republic of Romania are guaranteed inviolability of the person.

No-one may be detained or arrested unless there is proof or sound evidence against him to show that he has committed an act provided for and punishable by law. Investigating authorities may order the detention of a person for a period of not more than twenty-four hours. A person may only be arrested by virtue of a warrant of arrest issued by a court or a procurator".

On 17 July 1977, the State Council issued a new Decree on certain transitional measures relating to the punishment and re-education in the form of labour of persons who have committed offences covered by the criminal law. Pending the adoption of new criminal legislation, this Decree provides as follows:

Article 1. For acts which come under the criminal law and for which the penalty applicable does not exceed imprisonment for three years, the courts, taking account of the seriousness of the act committed, the circumstances in which it was committed and the general behaviour of the offender, will, as a general rule, order that the penalty take the form of work to be carried out, without deprivation of liberty, in the unit to which the offender belongs or in another unit, in a factory, on a work-site, in an agricultural or forestry unit or other economic unit.

The provisions of the foregoing paragraph do not apply to serious offences, such as treason, espionage, murder, inflicting bodily harm resulting in death, offences against the public welfare having particularly serious consequences, and other offences for which the law prescribes a term of imprisonment of more than ten years.

Article 2. Where a minor between 14 and 18 years of age commits an act that is an offence under the criminal law, he is handed over to the collective in which he is working or studying, and at the same time, strict rules of discipline and behaviour are laid down, compliance with which is supervised by the work or educational collective and by the family.

Such acts are tried by the collectives in which the minors work or study with the participation of representatives of the work collectives, youth organizations, trade unions and educational authorities, and in the presence of the parents or other persons looking after the minors.



Sentence is pronounced by the judgment commission of the unit to which the minor belongs or of the educational unit in which he is studying, with the participation of a judge.

Minors not engaged in labour or in some form of education who commit offences under the criminal law will be enrolled in the labour force or, where appropriate, in a school, and will be tried in the collectives of the units concerned.

The decision of a judgment commission may be challenged in court within a period of ten days.

Article 3. Exceptionally, in cases where minors between 14 and 18 years of age commit particularly serious offences, the body sitting in judgment may send them to a special school for work and re-education where they are required to work, learn a trade and complete their schooling. Such a measure is applicable for a period of two to five years, account being taken of the seriousness of the offence committed, the circumstances in which it was committed and the general behaviour of the offender.

Penal Code:

Article 268. Institution of criminal proceedings, ordering arrest, remanding for trial or convicting, with the knowledge that the person concerned is innocent, is punishable by a term of imprisonment of 2 to 7 years.

Code of Criminal Procedure:

Article 5. In criminal proceedings no person may be detained or arrested except in the cases and circumstances provided for by law.

Act concerning Organization of the Judiciary (58/1968):

The provisions of articles 71-72 make it an obligation for the president of the departmental court or for the judges delegated by him to verify at the place of detention the legality of the detention and, at health institutions, the legality of the internment of dangerous mentally ill persons. The judges have the right to consider requests and complaints from prisoners and interned persons, and may hear them in the absence of other persons.

Act concerning Organization and Operation of the Procurator's Office of the Socialist Republic of Romania (No. 60/1968):

The obligations and rights mentioned above in respect of the president of the court and delegated judges apply, by virtue of article 23 et seq., also to procurators.

As to article 9 (2) of the Covenant on informing the person arrested of the reasons for his arrest:

Code of Criminal Procedure:

Article 150. The accused may only be arrested after he has been questioned by the procurator or by the judicial authority save where the accused has disappeared, is abroad or has escaped prosecution and trial.

In the case mentioned in the preceding paragraph, if the warrant was issued without the accused having been questioned, he shall be heard immediately after he is captured or he comes forward.

Article 151, paragraph 3 subparagraphs (e), (f), (g). The warrant for arrest must indicate:

(e) The nature of the act with which the accused is charged and the classification of the offence;

(f) The legal context of the act and the penalty under the law;

(g) The specific reasons for the arrest.

Article 152. A copy of the warrant of arrest is given to the person arrested.

The situations in which a person who has committed an act that is an offence under the criminal law may be deprived of liberty, as well as the duration of such measures, are expressly stated in the Code of Criminal Procedure (articles 139, 140, 143, 144, 146 (1), 147, 148 and 149).

Under article 300 (3) of the Code of Criminal Procedure, in cases where the accused is placed under arrest, the court is required to verify ex officio, at his first appearance, whether the application and maintenance of such a measure is in order.

The decision of the court with regard to the arrest may be challenged separately, at the petition of the accused or the procurator.

x

As to article 9 (5) of the Covenant concerning the right to compensation of a person who has been the victim of unlawful detention:

Code of Criminal Procedure:

Article 504, paragraph 1. Any person finally convicted of an offence is entitled to compensation by the State for injuries suffered if, following a retrial of the case, it is established by a definitive decision that he did not commit the act attributed to him or that the act was never committed.

As to article 10 of the Covenant concerning treatment during detention:

The regulations governing remand in custody pending trial and application of penalties are laid down in the Penal Code (articles 56-58) and in the Act concerning application of penalties (No. 23/1969).

Accused persons are subjected to a different treatment from that of convicted persons (article 40 of the Act concerning application of penalties) and are segregated from the latter (article 39, paragraph 3, of the Act).

Whether on remand in custody or while serving a sentence, minors are segregated from adults and women from men (article 142 of the Code of Criminal Procedure; article 57, paragraphs 2 and 3, of the Penal Code; article 3, paragraph 2, and article 39, paragraphs 4 and 5, of the Act concerning application of penalties).

With regard to the regulations governing the application of penalties of imprisonment, the Penal Code provides:

Article 56. The regulations governing the application of penalties of imprisonment provide that the convicted person is required to perform useful work for which he is suited. Convicted persons also receive educational training, incentives and remuneration where they prove to be hard-working, disciplined and of good behaviour.

After the age of 60 in the case of men, and 55 in the case of women, convicted persons are not required to work while serving their sentence; at their request, they may be permitted to work.

Article 57. In conformity with the provisions of the Act concerning application of penalties, terms of imprisonment are served at expressly designated places of detention.

Women sentenced to a term of imprisonment serve their sentence segregated from male convicts.

Minors sentenced to a term of imprisonment serve their sentence segregated from adult convicts or in special places of detention, and are afforded the opportunity to continue compulsory general schooling and to acquire vocational training in keeping with their aptitudes.

Article 58. A convicted person is paid for the work he performs, except for any necessary administrative work at the place of detention. The cases in which such latter work is remunerated are prescribed in the Act concerning the application of penalties.

The rules, working hours and remuneration in respect of work performed by convicted persons are laid down by law.

Act concerning Organization of the Judiciary (No. 58/1968):

Article 3, paragraph 2. In applying the penalties or other measures prescribed by the criminal law, the judicial authorities aim at the correction and re-education of offenders and the prevention of further offences.

As to article 11 of the Covenant prohibiting imprisonment on the ground of non-fulfilment of a contractual obligation:

Non-fulfilment of, and the effects of non-compliance with, a contractual obligation are matters of civil law and, under Romanian legislation, it is not possible to imprison a debtor for non-fulfilment of his obligations.

There is no provision in the Penal Code or in any separate law which makes it possible to take such action against a debtor, except where it is determined, in criminal proceedings, that the act of the debtor constitutes fraud.

X

The provisions of article 12 of the Covenant are reflected in Romanian legislation in the following normative instruments:

(a) Act No. 25/1969 concerning the régime for aliens in the Socialist Republic of Romania, which lays down in article 5 that "The legal provisions concerning domicile and residence for Romanian citizens shall also apply to aliens".

In keeping with the provisions of article 12 of the Covenant, article 18 of Act No. 25/1969 provides that "for considerations of public order (ordre public) or of State security, the Ministry of the Interior may limit the movements of aliens and establish their domicile or residence in certain areas or localities".

(b) Decree No. 156/1970 concerning the passports system, which, in its articles 14 and 17, provides that Romanian citizens may travel or establish their residence abroad, in the cases and under the conditions mentioned in that Decree.

(c) Act No. 24/1971 relating to Romanian citizenship, which provides, in its article 7, that "any person who has lost Romanian citizenship re-acquires it following repatriation". Along the same lines, article 5 of Decree No. 156/1970 provides that: "passports for Romanian citizens domiciled abroad who meet the conditions regarding validity entitle the holders thereof to enter the country on a temporary or permanent basis".

(d) Decree No. 185/1976, relating to amnesty for certain offences and the remission of certain penalties with a view to facilitating the return of Romanian citizens living abroad after clandestine crossing of the border or after refusing to return to the country, provides that "offences involving clandestine crossing of the border or refusal to return to the country committed by Romanian citizens who are residing abroad at the date on which the Decree is adopted shall be pardoned if they return and take up residence in the country within a period of two years".

So far as the practical application of article 12 of the Covenant is concerned, the following points should be noted:

It is clear from the results of tourist activity and also from the statistics on domestic tourist movements that the provisions of article 12 (1) of the Covenant, relating to liberty of movement of persons within the territory of the State, are being fully applied in Romania. At the present time, the figure in respect of domestic tourist movements stands at eight million persons, there having been a constant annual increase of approximately 100,000-150,000 during the period 1974-1976. By the end of the current five-year-plan period, almost half the population of the country is expected to take advantage of the facilities of the tourist network for purposes of travel, rest and treatment.

Romanian citizens are also able to travel to any country in the world for personal reasons or as tourists.

As to article 13 of the Covenant concerning expulsion of an alien:

The Romanian Penal Code provides:

Article 117. Any foreign citizen who has committed an offence may be expelled from the territory of the country.

The above provision applies also to any stateless person who is not domiciled in the country.

In cases where expulsion is accompanied by a prison sentence, the expulsion takes place after the sentence is served.

Article 21 of Act No. 25/1969 specifies that the expulsion of an alien may be decided at the order of the Minister of the Interior if the right of the alien to stay in Romania has been revoked or limited in consequence of an offence against Romanian law and if he fails to leave the territory of the country within the stipulated period.

As to article 14 of the Covenant:

Paragraph 1 relating to equality before the judicial organ:

The Act on Organization of the Judiciary (No. 58/1968) provides:

Article 1, first and second paragraphs: In the Socialist Republic of Romania, justice is administered by judicial organs.

They are responsible for defending social and public order and the legitimate rights and interests of persons, and for ensuring respect for the law by State organs, institutions, State enterprises and economic organizations, co-operative organizations and other communal organizations, and by all citizens as well as by all other individuals and bodies corporate.

Article 6. Judges and the people's assessors are independent and subject to the law alone.

Article 7. In the Socialist Republic of Romania, justice is administered equally for all persons.

As regards public trial, the Act stipulates:

Article 10. The proceedings shall take place in public except as provided by law.

The Code of Criminal Procedure lays down:

Article 290. Every trial is public. Minors under the age of sixteen years may not attend the sessions of the court.

If a trial in public may be prejudicial to the interests of the State, socialist morality, or the dignity or private life of a person, the court may, at the request of the procurator or of the parties or of its own motion, announce that the whole or any part of the proceedings will be held in camera.

The announcement that proceedings are to be held in camera is made in public after the parties present and the procurator, if he is taking part in the proceedings, are heard.

While proceedings are being held in camera, only the parties, their representatives, counsel, and such other persons as are called by the court in the interests of the case are admitted to the courtroom.

Article 310, paragraph 1. Judgment is pronounced in public session by the president of the court, assisted by the clerk of the court.

Article 485. A session involving the trial of a minor takes place separately from other sessions.

The session is not public. During the proceedings the persons referred to in the previous article and counsel of the parties in the case may attend, as well as other persons with the approval of the court.

Where the accused is a minor under the age of sixteen years, the court, after having heard him, may decide on his removal from the session if it considers that the judicial interrogation and the pleadings might have an adverse effect on him.

The Code of Civil Procedure, for its part, contains the following provisions regarding proceedings in public:

Article 121. Sessions shall be public, except as the law otherwise provides.

The court may decide that the proceedings will be held in camera if public proceedings may be prejudicial to public order or morality. In such a case, the parties to the case may be accompanied, in addition to their counsel, by not more than two persons designated by them.

Judgement is always pronounced in public.

Article 615. Divorce proceedings are held in public. The court may, however, decide that the trial will be held in camera if it considers that the trial of the case and the presentation of evidence will be improved thereby.

The decision of the court is always delivered in public.

As to paragraph 2 of article 14 of the Covenant concerning presumption of innocence:

The Code of Criminal Procedure provides:

Article 66: "A person charged with, or on trial for, an offence shall not be required to prove his innocence.

Where there is evidence of guilt, he shall be entitled to prove that it is unfounded".

As to paragraph 3 of article 14 of the Covenant, concerning certain guarantees in criminal proceedings:

In connexion with sub-paragraph (a), the Code of Criminal Procedure provides:

Article 7. The Romanian language is used during criminal proceedings.

Before the judicial organs of territorial and administrative units inhabited by a population of other than Romanian nationality, use of the mother tongue of such population is guaranteed.

Article 8. Parties who do not speak the language in which the proceedings are being conducted are given the opportunity to take cognizance of the documents in the case and have the right to address the court and submit conclusions, through a translator.

Article 250. After a criminal action has been instituted and when all the steps necessary for prosecution have been completed, the criminal investigating authority summons the accused before it and

(a) draws his attention to the fact that he has the right to take cognizance of the prosecution's material in the case, pointing out to him the legal context of the offence committed;

(b) affords him the opportunity of taking cognizance of the material forthwith; if the accused is unable to read, the criminal investigating authority reads out the material to him;

(c) asks him, after he has taken cognizance of the material pertaining to the criminal investigation if he wishes to put any questions or has any further statements to make.

The provisions of articles 251-254 of the Code of Criminal Procedure govern the procedure for dealing with new questions raised by the accused after he has taken cognizance of the counts of the indictment, the re-submission to the accused of the prosecution's material and the method of proceeding in cases where the accused has disappeared or is not living in the country.



The right of communication with the accused in a language which he understands is laid down in articles 7, 8 and 128 of the Code of Criminal Procedure (see below with reference to Article 14, paragraph (3)(f), of the Covenant.

The right prescribed in article 14, paragraph 3 (b) of the Covenant is reflected in Romanian law as follows:

Constitution of the Socialist Republic of Romania:

Article 31, paragraph 3. "The right to defence is guaranteed throughout the entire course of the trial".

The implementation of this right is ensured by the way in which the judicial organs are organized and operate, by the procedures required by law and also by legal aid.

Code of Criminal Procedure:

Article 6. The accused as well as other parties are guaranteed the right to defence throughout the trial, in the manner prescribed by law.

Article 171. A person charged with, or on trial for, an offence is entitled to the assistance of defence counsel throughout the entire course of the trial.

Legal aid is obligatory when the accused is a minor or a member of the armed forces on active service. Similarly, legal aid is obligatory when the accused is arrested in connexion with another case.

During the course of the trial legal aid is also obligatory in cases where, under the law, the offence is punishable by imprisonment for more than five years or where the court considers that the accused would be unable to conduct his defence alone.

If, in cases where legal aid is obligatory, the guilty or accused person has not selected a defence counsel, steps are taken ex officio to appoint such counsel.

The assignment of counsel so appointed ceases when a selected defence counsel appears.

If, during the trial of the case, the defence counsel is absent and cannot be replaced, the case is postponed.

Article 172. In the course of a criminal prosecution, the defence counsel of a guilty or accused person may make requests, file briefs and be present at the following criminal prosecution activities: investigations in situ, searches and autopsies, and prolongation of the period of detention by the court. The defence counsel may be present at other criminal prosecution activities with the consent of the investigating authority.

The defence counsel of the guilty or accused person may be present at the submission of the prosecution's material.

An accused person under arrest may contact defence counsel. Where the interests of the investigation so require, the prosecuting authority may, by an order stating the reasons on which it is based, prohibit an accused person under arrest from contacting his defence counsel for a period of not less than thirty days. If necessary, the prohibition may be extended for a further period of not more than thirty days. Contact with defence counsel may not be prohibited where the period of detention is extended by the court or once the prosecution's material has been submitted.

The defence counsel has the right to lodge a complaint, in accordance with article 275, if his requests have not been accepted.

Article 294. In cases where it is obligatory to appoint defence counsel ex officio, the president of the court, when making arrangements for the trial, also arranges for appointment of counsel.

The accused, the other parties and their counsel have the right to consult the documents in the case throughout the trial.

If the accused is being held in detention, the president of the court makes arrangements to enable him to exercise the right provided for in the preceding paragraph and to contact his defence counsel.

Code of Criminal Procedure:

Article 314. Where an accused is being held in detention, his trial may only take place in his presence.

It is obligatory to bring an accused under arrest before the trial court.

Article 375, paragraph 3. Where an accused is being held in detention, an appeal proceeding may only take place in his presence.

An accused, even if at liberty, is summoned before the court (for trial on the merits and for appeal proceedings), the summons being served at least three days before the date fixed.

For the regulations guaranteeing the accused the right of defence (by a selected counsel or one appointed ex officio), see above under (b).

With regard to paragraph 3 (e) of the same article of the Covenant, under article 327, paragraph 1, of the Code of Criminal Procedure, after a witness has answered questions put by the court and the procurator, he is questioned by the party that has called him and then by the other parties.

In connexion with article 14, paragraph 3 (f), of the Covenant, the Code of Criminal Procedure provides:

Article 7, paragraph 2. Before the judicial organs of territorial and administrative units inhabited by a population of other than Romanian nationality, the mother tongue of such population is used.

Article 8. Parties who do not speak the language in which the criminal proceedings are being conducted are given the opportunity to take cognizance of the documents in the case and have the right to address the court and submit conclusions, through a translator.

Article 128, paragraphs 1 and 2. When one of the parties or any other person who is to be heard does not know the Romanian language or is unable to express himself and the prosecuting authority or court is unable to understand such party or person, he is provided with an interpreter. During the trial the parties may be assisted by an interpreter of their choice.

The provisions of the previous paragraph shall also apply, as appropriate, where one of the submissions included in the documents in the case or presented to the court is written in a language other than Romanian.

The necessary funds for remunerating an interpreter used in criminal proceedings are advanced by the State and such costs are borne by the State or, if appropriate, are refunded by the parties under the circumstances and in the cases prescribed by law (articles 189-193 of the Code of Criminal Procedure).

With regard to article 14, paragraph 3 (g), of the Covenant, the Code of Criminal Procedure provides:

Article 68, paragraph 1. The use of violence, threats or other forms of compulsion is prohibited, as are promises or inducements with a view to obtaining evidence.

In this connexion, see also article 66 of the Code of Criminal Procedure relating to the presumption of innocence, mentioned above with reference to article 14 (2) of the Covenant.

On the same subject, the Penal Code provides:

Article 266, paragraph 2. The use of promises, threats or violence with regard to a person who is under investigation or is on trial, for the purpose of obtaining a statement is punishable by a term of imprisonment of one to five years.

With regard to paragraph 4 of article 14 of the Covenant, a separate chapter in the Code of Criminal Procedure (Chapter II of Title IV) lays down the procedure to be followed in cases involving youthful offenders and provides for a special régime which takes account of their age and the desirability of their rehabilitation. The limits of the criminal responsibility of youthful

offenders and the special treatment applicable to them (which, by law, gives priority to educational measures) are amply dealt with in articles 99-110, Title V, of the Penal Code.

As to paragraph 5 of Article 14 of the Covenant, under Romanian legislation, any decision by a court of first instance, can be appealed (article 361 of the Code of Criminal Procedure). Under the terms of article 362, paragraph 1 (b) of the Code of Criminal Procedure, the accused may lodge an appeal on aspects of both criminal and civil law. Similarly, an appeal may be lodged against a decision to acquit or to discontinue criminal proceedings and as regards the grounds for acquittal or discontinuance of criminal proceedings.

With regard to paragraph 6 of Article 14 of the Covenant, the Code of Criminal Procedure contains relevant provisions in article 504, paragraph 1, mentioned above in connexion with paragraph 5 of article 9 of the Covenant.

As to paragraph 7 of Article 14 of the Covenant, article 10, paragraph 1 (j) of the Code of Criminal Procedure provides that criminal proceedings may not be instituted or, if instituted, may not be pursued if the case is covered by res judicata. This bar operates even where the act in respect of which a final judgement has been delivered is placed in a different legal context.

The way in which the above provisions are applied is illustrated, inter alia, by the jurisprudence of the Supreme Court, of which the following are examples extracted from its decisions.

Plenary Supreme Court, Decision No. 3/1972:

Provides that, subject to the conditions laid down by law, prosecution documents are void in cases where the following were not summoned when prosecution documents were presented against minors under the age of 16 years: the representative of the guardianship authority and the parents or, as appropriate, the guardian or other person looking after the minor.

Plenary Supreme Court, Decision No. 9/1972:

Lays down directives for determining the limits of the criminal responsibility of minors and the effects thereof, in the sense that the penalty prescribed by law for minors (which is less than that prescribed for adults) shall not be applied by the court unless it first concludes that the application of an educational measure will not suffice to reform the minor.

Plenary Supreme Court, Decision No. 6/1973:

Lays down directives for the protection of minors' interests in criminal trials in cases where a minor appears as a party claiming damages, or as a guilty party in the course of a criminal prosecution or as an accused (before a court).

Plenary Supreme Court, Decision No. 7/1969:

Provides that a lawyer selected or appointed ex officio may not make submissions to the court in the absence of the accused when the legal aid of the defence counsel is obligatory or the presence of the accused is also obligatory.

As to article 15 of the Covenant concerning the legal status of the accusation and the penalty:

The Penal Code provides:

Article 11. The criminal law is not applicable to acts which, at the time when they were committed, were not considered offences.

Article 13, paragraph 1. If, subsequent to the offence and prior to final judgement, one or more criminal laws, are adopted, that which is most favourable is applied.

As to article 17 of the Covenant, concerning the protection of certain rights, the Constitution of the Socialist Republic of Romania provides:

Article 32. "The home is inviolable. No one may enter a person's home without his consent, except in cases and circumstances expressly provided for by law."

Article 33. "The secrecy of correspondence and of telephone communications is guaranteed."

What is more, the Penal Code outlaws violation of the home (article 192), violation of the secrecy of correspondence (article 195), divulging of professional secrets (article 196), insult (article 205) and libel (article 206).

On the same subject, the Code of Criminal Procedure (article 100 et seq.) requires authorization by the Procurator to search a dwelling (other than in exceptional cases such as flagrante delicto), prior presentation of identity papers by an officer of the court, presence of the person whose home is being searched or of his representative, attendance of witnesses, etc.

As to article 18 of the Covenant, concerning freedom of conscience and religion article 30 of the Constitution provides:

"Freedom of conscience is guaranteed to all citizens of the Socialist Republic of Romania.

Everyone is free to hold or not to hold a religious belief. Freedom to engage in religious worship is guaranteed. Religious denominations organize and operate freely. The manner in which they organize and operate is regulated by law.

The school is separate from the church. No religious denomination, congregation or community may open or maintain educational institutions other than schools specially intended for the training of ministers of religion."

Decree No. 177/1948 stipulates:

Article 1: "The State guarantees freedom of conscience and freedom of religion throughout the territory of the Socialist Republic of Romania.

Anyone may belong to any religion, or may embrace any religious faith, if the exercise thereof is not contrary to the Constitution, public order and safety, or morality."

Article 3, paragraph 1: "no one may be prosecuted for his religious belief or non-belief."

Article 4: "no one may be compelled to take part in the religious services of any denomination."

Article 6: "Religious denominations are free to organize and may freely operate their practices and ritual which are not contrary to the Constitution, public order or safety, or morality."

Article 7: "Religious denominations shall organize themselves in accordance with their own rules in keeping with their teaching, canons and traditions, and may organize establishments, associations, religious orders and congregations in accordance with the same rules."

Article 10: "Believers of all faiths are required to conform to the laws of the country ..."

Article 13: "To be able to organize, religious denominations must be recognized by decree of the State Council issued on the proposal of the Council of Ministers following recommendation by the Department of Religious Affairs. Similarly, recognition may be withdrawn in well-justified cases."

Article 23: The activities of recognized religious denominations shall be pursued in accordance with their religious doctrine, their approved articles of organization, the laws of the country and good morals.

The Penal Code provides inter alia, for the following:

Article 318: "Obstruction to or disturbance of the freedom to worship of a religious denomination, organized and functioning in conformity with the law, shall be punishable by imprisonment for one to six months and by a fine.

The same penalty is applicable if a person is compelled by force to take part in the religious services of any denomination, or to engage in a religious act connected with the worship of a denomination" (obstruction to freedom of worship).

The activities of religious denominations in Romania are exemplified in the following statistics:

Places of worship in use

|                       |        |
|-----------------------|--------|
| Romanian Orthodox     | 12,208 |
| Serbian Orthodox      | 54     |
| Roman Catholic        | 1,050  |
| Reformed              | 964    |
| C.A. Evangelical      | 278    |
| S.P. Evangelical      | 34     |
| Unitarian             | 134    |
| Old-Christian         | 50     |
| Armenian-Gregorian    | 19     |
| Islamic               | 72     |
| Jewish                | 152    |
| Seventh-Day Adventist | 512    |
| Baptist               | 824    |
| Pentecostal           | 741    |
| Christian-Gospel      | 377    |

The following theological schools function in Romania:

|                              |                        |
|------------------------------|------------------------|
| Theological establishments   | 6, with 1,590 students |
| Theological seminary schools | 13, with 2,082 pupils. |

Among these, three higher theological training institutes, with 314 students, and two theological schools at the seminary level, with 118 pupils belong to co-existing non-Romanian nationalities.

Religious periodicals:

19 publications: two semi-monthly, one monthly, three bi-monthly and 13 quarterly magazines.

Of these five are printed in languages of co-existing non-Romanian nationalities.

Monastic establishments in use:

115 monasteries and convents of 2,424 units, with 629 men and 1,795 women.

Printing facilities:

The religious denominations have a polygraph and four printshops and binderies at their disposal.

The religious life of all denominations in Romania develops freely and in complete independence; the faithful take part in the customary religious services and on religious holidays receive religious aid.

For all denominations, religious education is given to adherents and their children in accordance with their traditions and practices both in places of worship and in parish halls.

Among the means available to religious denominations in the Socialist Republic of Romania for exchanging ideas and information are the 19 periodicals already mentioned, five of which are published in the languages of the co-existing non-Romanian nationalities. These are "Reformatus Szemle" and "Kereszteny Magvető" (in Hungarian), "Kirchliche Blätter" (in German), the Bulletin of the Serbian Orthodox Vicariate (in Serbian) and the Jewish Religious Review (issued in three languages: Romanian, Yiddish and Hebrew).

In addition, there is the "R.O.C. Bulletin of Foreign News" (published in English and French), which makes known abroad the activities of the Romanian Orthodox Church and of other faiths in the Socialist Republic of Romania, and their contribution to the promotion of oecumenism.

Also, in order to meet the spiritual needs of believers and the requirements of theological education, the various religions print tens of thousands of copies of prayer-books and hymn-books, denominational books (masses, religious octets, menologies), courses and manuals for theological instruction, catechisms, etc.

It is also worth stressing the religious publishing activities in the languages of the co-inhabiting nationalities. Just in the last few years, editions of tens of thousands of copies have been published in Hungarian for members of the Roman Catholic Church and the Reformed, Unitarian, S.P. Evangelist, Baptist, Adventist and Pentecostal denominations, including masses, hymns, catechisms, a three-volume lectionary, "Liturgical reform" etc....

Similarly, there is mass publication, every year, of religious almanacs and of folders containing reproductions of churches, historic and artistic monuments, icons, illustrations, etc.

Training of the required numbers of priests and ministers takes place in the theological schools and institutes of the denominations, in accordance with actual needs.

The Romanian Orthodox Church has two Romanian theological institutes of university standard and seven choir schools and theological seminaries; the Protestants have one theological institute of university standard and an organists' school, and the Roman Catholic Church has a theological institute, and a choir school in the Hungarian language with a section in Romanian. The Baptist, Seventh Day Adventist and Pentecostal denominations have seminaries attended also by students belonging to the co-inhabiting nationalities.

The religious freedom of the various denominations in the Socialist Republic of Romania is also safeguarded from the material point of view since they have their own economic base: places of worship, parish halls, buildings, agricultural land, printshops, candle factories, workshops for the production of religious objects etc. They also administer their cemeteries as full owners.



Religious denominations have their own budgets, based on voluntary contributions from their members, the sale of various religious objects and State subsidies.

Salaries of religious personnel are provided partly by the State and partly by the respective churches; they are equivalent to those of teachers.

The State makes a substantial annual grant for the maintenance and restoration of places of worship, particularly if they are of historic and artistic value. The State also helps in the construction of new places of worship by providing the necessary building materials. In this way, forty new places of worship were built in 1975 alone.

Among the religious buildings which have been restored or are in course of restoration are the monasteries and historical monuments of Putna, Cetatzuia, Tismana, Polovragi, Cocos, Celic-De're and Nicula, the Roman Catholic cathedrals of Cluj-Napoca and Alba-Iulia, the Black Church of Brasov, the churches of Sebes and Prejmer and the mosques of Constantza and Mangalia, etc.

Religious denominations in the Socialist Republic of Romania are given every opportunity of maintaining relations with various churches abroad and of participating in the activities of international religious organizations. This takes place on the basis, not of jurisdictional subordination to the church or organization concerned, but of the principle of respect for the independence of each church and its right to adopt a position of its own, in conformity with its interests, on the various problems of international religious life.

As to article 19 of the Covenant, on freedom of expression:

A series of measures was adopted in June 1977, aimed essentially at the abolition of censorship, and those working in the press, radio and television, publishing, creative literature and art, or in any cultural or artistic activity are made directly responsible.

Constitution of the Socialist Republic of Romania:

"Article 28. Citizens of the Socialist Republic of Romania are guaranteed freedom of speech, of the press and of assembly, meetings and demonstrations.

Article 29. Freedom of speech, of the press and of assembly, meetings and demonstrations may not be exercised for purposes hostile to the socialist régime or to the interests of the workers.

Any association of a fascist or anti-democratic character is prohibited. Participation in such an association or in fascist or anti-democratic propaganda is punishable by law."

In connexion with the exercise of the right to freedom of expression, it is necessary to emphasize what is done to create the material guarantees for ensuring implementation of this right in practice.

In 1976, State publishing houses printed 3,813 titles of hard-cover and paperback books in 78,630,000 copies, or an average of 3.67 copies per inhabitant (3.24 in 1975).

In 1976, a total of 1,080 million copies of general information newspapers were published or an average of 50.4 copies per inhabitant (46.7 copies in 1975). The number of newspapers published was the same as in the previous year (59), but the total number of copies printed for the year increased by 88.7 million.

Of the newspapers published, 11 were in Hungarian, in 83,936,000 copies, and three in German, in 24,945,000 copies.

The number of magazines and other periodicals published in 1976 was 387. The number of copies printed for that year increased by 9.3 million to 194.5 million, or an average of 9.1 copies per inhabitant (8.7 in 1975).

Of the above, 20 titles, in 7,943,000 copies, were in Hungarian; 15, in 598,000 copies, in German; two, in 178,000 copies, in Serbian; one in 106,000 copies, in Ukrainian; and one, in 114,000 copies, in Armenian.

There are 14,715 cultural and artistic units, including 8,023 cultural centres, 5,955 cinemas, 384 museums, 206 municipal houses of culture of urban people's councils, and 147 theatres and concert halls. Of these there are two Hungarian-language State theatres, with Hungarian-language sections attached to four other theatres; two German-language theatres, one Yiddish-language theatre and a Hungarian-language opera house.

Approximately 2,439,000 performances and cultural events were held in cultural and artistic units before 254.7 million spectators.

In 1976, per 1,000 inhabitants, there were 712 entries to museums, 629 to theatres and concert halls, and 2,329 to cultural centres; there was an average of 9 cinema shows per inhabitant.

The number of radio licences at the end of 1976 was 3,104,400 and that of television licences 2,963,400, representing an increase over 1975 of 20,300 and 271,200 respectively.

With regard to article 20 of the Covenant, on prohibition of propaganda for war and incitement to national, racial or religious hatred, the Romanian Penal Code provides:

Article 356. Propaganda for war, the dissemination of tendentious or fabricated news that might serve incitement to war, or any other manifestation in favour of launching a war - whether spoken or written, or communicated by radio or television, the cinema or by any other medium - is punishable by imprisonment for 5 to 15 years, loss of certain rights, and partial confiscation of property.

On article 20 of the Covenant, see also article 17, paragraph 2 of the Constitution of the Socialist Republic of Romania quoted above in connexion with article 2 of the Covenant.

The Penal Code provides:

Article 166, first paragraph. Propaganda of a fascist character disseminated in public by whatever means is punishable by imprisonment for 5 to 15 years and the loss of certain rights.

Article 247. See comment under article 2 of the Covenant.

Article 317. Nationalistic or chauvinistic propaganda, or incitement to racial or national hatred, if not an offence falling under article 166, is punishable by imprisonment for 6 months to 5 years.

With regard to article 21 of the Covenant, on recognition of the right of peaceful assembly, see the provisions of article 28 of the Romanian Constitution reproduced above in connexion with article 19 of the Covenant.

Article 22 of the Covenant, on the right of association:

The Constitution of the Socialist Republic of Romania provides:

Article 27. "Citizens of the Socialist Republic of Romania have the right of association for the purpose of forming trade union, co-operative, youth, women's, social and cultural, creative arts, scientific, technical and sports organizations and other public organizations. The State supports the activities of public and mass organizations, creates the necessary conditions for developing the material base of such organizations and protects their property."

The rights provided for in article 23 of the Covenant, relating to the family, marriage, marriageable age and the protection of children in the case of dissolution of marriage, are reflected in Romanian legislation as follows:

Constitution of the Socialist Republic of Romania:

Article 23. "In the Socialist Republic of Romania, women have equal rights with men."

The State protects marriage and the family and defends the interests of mother and child."

Family Code

Article 1, paragraphs 2, 3 and 4. The basis of the family is marriage entered into with the free consent of the spouses.

Men and women have equal rights in relations between the spouses and in the exercise of rights with regard to children.

Parental rights are exercised only in the interests of the children.

Article 4. Men may not marry before the age of 18, and women before the age of 16.

A woman may be authorized to marry at the age of 15 if there are good reasons for the marriage.

Article 38, paragraph 2. In divorce proceedings, the courts shall carefully assess the reasons for the divorce suit and the question whether it is not possible for the spouses to remain bound by the marriage, taking into account the duration of the marriage and the interests of minor children.

On the protection of minor children, the family Code provides:

Article 101. Parents have a duty to care for their children.

They are obliged to bring up their children, looking after their health and physical development, their upbringing, their education and their vocational training according to their aptitudes, in conformity with the objectives of the State, in order to make them useful members of society.

Article 104. If the physical, moral or mental development of a child is endangered in the parental home, the guardianship authority requests the court to have him placed in an institution for the protection of children, or in the care of another person with the consent of that person.

Article 113. In case both parents are dead or unknown, deprived of their parental rights, placed under an interdiction, have disappeared or been declared dead, or the child otherwise lacks the care of both parents, the child is placed under guardianship.

Article 114. Guardianship is exercised solely in the interests of the minor child.

Article 42, paragraphs 1 and 3. In pronouncing a divorce, the court decides which of the parents is to be given the custody of minor children. To this end, the court hears the parents and the guardianship authority and, having regard to the interests of the children - whom it also hears if they have reached the age of 10 - decides, in the case of each child, whether he or she is to be placed in the custody of the father or of the mother.

At the same time, the court determines the contribution to be made by each parent to the costs of the upbringing, education and vocational training of the child.

Article 43, paragraphs 1 and 3. A divorced father or mother who has been given the custody of a child exercises parental rights with respect to that child.

A divorced father or mother who has not been given custody of the child retains the right to have personal contacts with the child and the right to look after the child's upbringing, education and vocational training.

Article 44, paragraph 1. In case circumstances change, the court may - at the request of either parent, or of the child if he has reached the age of 14 years, or of the guardianship authority or of any institution for the protection of children - amend the provisions concerning the personal or maintenance rights and obligations between the divorced parents and their children.

The question of minors is also the subject-matter of Act No. 3/1970, on rules for the protection of certain categories of minors.

Code of Civil Procedure:

Article 613<sup>2</sup>. At any time in the divorce proceedings, the court may by an order of its president, take temporary measures for the upbringing of minor children, maintenance obligations, children's allowances and use of the dwelling.

The implementation of the law in this regard is reflected in the jurisprudence of the Supreme Court.

Thus Decisions Nos. 1455/1955, 2304/1955, 1396/1963, 4/1968 and 16/1965 by its Civil Division may be mentioned in connexion with the obligation of maintenance of a minor.

The obligation to maintain a child who has come of age but who continues his studies is dealt with in Civil Judgement No. 2214/1971, by Directive of the Plenary Supreme Court No. 2/1971.

Decision of the Plenary Supreme Court No. 2/1967 stipulates that if a father or mother responsible for the care of minor children drives them from the home and refuses to take them back, such action constitutes the offence of desertion of family, and that the court, in dealing with the offender, shall take steps to re-establish the situation existing before the offence was committed.

Lastly, Plenary Supreme Court Decision No. 4/1972 stipulates that family allowances are subject to the same legal conditions as maintenance payments.

The matter dealt with in article 24 of the Covenant, concerning non-discrimination with regard to children, registration of birth and the right to a name, is also reflected in Romanian law as follows:

Constitution of the Socialist Republic of Romania:

Article 23, paragraph 2 (quoted above in relation to article 23 of the Covenant).

Family Code:

Article 1, paragraph 2 (quoted above in relation to article 23 of the Covenant).

Decree No. 278/1960, concerning civil-registry certificates, provides:

Article 2, first and second paragraphs. Facts and documents relating to births, marriages and deaths are entered in the civil registers.

Birth certificates are drawn up from these registers.

Article 15. A declaration for the registration of a birth is made to the executive committee of the people's council of the place where the birth took place, within 15 days after the date of birth.

The Family Code provides:

Article 62, paragraph 1. A child born of a marriage, takes the family name of the parent with whom filiation has been established.

Article 78, paragraph 1. An adopted child acquires by adoption the name of the adopting person.

The question of citizenship is largely regulated by Act No. 24/1971, on Romanian citizenship, which provides, inter alia:

Article 5. As an expression of the link between parents and children and of the unbroken continuity on our ancestral land of generations who have struggled to realize the ideals of social and national freedom, the children of Romanian citizens in the territory of the Socialist Republic of Romania are Romanian citizens.

Article 6. A person is also a Romanian citizen who:

(a) is born on the territory of the Romanian State, even if only one of his parents is a Romanian citizen;

(c) is born abroad and his parents are, or even one of them is, a Romanian citizen.

A child found on Romanian territory is a Romanian citizen if neither of its parents is known.

Article 7, paragraph 2. The minor child of a repatriated person acquires Romanian citizenship on the date of its father's or mother's repatriation unless it is domiciled abroad with his father or mother.

Article 8. A child who is an alien or a stateless person acquires Romanian citizenship by adoption if one of the spouses adopting it is a Romanian citizen or, in the case of adoption by a single person, if the latter is a Romanian citizen, provided that, in all cases, the adopted child has not reached the age of 18 years.

Article 9. In case an adoption is declared null and void, or is annulled, a child under the age of 18 years is considered as never having been a Romanian citizen if it is domiciled abroad or if it leaves the country to live abroad.

In case an adoption is annulled, a child under the age of 18 years loses Romanian citizenship on the date of annulment of adoption if it is living abroad or if it leaves the country to live abroad.

Article 10 (a). The State Council may grant Romanian citizenship on request to an alien or a stateless person who:

(a) was born on Romanian territory and is domiciled in that territory on the date of the request; or has been domiciled in the territory of the Romanian State for at least five years, or for at least three years if married to a Romanian citizen. These periods may be reduced for justified reasons.

The subject-matter of article 25 of the Covenant is reflected in Romanian law as follows:

The Constitution of the Socialist Republic of Romania provides:

Article 25. "Citizens of the Socialist Republic of Romania have the right to elect and be elected to the Grand National Assembly and to the people's councils.

Voting is universal, equal, direct and by secret ballot. All citizens who have reached the age of 18 years have the right to vote.

Citizens who have the right to vote and who have reached the age of 23 years may be elected as deputies to the Grand National Assembly and the people's councils.

The right to nominate candidates belongs to the Socialist Unity Front, the broadest representative democratic, revolutionary, permanent political body, which constitutes the organizational framework of the union, under the direction of the Romanian Communist Party, of the political and social forces of our socialist nation and of all public and mass organizations for the purpose of participation of the whole people in the implementation of the domestic and foreign policies of the Party and the State and in the administration of all fields of activity.

Voters have the right to recall their deputy at any time in accordance with the procedure laid down by law.

Lunatics, mentally defective persons and persons deprived of the right for a period fixed by decision of a court are not entitled to elect or be elected".

Mention should also be made in this connexion of Act No. 57/1976 on the organization and functioning of the people's councils, the tenor of which is illustrated by the following articles:

Article 1. The people's councils are local organs of State power elected by universal, equal, direct and secret ballot through which the people exercise State power in the districts, the municipality of Bucharest and its sectors, and other municipalities, towns and communes.

In implementation of the constitutional provisions whereby the people's power is founded on the worker-peasant alliance, the people's councils ensure the development and strengthening of the unity of the working class, the peasantry, the intelligentsia and all working people, without distinction as to nationality.

The entire activity of the people's councils has as its purpose the strengthening of the socialist system, the judicious utilization of material and manpower resources, the development of the forces of production and diversification of the local economy, the continuous increase in the people's material and cultural well-being, the realization of human freedom and dignity, the many-sided affirmation of the human personality and the consequent promotion of socialist ethics and equity.

The people's councils engage in large-scale efforts to educate the masses in a spirit of devotion to the homeland and to the cause of socialism, socialist internationalism and solidarity with the workers of the world.

Article 4. The people's councils base their activities upon the principles of socialist democracy, ensuring the direct participation of all citizens, without distinction as to nationality, race, sex or religion, in the discussion at the local level of public and community affairs and in the implementation of decisions and measures adopted.

The people's councils submit matters for discussion to local citizens' meetings and present them with periodic reports on their activities.

Article 6. The people's councils apply at the local level the national Marxist-Leninist policy of the Party and the State, assuring to all citizens regardless of nationality full equality of rights in all sectors of economic, political, legal, social and cultural life.

In administrative and territorial units inhabited also by non-Romanian nationalities, workers of such nationalities are among those elected, to local organs of State power and local organs of State administration. The local organs use also the spoken and written language of the nationality concerned and appoint their personnel from among that nationality or from among other citizens familiar with the language and way of life of the local population.



A special place in this legislation is occupied by Act No. 3/1976 concerning the congress, the legislative chamber and the conferences of the people's councils, exemplified by the following articles:

Article 1. In order to ensure an increased contribution on the part of the people's councils to the accomplishment of the programme for the building of an all-round developed socialist society in all fields, and an ever fuller participation of their deputies in the management of public affairs, there are organized a congress of district people's councils and of presidents of people's councils, a Legislative Chamber of People's Councils, a national conference of presidents of people's councils and district conferences of deputies of municipal, urban and communal councils.

Article 2. The congress of district people's councils and of presidents of people's councils forms a collective forum for the guidance of the activities of the local organs of State power and administration, and discusses the basic problems of the people's councils and of the work done by the representatives elected by the masses to the local organs of State power with a view to increasing their role and responsibility in the management of public and community affairs.

In connexion with the basic conditions for the right of citizens to elect and be elected, the Grand National Assembly adopted Act No. 67/1974, entitled "Electoral Law of the Socialist Republic of Romania". This law comprises 105 articles extensively covering the exercise of electoral rights as a manifestation of the sole and sovereign power of the people, headed by the working class, and of the direct participation of citizens in the management of the State.

Elections to the Grand National Assembly took place on 9-March-1975. Of 14,900,032 electors, 14,715,539, or 98.8 per cent, voted for candidates of the Socialist Unity Front, electing 349 deputies out of 488 candidates. Of the 349 deputies, 115 are directly employed in production, 45 in State farms and agricultural co-operatives, 60 in research, planning, teaching, science and art, and 38 are officers, jurists, doctors, economists or clergy. Of the total number of deputies, 88.7 per cent are Romanian, 8.2 per cent Hungarian, 2.21 per cent German and 0.9 per cent of other nationalities.

As to article 26 of the Covenant, on equality before the law:

The Constitution of the Socialist Republic of Romania provides for such equality in article 17 (quoted above in relation to article 2 of the Covenant).

As regards equal protection of the law, through the equality of citizens before the courts, see the examples given in relation to article 14 of the Covenant.

As to article 27 of the Covenant, on the rights of other nationalities living in a country:

Basing itself on the fact that in the course of time populations of other nationalities have established themselves in Romania side by side with the

Romanian people, that together they have worked, fought for and established freedom, progress and a better life, and taking into account the lessons of history, which show that only together can they build a happy future, Romania has promoted, and continues to promote, in a consistent spirit, a just nationality policy. It assures full equality of rights of all workers irrespective of nationality and their active participation in all fields of economic, social and political life and it adopts consistent measures for the judicious distribution of the forces of production on Romanian territory, thus creating ever better working and living conditions for all workers. At the same time, all the necessary conditions have been established in Romania to enable people to express themselves actively and to use their mother tongue in all fields of activity. The State acts to strengthen constantly the brotherhood and unity between the Romanian people and the co-inhabiting nationalities in their common struggle for the realization of their ideals and their aspirations for progress and well-being.

The evolution of socialist democracy and the need to develop to the full the creative energies of the co-inhabiting nationalities have led to the establishment of representative bodies for those nationalities: the national councils of workers of Hungarian and German nationality and the district councils of workers of Serbian and Ukrainian nationality. The councils are designed to ensure more thorough participation of those nationalities in all fields of the country's political and social life.

The Constitution of the Socialist Republic of Romania provides:

Article 22. "In the Socialist Republic of Romania, the co-inhabiting nationalities are assured the right freely to use their mother tongue and also to have books, newspapers, magazines, theatres and education at all levels in their own language. In administrative and territorial units inhabited also by a population of other than Romanian nationality, all organs and institutions shall also use the written and spoken language of the nationality concerned and shall appoint officials of that nationality or other citizens who know the language and way of life of the local population".

Act concerning Organization of the Judiciary (No. 58/1968):

Article 8. During the proceedings, the Romanian language is used. In administrative and territorial units inhabited by a population of other than Romanian nationality, use of the mother tongue of such population is guaranteed.

Parties that do not speak the language in which the proceedings are being conducted are given the opportunity to take cognizance of the documents in the case and have the right to address the court and submit conclusions through an interpreter.

Code of Criminal Procedure:

Article 7, second paragraph. Before the juridical organs of administrative and territorial units inhabited also by a population of other than Romanian nationality, use of the mother tongue of such population is guaranteed.

In connexion with the practical exercise of the rights of the co-inhabiting nationalities, mention should be made of the following:

Of the 349 deputies elected to the Grand National Assembly in 1975, 40 are from the co-inhabiting nationalities; among these, 29 (or 8.2 per cent) are Hungarian, 8 (or 2.21 per cent) German and 3 (0.9 per cent) of other nationalities; of a total of 61,340 deputies elected to the local organs of power (people's councils), the co-inhabiting nationalities are represented by 5,255 Hungarian deputies, 1,125 German deputies and 646 deputies of other nationalities.

Eleven per cent of all salaried staff working in the party structure and in party organizations, in mass organizations and in the press come from the co-inhabiting nationalities.

During the 1975/1976 school year, pre-school, primary and secondary instruction was given to 322,000 children and pupils in languages of the co-inhabiting nationalities; nearly 8,500 students attending institutions of higher education were from among such nationalities.

Of a total of 17,844 primary and secondary school units, over 1,550 are schools or sections in which instruction is in Hungarian; 972, in German, and 106, in the languages of other nationalities.

There are 14 theatres and concert halls using languages of co-inhabiting nationalities, and 52 publications, in 750,450 copies, are published in those languages.

During the period from 1 January 1972 to 31 December 1976, some 1,200 literary works were published in languages of co-inhabiting nationalities in nearly 8 million copies. The number of such works in 1977 was 315, published in a total of nearly 2.7 million copies. The literature of the co-inhabiting nationalities published in Hungarian, German, Serbian, Ukrainian and Yiddish is an integral part of the cultural heritage of Romania and is being constantly developed. The translation of Romanian literature into the languages of the co-inhabiting nationalities, and vice-versa, is of special importance for the strengthening of the spiritual unity of all the citizens of Romania.

III.

In concluding its presentation of the main aspects of the legislation and practice of the Socialist Republic of Romania relevant to the International Covenant on Civil and Political Rights, the Romanian Government wishes to emphasize

that the main characteristic of the changes which have taken place in the country's political life in recent years has been the broadening of socialist democracy, expressed first and foremost in the increased role of the Grand National Assembly and the people's councils, and in the establishment of certain central collective bodies, the deliberative management councils in central and local State institutions. Deliberative management councils of workers have also been formed in industrial undertakings and socio-economic units, and general meetings of workers have been institutionalized. All of this represents transition to a higher form of democracy and ensures the broad, direct and effective participation of the people in the management of public affairs. A system of State organization has been created which assures broad and public discussion of laws and decisions with the participation of all the people. Socialist democracy guarantees to all workers the opportunity to reveal themselves fully as masters of the national wealth and as conscious builders of their own history and their own future.

In Romania's view, discussions in the Human Rights Committee should take into account the tasks to be carried out in the struggle in which the people are now engaged for the total and final abolition of colonialism, neocolonialism and racism. Colonialist and racist theories and practices must be resolutely condemned and States have a duty to take action to eliminate all the after-effects of colonialism and racism.

The Romanian Government also believes that by its activities the Human Rights Committee should support the efforts of States to ensure basic human rights, to eliminate social inequalities and every form of discrimination, and to ensure equal, real and effective rights to work, to instruction, to education, to culture and to the benefits of civilization.

Romania considers that meetings should be held with a view to seeking ways and means of improving the working and living conditions of the working masses, including those who are obliged to leave their country to look for work. It would also be advisable to hold meetings devoted to the adoption of measures to combat certain phenomena prejudicial to the healthy development of peoples, and in particular of youth, such as drug consumption, pornography, the promotion of violence and hatred against human beings, racism and any other phenomena that may pollute the mind and lead to the degradation of human nature and hostility between nations.

In the discussions of the Human Rights Committee, account must also be taken of the influence of mass information on the lives of people and on international relations. Support should be given to national and international efforts in favour of mass information which serves to bring peoples together and promote friendship among them, which does not allow racist propaganda or war-mongering, and which leads to greater respect for the traditions and culture of every people and to the spreading of all the best that mankind has created in all the spheres of human knowledge.

Consideration of the problems of human rights in the Committee should take place in strict observance of the principle of non-interference in the internal affairs of States. This essential requisite derives from the inalienable right

of every people to decide on its destiny by itself and freely to choose and develop its political, economic and social system in accordance with its own wishes and interests and without any outside interference, and from the obligation of States not to interfere in any way, on any pretext or in any circumstances in the internal or external affairs of another State.

In all its activities, the Committee is called upon to contribute to the struggle for the introduction of a new international order leading to the replacement of the old relations of domination and oppression by new relations based on principles of equality and equity, resulting in the elimination of the gaps that have opened between States, an order ensuring the harmonious development of all peoples, the promotion of basic human rights and the building of a better and more just world.