



**Convention on the  
Rights of the Child**

Distr.  
GENERAL

CRC/C/ROM/Q/4/Add.1  
27 April 2009

Original: ENGLISH

---

COMMITTEE ON THE RIGHTS OF THE CHILD  
Fifty-first session  
25 May-12 June 2009

**WRITTEN REPLIES BY THE GOVERNMENT OF ROMANIA TO THE  
LIST OF ISSUES (CRC/C/ROM/Q/4) PREPARED BY THE COMMITTEE  
ON THE RIGHTS OF THE CHILD IN CONNECTION WITH THE  
CONSIDERATION OF THE THIRD AND FOURTH PERIODIC REPORT  
OF ROMANIA (CRC/C/ROM/4)\* \*\***

[Received on 10 April 2009]

---

\* 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.

\*\* Late submission.

## **IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD**

**1. *Please indicate whether the Convention on the Rights of the Child has been invoked or referred to directly in domestic courts, and if so, please provide examples of such cases.***

1. In their decisions, domestic courts of law often invoke the provisions of Law No. 272/2004 regarding the protection and promotion of the rights of the child which directly refer to the Convention on the Rights of the Child.

2. The Superior Council of the Magistrature does not have any information that permits citing concrete examples.

**2. *Please provide brief information on the status of the project to amend the Civil Code to set at 18 years the age of legal marriage for both boys and girls.***

3. On 29 of October 2007, Law No. 288/2007 was approved, aiming to modify and complete the Family Code. This document entered into force on 8 October 2007 and set the age of marriage at 18 years for both boys and girls.

**3. *Please update the Committee on any news about the filling of the post of deputy Ombudsman who has the mandate, inter alia, to consider complaints for violation of child rights. Is there any progress with respect to the establishment of an Ombudsperson for children?***

4. The Ombudsman is assisted by deputies who are specialized in the following areas of competence:

- Human rights, equality between men and women, religious cults and national minorities
- Child, family, youth, retired persons, persons with disabilities
- Army, justice, police, prisons
- Property, labour, social protection, taxes and duties

5. The Deputy Ombudsman for child protection, Mr. Mihail Stelian Profir Gondos, was appointed in February 2007. The institution of the Ombudsman solves complaints about violations of children's rights made by public authorities. Any person, including children, may address the Ombudsman. To support the citizens in general and children in particular, the Ombudsman has established regional offices in 15 counties under the courts of appeal.

6. According to article 49 of the Constitution of Romania (republished), children and youth enjoy special protection and assistance in ensuring the respect of their rights. In detailing these constitutional provisions, Law No. 272/2004 on the Protection and Promotion of the Rights of the Child was adopted, and published in the Official Gazette, Part I, No. 557 of 23 June 2004. This Law contains certain provisions dealing with the rights of the child, to ensure respect for his/her individuality and personality; to enjoy the best health he/she can achieve; to receive

education to help his/her development on a non-discriminatory basis of his/her skills and personality and to be protected against all forms of violence, abuse, neglect or ill-treatment and all forms of exploitation.

7. Law No. 272/2004 on the protection and promotion of children's rights established a new legal framework for respecting, promoting and guaranteeing the rights of the child. The implementation of this legislation has enabled the creation of a modern European system of protection of child rights in line with international treaties to which Romania is party such as the Convention on the Rights of the Child (republished) and the Convention on Human Rights and Fundamental Freedoms.

8. In this context, the Ombudsman seeks to respect and guarantee the rights of children to the respect of their personality and individuality, to enjoy the best health they can achieve, to receive education under non-discriminatory conditions and to be protected against all forms of violence, abuse, neglect or ill-treatment and against all forms of exploitation.

9. The activity of the institution aims at the protection of children's rights and it verifies the complaints received from the complainant, and gives notice of its investigation. Furthermore, there have been continued efforts to strengthen inter-relationships for the achievement of efforts to fulfil the constitutional and legal powers of the Ombudsman Institution as protector of the rights of individuals in general and especially of those categories which face special problems such as children, youth, the disabled and pensioners. Actions were also carried out in cooperation with the local offices, granting social welfare in the form of goods for personal use (clothing, footwear, sports), children's toys and sweets.

10. The principal complaints before the Ombudsman institution have included: the refusal of the General Directorate of Social Assistance and Child Protection to approve the request to transfer children; complaints of one parent for the content of court orders that the child was entrusted to the other parent; the denial of protection to approve the sale of real property owned by a minor; payment of the allowance for children only through banks established by the general direction of social assistance and child protection; granting compensation for child raising; granting trousseau for newborns and child health care.

11. A complainant, for example, has requested the Ombudsman's help to reallocate the funds needed to ensure the treatment for a nine-year-old son suffering from the chronic Pompe disease. The petitioner, in the petition showed that his son had benefited from treatment with the enzyme replacing drug Myozyme Icap until September 2008, after which the treatment was ensured by the National Programme for Rare Diseases, from the budget of the Fund of National Health Insurance, but only until February 2009.

12. In support of the complainant, we note that in the absence of the reallocation of funds for 2009, the measure restricted the child's access to health and adequate medical care. Accordingly, we have brought this matter to the attention of the Ministry of Health and the National House of Health Insurance. As a result of the steps taken, the Ministry of Health approved allocation and funding. The Directorate of Public Health ensured the treatment of patients diagnosed with Pompe disease by allotting the amount of 157 thousand lei.

13. However, we have identified some issues that, because of their negative effects on children, should be the starting point for initiating discussions with a view to finding appropriate solutions. Thus, we cannot remain indifferent to the financial problems faced by many families with children in Romania, which leads in many cases to the impossibility for parents to raise their children and, in this case, to abandoning them.

14. In this context, we should identify a solution to give a greater efficacy of article 5 of Law No. 272/2004 on the protection and promotion of children's rights, under which responsibility for ensuring the growth and development of children bears first and foremost on the parents; they have the obligation to exercise their rights and to meet their obligations towards the child taking into account the priority of the best interest of the child. In subsidiary, responsibility lies with the local community, which includes the child and family. The local governments have an obligation to assist parents or, as appropriate, other legal representatives of the child in carrying out their obligations regarding the child, developing and providing various accessible and quality services, appropriate to the child's needs. Intervention is complementary. The State ensures the child's protection and guarantees all his/her rights through the specific work performed by State institutions and public authorities with powers in this field.

15. A solution is provided by article 119 of Law No. 272/2004 under which, for each child placed, a monthly allowance for investment is granted, indexed by decision of the Government. The allowance is paid to the person or the family representative who received the child in placement. Investment allowance shall be borne by the State budget through the Ministry of Labor, Family and Social Protection.

16. As a consequence of permanent interest in the problems faced by children, the Ombudsman has issued, in 2008, a special report that criticized the obsolete nature of Decree No. 545/1972 on the execution of the educational measure of internment of young offenders in a re-education centre.

17. Thus, according to article 104, paragraph of the Penal Code, the measure of educational internment in a re-education centre ensures the possibility to acquire the necessary teaching and training according to the child's abilities. Enforcement of this measure is made under the provisions of Decree No. 545/1972 and Decision No. 399 of 27 March 2007. There are currently three re-education centres (Buzias, Găești, Targu-Ocna), subordinated to the National Administration of Penitentiaries. The Ombudsman considered that Decree No. 545/1972 no longer offered adequate legal framework to ensure effective protection of child delinquents, to be consistent with the child's best interests and the special needs of his/her physical, psychological, medical, educational development.

18. Meanwhile, re-education centres must be converted into custodial institutions focused on the isolation of such children in educational institutions in order to correct deficiencies in their moral education by carrying out socio-educational programmes, along with treatment, cognitive and occupational programmes.

19. In accordance with the minimum rules of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), Member States must take positive

steps to ensure the full involvement of all available resources, especially the family, voluntary and other community groups and institutions such as schools, to promote child welfare and reduce the need for intervention by law, so that the person concerned would be dealt with effectively and fairly.

20. As a result, the Ombudsman made the following criticisms:

(a) Decree No. 545/1972 emphasizes internment as a punitive measure, to the detriment of its educational function to be achieved through education and training. Unlike the disciplinary willing re-education centre for the child, this Decree does not include provisions relating to the possibility of challenging and verifying their legality;

(b) Decree No. 545/1972 does not include regulations relating to an individual educational performance measure depending on the degree of social danger of the crime committed, the physical, intellectual and emotional state of the minor, and his/her capacities, educational level and the causes and motivation for the crime;

(c) Article 56 of Law No. 275/2006 on the execution of punishments and the measures ordered by the court during criminal proceedings, provides that the rights and obligations of persons subject to the deprivation of liberty shall apply accordingly to persons interned in re-education centres;

(d) Decree No. 545/1972 refers to the compensation of child labour and marketing of goods produced in re-education centres, without specifically stating the legal age at which minors may work. Whereas, for example, Law No. 275/2006 contains rules to that effect, but only for juveniles who have reached the age of 16, sentenced to punishments involving deprivation of liberty, and who can perform work only at their request.

21. Following the report submitted by the Special Ombudsman, the Ministry of Justice has informed the Ombudsman institution that in the legislation in the area has taken into account suggestions made in the Ombudsman's special report in 2003, submitted to the Parliament and that the authorities responsible for the administration of prisons have been made aware of the criticisms made in the Ombudsman's special report from 2008.

22. In this respect, the draft law on the execution of punishments and the measures ordered by the court during the criminal proceedings, passed by the Parliament, includes a title covering education for children, so that the entry into force of this project will repeal Decree No. 545/1972. In the section on separation with restrictive regime, the draft law no longer provides for sanctions, provided the child has the right to appeal against disciplinary sanctions imposed and the measures taken against him; individual measures of education are determined by the age at which minors may work.

23. Another important aspect of the activity of the institution of the Ombudsman is that related to the Roma population and children in particular.

24. According to article 12 of the Government Ordinance No. 84 of 30 August 2001 on the establishment, organization and operation of community service records of individuals, the

National Inspectorate for Person's records ensure the implementation, in a unified concept, of the legislation in the field of accounting data and programmes of reform to modernize relations of the central public administration and the local government and citizens.

25. The Romanian Parliament irrevocably rejected, on 4 of March 2009, the draft normative act regarding the creation of the institution of Child Ombudsman, which was submitted to Parliament in September 2007.

26. Moreover, the Senate President, who presided the above-mentioned meeting, explicitly recommended that, the specific requests for improving and optimizing the existent activities be transmitted to the National Authority for the Protection of Children Rights in order to also cover the area for which a Child Ombudsman would have been responsible. This recommendation was made so that Romania could respond in an effective and correct manner to this sensitive point on the Romanian social agenda.

**4. *What is the State party's assessment on the ongoing decentralization process, including the setting-up of General Directorates of Social Assistance and Child Protection at local level? Are all the services (health, education, social services, child protection) subject to decentralization? How does the State party ensure that this decentralization does not result in disparity in the provision of the services among different counties?***

27. The National Authority for the Protection of Children Rights elaborated the Sectorial Strategy for decentralization in the field of child rights protection, which will be included as part of the Sectorial Strategy for decentralization in the labour and social protection field and that will be submitted for approval by government decision during 2009.

28. The main objectives in the child protection field aiming at continuing the services subject to decentralization for 2009-2012 are subordinated to the major goal in this field, which is to reinforce the family's capacity to assume its parental responsibilities, as well to prevent the child's separation from her/his parents and to respect child rights. In order to emphasize these objectives, the following coordinates are to be mentioned:

- The continuation of the decentralization process from the county level to the local level (city, town, commune), by supporting, through financing from both the State budget and external funds, the creation and developing of community services, subordinated to the local councils, according to the law, by correlating the financial circuits and the new created institutional structure. The expected result is to reinforce the local councils' capacity of assuming their responsibilities regarding the prevention of risk situations for children within their families and, by consequence, prevention of child separation from their parents and of the need for institutionalization.
- The harmonization of child protection policies with the larger context of the social policy in Romania - family policies, educational, health, including a correlation between the funds allocated and the financial circuits, according to the transformation existing in the field.

- The development and diversification of the types of services provided to the family and children by stimulating the activities of the local communities in matters concerning the prevention of child separation, and the involvement of the community and public-private partnerships.

29. The general objective of the Strategy is to ensure respect for the rights of the child in Romania and raise children's quality of life, sustaining and granting responsibilities to the communities and local authorities in order to support families in assuming their obligations towards their children.

30. The specific objective of the Strategy is to transfer the competence concerning the support for the family and prevention of the separation of the child from his/her family, from the central to the local authorities to the ones, together with the necessary resources.

31. By the provisions of Law No. 272/2004, the local councils have assumed an important role in preventing a child's separation from his/her parents.

32. The public services for social assistance organized at the levels of cities, towns and communes, have the following responsibilities in the field of child protection:

- Monitor and analyse the situation of the children located within their administrative territories, as well as to enforce the rights of these children, by providing the centralization and synthesis of the relevant data and information
- Conduct activities aimed at the prevention of the child's separation from his or her family
- Identify and evaluate situations which call for services and/or assistance for the prevention of the child's separation from his or her family
- Draft the necessary documentation for providing services and/or assistance and grant these services and/or assistance, in accordance with the law
- Offer counselling and information for families who provide maintenance for children, on their rights and duties, on the rights of the child and on the services available at the local level
- Provide and monitor the enforcement of the prevention and eradication measures against alcohol and drug abuse, family violence, as well as delinquent behaviour
- Pay regular visits to the residences of families and children who benefit from services and assistance
- Forward proposals to the mayor, in case it is necessary to undertake a special protection measure, in accordance with the law
- Monitor the evolution of the child's development, and the way in which the parents are exercising their rights and fulfilling their duties towards the child who benefited from a special child protection measure, and was reintegrated into his or her family

- Cooperate with the General Directorate for social assistance and child protection in the field of child protection, and provide it with all requested information and data

33. Given the fact that at the end of December 2008 only 698 of the total number of approximately 3,200 communes, towns and cities have created public services for social assistance, it is necessary to reinforce their capacity and to continue the decentralization process from the central to the local level. In order to assure equity and equal access to education to all children, the decentralization process includes:

- Two types of financing: per capita financing (costs/student ratio) and the compensatory financing intended to the financing of the programmes developed to meet students' various educational needs (cultural, economic, social)
- The involvement of local authorities in the school board management so that they participate in the decision-making process
- The increase of school autonomy in what concerns the selection and the employment of teachers so as to comply with the school and children's requirements

34. This new approach provides and guarantees equal allowances to students sharing the same needs, regardless of the geographic area or the financial potential of the locality where they study:

- Provision of highly relevant educational services to all categories of students and children so as to ensure a better relationship between students' individual needs and interests to the local needs; an improved approach to the various situations and problems dealt with by the communities. Thus, both equal access and equity will become visible through the supply of differentiated educational services which can lead to the achievement of a higher school participation rate and prove more relevant to vulnerable groups of children: Roma students, students from socially and economically disadvantaged areas and students with special needs.
- Working through the adjustment and improvement of:
  - The national curriculum so as it should comply with local needs and meet the students' interests with the goal of matching local requirements for a qualified labour force, of valorizing the development potential of the area and consequently that of the school, of concluding efficient educational partnerships (school-business community - community) designed to facilitate students' real and efficient performance.
  - The financing should cover, besides the basic funds, additional resources intended for compensatory schooling for national minority students, for students identified as being at risk of dropping out school, for students with special needs or socially disadvantaged, for the highly talented students, for the students who attend alternative or experimental educational programmes (Waldorf, Step by Step, etc.), This Strategy highlights the need of prioritizing child's rights in the educational policies and decisions.



35. Upon implementation of the Strategy, students will:
- Enjoy improved access to education, and to the initial training in the fields required by the local labour market and by the development trends of the regions and communities
  - Involve themselves in the decision-making process of the school-based curriculum, and of the school development plan, etc.
  - Enjoy equity in obtaining access to high quality education by benefiting from compensatory financing
  - Develop self-consciousness, self-esteem, civic behavior, sense of individuality within the collectivity
  - Assume responsibility for their own personal and professional development

36. In this way, the Strategy will smooth out and gradually remove the differences generated by the home environment, the social status, and the cultural environment, contributing to the promotion of the cultural values of all geographic zones.

**5. *Please indicate the processes and mechanisms that exist to ensure an efficient coordination of policy and strategy development with regard to programmes, services and laws for the implementation of the Convention.***

37. In order to achieve an efficient coordination of the policy mechanisms and the development strategies of the programmes, services and regulations designed to implement the Convention, Government Decision 136/2007 completing Government Decision No. 1432/2004 established the National Authority for Protection of Children's Rights, the Council for the Coordination and defined its competences, organization and functioning. This is an advisory body without legal personality, which operates near to the State Secretary of the National Authority for Protection of Children's Rights.

38. The Council for the Coordination in the field of protection and promotion of children's rights has the following main tasks:

- To ensure cooperation among the institutions and organizations represented in the Council so as to meet the objectives of the national policy and the government plan in protecting and promoting children's rights
- To monitor the application of the legislation concerning the protection and promotion of children's rights and the *acquis communautaire* in this field
- To evaluate the effects of the measures on implementation of *acquis communautaire* in this field
- To formulate proposals on improving the regulatory framework for protecting and promoting children's rights

- To formulate proposals for improving and strengthening inter-relationships between public authorities involved in protecting and promoting children's rights

39. The Council is composed of one representative from the following institutions and organizations:

- (a) State Secretary of the National Authority for Protection of Children's Rights;
- (b) Romanian Office for Adoptions;
- (c) The National Union of the County Councils in Romania;
- (d) The Ministry of Administration and Interior;
- (e) The Ministry of Education, Research and Innovation;
- (f) The Ministry of Health;
- (g) The Ombudsman;
- (h) The Federation of Nongovernmental Organizations for the Protection of Children's Rights in Romania.

The State Secretary of the National Authority for Protection of Children's Rights chairs the Council.

40. At the invitation of State Secretary of the National Authority for Protection of Children's Rights, representatives of authorities or public institutions other than those specialized institutions referred to above, as well as representatives of civil society and of the media may participate at the Council meetings.

41. At the last meeting of the Council, held on 11 March 2009, the topics discussed referred to the preparation of the periodic report and support for the approval of the regulation of the organization and functioning of the Coordinating Council. The next Council meeting is scheduled for 27 April 2009.

42. Another mechanism intended to ensure an efficient coordination of policy and strategy development with regard to programmes, services and laws for the implementation of the Convention is the National Director Committee (The Committee) for prevention and combating children's exploitation through labour.

43. This Committee constitutes the main body for the coordination of all the programmes developed in Romania on the issue of preventing and eliminating the worst forms of child labour. The Committee is coordinated by the National Authority for the Protection of Children Rights and consists of three main parties (Government, trade unions and employers), and has the following responsibilities:

- To revise and approve the operational and strategic plans of the International Programme for the Elimination of Child's Labour, financed by the ILO-IPEC

- To establish priorities for the political areas and the programmes to be established, including the corresponding areas and sectors where such programmes should be developed
- To obtain governmental support and resources for these action programmes

44. Once the ILO-IPEC programme ends, the above-mentioned Committee will take over its responsibilities in the elaboration and monitoring of the programmes and activities for the prevention and elimination of child labour, by granting consultancy to the implementing agencies; collaborating with the International Labour Office in order to realize and disseminate statistics, research and other information concerning the nature and dimensions of child labour issues.

45. Beginning in 2008, the National Committee for Combating and Preventing Children's Exploitation through Labour has been attributed the following responsibilities:

- To identify and make proposals to obtain supplementary financial resources for its functioning, for its meetings and for the work of the sub-committees and the technical secretariat
- To make proposals to the institutions represented within the Committee for the initiation and implementation of programmes concerning the prevention and elimination of the worst forms of child labour

46. The President of the Committee is the Secretary of State of the National Authority for the Protection of Children's Rights. To develop institutional capacity, the Government by Decision No. 76/2008 decides on the setting up, within each institution, member of this Committee, of a specialized unit for child labour, or at least the designation of two persons which will have within their professional attributions responsibilities connected to child exploitation through labour.

**Governmental Decision No. 860/2008 regarding the approval of the National strategy for the protection and promotion of children's rights for 2008-2013 and the Operational Plan for implementing the National strategy for the protection and promotion of children's rights 2008-2013**

47. The National Strategy for the protection and promotion of child rights will be implemented in the period 2007-2013 due to the need to integrate the entire range of issues concerning the rights of the child into the respective sectors dealing with child-related aspects of the Romanian society. This is the first time that an initiative of this type is implemented on such a wide scale. Three phases have been considered for implementing the Strategy; the three phases shall result in an equal number of operational plans for the following intervals: 2007-2008, 2009-2011 and 2012-2013. The operational plans 2009-2011 and 2012-2013 will be elaborated following the evaluation of the previous implemented operational plan and shall be passed by governmental decision.

48. The present Strategy proposes specific solutions for the existing problems starting with identifying the necessary resources - materials, human and financial resources and ending

through monitoring the implementation of these resources. On the other hand, the Strategy underlines the importance of all the institutions, which, through their activity are connected with the child, and, that have to become aware of the fact that they are also responsible for the protection of child rights. The responsibility of implementing child rights cannot be limited to only one institution; each of the involved institutions must consider the child as their priority in all their actions.

49. The present strategy addresses approximately 4.5 millions Romanian children and aims at the defence of their rights as they are defined in the Convention on the Rights of the Child and in other international documents ratified by Romania, in all fields of interest for children: social, family, educational and health. At the same time, this Strategy addresses the plight of Romanian children from other territories or other States, refugee children and children that are not Romanian citizens, but who are on the territory of Romania.

50. Through the implementation of this Strategy, the complete respect of all rights of children and awareness of the importance of this target group in all the actions of the society will be met. That is why the Strategy aims at regulating aspects concerning child rights in general, as well as the equality of chances for the enjoyment of such rights by vulnerable groups of children and teenagers in need of special attention such as: children at risk of being separated by their parents, children separated from their parents, children abandoned in sanitary units, young men beneficiaries of a protection measure, children abused, neglected or exploited, street children, delinquent children, children with HIV/AIDS, disabilities and severe chronic diseases, children manifesting disturbed behaviour and children belonging to ethnic minorities.

51. This Strategy is addressed to parents as direct beneficiaries of social services and also as factors for awareness in the process of raising and educating their children, as well as to the professionals interacting with children and to the local communities.

52. In order to make possible the evaluation of the results of the implementation of the Strategy, it is necessary to underline its main fields of interest and their corresponding lines of action. To facilitate the Strategy's implementation and monitoring, secondary field of interest were established, taking into account both the existing legislative framework and the constantly expressed needs from the territory.

**Main field of interest: protection and promotion of child rights**

- (a) Making the family responsible for the child raise, care and upbringing;
- (b) Promoting and respecting the civil rights and liberties of the children;
- (c) Increasing access to medical services; adjusting the medical services and the services for health promotion to the child's needs;
- (d) Ensuring the right to education for all children;
- (e) Respecting the child's right to rest and promoting recreational and cultural activities;
- (f) Monitoring child's rights;

(g) Respecting the child's right to protection, through multi-disciplinary and inter-institutional intervention, against abuse, neglect and exploitation;

(h) Promoting and supporting the professional training.

**Secondary field of interest: Preventing the separation of children from their parents and special protection for children separated from parents**

(a) Making the local communities responsible in the process of preventing the separation of the child from his parents and supporting the families in raising their children, their care and upbringing;

(b) Continuing the social services reform for child and family;

(c) Protecting certain categories of children and young people requiring special attention (street children, delinquent children, children with disabilities, HIV/AIDS and serious chronic/terminal diseases, teenagers who are about to leave the residential care).

53. The National Strategy in the field of protection and promotion of child rights assures a coherent framework for intervention by the relevant institutions, and promotes real and efficient partnerships among these institutions, the professionals and the beneficiaries. Moreover, this Strategy and its operational plan were approved by 15 central institutions which in consequence assumed responsibility for the activities proposed by the operational plan.

54. With the financial support of UNICEF Romania, the National Authority for the Protection of Children's Rights has implemented, a programme during March-October 2008, whose purpose was to draw up an Operational Plan for the implementation of the above-mentioned Strategy. The Plan was based on the analysis of the following areas of interest: prevention and intervention, training of specialists who interact with children, legal framework, children's participation and their right to an opinion. The coordination of activities for each area of interest was accomplished by well-known specialists in this area. A number of focus groups were set up (documentary films questionnaires applied), which make recommendations in the field.

55. The Plan's draft is under debate on the NAPCR's website since November 2008. The Governing Programme 2005-2008 underlined the following issues as priorities in education:

- Allowance of 6 per cent of GDP to education
- Restructuring of the national school network, the intensification of the rehabilitation of schools and their equipment, with the necessary school endowments
- Development of social support and protection programmes for students
- Reconstruction of rural area education
- Assurance of school autonomy and implementation of the decentralization process

- Harmonization of Romanian educational system with European educational systems (Bologna Process)

56. In the light of these priorities, the reform was oriented towards:

- The increase in the quality of pre-university education concurrent with the increase of citizens' access to education
- The increase of the educational responsibility of the public authorities at central and local level
- Promotion and valorization of cultural diversity in education
- The reform of early childhood development (0-6/7 years old)

57. All these objectives were put into practice through legal and normative documents meant for the achievement of the goals set.

58. Thus, with the goal of ensuring equal access to education for all children, the MoERI:

- Invested more than 434 million lei in building schools, kindergartens, school campuses (in 2008)
- Offered in-service training for 116.203 teachers
- Endowed primary schools, secondary schools, high schools, special schools, kindergartens, sports clubs, national centres of excellence, teachers' training institutions with educational didactic materials, books, sports outfit
- Promoted and developed social support and protection programmes:
  - Provided free transportation, or the reimbursement of the travel costs for distances longer than 50 km from home to school, free school supplies (for children coming from economically disadvantaged families), through the *200 EURO Programme*, *Money for High-school Programme*;
  - Developed "The Second Chance" Programme at the primary and lower secondary school levels in as many counties as possible. By means of this Programme, the MoERI aims to bring back to school all the young people who have dropped out before completing their compulsory education. Besides the elaboration of 72 methodological guidelines for teachers, 650 teachers were trained within the PHARE Programme called "Access to Education for Disadvantaged Groups";
  - Improved the educational conditions in 1,400 schools with the view of ensuring the safety of schools, adequate hygiene and comfortable conditions in these educational institutions.

59. Such measures were legally endorsed by Government decisions, whereas their implementation was regulated by Minister's orders. For example:

- The *200 EURO Programme* based on Law No. 269/2004 regarding the provision of financial support to stimulate the acquirement of PCs and on Government Decision No. 1294/2004 for the approval of the methodological regulations for the implementation of Law No. 269/2004 (further modified and completed by Government Decisions Nos. 1990/2004, 385/2005, 770/2005, 615/2007, 123 of 6 February 2008). By means of this programme, those students who come from economically disadvantaged families receive a voucher of € 200 to buy a PC.
- *Money for High-school Programme* was implemented on the basis of Government Decision No. 1488 of 9 September 2004 regarding the approval of the criteria and the quantum of the financial support offered to students under this Programme (further modified by Government Decision No. 1005 of 3 September 2008). The methodological guidelines for its implementation were approved by Minister's Order No. 4839/2004, under which students who come from economically disadvantaged families are provided with a monthly allowance of 180 lei (approx. € 50) throughout the school year to cover the costs of full boarding at the boarding schools.

6. ***Please indicate whether human rights education, including child rights, is integrated in school curricula. Furthermore, is training on child rights systematically provided to teachers, law enforcement officials, judges, social workers and other professionals working with and for children?***

60. In Romania, human rights education is fostered both in formal and non-formal education. As far as formal education is concerned, human rights education is part of the national curriculum and is included in the curricular area generically called "Man and Society".

- In primary school, students study Child's Rights as a distinct thematic cluster integrated in Civic Education, a subject which is compulsory in the 3rd and 4th grades (1-2 classes/week). Children benefit from free alternative textbooks
- In lower secondary school, Human Rights Education is included in a subject called Civic Culture that is studied compulsorily in the 7th and 8th grades (1-2 classes/week). Students benefit from free alternative textbooks as well
- In upper secondary education, clusters of themes on human rights education can be found in various social studies, such as: Sociology, Philosophy and Social Studies which enjoy the same regime of free alternative textbooks

61. In parallel, human rights education and child rights education are studied as optional subjects, part of the School Based Curriculum, ranging from the 1st to 12th grades. In this respect, it is worth mentioning the following optional subjects whose syllabi were approved by the MoERI:

- At primary school level - European Education
- At lower secondary school level - Civic Culture and Intercultural Education
- At higher secondary level - Civic Education

62. While based in the formal educational system, human rights and child rights education are enhanced through non-formal educational programmes, adapted to each studying cycle. In this respect the Ministry of Education, Research and Innovation has:

- Involved schools, teachers and students in European projects specialized in human rights, child rights and civic education, such as: *Global Education, Global Teenager, Europe at school.*
- Initiated national programmes, such as: The National Programme of Education for Democratic Citizenship, Media and a high quality human rights programme, Democracy and Tolerance - that aim to develop students' social and civic democratic skills necessary to youth's active participation to social life, to make students acknowledge and respect human rights, to develop a tolerant conduct stimulating mutual respect, understanding and cooperation, to accomplish social integration, to enable and support children's and youth's access to community actions and decisions with the view of promoting their rights, to make students assume civic roles and responsibilities within the framework of the democratic State laws and institutions. Due to their considerable impact on students' involvement and their disposing of substantial didactic support (methodological guidelines and manuals), these programmes have been offered as facultative studies that were further integrated into the School Based Curriculum.
- Concluded partnership with NGOs and Council of Europe structures in Romania.

63. United Nations agencies in Romania have implemented programmes based on human rights and child's rights education, such as: Students' Ombudsman, 3rd Millennium Leaders, Learn How to Change the World, Building Europe with and for Children, National Contest of Creativity in Producing Didactic Materials To Support Human Rights Education, Democracy, Peace Culture in Pre-university Education (organized in partnership with Romanian Institute for Human Rights). MoERI has stimulated the development of such programmes at county and school level.

64. Teachers' training on human rights and child rights education is developed extensively through:

#### **In-service training**

- By means of the training offered by Teacher Training Houses (institutions specialized in training delivery and responsible for teachers' in-service training). Courses on human rights education and child rights education can be found under various titles, such as:



*Human and Child's Rights Education, Civic Education for Democratic Citizenship, Modern Approaches and New Trends in Child's Comprehension, Human Rights Education, Education for Democratic Citizenship, Human Rights Education - teaching and learning human rights in pre-university education, Human and Child's Rights Education, Human Rights and European Citizenship, Education for Democratic Citizenship, Child's Rights Education, Child's Rights Protection and Promotion etc.*

- By means of human rights and child rights education - extracurricular programmes that include training sessions on human rights and child rights education intended for teachers prior to their stage of implementation. For example:
  - Against the background of *EDC National Programme*, 600 teachers were trained in two phases: 120 before the pilot stage of the programme and 380 - before the implementation of the programme at the national level
  - Within the *Students' Ombudsman* project (developed by 21st Agenda Association in partnership with MoERI and UNICEF Romania), 42 educational inspectors were trained as trainers in the field of child's rights education with the view of offering assistance to the development of the project at county level
  - Within *Human and Refugees' Rights* project (developed by UNHRC and MoERI) 42 teachers were trained as trainers in the field of human rights education with the view of developing the project at county level

65. Within the campaign "Children Rights are Law!" financed by the European Union through the Phare Programme 2003, implemented by the National Authority for the Protection of Children Rights, a handbook on the role of the magistrates and the prosecutors in child rights protection and promotion was elaborated. This material is currently being used by magistrates and professionals in their activities concerning children.

66. In the same respect, a number of well known universities from Romania, such as the "West University" from Timisoara and "Al.I. Cuza" from Iasi have introduced child protection issues within their curricula.

**7. *Please inform the Committee on measures taken to reduce disparities in children's access to educational and school attendance between urban and rural areas. Also with respect to education, please update the Committee on measures taken to address the prejudices and stigmatization against the Roma community and the segregation of Roma children in schools. Do programs exist in schools to foster among children a culture of tolerance, non-violent communication and acceptance of the other?***

67. The Ministry of Education, Research and Innovation took action to reduce disparities in children's access to education and school attendance between urban and rural areas, along several directions:

- Investment in didactic materials in school libraries, in the rehabilitation of rural schools

- Restructuring of the national school network with the view of employing only qualified teachers in all schools
- Enhancing students' schooling participation rate by means of the social and protection support programmes, such as:
  - (a) Free school transport (by mini buses provided by the MoERI for each County School Inspectorate according to the number of students who do not study in their residence area);
  - (b) Reimbursement of the transportation costs for those students who attend schools farther than 50 km from their residence area, (in 2007 - 115.000 beneficiaries; in 2008 - 215.933 beneficiaries);
  - (c) Delivery of free school supplies to students coming from poor families (in 2006 - 829.298 beneficiaries; in 2007 - 775.446 beneficiaries; in 2008 - 710.594 beneficiaries);
  - (d) 200 EURO Programme - to support students coming from disadvantaged families to purchase a PC (in 2006 - 28.703 beneficiaries; in 2007 - 38.499 beneficiaries; in 2008 - 35. 128 beneficiaries);
  - (e) Money for High - School Programme - is intended to assist students coming from disadvantaged families so as to complete their high-school studies. - (in 2006 - 105.046 beneficiaries; in 2007 - 119.295 beneficiaries; in 2008 - 141.254 beneficiaries);
  - (f) Expansion of Milk and Crescent programme to students in lower secondary level, according to the Government Decree No. 95/2008.
- Development of Social Partnership Programme especially designed for schools in rural areas with the view of improving the access of students from rural schools to high quality education upon the development of school - local community partnership projects. The MoERI financed 761 projects in 2006 and 776 projects in 2007. The programme offered assistance to:
  - (a) 3076 Local Councils in the field of educational development strategies;
  - (b) 6964 schools in the field of project management.

68. Regarding the disadvantaged groups, the Ministry of Education, Research and Innovation has always applied the principle of "equal chances in education" since education has been regarded as a key instrument in preventing social exclusion. The category of "vulnerable groups" basically includes socially, geographically, culturally disadvantaged groups and persons with special needs.

69. Roma children's education was supported by the PHARE Programme's "Access to Education for Disadvantaged Groups" (2001, 2003, 2004, 2005, 2006). The main aim of these

projects was to eliminate social exclusion and marginalization, to promote and expand the mechanism of improving the disadvantaged communities' access to high quality education and to enhance the respect of human rights.

70. The access to their Life Long Learning process has been enabled by the sustainability component of the programme: the delivery of training courses for all the actors involved in the educational process: headmasters, inspectors, trainers, teachers, school mediators, Roma youth.

71. Among the most important results achieved through the implementation of the above-mentioned PHARE programmes, it is relevant to mention:

- The delivery of training for 850 trainers from 42 counties who attended training sessions on inclusive education, teaching-learning active methods, development and implementation of School Based Curriculum, remedy education and *The Second Chance* programmes. These sessions were held at county level with the support of Teacher Training Houses.
- The elaboration of a new curriculum required by *The Second Chance* programmes that includes subjects related to the Roma community culture and traditions.
- 381 school mediators from 36 counties attended specialized courses and now they are already employed in their communities of provenance.
- The establishment of 36 resource centres for inclusive education in 36 counties participating to the programme.
- The finalization of the acquisition and rehabilitation procedures for 300 schools from the disadvantaged communities in the first 25 counties that benefited from the programme.
- The creation of a school inspector position responsible for Roma students' education.

72. Regarding the educational programmes aimed at fostering tolerance, assertive communication, acceptance among children, the Ministry of Education, Research and Innovation has acted along two pathways:

- On the one hand, it addressed this problem by the Minister's Orders No. 1540 of 19 July 2007 regarding the prohibition of the school segregation of Roma children and the approval of methodological norms for preventing and eliminating Roma children's segregation, and No. 1529 of 18 July 2007 regarding the development of diversity throughout the national curriculum;
- On the other hand, MoERI has always encouraged the development of such activities, and annually finances 20 national and international projects on multiculturalism, tolerance and respect for cultural diversity (e.g. *Golden Fish*, *Romanasul*, *Roma traditions Festival*, *Carpatica*, *Maratoni Meseolvasas*, etc.), cross borders and European projects (e.g. *Next Generation*, *Europe at School*, *Global Education*, *Global Teenager*). Moreover, each county school inspectorate stimulates schools to organize educationally

cultural events and to involve students in European cooperation projects (approx. 800 projects/year at the national level) so as to promote social inclusion, valorization of cultural differences, tolerance, acceptance and mutual respect.

**8. *Is there mechanism available to children, in particular those deprived of their liberty and those confined in psychiatric institutions, where they can file a complaint related to their deprivation of liberty, condition of detention/internment and treatment?***

73. The mechanism through which children deprived of liberty can submit complaints regarding the conditions of detention, the right to petition and right of mail - guaranteed to persons deprived of the liberty, is provided by articles 44 and 45 of Law No. 275/2006 on the execution of prison sentences and the measures ordered by the court in criminal proceedings, which under article 56 of the same Law, is applied also to the persons placed in re-education centres or institutes.

74. The correspondence written or received by minors placed in detention is confidential, the envelopes are placed in special mailboxes existing in all the units and the answers are delivered directly to the recipient. Also, the addresses of the international organizations safeguarding human and children's rights are listed in informative materials distributed also in every room.

**9. *Please explain how the right of all children to rest, leisure and engage in play and age appropriate recreational activities is enshrined in legislation and ensured in practice.***

75. Although regulated by the provision of Law 272/2004 for the protection and promotion of children's rights, we consider that for a proper application of this issue supplementary provisions are needed.

76. The promotion of all activities meant to provide the respect of the child right to rest and leisure activities is one of the operational objectives of the Operational Plan concerning the National Strategy within the child protection field for 2008-2013, approved in September 2008.

77. The activities which Romania has committed to accomplish in order to achieve this objective are the following:

- The analysis of the child's right to rest from the perspective of the legislation in place and the respect of this right by all institutions meant to provide protection, care, education and re-education of the child
- Modification and completion of the actual legal framework regarding the child's right to rest, according to the recommendation of the final report concerning the analysis of the right to rest
- Identification of good practices concerning the organization and spending of spare time and the promotion of such good practices by the staff hired within the school units, as well as the special protection ones
- Training specialized professionals for helping children spend their free time, including the involvement of youngsters in volunteers and peer-to-peer activities

- Supporting the granting of scholarships, awards and distinctions for a better promotion of the initiatives aimed at children with artistic or sporting skills by promoting corporative social responsibilities

78. Therefore, by analyzing these activities, we consider that these results, namely diversifying and adapting the modalities of spending spare time for children and directing their education, especially early education, towards the development of the child's personality, talents, abilities both physical and psychological to the maximum level, can be achieved.

79. The child's right to rest, leisure and full participation in recreational activities is stipulated in the Law of Education No. 84/1997 republished with further modifications and completions, Chapter 3, in Regulations of School Organization and Functioning (approved by Minister's Order No. 4925/2005), article 106 and Regulations of Children Palaces and Clubs Organization and Functioning (approved by Minister's Order No. 4100/2006).

80. According to the documents mentioned above, all Romanian children and youth enjoy full and free participation in recreational and extracurricular activities organized in schools, children's palaces and clubs (these educational institutions are specialized in non-formal education), sports clubs, school camps and benefit of discounts for entrance tickets to shows, museums, cultural events and mass transport, according to the provisions of article 100 of the *Regulations of School Organization and Functioning*.

81. The MoERI valorized this right in view of its positive impact on children's education. By the development of non-formal education - along with the child's right to recreational activities, the MoERI aims to fully harmonize children's formal and informal learning experiences, to value their social and intellectual potential so as to create the framework for the development of the twenty-first century abilities. Thus, the MoERI supported:

- The development of extracurricular activities at school level by launching the School Development Grants Programme. In 2007, the MoERI financed 500 projects at the national level whose budgets varied from € 500-15,000 (according to these application requests).
- Children's participation in international projects (Model European Parliament, Europe at School, European School etc), international competitions, festivals, and multidisciplinary projects.
- The development of extracurricular activities at the level of Children's Palaces and Clubs. Throughout Romania there are 41 palaces (one in each county, except for Ilfov County) and 172 clubs. In 2007, the MoERI financed almost 100 cultural, artistic, civic, sports, touristic and scientific projects, festivals and competitions (approx. 600.000 beneficiaries) organized by these educational institutions and in 2008 the number of such events doubled.
- The updating and diversification of the cultural, scientific and sport workshops held in children's palaces and clubs upon the investments in the didactic endowments.

82. At the same time, the MoERI encouraged the transfer of expertise from the non-formal to the formal area of education in what concerns the initiation of facultative studies inspired by extracurricular programmes so as to satisfy students' scientific interests, the need for updated information, knowledge, active methods (e.g. Create Your Own Environment, Media - a Better Education for Children, Education for Democratic Citizenship, Health Education etc.)

83. Leisure and play engaging activities will represent an important part, within the day-care services that will be set up by the new legal draft concerning the regime of the daycare and education services during the day. This document was drawn up by the National Authority for the Protection of Children's Rights.

84. Within the current context of decentralization, the representatives of the Ministry of Youth and Sport have also declared any transfer of these youth camps to the local public authorities must be accompanied by a strict condition that their goals should not be changed under any circumstances. Keeping the purpose intact is very important for the "social camps", because on their premises thematic camps are organized (culture, art, foreign languages) as well as other activities for children with disabilities.

***10. Please inform the Committee on the measures taken to protect the rights of children affected by migration, especially those left behind by their parents.***

85. At the local level, the responsibility to identify and support those seeking social cases of children whose parents are going to work abroad is under the jurisdiction of the Public Services for Social Assistance, which according to article 33 of Law 47/2006 are defined as those who identify social needs of the community to be solved according to the law.

86. The National Authority for Protection of Children's Rights has taken a series of measures aimed to enable a better monitoring and implementation of the measures to limit or diminish the negative effects generated by that lack of one or both parents in the life of a child.

87. Order No. 219/2006 concerning the identification, intervention and monitoring of children who are deprived of parental care while their parents work abroad has been developed and approved by the State Secretary of the National Authority for Protection of Children's Rights.

88. The purpose of the adoption of such legislation was to raise the awareness of the institutions with responsibilities in protecting children's rights and involve them more actively in identifying children whose parents are going to work abroad and provide support services for them within the Public Services of Social Assistance from each administrative/territorial and Directorate General of Social Assistance and Child Protection in each county/area.

89. In line with the continuing effort to adopt measures to identify the needs of children whose parents are going to work abroad, NAPCR decided to extend the monitoring of these children, by including this category in one of the monitoring tools - Sheet Quarterly monitoring - a separate chapter for this category. The centralized statistics are more detailed, Public Services for Social Assistance reporting separately the number of children having both parents working abroad or a single supporting parent.

90. However, in 2008, NAPCR considered it necessary to develop new legislation, meant to regulate concrete measures that, on the one hand, would ensure the identification, evaluation and monitoring of the situation of this group of children, and on the other ensuring the representation of their legal rights where these were not covered by existing legislation on the protection and promotion of children's rights. Consequently, a working group composed of representatives of NAPCR, the Ministry of Education Research and Innovation, the Ministry of Administration and the Interior was established, and prepared a first draft of the legislation governing the identification, evaluation and monitoring of children whose parents are working abroad. This project was sent for analysis to the ministries mentioned above, which have submitted their opinions concerning this legislation and the desirability of its approval through a government decision.

91. Our institution plans to promote the document emanating from consultations among experts from the main authorities responsible in this area, through a government decision that will confer more authority to the measures to be undertaken.

92. Since the phenomenon of "children left home" upon their parents' migration abroad in search for a better paid job did not occur in all counties, the MoERI recommended that each county school inspectorate should assess this situation at county level and act accordingly.

93. Thus, the phenomenon was recorded in 14 counties (Arad, Arges, Bacau, Bistrita Nasaud, Botosani, Brasov, Constanta, Gorj, Harghita, Maramures, Mehedinti, Salaj, Sibiu, Suceava, Valcea) and students in this category of benefited from special programmes designed to support their school participation and prevent school dropout.

94. The following projects were developed in partnership with both governmental and non-governmental organizations the church, and enterprises:

- Psychological and educational counselling - provided by psychologists especially through the psychological and pedagogical offices existing in schools. Such measures are aimed at students, parents or children's legal tutors (Constanta, Harghita, Gorj, Salaj).
- Peer education (partnership projects among counties - e.g. Arges - Valcea, Mehedinti, Constanta).
- Developing life skills (Botosani, Maramures, Constanta).
- Valorizing and organizing children's spare time (Bistrita, Mehedinti, Constanta, Bacau).
- Mass media campaigns at county level (Maramures).
- Establishing *Day Centres* at school (Harghita, Bistrita, Bacau).
- Teachers' training on "Methods and techniques of social and school inclusion used for the children left home by their parents gone away in search for a better paid job abroad".

95. In parallel, the MoERI developed:

- Programmes intended for parents so as to raise their awareness on the role they play in their own children's education: "*Parents' Education*" (that reshaped the well-known monthly parents' meetings into workshops with parents - www.edu-media.ro), "*Parents' Education towards Their Children's Benefit*" (intended for parents of three to nine year olds), "*Future Parents' Education*"
- The programmes of social and protection support mentioned above

**11. Please inform the Committee on:**

***(a) Whether the State party has established a comprehensive system on juvenile justice in accordance with article 40 (3) of the Convention;***

***(b) Whether all persons below 18 are dealt with by juvenile courts composed of specialized judges;***

***(c) What is the treatment of children below the age of criminal responsibility who are allegedly in conflict with law?***

96. According to article 99 of the Criminal Code, children under 14 years have no criminal liability and are not criminally charged; minors aged between 14 and 16 years may be criminally charged only if it is proven that they have committed the act with discernment, while children aged over 16 years have criminal liability. The criminal law establishes the presumption of absolute lack of discernment for minors under 14 years. For minors between 14 and 16 years the relative lack of discernment is presumed, and discernment must be proven in order to hold the minor responsible. For minors over 16 years there is a presumption of relative discernment, but which can be shattered almost immediately by proof to the contrary.

97. A punishment or an educational measure can be applied to minors who are criminally charged. The application of such measures is stipulated in the criminal law dealing with criminally responsible minors and is established in the court proceeding, but with different rules than those for adults with criminal responsibility.

### **Referring children aged up to 18 years old to specialized courts**

98. According to Law No. 304/2004 on judicial organization, in each instance there is a specific panel of judges for children and the family. The relevant provisions of Law No. 304/2004 on judicial organization are as follows:

#### **Article 35**

1. The courts of appeal are courts with legal personality, under whose jurisdiction operate several specialized courts and tribunals, according to annex No. 1, which is an integral part of this Law.



2. In the courts of appeal are operating divisions or as appropriate, a panel of judges specialized in civil cases, criminal cause, cause of trade, juvenile cases and family cases of administrative and tax cases, on labour conflicts and social security, and in relation to the nature and the number of cases, maritime and river sections or other matters.

#### Article 36

1. The courts are legally organized in each county and also in Bucharest, and are usually located in the municipality residence of the county.

2. In the jurisdiction of each court are included all the county courts or, the courts from Bucharest.

3. In the courts of appeal are operating divisions, as appropriate, a panel of judges specialized in civil cases, criminal cause, cause of trade, juvenile cases and family cases of administrative and tax cases, on labor conflicts and social security, and in relation to the nature and the number of cases, maritime and river sections or other matters.

#### Article 39

1. In relation to the nature and the number of cases specialized sections or panels of judges may be set up in the courts.

2. Within the courts special sections and panels of judges for children and family will be organized”

99. Under the same law, specialized courts may be set up for cases involving children and families. Also, the prosecutors of the courts and tribunals have a section structure for children and the family.

100. There are rules on jurisdiction in cases involving juvenile offenders within the Criminal Procedure Code. Thus, under the Code of Criminal Procedure, cases in which the defendant is a minor shall be judged according to the rules of territorial and material jurisdiction, but by judges appointed under the special circumstances. They are, in the context of current legislation, the judges of the courts or for children and family.

101. This court remains the same during the whole procedure even if in the meantime the defendant has reached the age of 18 years.

*The treatment applied to the children alleged to be in conflict with the law, under the age of 18 years in terms of criminal liability*

102. Children enjoy special rules in relation to their criminal liability as well as regarding procedural rules. A minor under 14 years is not liable under criminal law; and a child aged between 14 and 16 years, only if criminally judged, where there is proof that the crime was committed with discernment. A child over the age of 16 years is criminally responsible.

*As regards criminal liability*

103. An educative measure may be applied to a minor who is criminally charged. In selecting the punitive sanction for the minor the social danger of the crime committed, the physical, intellectual and moral development of his behavior, the conditions under which he/she was raised and where he/she lived and any other factors likely to characterize the individual child will be considered. The corrective sanction is applied only if it is considered that educational measures are not sufficient to discipline the child.

104. The corrective sanctions that may be applied to children are fines or imprisonment provided by law for the crime committed. The terms for sentences may be reduced to a half, but their minimum cannot exceed five years. Complementary punishments cannot be applied to a minor. Also convictions pronounced for acts committed during minority or incapacity do not entail revocation.

105. Children also enjoy special reduced terms compared to other categories of offenders such as conditional suspension of the execution of their sentence, suspension of sentence under supervision, and time limitation for criminal liability or punishment may be reduced by half.

106. Educative sanctions for minors are applied as follows:

- The educational sanction commences immediately, during the Court hearing and consists of reproof of the child, in showing the danger of the social crime committed, in advising the child to behave in a way to show atonement in order to be aware that if he/she commits again a crime, the sanction or punishment will be more severe.
- The measure of freedom under supervision consists in leaving the child, free for one year under special surveillance. Supervision may be assigned, if necessary to the minor's parents, those who have adopted the child or the guardian. If they are unable to ensure the satisfactory supervision, the courts can refer the child to a reliable person, preferably a close relative, upon request, or an institution legally responsible for the supervision of minors.

107. The court may impose on the minor the respect of one or more of the following obligations:

- Not to frequent certain places
- Not to associate with certain people
- To undertake unpaid work in a public institution set by the court, with a duration of 50 to 200 hours, no more than three hours per day after school, during non-working days and holidays

108. If the child does not complete the requirements mentioned above and he/she eludes the supervision exercised or he/she demonstrates bad behavior, or commits an act liable under

criminal law, the court revokes the supervised sanction and applies the internment in a re-education centre. If the deed provided by law constitutes a criminal offense, the court shall apply the internment or the punishment.

109. When supervised freedom is decided by the court, this sanction is put into immediate effect in the same meeting, if the minor and the person or representative institution or a special unit entrusted with the supervision are present.

110. When the decision cannot be executed in the same session, a deadline will be set for the persons referred to in the preceding paragraph to appear.

111. Internment in a re-education centre is intended to provide the child with education that ensures the opportunity for him to acquire necessary teaching and training according to his/her abilities. This measure is taken when the other educational sanctions are insufficient.

112. If the court decides upon internment in a re-education centre, this educational sanction may be applied immediately by sending a copy of the decision to the police from the domicile of the child while the police take the child for internment.

113. The sanction for a child who requires medical treatment and special education because of his/her physical or mental condition should be internment in a medical-educational institute. Unfortunately, this cannot be applied because currently there are no specialized institutions.

114. Regarding the execution of the sentence, minors receive the following special sanctions:

- Minors sentenced to prison will execute the punishment in social detention places separate from adults, giving them the opportunity to continue general education and to acquire a training matching their skills (art. 57 of the Criminal Code)
- Regardless of the deed committed, children do not execute sentences under maximum security

115. Also, during the execution of a penalty involving deprivation of liberty children and youths benefit from special counselling and assistance programmes, participate in educational, cultural, therapeutic, psychological therapy and receive social support adapted to the needs, age and personality of each child. They also have access to study programmes that enable them to acquire a professional qualification, depending on the options they select and their abilities. The professional training and retraining courses for minors deprived of liberty are set by prison administrations in collaboration with the National Agency for Employment or its territorial structures. In certain cases, the prison sentences may be reduced by half.

116. Persons sentenced during their minority benefit from special conditions for granting liberty on parole. When they reach the age of 18 years they may be released after accomplishing a third of the prison sentence not exceeding ten years and a half in prison if the sentence is longer than higher than ten years, if they meet other requirements by the law. This reduction of punishment conforms to the provisions governing the conditional liberation for convicted minors under article 60 of the Criminal Code.

117. Where convicted persons undertake productive work during the execution of punishment, such persons shall retain, as a general rule, part of the income obtained from the work performed, calculated according to the revenues of the convict and his/her maintenance obligations. In the case of minors, these limits are reduced by half (art .868 of the Criminal Code).

118. The child also enjoys the right to special rules of procedure designed to ensure his/her protection in the conduct of criminal cases. A defendant or accused, of minor age, benefits from mandatory legal assistance. Minors also enjoy special procedures and a detailed legal framework with respect to preventive measures. Minors detained under provisional arrest have a right to a special detention regime, in function of their age, so that the detention cannot interfere with their adequate physical, psychological or moral development. Under special circumstances, a minor of 14-16 years old may be detained for up to ten hours. If there is specific information to the effect that the minor in question may have committed a crime punishable under the law by a life sentence or a sentence exceeding ten years imprisonment, a supplementary detention of the minor may be ordered for another ten hours if necessary. Thus, a minor of 14-16 years of age cannot be held in preventive detention unless the act he/she committed is due to be punished with imprisonment for life, or for ten years or more, and another preventive measure is not deemed adequate.

119. The preventive arrest of a minor charged with an offense cannot be longer than three days. The preventive detention of a minor accused of committing a criminal act cannot be longer than 15 days, where the minor is between 14-16 years at the time of the investigation proceedings. This period can only be extended in exceptional circumstances. Preventive detention of a minor during the criminal proceedings cannot be more than 60 days, any extension not being longer than 15 days. Exceptionally, when the crime would call for punishment of imprisonment for life or for at least 20 years, the minor between of between 14-16 years old may be held in preventive arrest for 180 days.

120. An accused of more than 16 years of age may be held during the criminal investigation procedures for no more than 20 days. Preventive arrest for the minor cannot exceed a reasonable time period, but no more than 90 days. Exceptionally, when the punishment is life imprisonment, or prison for ten years or more preventive arrest of the minor can be extended until 180 days.

121. In all cases regarding minors, the probation office draws up evaluation referrals, whose role is to provide the court with information on the minor and his/her perspectives for future social reintegration. The Court will take this document into account when deciding to apply a certain punishment or educational measure. At the same time, when hearing a defendant, the prosecutor's office may request the presence of a probation counsellor or of the parents of the child or his/her legal representative. The hearing of the minor is done in separate rooms. When the accused is under 16 years of age, the Court, after hearing the minor, can ask for his/her removal from the room if it considers that the debates might adversely affect the minor.

122. For a minor who is not criminally responsible and has committed an offence covered by penal law, certain measures of protection can be taken, having in mind especially the education of the minor. Such special protection measures are taken in accordance with the provisions of Law No. 272/2004 for the promotion and protection of child rights, placement and specialized supervision.

123. Placement is intended as a special protection of a child who has committed an act covered by the criminal law. It is of a temporary character. The child may be assigned to a person or family, a foster family or a residential service licensed according to the law. Specialized supervision may be ordered by the Child Protection Commission, which works under the subordination of the County Council or local councils, when the approval of the child's parents is granted, or if not the case, the Court might decide such a measure.

**12. *Please indicate the issues affecting children that the State party considers to be priorities, requiring the most urgent attention with regard to the implementation of the Convention.***

**124. The issues affecting children and that require most urgent attention are as follows:**

- Developing and strengthening the administrative capacity of the NAPCR in order to ensure the respect within the national territory for the rights of the child, by intervening in the administrative or judicial procedures concerning the respect for children's rights in all decisions made by local or central public authorities
- Strengthening the capacity of the local authorities to exercise their function of preventing a child's separation from his/her parents and monitoring the respect for children's rights
- Making available a financing mechanism for the DGASPCs and the services provided by them at the level of municipalities, towns and or other administrative areas, that should be based on minimum costs for each type of service
- Increasing the effectiveness of the DGASPC's activities
- Setting up Child Courts

125. The objectives that the MoERI has identified as currently being most pressing in children's education have already been integrated into the Governing Programme 2008-2012. They address several highly relevance issue related to the assurance of equal chances to all children towards the achievement of personal and social success which have been illustrated in the analysis of the trends in the development of European society, against the realities of the challenges faced in the actual social, economic, and cultural context of Romania:

- Restructuring of the national curriculum to increase its flexibility and to give priority to building an effective set of competences, facilitating adaptation to new situations, enhancing creativity and innovation and ensuring the matching of skills the needs of the labour market
- Prevention and gradual elimination of school dropouts throughout the compulsory education system
- Generalization of IT learning

- Assurance of equal chances to education:
  - For children with special needs and those from disadvantaged groups by enrolling them in special educational schools and mainstream schools
  - For gifted students by supporting them through adequate programmes
  - To all children by implementing and gradually generalizing the *School after School* Programme
- Development of education in rural areas
- Full development of non-formal education

## PART II

*Under this section, the State party is invited to briefly update the information provided in its report with regard to:*

- *New bill or enacted legislation*
- *New institution*
- *Newly implemented policies; and*
- *Newly implemented programmes and projects, and their scope*

### Approved normative acts

- By Law 361/December 2007, Romania ratified the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children. The National Authority for the Protection of Children's Rights is designed as the central authority meant to fulfill the obligations established by the above Convention.
- In November 2007 the Family Code was modified and completed through the provisions of Law No 288. The changes aimed at establishing the same age of marriage both for women and men at 18 years and also at introducing new provisions regarding the denial of paternity.

By consequence, while under the previous version of this normative act only the husband could initiate a case for the denial of paternity could be initiated only by the husband, the new proposal stipulates that this action may also be initiated by the wife and child and pursued by the heirs. The paternity denial action is to be prescribed within a three-year period following the child's date of birth, while the previous law provided a six month period for this action. A new provision was introduced referring to the fact that the paternity establishing action for a prior marriage initiated by the child cannot be prescribed during his life.

- Government Decision No. 859 regarding the approval of the Agreement between the Romanian Government and the Italian Government on cooperation with respect to Romanian children found unaccompanied, or in difficulty in Italian territory. The Agreement was signed 9 June 2008 in Rome.
- Order No. 253/2008 for the approval of the Methodology regarding children who are benefiting from a special protection measure for medical treatment abroad.

#### **Projects of normative acts**

- Government Decision No. 1527/2007 approved the preliminary theses of the draft Civil Code. The draft Civil Code is now being debated in Parliament, its main objective is to consolidate the private law in a single document - the Civil Code. Therefore, the draft Code comprises all regulations regarding persons, family and commercial relationships.

126. The second Book of the draft Civil Code, "Family", is primarily aimed at offering a new approach to the regulation of family issues, by discarding the present concept of a distinct code that provides regulations for this field. It is proposing a unitary regulating framework for all aspects of civil rights, including those related to the family.

127. Apart from this above-mentioned change in the regulation on civil rights issues, the present draft Code is proposing to the Romanian society, an approach adapted to the social realities, by introducing a series of new measures aimed at modifying the actual solutions (such as the matrimonial regime) or at the legislative recognition of a factual situation, which is inexistent from the juridical point of view (such as engagement).

128. In elaborating the provisions of the second Book, both the international conventions to which Romania is party, and the European standards in this field were taken into account.

129. Among the most important new concepts considered, are the following:

- Reinforcing the State's duty to support both the marriage settlement and the development of the family, by social and economical measures
- Consecrating the superior interest of the child, as set by the Convention on the Rights of the Child and by Law No. 272/2004 regarding the protection and promotion of children's rights
- Establishing competences for the tutelary authority regarding the implementation of the provisions in the family field

130. In the alliance field, the elements of novelty are:

- Extending the sphere of the subjects that are able to initiate the paternity denial action, respectively the mother's husband, the mother and the child
- Regulating medically assisted human reproduction, and that which implies a third donor

- Regulating the basic terms of adoption, its effects and cessation

131. The IVth Title introduces a new concept - "Parental authority", which is inspired by the French code and that of Quebec and constitutes the general framework regarding the parental rights and duties with respect to the child's person and belongings, the exercise of parental authority and the withdrawal of parental rights. According to this project, the parents have both the right and the duty of raising the child, by ensuring its physical, mental, spiritual, moral and social development. The parental authority is to be exercised by both parents, even if they are divorced. Also, other aspects are regulated, such as "child's domicile" and "child's belongings administration".

132. At the beginning of March 2009, the National Authority for the Protection of Children's Rights made some critical remarks and proposals regarding the Civil Code draft.

*Draft of a normative act regarding the day care and education services for children*

133. This draft normative act aims at regulating the setting up, organization and functioning of the day care and education services for children in order to increase the support to the family. The services to be created by the implementation of this normative act will function through structures at the local level, organized either as crèches or day-care centres, or at the domicile. The novelty element is represented by the regulations regarding the occupation of baby-sitter and the activities of baby-sitting agencies.

This normative act project is completed and will be submitted for public debate starting April 2009.

*Project of a normative act regarding the family-type services*

134. The protection of children temporarily or definitively separated from their parents and placed either at the domicile of a family member or with a foster parent, is now confronted with a series of problems, which call for initiating some emergency measures. Among such problems is that of the oversized foster care network, which undermines the capacity of the social assistance and child protection entities to carry out their responsibilities in this field - such as those of evaluating and training foster care professionals, monitoring their activities and those of the foster children under their care.

135. The draft normative act regulates the family-type services for children who are temporarily or definitively separated from their parents. First priority is given to placement within the extended family and, second, when this is not possible, to placement with a person or a family from the child's social network. Where neither of these is possible placement is made with a foster family or person, certified under the conditions of the present normative act. Placement under foster care placement is to be considered as a last resort, only if it is certain that all the options regarding the establishment of a placement measure within a family member had been fully explored.

136. Some new concepts were introduced by this normative act, such as that of person or a family from the child's social network or care family/person, which represents an elaboration of the "other families/persons" mentioned by Law No. 272/2004.



137. The Anti-drug National Agency and the National Agency against Human Trafficking were reorganized as functional structures within the General Inspectorate of the Romanian Police by Emergency Government Ordinance No. 20/2009 for the modification of article 13, paragraphs (2) and (3) of the Emergency Government Ordinance No. 30/2007 regarding the organization and functioning of the Ministry of Administration and Interior and for the reorganization of some units subordinated to the Ministry of Administration and Interior. The functioning attributions were undertaken by the General Inspectorate of the Romanian Police.

**Projects developed by the National Authority for the Protection of Children Rights during 2008**

**1. National interest programmes (based on Decision Government No. 617/2008):**

1. *“Closing up the classic type institutions with more than 100 beneficiaries and creating family-type residential services - apartments and cottages”*
2. *“Developing of the communitarian social services for the children and the families”*
3. *“Specialized services for the child in conflict with the law”*
4. *“Training for the staff working within the child protection services”*

138. In 2008, nine projects were selected for financing, for which a sum of 7.766.062 lei was allocated, representing 13 per cent of the total allocated budget for 2008-2009.

**2. The Twinning Light Project “Evaluation and regulation of the child day-care services”**

139. This institutional union project (Twinning Light) was developed by the National Authority for the Protection of Children’s Rights in collaboration with the Research and Developing Center for Health and Welfare (STAKES) from Finland for a six-month period (June-November 2007).

140. The project resulted in the elaboration of a normative act project regarding child day-care services, which was permanently improved during 2008, following the discussions carried on with the main ministries involved (Ministry of Labor, Family and Social Protection, Ministry of Education, Research and Innovation, Ministry of Public Finances).

**3. The Twinning Light Project “Creating of a training system for the foster care professionals”**

141. This institutional union project (Twinning Light) was developed by the National Authority for the Protection of Children’s Rights in collaboration with the Ministry of Health, Welfare and Sports from the Netherlands for a nine-month period (September 2008-June 2009), with a total budget of € 170.600.

**4. The Twinning Light Project “Increasing the services quality, which beneficiaries are children in conflict with the law, respectively children that committed an illegal act and cannot be prosecuted”**

142. This institutional union project was developed by the National Authority for the Protection of Children’s Rights in collaboration with the Federal Ministry of Family Affairs, Aged People, Women and Youths from Germany for a nine-month period (November 2008-August 2009), with a total budget of € 206.600.

143. The project’s purpose is to contribute to increasing the quality of services for the protection of children who committed an illegal act and cannot be prosecuted, by elaborating work methodologies for these services organizing and functioning and by offering training for the staff working with this category of beneficiaries (within the services or the general directorates for social assistance and child protection).

**5. The project “Street children initiative”**

144. Following a series of activities aiming at implementing the national strategy in the field of protection and promotion of children’s rights, NAPCR launched in February 2008 the project “Street children initiative”, financed in accordance with the Agreement contract between the Romanian Government and the Council of Europe Development Bank, ratified by Law No. 388/2006.

**The project’s objectives**

145. The first objective is to create 20 day and night shelters and emergency placement centres for street children.

146. The second objective is to provide permanent professional training for approximately 150 professionals at the same time as creating the centres, in the domain of drug use prevention, assistance and psychological counselling for overcoming drug addiction and specific intervention methods in providing social services for street children.

**6. The project “Communitarian services aiming at preventing child separation from his/her family and the training provided for the staff working with them**

147. Initiated by Government Decision No. 928/2007 for ratifying the Frame Borrowing Agreement between Romania and the Council of Europe Development Bank, this project represents one of NAPCR’s interventions for decentralizing child protection social services at the local level.

**The project’s objectives**

148. The first objective: To create, at the level of cities, towns or communes, approximately 200 small scale (8-15 children) communitarian services for preventing a child’s separation from his/her family.

149. The project offers the applicants a total budget amount of € 12.020.000 for feasibility studies, the design, construction, rehabilitation and supply of the buildings where the communitarian services will be functioning.

150. The second objective: Training for approximately 4300 professionals (from the newly created services and the public services for social assistance) in the creation and provision of services aimed at effectively addressing situations that could lead to a child's separation from his/her parents.

151. The newest measure implemented by the MoERI to raise and support children's school participation rate, is "The Government Scholarship" designed for gifted, but socially disadvantaged children from rural areas who completed the 4th grade. Such a measure support their attendance at elite schools in urban areas according to their field of competence. The scholarship covers the cost of full boarding and school supplies. It began in September 2008 and so far 165 students have benefited from this programme.

**7. The project aiming to determine standardized costs per services financed by UNICEF**

152. To support and facilitate the ongoing process of reform in Romania, UNICEF and the NAPCR agreed on a joint initiative aiming - at an initial phase - to determine standardized costs per services and design instruments for resource allocation and budget monitoring at the national and local levels. This analysis of the consequent recommendations will have major implications for the change of policies regarding budget allocation and expenditures within the child protection and social protection system and is expected to contribute in a following stage to the shift from extensive reliance on State institutions towards community-based care, services and prevention.

**PART III**

**Statistical data**

- 1. In the light of article 4 of the Convention, please provide updated data for 2006, 2007 and 2008, on budget allocations (including trends analysis) regarding the implementation of the Convention throughout the country, notably in the areas of education and health.***

**Health field**

*National Programme for Women's and Children's Health*

153. Since 2001, Romania has stepped up its efforts to improve the health of women and children. With that end in view, the Ministry of Health has consistently taken a series of measures within its health policy to provide curative and preventive services for children and women, trained medical and sanitary staff and established strong partnerships with institutions both government and non-governmental bodies, at the national and international level. Since 2001, a national health programme for this category of beneficiaries has been implemented, and continues to develop, with annual funding from the State budget.

154. The Orders of the Minister of Public Health and the President NHIH No. 570/116 of 29 March 2007 and No. 574/269/2008 approved the technical implementation, evaluation and financing of national health responsibilities in monitoring and control, detailing the activities, specific sub-indicators and sanitary units through which they are carried out, and respectively established a budget allocation for the activities to fulfil the specific objectives of the programme of 35,619 thousand lei for 2007 and 32,945 thousand lei for 2008.

155. In conclusion, following the activities of the National Programme for Women's and Children's Health, the Ministry of Public Health in collaboration with international agencies and NGOs, achieved a constant improvement in the health of women and children, which is reflected mainly in lower rates of infant and maternal mortality.

156. Infant mortality since 2006 reflects the same positive trend, the decrease became pronounced as the rate fell from 15 per cent of live births to 13.9 per cent in 2006 and further to 12.0 per cent in 2007. However, despite this positive trend over recent years infant mortality in Romania remains at high level when compared with the other European countries. The evolution of infant mortality during 2002-2007 is shown in the table:

**Infant mortality in Romania during 2002-2007**

| Indicator to      | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
|-------------------|------|------|------|------|------|------|
| 1,000 live births | 17.3 | 16.7 | 16.8 | 15.0 | 13.9 | 12.0 |

157. There is a correlation between infant mortality and the education and occupation of mothers. Most of the deaths recorded of live newborns are those whose mothers have very elementary or no education. This proves that it is the lack of training and education, not time, that contributes to infant deaths. This priority issue, cannot be resolved only through medical treatment, but requires that all determinant factors (medical, social, economic, educational) be addressed and an adequate financial support be provided.

158. The evolution of maternal mortality during 2002-2007.

**Maternal mortality in Romania during 2002-2007**

| Indicator to      | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
|-------------------|------|------|------|------|------|------|
| 1,000 live births | 0.22 | 0.30 | 0.24 | 0.17 | 0.15 | 0.15 |

159. The indicator of maternal mortality decreases slightly from 0.1549 for 2006 to 0.1537 for 2007. The positive evolution of this phenomenon is, on the one hand, due to the increased attention paid by the Ministry of Health to family planning which has made major strides in recent years and, on the other hand, the intensification of efforts in making records of pregnant women and monitoring the evolution of pregnancy.

160. The prevention of contagious diseases is an important objective in the national health programmes. One of the activities is the national observance of the vaccination schedule and a high vaccine coverage. During 2007, Order No. 570/116 of 29 March 2007 of the Minister of Public Health and the President of NHIH mentioned above allocated a total of 49.985 thousand

lei to cover the vaccination of different categories of the population. It is estimated that the central purchase of 8.5 million doses of vaccine is required to achieve vaccination coverage of 96 per cent.

161. Order No. 574/269 of 31 March 2008 mentioned above, allocated a budget of 18280 thousand lei, in 2008, for the national immunization programmes of the population. In order to protect the human health against major diseases preventable by vaccination, 2.5 million doses per year have been collected to achieve a vaccination coverage of 96 per cent.

162. At school community level, preventive and curative care is provided through medical and dental offices, which have the specific objective of assessing and monitoring the health status of children and young people in communities, related to environmental conditions.

163. The activities of health promotion and the methods of primary prevention were developed, and the insurance of medicines, instruments, sanitary materials, and specific equipment for school cabinets were included in the national public health sub-programme. Budget allocations of 2950 thousand lei for the year 2006 and of 10692 thousand lei for 2007 were made to cover these activities.

164. The common Order of the Minister of Public Health and the President of the National House of Health Insurance No. 574/269/2008, (mentioned above) provided that the medical component of the scholastic communities was included within the National Plan of Monitoring the Determinant Factors from the Life and Work environment, with a total allocated budget of 6.532 thousand lei.

#### Education field

| Budget for pre-university education | 2006 (million lei) |          | 2007 (million lei) |          | 2008 (million lei) |          |
|-------------------------------------|--------------------|----------|--------------------|----------|--------------------|----------|
|                                     |                    | % of NGI |                    | % of NGI |                    | % of NGI |
| MoERI                               | 9 047.90           | 3.10     | 10 132.3           | 2.5      | 13 507.2           | 2.67     |

**2. Please inform the Committee on the number of children in psychiatric hospitals for the years 2006, 2007 and 2008 and on the reason for their internment. Please also inform the Committee on the number of reported cases of abuse of children in these institutions and the type of follow up given of these cases.**

165. Medical services for diagnosis and treatment of acute and chronic diseases are provided in psychiatric hospitals belonging to the Ministry of Health network. The duration of such treatment ranges between 14 days (acute) and 50 days (chronic diseases).

166. The number of recorded discharges of children aged between 0-14 years from psychiatric sections in hospitals or emergency clinics reached 10,514 during 2006, and 11,606 in 2007. These figures reflect the volume of hospitalizations, the total number of children treated in psychiatric hospitals may be less as more than one discharge may be recorded for a given child during a calendar year.

167. There were no reported abuses on these patients during hospitalization.

168. The most common diseases registered in 2006, are as follows:

|     |   |
|-----|---|
| 1.  | Conduct disorders   |
| 2.  | Slight mental delay   |
| 3.  | Mental average delay  |
| 4.  | Serious mental delay  |
| 5.  | Other disorders of psychological development with no indication |
| 6.  | Other behavioral disorders, emotional disorders, in childhood   |
| 7.  | Schizophrenia   |
| 8.  | Acute psychotic disorders and transitory                        |
| 9.  | Hyperkinetic disorders  |
| 10. | Anxious disorders   |

*Source:* CNOASIIDS.

169. Other data is not available at this time.

3. ***Please provide data covering the last three years on the number of children below the age of 2 years who are institutionalized for health reasons. In this respect, please also clarify which authority is in charge of taking the decision on institutionalization and indicate the frequency of the review of their placement.***

170. Children less than two years old, dependent on specialized care within residential-type services, which were institutionalized during last three years.

| Year | Number of cases that entered the system | Number of cases that | Active cases at the end of the year |
|------|---|----------------------|-------------------------------------|
| 2006 | 284                                     | 284                  | 241                                 |
| 2007 | 258                                     | 258                  | 210                                 |
| 2008 | 233                                     | 233                  | 200                                 |

171. The authorities responsible for establishing the placement measure are the Child Protection Commission and the court of law.

172. The Child Protection Commission establishes the placement measure when the child cannot be left into the care of his/her parents due to causes non-imputable to them and only if they approve of the placement measure.

173. The court of law establishes the placement measure following the request of the General Direction of Social Assistance and Child Protection for the child whose parents are deceased, unknown, deprived of the exercise of parental rights or were subject to the penalty of denial of parental rights, placed under interdiction, declared dead or missing by a court of law, when the legal guardianship cannot be established, for an abused or neglected child and for a child abandoned by his/her mother in the maternity.

174. The frequency of the revision of the special protection measures varies from three months (20 of the general directions of social assistance and child protection) to 12 months (seven of the general directions of social assistance and child protection).

**4. Please provide data covering the last three years on the number of dropouts at primary and secondary level disaggregated by sex, social and ethnic background and geographic location.**

| School year | Total primary level   | Primary level |       | Primary level |        | Total secondary level | Secondary level |       | Secondary level |        |
|-------------|---|---------------|-------|---------------|--------|-----------------------|-----------------|-------|-----------------|--------|
|             |   | Rural         | Urban | Male          | Female |                       | Rural           | Urban | Male            | Female |
| 2005/06     | 1.5   | 1.6           | 1.4   | 1.7           | 1.3    | 2.1                   | 2.2             | 2.0   | 2.3             | 1.8    |
| 2006/07     | 1.7   | 1.4           | 2.0   | 1.9           | 1.5    | 2.3                   | 2.3             | 2.3   | 2.5             | 2.1    |
| 2007/08     | The National Institute of Statistics, as the official source of data at national level, has not finalized the report on educational issues yet. |               |       |               |        |                       |                 |       |                 |        |

*This data was provided by the National Institute of Statistics.*

175. Neither the National Institute of Statistics nor the MoERI collect data disaggregated by geographic location and social and ethnic background.

**5. Please provide data covering the last three years on the number of:**

**(a) Persons below 18 who have been tried as adults;**

**(b) Persons below 18 detained in adult penitentiaries;**

**(c) The number of children below the age of criminal responsibility who enter in conflict with the law;**

**(d) Reported cases of abuse or ill-treatment of children occurred during the arrest and/or detention of children in conflict with the law as well as the type of follow-up given to these cases.**

176. The National Administration of Penitentiaries holds in custody both minors sanctioned with internment in a centre of re-education as an educational measure, and minors on whom the courts have pronounced prison terms.

177. Regarding the number of adults or minors less than 18 years detained in penitentiaries for the last three years, the situation is the following:

- 31 December 2006 - 540 persons
- 31 December 2007 - 326 persons
- 31 December 2008 - 268 persons
- 28 February 2009 - 264 persons

6. *Please provide data covering the last three years on the number of trafficked children as well as of those involved in sexual exploitation, including prostitution and pornography. In this respect, please provide further information on the type of services specifically available for the recovery and reintegration of victims as well as on the number of children provided with access to these services. Are child victims of exploitation, including those trafficked and used in prostitution, always considered as victims in the criminal justice process?*

#### 2006

- 316 minors, 42 boys and 274 girls according to the data provided by the General Institute of the Romanian Police). For this year, there is no data regarding the number of minors, victims of trafficking for sexual exploitation.

#### 2007

- 292 minors, 37 boys and 255 girls (according to the national database of the National Agency against Human Trafficking).
- 222 minors were victims of different forms of sexual exploitation. The main form of children's exploitation was sexual exploitation, 75 per cent of the victims under 18 are being trafficked for this purpose. Also, 35 minors (12 per cent) were forced to practice begging, 21 (7 per cent) were exploited through work, five were forced to commit thefts and six were victims of exploitation for pornographic purposes (two of them by using the internet). There were also five cases in which the exploitation remained in the phase of an attempt.

#### 2008

- 186 minors, 23 boys and 163 girls (accordingly to the national database of the National Agency against Human Trafficking)
- 140 minors were victims of sexual exploitation

178. The protection and assistance for children who are victims of human trafficking is being granted by the specialized services within the child protection system, according both to Law No. 272/2004 on the protection and the promotion of children's rights, with amendments, and to the Governmental Decision No. 1295/2004 regarding the National Action Plan for the prevention and fighting against child trafficking.

179. Children who are victims of human trafficking are hosted within the Transit Centers administered by the General Directorates of Social Assistance and Child Protection (GDSACP). These centres were set up during 2004-2005. Following an analysis made in 2007 by the National Authority for the Protection of Children Rights, regarding the efficiency of the functioning of the centres, it was found that 10 of the 12 existent centres were functioning in accordance with their established purpose.



180. Children who are victims of human trafficking are also assisted and protected by being hosted in emergency placement centres for children victims of various types of abuse. There is at least one such centre within each GDSACP from the 41 counties of the country, and within each of the six districts of Bucharest.

181. When children cannot be entrusted to their natural family, they are transferred either to placement centres within the GDSACP, or to centres that are managed by non-governmental organizations, specialized in child protection. There is also the alternative of being placed with a maternal assistant.

182. The emergency placement centre and the transit centres are financed from the budgets of the county or local councils of the different districts of Bucharest.

183. The non-governmental organization "Save the children" is providing assistance to children who are victims of abuse, exploitation and trafficking and to their families through the five counselling centres for the abused, neglected, victims of human trafficking in Bucharest, Timisoara, Iasi, Suceava and Targu Mures. The budget necessary for the functioning of these centres is entirely supported by "Save the Children".

184. The victims' rights are stipulated and guaranteed according to Law No. 211/2004 on the rights of the victims of the offences and Law No. 678/2001 on preventing and combating human trafficking. These two Laws stipulate that child victims cannot be treated as offenders, nor can they be arrested nor forced to pay fines. A person victim of trafficking, who committed the offence of prostitution or begging as a result of his/her exploitation, cannot be punished for these offences (according to the article 20 of Law 678/2001).

185. According to article 70, paragraph 1 of the Governmental Emergency Ordinance No. 105/2001, entering or leaving the country by illegally passing the frontier constitutes an offence and is punished with imprisonment from three months to two years, but paragraph 4 of the same article stipulates that when such offence is committed by a victim of human trafficking, it is not punishable.

-----