

# **Franet National contribution to the Fundamental Rights Report 2021**

**ROMANIA**

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## Policy and legal highlights 2020

Franet country study: policy and legal highlights 2020	
<b>Issues in the fundamental rights institutional landscape</b>	No major issues regarding the fundamental rights institutional landscape.
<b>EU Charter of Fundamental Rights</b>	No significant developments regarding the use of the EU Charter.
<b>Equality and non-discrimination</b>	No relevant legal and policy developments or measures to foster equality and combating discrimination against older people or against LGBTI people.
<b>Racism, xenophobia &amp; Roma integration</b>	<p>There were no legal or policy developments relating to the application of the Racial Equality Directive.</p> <p>The Ministry of Education and Research (<i>Ministerul Educației și Cercetării</i>)'s Order no. 5633/2019 on a methodology to monitor school segregation in pre-university education entered into force.</p> <p>A draft national strategy for the integration of Roma was drafted and it is currently out for public consultations.</p>
<b>Asylum &amp; migration</b>	No major developments in relation to asylum, visas, migration, borders.
<b>Data protection and digital society</b>	<p>No initiatives have been implemented to support access to, and use of personal data.</p> <p>In November 2020, a <a href="#">draft law was introduced in Parliament seeking to regulate the role of data protection officers</a>.</p>
<b>Rights of the child</b>	<p>Schools and kindergartens were closed on 11 March 2020 during the state of alert, on 22 September 2020, and again on 9 November 2020 (ongoing).</p> <p>No major legal or policy developments.</p>
<b>Access to justice, including victims of crime</b>	<a href="#">Law no. 183/2020</a> grants free legal aid to everyone seeking a restriction order. The criminal punishments were increased to imprisonment for six months to five years. The definition of domestic violence was broadened to include cyberviolence. The <a href="#">statute of limitation was raised</a> for people accused of committing rape or sexual acts with a minor.
<b>Convention on the Rights of</b>	The amendment of Law no. 448/2006 on the protection and promotion of the rights of persons with disabilities is still in progress.

<b>Persons with Disability</b>	
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# Chapter 1. Equality and non-discrimination

## 1. Legal and policy developments or measures relevant to fostering equality and combating discrimination against older people and against LGBTI people.

There are no legal and policy developments or measures adopted in Romania in 2020 relevant to fostering equality and combating discrimination against older people and against LGBTI people. Nevertheless, a recent amendment to the Labour Code introduced new wording and new concepts into the code, which are quite different from the definitions included in the Anti-discrimination Law.<sup>1</sup> Notably, the protected grounds go beyond the open list provided for in the Anti-discrimination Law<sup>2</sup> and explicitly include genetic traits, political choice, family situation or responsibility and membership of or activity in a union. The definitions of direct and indirect discrimination, harassment, discrimination by association, victimisation, orders to discriminate and a genuine occupational requirement that have been introduced into the Labour Code are not identical to the ones in the Anti-discrimination Law, although they are quite similar. New to Romanian legislation is the inclusion of a definition of discrimination by association. The fines provided for the new offence are similar to the fines provided for in the Anti-discrimination Law, but the amended Labour Code fails to mention specifically that, in cases of discrimination in employment, not only do labour inspectorates have a duty to find and fine violations of the Labour Code, but the national equality body is also mandated to investigate and sanction misdemeanours.<sup>3</sup>

In June 2020, the Parliament adopted an amendment to the Anti-discrimination Law introducing the concept of moral harassment, defined as “any conduct committed against an employee by another employee who is his/her superior, by a subordinate and/or by a comparable employee from a hierarchical point of view, in relation to employment relationships, which have as purpose or effect a deterioration of working conditions by infringing the rights or dignity of the employee, by affecting his/her physical or mental health or by compromising his/her professional future, behaviour manifested in any of the following forms:

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<sup>1</sup> Romania, Law no.151/2020 on the amendment of the Law no. 53/2003 - Labour Code (*Legea 151/2020 pentru modificarea și completarea Legii nr. 53/2003 - Codul muncii*), published in the Official Journal no. 658 of 24.07.2020.

<sup>2</sup> Romania, Government Ordinance no. 137/2020 on preventing and punishing all forms of discrimination (*Ordonanței Guvernului nr. 137/2020 privind prevenirea și sancționarea tuturor formelor de discriminare*), republished in the Official Journal no. 166 of 07.03.2014, Art. 2.

<sup>3</sup> See European network of legal experts in gender equality and non-discrimination, [Flash Report of 12.08.2020](#).

a) hostile or unwanted conduct; b) verbal comments; c) actions or gestures.” The amendment further adds that “Moral harassment in the workplace is any behaviour that, by its systematic nature, can harm the dignity, physical or mental integrity of an employee or group of employees, endangering their work or degrading the work environment. For the purposes of this law, stress and physical exhaustion are subject to moral harassment at work”.<sup>4</sup> The amendment also introduced significantly different sanctions from those provided in the Anti-discrimination Law, with higher minimum and lower maximum fines. It also gives the power to the National Council for Combating Discrimination, NCCD (*Consiliul Național pentru Combaterea Discriminării*, CNCD) to order the employer to take all necessary measures to stop any acts or acts of moral harassment at work regarding the employee in question and to pay to the employee the amount necessary for the psychological counselling that the employee needs, for a reasonable period established by the occupational medicine doctor.<sup>5</sup> The failure of the employer to observe the orders issued by the NCCD when finding moral harassment is in itself defined as misdemeanour, and is theoretically punishable with a fine ranging from € 20,680 to € 41,360.<sup>6</sup> One of the most worrying elements of the amending law is that it repealed Article 26(4) of the Anti-discrimination Law (GO 137/2000), which provided statutory limitations for applying the sanctions issued by the NCCD when finding discrimination; the former Article 26(4) provided that “The enforcement of the misdemeanour sanctions provided in para. (1) shall be prescribed within 6 months from the date when the NCCD issues a decision regarding the complaint.” Article 26(4) was introduced in 2013 in the context of the judgment of the CJEU in *Asociația ACCEPT*<sup>7</sup> and it was meant to ensure the applicability of the NCCD sanctions, thus responding to the prior situation of not being able to issue a sanction in cases where a finding of discrimination by the NCCD was issued rather late, and there was a legal bar on applying sanctions.

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<sup>4</sup> Romania, Law no. 167/2020 on amending Government Ordinance no. 137/2020 on preventing and punishing all forms of discrimination and Art. 6 of Law no. 202/2002 on equal opportunities and treatment between women and men (*Legea 167/2020 pentru modificarea și completarea Ordonanței Guvernului nr. 137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare, precum și pentru completarea art. 6 din Legea nr. 202/2002 privind egalitatea de șanse și de tratament între femei și bărbați*), published in the Official Journal no. 713 of 07.08.2020.

<sup>5</sup> Romania, Government Ordinance no. 137/2020 on preventing and punishing all forms of discrimination (*Ordonanței Guvernului nr. 137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), as amended by Law no. 167/2020, Art. 26.2<sup>1</sup> and Art. 26.2<sup>2</sup>.

<sup>6</sup> Romania, Government Ordinance no. 137/2020 on preventing and punishing all forms of discrimination (*Ordonanței Guvernului nr. 137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), as amended by Law no. 167/2020, Art. 26.2<sup>3</sup>.

<sup>7</sup> CJEU, [C-81/12 Asociația ACCEPT v Consiliul Național pentru Combaterea Discriminării](#), 25.04.2013.

On 16 June 2020, the Parliament adopted an amendment to the Law on National Education, prohibiting education regarding 'gender identity theory' and refusing to accept the current scientific consensus that distinguishes between gender and biological sex.<sup>8</sup> An ultraconservative MP<sup>9</sup> promoted the bill with the support of MPs from the Social Democratic Party, justifying it on an alleged need to prevent boys from using public toilets for girls as he declared happens in the United States.<sup>10</sup> The President of Romania referred the law to the Constitutional Court for review of unconstitutionality in relation to fundamental rights, such as freedom of expression, academic freedom, freedom of belief, and non-discrimination in education and with respect to child protection.<sup>11</sup> More than 800 international academics, NGOs, professional associations and youth organisations, as well as legal experts and students, supported the position of the President in front of the Constitutional Court.<sup>12</sup> On 16 December 2020, the Court finally found the law unconstitutional, after postponing a decision three times.<sup>13</sup> After the publication of the full reasoning of the decision, the law will return to Parliament, where legislative debates will be resumed.

In the context of the COVID-19 pandemic, in March to May 2020, during the state of emergency, the Government restricted access to public space by people over 65 years, except during certain hours every day.<sup>14</sup> This measure was aimed at protecting the health of older people who are more susceptible to developing COVID-19 complications. It was followed by the provision of support services by local communities, at the level of local administration social services or local businesses, who offered to do shopping for the elderly.<sup>15</sup> The Government issued

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<sup>8</sup> Romania, [Law 87/2020: Proposal to modify and complete the Law on National Education No.1/2011](#) (*Legea 87/2020: Propunere de modificare și completarea Legii educației naționale nr.1/2011*).

<sup>9</sup> Radio Europa Liberă România (2020), ['How did Senator Lungu end up banning gender ideology in schools: "I do not have a religious agenda, I am a close friend of the USA conservatives"'](#) ('Cum a ajuns senatorul Lungu să interzică ideologia genului în școli: „Nu am o agendă teologică, sunt apropiat de conservatorii din SUA”'), 19.06.2020.

<sup>10</sup> Digi24 (2020), ['What does the senator who wants to ban gender identity fear of: What if girls' toilets are invaded by boys who think they are girls'](#) ('De ce se teme senatorul care vrea să interzică identitatea de gen: Dacă toaletele fetelor sunt invadate de băieți care se cred fete?'), 17.06.2020.

<sup>11</sup> President of Romania (2020), [Referral of unconstitutionality on the Law for the amendment of Article 7 of the Law on National Education No.1/2011](#) (PL-x No.617/2019) (*Sesizare de neconstituționalitate asupra Legii pentru modificarea art. 7 din Legea educației naționale nr. 1/2011 (PL-x nr. 617/2019)*), 10.07.2020.

<sup>12</sup> Hotnews (2020), ['Over 800 academics complain to CCR against the law bannig reference to gender ideology in schools'](#) ('Peste 800 de universitari reclamă la CCR legea care interzice referirea la identitatea de gen în școli'), 24.09.2020.

<sup>13</sup> Constitutional Court of Romania (2020), [Press release](#), 16.12.2020, point I.A.

<sup>14</sup> Romania, Ministry of Internal Affairs, Military Ordinance No. 3 of 24.03.2020 on preventing measures of COVID-19 transmission (*Ordonanța militară nr. 3 din 24.03.2020 privind măsuri de prevenire a răspândirii COVID-19*), Art. 2.

<sup>15</sup> Știrile ProTV (2020), ['What district mayor's offices from Bucharest are doing to help the population affected by coronavirus'](#) ('Ce fac primăriile de sector din București ca să ajute populația afectată de coronavirus'), 17.03.2020.



general recommendations to the population and businesses to give priority to the elderly during the specified hours.

In the context of the state of emergency enforced due to the COVID-19 pandemic, the Government extended the mandate of the NCCD steering board members by means of Emergency Ordinance because the Parliament could not convene to nominate new members.<sup>16</sup> According to new Article 24<sup>1</sup>(2), the mandate of the members of the steering board lasts until the publication in the *Official Gazette* of the nomination of the new members, but not more than six months after the date provided in Article 25(2), which established the mandate of the members at five years. The same rule applies to the mandates of the president and the vice-president of the Council. The rationale of these provisions is triggered by the need to ensure continuity in the activity of the NCCD given that on 22 April 2020, the mandates of seven of the nine members of the board were supposed to expire, and according to GO 137/2000, a minimum of five members is needed to take decisions regarding complaints of discrimination.<sup>17</sup>

In 2020, the NCCD found three cases of discrimination on the ground of age in access to employment, public access to goods and services, and political participation. One case concerned the use of an age limit in hiring an air traffic control manager. Because the Romanian Administration of Air Traffic Services (*Administrația Română a Serviciilor de Trafic Aerian ROMATSA R.A.*) could not provide an objective justification for imposing age limits, the NCCD found direct age discrimination in access to employment and issued an administrative fine of RON 11,000 (approximately € 2,291).<sup>18</sup> In another case, the NCCD found direct age discrimination in the use of a maximum age limit for issuing a travel insurance policy for travelling abroad.<sup>19</sup> In relation to political participation, the NCCD found direct age discrimination and a breach of dignity in a case where a political party replaced a person who was over 60 on the electoral commission.<sup>20</sup> In the last two cases, the NCCD issued a written warning instead of an administrative fine, which

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<sup>16</sup> Romania, Emergency Ordinance no. 45/2020 on amending Government Ordinance no. 137/2000 on preventing and punishing all forms of discrimination (*Ordonanța urgentă 45/2020 pentru completarea Ordonanței Guvernului nr. 137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare*), published in the Official Journal No. 309 of 13.04.2020.

<sup>17</sup> See European network of legal experts in gender equality and non-discrimination, [Flash Report of 05.05.2020](#).

<sup>18</sup> National Council for Combating Discrimination (NCCD), Decision of 18.08.2020. See [Press release of 12.08.2020](#).

<sup>19</sup> NCCD, Decision of 03.06.2020. See [Press release of 03.06.2020](#).

<sup>20</sup> NCCD, Decision of 27.05.2020. See [Press release of 27.05.2020](#).

raises concerns as to the effectiveness and proportionality of the administrative remedy against discrimination.

In 2020, the NCCD found the first case of discrimination on the ground of gender identity and issued an administrative fine.<sup>21</sup> The case concerns the director of the Focșani Popular Athenaeum, who withdrew approval for a public event for young people three days prior to the event taking place because the list of speakers for the conference included Mr Patrick Brăila, a trans man, who is a trans activist and the co-president of the NGO ACCEPT. In discussions with the organisers, who were high school students, and with a journalist, the director indicated that the reason for cancelling the hosting of the event was gender identity: "we are a serious institution ... I am not going to admit in the Athenaeum discussions on homosexuality, lesbianism, transgender and so forth". He also admitted receiving calls from the local archbishop of the Orthodox Church, the head of the county school inspectorate, and the dean of the local bar association and one of the leaders of the conservative group, the Coalition for Family, who incited him to cancel the event. The NCCD found that the decision to cancel the event and the refusal to provide the public space previously agreed amounts to discrimination in access to public venues and a breach of dignity and sanctioned the head of the Athenaeum with a fine of RON 1,000 (approximately € 200). The CNCD did not find the local authorities responsible for incitement to discriminate, despite their pressure on the head of the Athenaeum and on the organisers and the online hate campaign that targeted Patrick Brăila during and following the event. The head of the Athenaeum appealed the decision and the case is pending before the Court of Appeal of Galați.

## **2. Findings and methodology of research, studies or surveys on experiences of discrimination against older people and against LGBTI people.**

There are no studies or surveys on experiences of discrimination against older people to report in 2020.

On 20 November 2020, ACCEPT Association published a report on the situation of trans people in Romania, based on in-depth interviews and focus groups including

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<sup>21</sup> NCCD, Decision No.690 of 09.10.2019.

142 trans people.<sup>22</sup> The report focuses on trans people's perception of gender identity, on obstacles met with respect to social, medical or legal transition, on relationships with their family and friends, as well as incidents happening in public space, at work, and in interactions with the authorities and the healthcare system.<sup>23</sup> The report concluded that a majority of trans people would like to be open ('out') about their gender identity, but the attitudes of those around them and of their family of origin are, in many cases, discriminatory, which makes most trans people live in fear of social rejection and the experience of hostility and physical or verbal violence from any person. Based on the report, trans people need specialised health services according to their experience of gender identity, but their needs remain unmet due to limited financial resources, low health insurance coverage, the lack of professionalism of medical staff and the abuse that trans people suffer within the health system, including psychiatric diagnoses that are humiliating for many trans people and feelings of shame or fear of being assaulted or humiliated within the medical system. Almost half of the respondents in the sample are at risk of suicide, and some have made suicide attempts. The report also concludes that some trans people face discrimination at work (abusive dismissals, harassment) or even have their access blocked to the labour market and in their relations with state or private institutions (police, post offices, banks, etc.). Finally, the report found that according to the respondents and the analysis of the case law, procedures for changing civil status documents (change of name and gender indicator) are a major obstacle for most trans people. This is because the applicable law for the legal recognition of gender identity, and the change of sex, first name and national identification number in civil status documents, imposes unfavourable conditions on trans persons and does not clearly set out the legal procedure, which has led to the emergence of contradictory jurisprudence of biased, abusive court decisions that violate the fundamental rights of individuals. Furthermore, the forensic assessment (performed by the National Institute of Forensic Medicine "Mina Minovici") is not a means of proof in favour of the legal recognition of the gender identity of trans people, and is perceived by them as invasive, degrading and useless.

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<sup>22</sup> ACCEPT Association (Asociația ACCEPT) (2020), [Trans in Romania](#), 20.11.2020.

<sup>23</sup> ACCEPT Association (2020), [Trans in Romania](#), 20.11.2020, pp.6-8.

## Chapter 2. Racism, xenophobia and related intolerance

### 1. Legal and policy developments relating to the application of the Racial Equality Directive

In 2020, the National Council for Combating Discrimination, NCCD (*Consiliul Național pentru Combaterea Discriminării*) remained committed to continue punishing segregation against Roma by public institutions in the context of housing and education. The continuing acts of segregation by local authorities years after NCCD decisions finding them in violation of the law, without the Government intervening to correct such policies, illustrate that the NCCD intervention is ineffective when it is not supported by a clear political and administrative commitment from the Government to combat discrimination against Roma in the form of segregation, including Roma children.

In a case decided in 2020, the mayor of Baia Maie refused to demolish a concrete wall that he built separating a Roma neighbourhood and the main road in spite of two previous violations found against him by the NCCD in 2011 and 2017 – decisions that were upheld by courts. The Romanian Anti-discrimination Law does not prohibit segregation explicitly, so the action was punished as harassment and a breach of the right to dignity. In the most recent decision, the NCCD ordered the local community of Baia Mare to pay another administrative fine, this time of RON 7,000 (approximately € 1,300). Nevertheless, the mayor's repeated acts of discrimination show that this legal remedy does not work because it is not dissuasive.<sup>24</sup> The NCCD can only issue administrative sanctions and recommend that certain measures are taken to prevent future acts of discrimination, and it cannot prosecute or order general desegregation measures to be taken.

Another case of segregation decided in 2020 concerns the segregation of Roma pupils in the fifth grade of a school in Dăgâța, Iași county. The NCCD fined the head of the school RON 2,000 (approximately € 400) and fined the Iași County School Inspectorate RON 4,000 (approximately € 800).<sup>25</sup> The NCCD also recommended that the Iași County School Inspectorate draft a school desegregation action plan for the county of Iași. However, such a plan already exists, at least on paper: Iași County School Inspectorate presented it as evidence

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<sup>24</sup> NCCD, Decision No. 89 of 29.01.2020.

<sup>25</sup> NCCD, Decision of 17.06.2020. See [Press release of 17.06.2020](#).

in another case of school segregation decided by the NCCD in 2016.<sup>26</sup> As found in the appeals filed in the 2016 case by the High Court of Justice and Cassation, the school administrations continue to refuse to take effective measures to implement such action plans and they only remain at declarative level, given that statistical data continue to indicate a disproportionate presence of Roma children in segregated school buildings.<sup>27</sup> The Ministry of Education and Research (*Ministerul Educației și Cercetării*) appears to condone such behaviour. In October 2019, representatives of the ministry were quoted by mass media declaring that there were no cases of school segregation in the system because, based on the 2016 order prohibiting segregation in education,<sup>28</sup> no county school inspectorate had reported any case of segregation.<sup>29</sup>

More than 15 years after the first cases of school segregation were found by the NCCD, the Ministry of Education and Research adopted the first methodology to monitor school segregation in pre-university education, a norm in force from 31 December 2019.<sup>30</sup> The county school inspectorates reported that it was the lack of this instrument that prevented them from being able to implement the 2016 order. The methodology builds on the 2016 order and is the first document produced by the National Commission for Desegregation and Inclusive Education, which was established in early 2019.<sup>31</sup> The monitoring methodology was intended to be piloted in the first phase in a limited number of primary and secondary schools in three counties, during the 2019-2020 academic year. The indicator to be monitored is the segregation of children of Roma ethnicity, children with disabilities and children with special needs as defined in the 2016 Order of the Ministry of Education. The methodology is based on the 'Index for Inclusion: A Guide to School Development Led by Inclusive Values' and was developed with the support of UNICEF. The results of the monitoring should be centralised by county school inspectorates and sent on to the National Commission for Desegregation and Inclusive Education. This Commission will propose

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<sup>26</sup> NCCD Decision No. 769 of 07.12.2016, regarding Hașdeu School from Iași.

<sup>27</sup> Romania, High Court of Cassation and Justice, [Decision No.1015/2020 of 20.02.2020](#).

<sup>28</sup> Romania, Ministry of Education and Research, Order no. 6134/2016 on prohibiting school segregation in school units in pre-university education (*Ordinul ministrului educației naționale și cercetării științifice nr. 6.134/2016 privind interzicerea segregării școlare în unitățile de învățământ preuniversitar*), published in the Official Journal No.154 of 27.02.2019.

<sup>29</sup> Școala 9 (2019), ['How do we monitor school segregation?'](#) ('Cum monitorizăm segregarea în școală?'), 23.10.2019.

<sup>30</sup> Romania, Ministry of Education and Research (*Ministerul Educației și Cercetării*), Order no. 5633/2019 approving the methodology to monitor school segregation in pre-university education (*Ordinul nr. 5633/2019 pentru aprobarea Metodologiei de monitorizare a segregării școlare în învățământul preuniversitar*), published in the Official Journal No. 1056 of 31.12.2019.

<sup>31</sup> Romania, Ministry of Education and Research (*Ministerul Educației și Cercetării*), Order no. 3141/2019 on the establishing, organisation and functioning of the National Commission for Desegregation and Inclusive Education (*Ordinul ministrului educației naționale nr. 3.141/2019 privind înființarea, organizarea și funcționarea Comisiei Naționale pentru Desegregare și Incluziune Educațională*), published in the Official Journal No. 154 of 27.02.2019.

recommendations based on indicators integrated within the Romanian Education Integrated Information System (SIIR). The methodology establishes the obligation of schools to monitor “the balanced distribution of children/pupils in groups/classes, buildings, last two rows in classrooms, in order to ensure the community’s socio-cultural diversity”.<sup>32</sup>

In February 2020, the High Court of Cassation and Justice (*Înalta Curte de Casație și Justiție*, ICCJ) decided for the first time on a case of school segregation.<sup>33</sup> The judgment brings important legal clarifications with respect to the application of the laws and regulations in the field of segregation. First, the High Court found that the Anti-discrimination Law provisions apply in segregation cases in corroboration with secondary legislation issued by the Ministry of Education on desegregation (at the time, Ministry of Education Order No. 1540/2007).<sup>34</sup> Secondly, the High Court found that it is irrelevant that the pupils do not self-identify as being Roma, since it is well known that the pupils studying in the particular school building are Roma. Thirdly, the High Court found the geographical proximity criterion for allocating children to certain school buildings to be an unacceptable justification and the very definition of an act of ethnic segregation, based on the applicable Ministry of Education Order, No. 1540/2007. The High Court quashed the decision of the Court of Appeal of Iași and upheld the NCCD decision<sup>35</sup> to punish Hașdeu School and the Iași County School Inspectorate for a grave act of discrimination based on the argument that for more than 12 years since taking over the neighbourhood school, they had not taken measures to desegregate, but perpetuated the old practice of segregation – given that the school did not draft a plan to implement desegregation measures, based on an agreement with parents and the local administration.

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<sup>32</sup> Romania, Ministry of Education and Research (*Ministerul Educației și Cercetării*), Order no. 5633/2019 for approving the methodology to monitor school segregation in pre-university education (*Ordinul nr. 5633/2019 pentru aprobarea Metodologiei de monitorizare a segregării școlare în învățământul preuniversitar*), published in the Official Journal No. 1056 of 31.12.2019, Article 4.

<sup>33</sup> Romania, High Court of Cassation and Justice, [Decision No.1015/2020 of 20.02.2020](#).

<sup>34</sup> Romania, Ministry of Education, Research and Youth, Order no. 1540/2007 on forbidding school segregation of Roma children and approving the methodology for the prevention and elimination of school segregation of Roma children (*Ordinul 1540/2007 privind interzicerea segregării școlare a copiilor romi și aprobarea Metodologiei pentru prevenirea și eliminarea segregării școlare a copiilor romi*), published in the Official Journal No. 692 of 11.10.2007.

<sup>35</sup> NCCD, Decision no. 769 of 07.12.2016. See also European network of legal experts in gender equality and non-discrimination, [Flash Report of 26.02.2020](#).

## **2. Legal and policy developments relating to the application of the Framework Decision on Racism and Xenophobia relevant to combating hate speech and hate crime**

The very low number of hate crime or hate speech cases prosecuted in the last four years in relation to the number of cases investigated raises concerns about the efficacy of the State's response in such cases. According to the statistical data collected by the General Prosecutor's Office (*Procurorul General*), in 2019, out of a total of 138 cases of alleged incitement to discriminate (Article 369) and abuse in the exercise of authority (Article 297(2)) (out of which 72 were new cases registered in 2019), prosecutors throughout the country finalised 59 cases – 57 cases were closed before starting prosecution and two cases were closed because the prosecutor gave up the continuation of prosecution for lack of public interest.<sup>36</sup> In 2017, one case of incitement to discriminate resulted in indictment out of 38 cases (the grounds of discrimination are not mentioned in statistics) and similarly, in 2018, one case out of 41 resulted in an indictment. For criminal offences punishing fascist, racist and xenophobic manifestations (according to Emergency Ordinance No. 31/2002)<sup>37</sup> the situation is also very limited – no indictments in 2017 (out of 13 cases), one indictment in 2018 (out of eight cases), and one indictment in 2019 (out of 13 cases). Between 2017 and 2019, in two cases the prosecutors argued in the indictment for the application of the aggravating circumstance of perpetrating a criminal offence with a discriminatory intent. Moreover, according to the Ministry of Justice, between 2017-2019, only one case of incitement to discriminate was prosecuted, but there is no data available on the ground of discrimination.<sup>38</sup> The situation did not change significantly in 2020, when out of a total of 215 cases investigated under Article 369 and 297.(2) of the Penal Code, 80 cases were finalized and only 5 cases were prosecuted.<sup>39</sup> Further, in the procedure, in only one case the court sentenced a person for Incitement to discrimination, a decision that is not final.<sup>40</sup> As to the criminal offences punishing fascist, racist and xenophobic manifestations, the number of cases

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<sup>36</sup> Romania, General Prosecutor's Office, Response No. 327/VIII-3/2020, March 2020.

<sup>37</sup> Romania, Emergency Ordinance no. 31/2002 on banning fascist, legionary, racist and xenophobe organisations, symbols and acts, as well as promoting the worship of persons guilty of committing crimes of genocide against humanity and war crimes (*Ordonanța urgentă 31/2002 privind interzicerea organizațiilor, simbolurilor și faptelor cu caracter fascist, legionar, rasist sau xenofob și a promovării cultului persoanelor vinovate de săvârșirea unor infracțiuni de genocid contra umanității și de crime de război*), published in the Official Journal No. 214 of 28.03.2002.

<sup>38</sup> Romania, Ministry of Justice, Response No. 13983/13.02.2020.

<sup>39</sup> Romania, General Prosecutor's Office, Response No. 1221/VIII-3/2020 of 22 January 2021, Annex 1.

<sup>40</sup> Romania, Superior Council of Magistracy, Response No. 3/24610 of 25 January 2021.



finalized by the prosecutors in 2020 doubled (24 out of 67 cases), but the number of indictments is still low – 2 cases.<sup>41</sup>

According to information provided by the General Prosecutor's Office, in 2018, the General Prosecutor commissioned a thematic analysis of the solutions issued during 2016-2017 regarding the criminal offence of incitement to discriminate. The analysis recommended a number of measures that prosecutors should take to ensure a more effective investigation, such as: a pro-active attitude of law enforcement by initiating investigations *ex-officio*; better collaboration with institutions working in the field of combating discrimination; and better reasoning of prosecutor's decisions not to indict, by checking whether the discourse falls under the provisions of Article 10(2) or Article 17 of the ECHR, instead of simply using the argument that freedom of expression does not allow the prosecution of such cases. Other recommendations were to continue the non-discrimination training activities carried out by the National Council for Combating Discrimination in cooperation with the National Institute of Magistracy; translating available resources prepared by the European Court of Human Rights regarding hate speech; and presenting the conclusions on hate speech from different international reports on Romania to prosecutors.<sup>42</sup>

In March 2020, the NCCD concluded a two-year project focusing on the implementation of the Framework Decision on Racism and Xenophobia. The main conclusions were the need to improve the data collection system regarding hate crimes, including by disaggregated collection and reporting all incidents of hate crimes, to extend continuous training of the law enforcement forces, and to carry out information campaigns to encourage reporting of hate crimes.<sup>43</sup> In 2020, the police started addressing some of these recommendations, because of repeated requests in the last 15 years by European institutions and civil society for a monitoring mechanism for hate crimes. For the first time, the police were able to provide statistical data about the numbers of criminal complaints of incitement to discriminate (Article 369 of the Criminal Code), abuse in service (Article 297(2) of the Criminal Code) and invoking Emergency Order No. 31/2002, filed with the police, irrespective of any measures undertaken to investigate those complaints.<sup>44</sup> The police reported that it had increased the number of courses in initial and continuous training covering issues related

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<sup>41</sup> Romania, General Prosecutor's Office, Response No. 1221/VIII-3/2020 of 22 January 2021, Annex 2.

<sup>42</sup> Romania, General Prosecutor's Office, Response No. 327/VIII-3/2020, March 2020.

<sup>43</sup> National Council for Combating Discrimination (NCCD), [Press release of 30.03.2020](#).

<sup>44</sup> Romania, Ministry of Internal Affairs, Response No. 1499535 of 11.03.2020.



to discrimination and hate crimes, including practical information in order to ensure the foundations for a more effective criminal investigation.<sup>45</sup>

The Ministry of Justice still does not collect data regarding the ground of discrimination to which the criminal offence relates (race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion or political affiliation, wealth, social origin, age, disability, chronic non-contagious disease or HIV/AIDS infection or other similar circumstances), and only records the characteristic that it is a hate-crime (the aggravating circumstance stipulated in Article 77(h) of the Criminal Code).<sup>46</sup> The ministry did not indicate in its official responses any plans to improve its data collection soon. The police should also expand their data collection indicators to all categories of criminal offences in the field of hate crimes and record the criteria of discrimination invoked in criminal complaints.

The Working Group for the Implementation of the *M.C. and A.C. v. Romania* judgment<sup>47</sup> has not met since October 2017. In total, this working group only met three times: in March 2017, June 2017 and October 2017. Despite the fact that in the 2017 revised action plan on the execution of the ECtHR judgment, the General Prosecutor's Office and the police undertook the duty to develop and adopt a common methodology for investigating hate-related offences, such a methodology has not yet been adopted. The General Prosecutor's Office has informed ACCEPT, the NGO representing victims, that the office has worked on a draft that has not yet been approved.<sup>48</sup>

In January 2020, the NCCD issued an unprecedented fine of RON 10,000 (approximately € 2,100) for a discourse amounting to incitement to racial hatred against the Roma population. The mayor of Târgu Mureş, a multi-ethnic town from the centre of the country, wrote on Facebook that members of the Roma population who have many children should be subjected to mandatory population control if they cannot prove that they work and have the means to raise children.<sup>49</sup> The NCCD found multiple discrimination on the ground of ethnic origin and social class, breaching the right to dignity of the Roma community.

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<sup>45</sup> Romania, Ministry of Internal Affairs, Response No. 1499535 of 11.03.2020.

<sup>46</sup> Romania, Ministry of Justice, Response No. 13983 of 13.02.2020.

<sup>47</sup> ECtHR, *M.C. and A.C. v Romania*, Application No. 12060/12, judgment of 12 April 2016.

<sup>48</sup> Romania, General Prosecutor's Office, Response No. 327/VIII-3/2020, March 2020.

<sup>49</sup> NCCD, Decision of 22.01.2020. See [Press release of 22.01.2020](#).

Amnesty International<sup>50</sup> and the European Roma Rights Centre<sup>51</sup> cited national organisations and mass media reporting on serious cases of unlawful use of force and allegations of ill-treatment of Roma by the police during the state of emergency put in place due to the COVID-19 pandemic in the spring of 2020. For example, video recordings of the incidents in Bolintin-Vale, Giurgiu, show eight men handcuffed on the ground screaming in pain while the police beat them. Romani Criss reported another incident where a 13-year-old Roma boy was ill treated during a police operation.<sup>52</sup> The European Roma Rights Centre report several incidents taking place during the month of April where the police allegedly intervened disproportionately against Roma people to enforce anti-COVID measures, by deploying more police than necessary, using tear gas indoors, and using force against minors and elderly women.<sup>53</sup> In response to public pressure, the Prosecutor's Office initiated a criminal investigation into the case of Bolintin-Vale and the Minister of the Interior dismissed the head of the Bolintin-Vale police station, who had coordinated the operation.<sup>54</sup> Amnesty International cited the public declarations of the Minister of the Interior, from 20 April 2020, who justified the large deployment of police in communities with a significant Roma population as interventions aimed to address a high risk of criminality due to the return from abroad of people who are allegedly "known for criminal activities".<sup>55</sup>

Between March and October 2020, the Department for Inter-ethnic Relations (*Departamentul pentru Relații Interetnice*, DRI) monitored national and local media articles presenting situations of potential conflict and measures taken by the authorities against discriminatory attitudes and hate speech toward minorities, especially the Roma minority. The monitoring exercise was aimed at preventing and combating discrimination in the context of the COVID-19 crisis.<sup>56</sup> The research noted the intensification of bias and the aggravation of attitudes of exclusion and discrimination towards minorities, given an increase in the presence of hate speech online, especially against Roma people. This situation did not improve after the end of the state of emergency. The report recommends that journalists take points of view directly from the communities and not only from the local administrations and that they become more responsible in not promoting their

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<sup>50</sup> Amnesty International (2020), [Policing the pandemic. Human rights violations in the enforcement of COVID-19 measures in Europe](#), p.25.

<sup>51</sup> European Roma Rights Centre (2020), [Roma rights in the time of COVID](#), pp.35-40.

<sup>52</sup> Amnesty International (2020), [Policing the pandemic. Human rights violations in the enforcement of COVID-19 measures in Europe](#), p.25.

<sup>53</sup> European Roma Rights Centre (2020), [Roma rights in the time of COVID](#), pp.35-40.

<sup>54</sup> Amnesty International (2020), [Policing the pandemic. Human rights violations in the enforcement of COVID-19 measures in Europe](#), p.25.

<sup>55</sup> Amnesty International (2020), [Policing the pandemic. Human rights violations in the enforcement of COVID-19 measures in Europe](#), p.25.

<sup>56</sup> Romania, Department for Inter-ethnic Relations (*Departamentul pentru Relații Interetnice*) (2020), ['Understanding hate-speech phenomenon regarding minorities and its incidence in society in the context of SARS CoV-2'](#), November 2020.

own prejudice about minorities. The report also recommends that civil society should be more active in monitoring and reporting incidents of hate speech. Apart from a generally worded recommendation on improving the legal framework to punish hate speech, especially anti-Roma hate speech on the internet, the report does not include any recommendations for the public authorities.<sup>57</sup>

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<sup>57</sup> Romania, Department for Inter-ethnic Relations (*Departamentul pentru Relații Interetnice*) (2020), 'Monitoring excluding, intolerant and extremist attitudes against national minorities in the context of SARS CoV-2. Understanding hate-speech phenomenon regarding minorities and its incidence in society in the context of SARS CoV-2'. [Proposals and recommendations](#), November 2020.

## Chapter 3. Roma equality and inclusion

### 1. Measures and developments addressing Roma/Travellers

Before the beginning of the state of emergency in Romania and the closing of schools (14 March 2020), the implementation of the Romanian national Strategy for the Integration of Roma appeared to be progressing as planned. This assessment of the strategy is based on the report prepared by National Agency for Roma (*Agenția Națională pentru Romi*, ANR). On 16 March 2020, ANR started a project to monitor the situation of Roma communities at high risk of spreading the virus, to bring to the attention of the relevant institutions special circumstances that may affect the safety of citizens. ANR worked together with the experts of the county offices for Roma within the prefectures, with Roma individuals with expertise in the field of Roma inclusion at local/county level (such as health mediators, community nurses, school mediators and local experts on Roma issues) as well as with Roma civil society and members of the advisory committee of the ANR to gather the information and assess the situation of Roma communities. As a result, on 16 April 2020, ANR presented the *Report of the National Agency for Roma on the need for the intervention of competent authorities for the benefit of members of vulnerable communities with Roma in the context of the implementation of measures to prevent the spread of COVID-19*<sup>58</sup> to the Prime Minister, the Secretary General of the Government, the Minister of Internal Affairs, the Minister of Health, the Minister of Labour and Social Protection and the Minister of European Funds.

The main conclusion of the report was that, at that time, a significant percentage of Roma people faced a high degree of social exclusion that required the immediate intervention of the appropriate authorities, by implementing a programme to support them in times of crisis. While the COVID-19 pandemic has affected all marginalised Roma communities in Romania, the most affected are members of Roma communities that are highly concentrated and lack access to water, who face a high degree of poverty and who are located in municipalities that do not have sufficient financial resources to cover basic needs in emergency situations.

ANR recommended the development and implementation of a priority national programme to respond to the situation of marginalised Roma communities during the epidemic, where local authorities do not have the opportunity to intervene.

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<sup>58</sup> National Agency for Roma (*Agenția Națională pentru Romi*) (2020), [\*Raport al Agenției Naționale pentru Romi cu privire la necesitatea intervenției autorităților competente în beneficiul membrilor comunităților vulnerabile cu romi în contextul implementării măsurilor de prevenire a răspândirii virusului COVID 19\*](#), 16 April 2020.

The aim of the intervention would be to ensure access to social services and benefits, including the guaranteed minimum income as a decent income, for social categories that include Roma people from isolated, poor communities and who are most severely affected by the crisis.

In April 2020, the Research Institute for Quality of Life (*Institutul de Cercetare a Calității Vieții*, ICCV) published a report, *Quality of life during the pandemic: problems and response policies*,<sup>59</sup> which included a small sub-chapter on Roma communities when referring to strategic choices to overcome the coronavirus crisis. The ICCV report states that Roma communities should be a priority in social policies, and emphasises the disproportionate impact of the restrictions of movement on persons with precarious socioeconomic status. It draws attention to the risk of creating and consolidating pockets of poverty and expanding the culture of marginalisation and social exclusion. The report acknowledges that the national support strategy for Roma communities is increasingly at risk of being confined to specific areas of marginalisation, and urges the Romanian authorities to give absolute priority to Roma children and young people.

Between May 2018 and September 2019, the Agency for Community Development Together (*Fundația Agenția de Dezvoltare Comunitară „Împreună”*) undertook a project, *Coalition for Roma: elaboration and monitoring of public policies* ([Coalitia pentru romi: elaborare si monitorizare de politici publice](#)), which was financed by the European Social Fund. Its aim was to increase the capacity of NGOs and social partners to participate actively in the development and monitoring of public policies aimed at Roma inclusion. The project activities included the development of the monitoring and evaluation mechanism “Observatory for Roma”, a training and mentoring programme in the development and monitoring of public policies, and advocacy activities at local, regional and national level in order to influence public policy in the field of Roma inclusion. The project also proposed a new Roma social inclusion strategy post-2020. The ANR has continued the process of preparing the new Roma social inclusion strategy by organising public debates, compiling comments and observations and organising public consultations. The proposal is available on the ANR website.<sup>60</sup> The text was published on the ANR website on 6 November 2020, and observations and comments were invited until 23 November 2020.

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<sup>59</sup> Zamfir, C., Zamfir, E., (2020) *Quality of life during the pandemic: problems and response policies* ([Calitatea vieții în timpul pandemiei: probleme și politici de răspuns](#)). The report is available in Romanian.

<sup>60</sup> [Strategia Guvernului României de Incluziune a Cetățenilor Români aparținând Minorității Rome pentru perioada 2021-2027](#) (Romanian Government Strategy for the Inclusion of Romanian Citizens belonging to the Roma Minority for the period 2021-2027).

In April 2020, UNICEF Romania, in partnership with several NGOs<sup>61</sup> (the Centre for Step-by-Step Education and Professional Development, Terre des hommes Romania, the Centre for Health Policy and Services and the Youth Council of Romania), as well as with the United Nations High Commissioner for Refugees, the Jesuit Refugee Service in Romania (JRS România), the Romanian National Council for Refugees (*Consiliul Național pentru Refugiați*, CNRR) and the Star of Hope Romania Foundation, published the first report on the situation of children and their families, with a focus on vulnerable groups, in the context of the COVID-19 outbreak in Romania: *Rapid assessment of the situation of children and their families, with a focus on vulnerable groups, in the context of the COVID-19 outbreak in Romania*.<sup>62</sup> This report was followed by a second assessment published in May and a third assessment published in June 2020.<sup>63</sup>

The objective of the rapid assessment project was “to assess the situation of children and their families, with a focus on the vulnerable ones, in the context of the COVID-19 pandemic, to enable UNICEF and other relevant stakeholders to design informed prevention and response actions that address the impact of the COVID-19 outbreak, with a view to minimising the human consequences of the pandemic.”<sup>64</sup>

The first round of the rapid assessment was carried out during a period marked by socioeconomic phenomena such as rising unemployment, technical unemployment based on a newly introduced scheme, reduction of business activities, social distancing, unequal access to healthcare and education, and so on, triggered by the restrictions introduced during the state of emergency declared in order to contain the spread of the virus. Given the restrictions on movement and the limitation of direct interpersonal contacts, some adjustments were made to the provision of the main public services (healthcare, educational services,

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<sup>61</sup> Centre for Step-by-Step Education and Professional Development (*Centrul pentru Educație și Dezvoltare Profesională Step by Step*), Terre des hommes Romania, the Centre for Health Policy and Services (*Centrul pentru Politici și Servicii de Sănătate*, CPSS), the Youth Council of Romania (*Consiliul Tineretului din Romania*).

<sup>62</sup> UNICEF (April, 2020). [The Rapid Assessment \(RA\) of the situation of children and their families, with a focus on vulnerable groups, in the context of the COVID-19 outbreak in Romania - round 1, April 2020](#) (*Evaluare rapidă a situației copiilor și familiilor, cu accent pe categoriile vulnerabile, în contextul epidemiei de COVID-19 din România*). In addition to the official figures, the three reports were based on some rapid data collection, online interviews with 125 respondents from four counties (Brașov, Bacău, Ilfov, Dolj). The respondents were considered key informants because they were community workers, local authorities, county authorities, representatives of civil society, and staff from residential care institutions.

<sup>63</sup> UNICEF (May 2020). [The Rapid Assessment \(RA\) of the situation of children and their families, with a focus on vulnerable groups, in the context of the COVID-19 outbreak in Romania - round 2, May 2020](#); UNICEF (June, 2020). [The Rapid Assessment \(RA\) of the situation of children and their families, with a focus on vulnerable groups, in the context of the COVID-19 outbreak in Romania - round 3, June 2020](#).

<sup>64</sup> UNICEF, [Rapid Assessment Round 1](#), 2020: 8.

social services), such as opting for online or phone delivery of services where possible, suspending all services involving group activities, limiting the delivery of non-essential services to the population and even introducing the preventive workplace confinement of the staff and the preventive home confinement of social service employees from the residential care system. The focus of the rapid assessment, round 1, was on the public policy measures adopted by the authorities.

According to the rapid assessment round 1 report, on 16 April 2020, the Ministry of Labour and Social Protection (*Ministerul Muncii și Protecției Sociale*, MMPS) reported that 901,623 employment contracts had been suspended and 233,798 terminated. Following the COVID-19 outbreak, the number of suspended contracts increased almost four times compared to February 2020.<sup>65</sup> According to the respondents, the most vulnerable groups affected by the COVID-19 pandemic in their community were: children from families living in poverty (71 %); Roma children (59 %); children with parents working abroad (42 %); children living in overcrowded dwellings (31 %); children with disabilities (30 %); children from single-parent families (28 %); children with special educational needs (24 %); children from families at risk of violence (19 %); isolated/hospitalised children (16 %); children from multi-generational households (12 %); pregnant women (10 %); institutionalised children (7 %) and children not under the care of parents/guardians (7 %) (it was possible to give multiple answers to this question). The respondents also considered that the current situation had most affected the communities that do not have running water (27 %), pointing out that vulnerable people's access to hygiene products is limited in the context of COVID-19.<sup>66</sup>

Round 2 of the rapid assessment focused mainly on education, given the new obligation to organise technology-assisted learning activities. Under these circumstances, a set of measures was also developed to reduce inequalities in access to education for children from vulnerable families, more precisely identifying students and teachers with no access to IT devices and the internet and ensuring that school units or local authorities provide them with the necessary devices. The results showed that those most affected by the COVID-19 pandemic are children from families living in poverty and Roma children, who were also considered the most vulnerable during round 1. The main problems affecting the communities in the context of the COVID-19 pandemic, especially vulnerable communities (Roma included) were and still are associated with the considerable reduction of business activities: job losses and lack of day labour opportunities.

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<sup>65</sup> UNICEF (April 2020). [The Rapid Assessment \(RA\) of the situation of children and their families, with a focus on vulnerable groups, in the context of the COVID-19 outbreak in Romania - round 1, April 2020](#), page 13.

<sup>66</sup> UNICEF (April 2020). [The Rapid Assessment \(RA\) of the situation of children and their families, with a focus on vulnerable groups, in the context of the COVID-19 outbreak in Romania - round 1, April 2020](#).



Added to these pressures are issues such as precarious housing (e.g. overcrowding) and the increase in domestic violence. Education services were mainly affected by the fact that teaching, learning and assessment activities have moved to the online environment. Hence, the education services most affected by this transition were the teaching process, the assessment and evaluation of children's academic performance due to the poor access to technology and the internet of children from families living in poverty and some of the teachers.

Round 3 of the rapid assessment was based on data collection in the period that preceded the end of the state of emergency and the beginning of the state of alert (declared on 15 May 2020). The results showed that the COVID-19 pandemic has affected healthcare provision in the communities and negative effects have been seen in the reduction of the number of visits to GPs, specialists and dental practices as a result of the reduced working hours in the community, difficulty of accessing specialist healthcare in hospitals, the decision to shut down dental practices almost entirely during the state of emergency and a certain reluctance among citizens and health workers linked to the risk of contracting COVID-19 during the interactions involved in healthcare provision. Education continued to be affected due to the lack of a strategy from the national authorities.

The Agency for Community Development Together (*Agenția de Dezvoltare Comunitară „Împreună”*) initiated a research investigation due to their observation that between March and May 2020 the negative public discourse about Roma had increased. The initiative had two strands: an analysis of the attitude of Romanian society towards the Roma minority in Romania, and an analysis of negative or hate speech against Roma people.

On 2 July 2020, the Agency for Community Development Together published its report, *Perceptions of Roma in Romania – between discrimination and too many rights*,<sup>67</sup> based on the analysis of Romanian social attitudes towards the Roma minority in Romania.<sup>68</sup> The main conclusions of the study are: Romanians have very little trust in Roma and immigrants; 40 % of Romanians have a bad or very bad opinion about Roma; 10 % of Romanians believe that Roma are the main group responsible for spreading coronavirus in Romania; 50 % of Romanians believe that the manner in which the authorities used physical force against Roma during the state of emergency was appropriate; 80 % of the majority population believe Roma have too many or sufficient rights; the majority of Romanians

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<sup>67</sup> Foundation Agenția de Dezvoltare Comunitară „Împreună” (Agency for Community Development Together) (2020). Perception of Roma in Romania – between discrimination and too many rights ([Percepția asupra romilor – între discriminare și prea multe drepturi](#)). The report is available in Romanian.

<sup>68</sup> The Romanian Institute for Evaluation and Strategy (Institutul Român pentru Evaluare și Strategii, IRES) carried out the data collection on a nationally representative sample at the beginning of June 2020.



consider the authorities should invest in education for supporting Roma inclusion; and one in five Romanians was aware of the existence of negative discourse against Roma during the coronavirus pandemic. Furthermore, Roma continue to be perceived as the group who create a bad image for Romania (69 %); 50 % of Romanians believe there are too many Roma in Romania, two out of three Romanians believe Roma are dangerous, while seven out of 10 Romanians do not trust Roma and 37 % of Romanians believe they are (natively) superior to Roma people. This data provides a worrying picture of the Romanian perspective on Roma as being dangerous, inferior and responsible for Romania's negative image etc.

However, the study also reached some positive conclusions: five out of 10 Romanians have a good or very good opinion about Roma; seven out of 10 Romanians consider the Romanian Government should invest in quality education in order to support Roma inclusion; one in 10 Romanians supports the Government's investment in promoting Roma culture; five out of 10 Romanians who have interacted with Roma persons perceived their experience as rather positive and have better attitudes towards Roma than the Romanians who never interacted with Roma; five out of 10 Romanians stated that they would rather use the term *Roma*, than the pejorative term *tigan*.

On 10 July 2020, the Agency for Community Development Together published a complex analysis of the discourse against Roma, carried out by MAD Intelligence. The report, *Roma status in the online public space (Press and Social media) - Topics, news, reactions and comments (January 1 - June 10, 2020)*,<sup>69</sup> concluded that the online environment is a conduit for the rapid spread of news and other information, but is also the space where negative discourse against certain groups defined as "less desirable", including Roma, is developed and maintained. The context of the COVID-19 pandemic facilitated an increase in the discourse against Roma people, who were often portrayed as not respecting the rules imposed during the state of emergency or state of alert. The pandemic has brought to the fore opinions and comments that incite hatred and condemn the behaviour of Roma people, with Roma seen as the new scapegoat for the problems that Romania is facing.

As presented in the country report prepared for FRA, *Implications of COVID-19 pandemic on Roma and Travellers communities*, the general measures related to the COVID-19 pandemic taken in Roma communities were lockdowns of localities,

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<sup>69</sup> Foundation Agenția de Dezvoltare Comunitară „Împreună” (Agency for Community Development Together) (2020), *Roma status in the online public space (Press and Social media) - Topics, news, reactions and comments (January 1 - June 10, 2020)* ([Statutul romilor în spațiul public online \(Presă și Social media\) – Teme, știri, reacții și comentarii \(1 ianuarie – 10 iunie 2020\)](#)). The report is available in Romanian.

restriction of movement and the closing of businesses.<sup>70</sup> When it comes to lockdowns of localities, because Romanian authorities do not collect ethnically segregated data it is not possible to estimate the number of Roma people affected by the pandemic. However, the reports offer some clues about the situation. The ANR report identifies 690 marginalised, concentrated Roma communities, where 499,133 people live in precarious conditions. In addition, on the lockdown of businesses, the ANR report states that Roma people who practice traditional Roma crafts were deeply affected by the pandemic.<sup>71</sup>

Education was and still is very much affected by the pandemic. The closure of schools on 11 March 2020 and the decision to continue education through distance learning over the internet left approximately 900,000 students (32 % of the total number of students) in the pre-university education system with little or no access to education. In May, the Romanian Institute for Evaluation and Strategy (*Institutul Român pentru Evaluare și Strategii*, IRES)<sup>72</sup> issued a national survey to all parents of children enrolled in pre-university education to find out more about the process of education during the pandemic. It found that 32 % out of the total number of students enrolled in pre-university education do not have individual access to a working device (tablet, desktop, laptop) that would allow them to access online learning, 12 % have no or limited access to internet strong enough to support online classes (52,000 households in Romania still do not have electricity), only two-thirds of children received online lessons on a daily basis, and only half of the students had contact with teachers for all subjects during the state of emergency.

In May 2020, the Romanian Government allocated RON 150 million (€ 30 million) to purchase through centralised public procurement up to 250,000 mobile devices (tablets) for children from socioeconomically disadvantaged backgrounds, in order to ensure their participation in distance learning.<sup>73</sup> On 19 August 2020, the Romanian Government issued Emergency Ordinance No. 144 of 24 August 2020 on certain measures for the allocation of non-reimbursable external funds necessary for the conduct of prevention activities related to the 2020/2021 school

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<sup>70</sup> FRA (2020), Romania country report, [Implications of COVID-19 pandemic on Roma and Travellers communities](#).

<sup>71</sup> Romania, National Agency for Roma (Agenția Națională pentru Romi) (2020), *Raport al Agenției Naționale pentru Romi cu privire la necesitatea intervenției autorităților competente în beneficiul membrilor comunităților vulnerabile cu romi în contextul implementării măsurilor de prevenire a răspândirii virusului COVID 19*, 16 April 2020, p. 2

<sup>72</sup> Romanian Institute for Evaluation and Strategy, IRES (May 2020). [Școala în stare de urgență. Accesul copiilor școlari din România la educație online](#) (School during the state of emergency. Romanian children's access to online education), pg. 1.

<sup>73</sup> Romania, Decision on the approval of the National Home School Programme and for the allocation of an amount from the Budget Reserve Fund at the disposal of the Government, provided in the state budget for 2020, for the Ministry of Education and Research ([Hotărâre nr. 370 din 7 mai 2020 privind aprobarea Programului național "Școala de acasă" și pentru alocarea unei sume din Fondul de rezervă bugetară la dispoziția Guvernului, prevăzut în bugetul de stat pe anul 2020, pentru Ministerul Educației și Cercetării](#)), 7 May 2020. The procurement process was to be carried out by the National Office of Centralised Procurement (*Oficiul Național de Achiziții Centralizate*, ONAC)

year in the context of the risk of SARS-CoV-2 coronavirus.<sup>74</sup> This decision allows schools, local public authorities, and partnerships between school and local public authorities, and school inspectorates and schools to purchase (using public procurement procedures) devices for online schooling. However, all these state institutions had to buy and pay for the devices and then ask the Government and the Ministry of European Funds for reimbursement. On 2 September 2020, the Minister of Education announced that, due to some problems concerning the acquisition process, the Government had succeeded in purchasing only 82,826 tablets<sup>75</sup> and had started to develop a procedure for distributing them.

There is no centralised data regarding the number of children who received devices for online school, nor on the number of children with no access to such devices. The school year started in Romania on 14 September. Many schools opened their gates to receive their students in person, in some schools only half the students physically go to school, half are supposed to attend it online, and there are some schools where only online learning is possible (the numbers differ according to the number of Covid-19 infections). It is not clear how many students have the option to attend online school and no figures on this were made available by the Ministry of Education and Research.

## **2. Policy and legal measures and developments directly or indirectly addressing Roma/Travellers inclusion**

The Ministry of Education and Research (*Ministerul Educației și Cercetării*, MEC) published an Order approving the methodology to monitor school segregation in pre-university education, which came into force on 31 December 2019.<sup>76</sup> The order builds on the 2016 order prohibiting segregation in education and is the first document produced by the National Commission for Desegregation and Inclusive Education, which was established in early 2019.

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<sup>74</sup> Romania, Emergency Ordinance no. 144 of 24 August 2020 on certain measures for the allocation of non-reimbursable external funds necessary for the conduct of prevention activities related to the 2020/2021 school year in the context of the risk of SARS-CoV-2 coronavirus infection ([\*Ordonanța de Urgență nr. 144 din 24 august 2020 privind unele măsuri pentru alocarea de fonduri externe nerambursabile necesare desfășurării în condiții de prevenție a activităților didactice aferente anului școlar 2020/2021 în contextul riscului de infecție cu coronavirus SARS-CoV-2\*](#))

<sup>75</sup> Bursa (2020) 'The Ministry of Education does not know if the students will have the promised tablets, on September 10', ([\*Ministerul Educației nu știe dacă elevii vor avea tabletele promise, în 10 septembrie\*](#)), 2 September 2020.

<sup>76</sup> Ministry of Education, Order 5633/2019 approving the methodology to monitor school segregation in pre-university education, from 23 December 2019 (*Ordinul nr. 5633/2019 pentru aprobarea Metodologiei de monitorizare a segregării școlare în învățământul preuniversitar*).

In 2019, MEC decided to pilot the first phase in a limited number of primary and secondary schools in three counties (probably three schools in three counties) focusing on the segregation of children of Roma ethnicity, children with disabilities and children with special needs, as defined in the 2016 order of the Ministry of Education. However, at the beginning of 2020, MEC decided to expand the process to all schools. UNICEF Romania developed the methodology in its paper, 'Index for Inclusion: A Guide to School Development Led by Inclusive Values'. According to the methodology, the results of the monitoring will be centralised by county school inspectorates and sent on to the National Commission for Desegregation and Inclusive Education. The Commission is mandated to propose recommendations based on indicators in the Romanian Education Integrated Information System (SIIR). Article 4 of the 2016 order imposes an obligation on schools to monitor "the balanced distribution of children/pupils in groups/classes, buildings, last two rows in classrooms, in order to ensure the community's socio-cultural diversity".

The implementation of the monitoring was stopped before the pandemic due to flaws discovered and made public by a parent who reported it to MEC, the Bucharest School Inspectorate (*Inspectoratul Școlar al Municipiului București*, ISMB), the National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*, ANDPDCA), the Ombudsman (*Avocatul Poporului*), and the National Authority for the Supervision of Personal Data Processing (*Autoritatea Națională pentru Supravegherea Datelor cu Caracter Personal*). The parent reported that sensitive data was being collected by the school through pupils without any measures to protect them. The pupils received a sheet of paper, entitled 'Questionnaire for monitoring school segregation – parents' and the parents were asked to respond to the following questions: the name of the pupil; the class he/she is enrolled in; whether the pupil seats permanently in the last two benches in the class; whether the pupil or someone from his/her family belongs to an ethnic group and if so, which one; whether the pupil has a disability files registered with the General Directorate for Social Assistance and Child Protection (*Direcția Generală pentru Asistență Socială și Protecția Copilului*, DGASCP); whether the student has disabilities and a certificate of orientation issued by the Bucharest Centre for Educational Resources and Assistance (*Centrul Municipiului București de Resurse și Asistență Educațională*, CMBRAE)/ County Centre for Resources and Educational Assistance (*Centrul Județean de Resurse și Asistență Educațională*, CJRAE); whether the pupil has a file registered with DGASPC and CMBRAE/CJRAE; the level of formal education of parents; whether an application has been made for the student for a social scholarship, for the granting of school supplies or other forms of help regardless of whether he/she benefits from them or not; whether the child is in foster care or institutionalised; whether the child comes from a single-parent family; whether the child is in the care of grandparents or other family members; and whether the student has repeated the school year. The paper had a note on personal data where the

parents were informed that all the information would be sent by the school in such a way that the characteristics of a particular student could not be associated with their name or with their personal identification data. No other information was provided and the paper had no instructions on how it should be delivered to the school after all the questions had been answered.

MEC sent its response on 8 April 2020 citing the Romanian Constitution, emphasising that school segregation is not only MEC's priority, but also the policy of the European Union. The parent who complained about the flaws in the procedure was informed that an information note was posted on the MEC website, according to European Regulation no. 2016/679, stating that the data collected is used only for specific purposes and

"in order to achieve the attributions, rights and legal obligations, as well as the tasks that serve the public interest, respectively in order to ensure equity in education, in terms of equal access to all forms of education, but also in terms of quality of education for all children, without any discrimination generated by ethnic origin or mother tongue, disability and/or special educational requirements, the socio-economic status of families, the environment of residence or the school performance of the primary beneficiaries of education. The processing of data provided by parents/guardians/legal representatives of children is the basis for monitoring the balanced distribution of children / students in groups/classes, buildings, the last two benches, being used to prevent and/or combat school segregation. Prevention and elimination of school segregation phenomena is an imperative condition for the implementation of inclusive school principles".

It also said that the provision of personal data is made based on the consent of the data subjects and that

"the data come from pre-university education units that keep the information provided by the data subjects, in conditions of maximum security, ensuring their security and maintaining confidentiality, for registration in the database. Only the mentioned data categories are uploaded in the electronic platform, without the name and surname of the pupils or of the parents/legal representatives. Thus, the data uploaded to the platform cannot in any way be associated with the name or other personally identifiable data of the pupil. In the platform, the students for whom the data were collected cannot be identified, nominally, with name and surname. The data provided by the educational unit will allow the calculation of the share of students, who are part of each group defined by the criteria according to which school segregation is evaluated."

MEC's response concludes "Given the fact that there is no concrete notification regarding the violation of the provisions regarding the processing of personal data

by any educational unit /school inspectorate or by any other person, the requests [of the parent who complained about the procedural flaws in the form] are without object. Moreover, the application and observance of the normative acts in force, regarding the prevention/combating of school segregation, are applicable to all the partners involved in the educational activity”.

The MEC response does not address the criticisms regarding the way in which the data was collected (on simple sheets of paper and returned to the school in the same way, not in a closed envelope and not to be delivered in person by parents).

On 4 May 2020, the Bucharest School Inspectorate (*Inspectoratul Școlar al Municipiului București*, ISMB) responded that it did not ask schools from Bucharest to collect such data, stating that some schools/school management teams might have asked for such information to be collected. In its official statement, the ISMB informed the parent who complained about the procedures that should the ISMB begin to collect such data, the process would comply with the Article 9, paragraph 2 of EU Regulation 216/679.

Amnesty International<sup>77</sup> and the European Roma Rights Centre<sup>78</sup> cited national organisations and mass media reporting on serious cases of unlawful use of force and allegations of ill-treatment of Roma by the police during the state of emergency put in place due to the COVID-19 pandemic in the spring of 2020. For example, video recordings of the incidents in Bolintin-Vale, Giurgiu, show eight men handcuffed on the ground screaming in pain while the police beat them. The NGO Romani Criss reported another incident where a 13-year-old Roma boy was ill-treated during a police operation.<sup>79</sup> The European Roma Rights Centre report several incidents taking place during the month of April where the police allegedly intervened disproportionately against Roma people to enforce anti-COVID measures, by deploying more police than necessary, using tear gas indoors, and using force against minors and elderly women.<sup>80</sup> In response to public pressure, the Prosecutor’s Office initiated a criminal investigation into the case of Bolintin-Vale and the Minister of the Interior dismissed the head of the Bolintin-Vale police station, who had coordinated the operation<sup>81</sup> who was however reinstated in his leadership position two months later.<sup>82</sup> Amnesty International cited the public declarations of the Minister of the Interior, from 20 April 2020, who justified the large deployment of police in communities with a significant Roma population as

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<sup>77</sup> Amnesty International (2020), [Policing the pandemic. Human rights violations in the enforcement of COVID-19 measures in Europe](#), p.25.

<sup>78</sup> European Roma Rights Centre (2020), [Roma rights in the time of COVID](#), pp.35-40.

<sup>79</sup> Amnesty International (2020), [Policing the pandemic. Human rights violations in the enforcement of COVID-19 measures in Europe](#), p.25.

<sup>80</sup> European Roma Rights Centre (2020), [Roma rights in the time of COVID](#), pp.35-40.

<sup>81</sup> Amnesty International (2020), [Policing the pandemic. Human rights violations in the enforcement of COVID-19 measures in Europe](#), p.25.

<sup>82</sup> Adevărul, Ionuț Mureșan, [Seful poliției Bolintin Vale s-a întors în funcție la două luni după ce a bătut crunt un suspect încătușat](#), 21 July 2020,

interventions aimed to address a high risk of criminality due to the return from abroad of people who are allegedly “known for criminal activities”.<sup>83</sup>

Between March and October 2020, the Department for Inter-ethnic Relations (*Departamentul pentru Relații Interetnice*, DRI) monitored national and local media articles presenting situations of potential conflict and measures taken by the authorities against discriminatory attitudes and hate speech toward minorities, especially the Roma minority. The monitoring was aimed at preventing and combating discrimination in the context of the COVID-19 crisis.<sup>84</sup> The research noted the intensification of bias and the aggravation of attitudes of exclusion and discrimination towards minorities, given an increase in the presence of hate speech online, especially against Roma. This situation did not improve after the end of the state of emergency. The report recommends that journalists take points of view directly from the communities and not only from the local officials and that they become more responsible in not promoting their own prejudice about minorities. The report also recommends that civil society should be more active in monitoring and reporting incidents of hate speech. Apart from a generally worded recommendation on improving the legal framework to punish hate speech, especially anti-Roma hate speech on the internet, the report does not include any recommendations for the public authorities.<sup>85</sup>

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<sup>83</sup> Amnesty International (2020), [Policing the pandemic. Human rights violations in the enforcement of COVID-19 measures in Europe](#), p.25.

<sup>84</sup> Romania, Department for Inter-ethnic Relations (*Departamentul pentru Relații Interetnice*) (2020), '[Understanding hate-speech phenomenon regarding minorities and its incidence in society in the context of SARS CoV-2](#)', November 2020.

<sup>85</sup> Romania, Department for Inter-ethnic Relations (*Departamentul pentru Relații Interetnice*) (2020), 'Monitoring excluding, intolerant and extremist attitudes against national minorities in the context of SARS CoV-2. Understanding hate-speech phenomenon regarding minorities and its incidence in society in the context of SARS CoV-2'. [Proposals and recommendations](#), November 2020.



## Chapter 4. Asylum, visas, migration, borders and integration

Extension of residence permits and other authorisations to stay that expired during COVID-19 pandemic measures.

EUMS/ Republic of North Macedonia, Republic of Serbia	Category of TCN	Brief description of the measure	Legal source (legislation or case law as relevant) with hyperlink	Comments
	Complete this row if measures concern all/most of the TCN listed below whose (national or EU law based) permission to stay expired during COVID-19 related travel restrictions. In this case indicate in the next rows the categories to which the measure applies	<p>In Romania, all types of visas and/or residence permits were automatically prolonged for the duration of the state of emergency declared between 16 March and 14 May 2020.</p> <p>All persons whose documents expired during the state of emergency, including TCN, had a 90-day window, starting on the day when the state of emergency was lifted (15 May</p>	Romania, Decree on the establishment of the emergency situation on the territory of Romania ( <a href="#">Decret nr. 195 din 16 martie 2020 privind instituirea stării de urgență pe teritoriul României</a> ), Annex 1, Article 18, 16 March 2020.	<p>No cases of persons stranded in Romania were reported by the mass media or by the authorities, in the short window (14 August – 14 September) when the measure was not in force.</p> <p>The measure was maintained in the subsequent Decisions to prolong the state of alert for 30 days.</p>



		<p>2020), to renew the documents.</p> <p>The measure was extended during the state of alert, starting on 15 September 2020. Residence permits issued to foreigners that expire during the alert period will remain valid throughout this period, and their holders can request the extension of the residence right within 90 days from the cessation date of the state of alert.</p> <p>Moreover, employment/secondment authorisations issued during the alert period, because of requests received and solved by the territorial units of General Inspectorate for Immigration, remain valid for</p>	<p>Romania, Decree on the prolongation of the state of emergency on the territory of Romania (<a href="#"><u>Decret nr. 240 din 14 aprilie 2020 privind prelungirea stării de urgență pe teritoriul României</u></a>), 14 April 2020.</p> <p>Romania, Government Decision No 782/2020 on the prolongation of a state of alert starting 15 September 2020 and the measures to be taken during it to prevent and combat the effects of the COVID-19 pandemic (<a href="#"><u>Hotărârea Guvernului nr. 782 din 14 septembrie 2020 privind prelungirea stării de alertă pe teritoriul României</u></a></p>	<p>Romania remains under the state of alert, at least until 12 February 2021.</p>
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		<p>90 days from the cessation date of the state of alert.</p>	<p><a href="#"><u>începând cu data de 15 septembrie 2020, precum și stabilirea măsurilor care se aplică pe durata acesteia pentru prevenirea și combaterea efectelor pandemiei de COVID-19</u></a>), 14 September 2020.</p> <p>Romania, Government Decision No 3/2021 on the prolongation of a state of alert starting 13 January 2021 and the measures to be taken during it to prevent and combat the effects of the COVID-19 pandemic (<a href="#"><u>Hotărârea Guvernului nr. 3 din 12 septembrie 2021 privind prelungirea stării de alertă pe teritoriul României</u></a></p>	
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			<u><a href="#">începând cu data de 13 ianuarie 2021, precum și stabilirea măsurilor care se aplică pe durata acesteia pentru prevenirea și combaterea efectelor pandemiei de COVID-19</a></u> , 14 September 2020.	
	<p>Holders of visas issued based on the <a href="#">Visa Code</a> No. 810/2009 (as last amended by <a href="#">Regulation (EU) No. 2019/1155</a>) (Schengen visas)</p>	The general measures apply.		
	<p>Visa-free TCN who reached the maximum of 90 days in any 180-day period under Article 4 of the <a href="#">Visa List Regulation</a></p>	The general measures apply.		

	(Regulation (EU) 2018/1806)			
	Holders of long-term visas issued by the EUMS (under <a href="#">Regulation (EU) No. 265/2010</a> and beyond, under national law)	The general measures apply.		
	Holders of residence permits issued under <a href="#">Regulation (EC) No. 1030/2002</a> (as last amended by <a href="#">Regulation (EU) 2017/1954</a> )	The general measures apply.		
	Holders of local border traffic permit under <a href="#">Regulation (EC) No. 1931/2006</a>	<p>The general measures apply.</p> <p>During the state of emergency (16 March – 14 May), and the state of alert (15 May – 14 October), cross-border workers entering Romania from Hungary, Bulgaria, Serbia, Ukraine or the Republic of Moldova were exempted from</p>	<p>Romania, Decree on the establishment of the emergency situation on the territory of Romania (<a href="#">Decret nr. 195 din 16 martie 2020 privind instituirea stării de urgență pe teritoriul</a></p>	<p>The measure was maintained in the subsequent decisions to prolong the state of alert for 30 days.</p>

		<p>the general requirements of entering quarantine / self-isolation for 14 days.</p>	<p><a href="#">României</a>), 16 March 2020.</p> <p>Romania, Decree on the prolongation of the state of emergency on the territory of Romania (<a href="#">Decret nr. 240 din 14 aprilie 2020 privind prelungirea stării de urgență pe teritoriul României</a>), 14 April 2020.</p> <p>Romania, Decision on approval of national alert institutions and measures to prevent and control information, in the context of the epidemiological situation generated by the SARS-CoV-2 virus (<a href="#">Hotărâre nr. 24 din 14 mai 2020 privind</a></p>	
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			<p><a href="#"><u>aprobarea instituirii stării de alertă la nivel național și a măsurilor de prevenire și control al infecțiilor, în contextul situației epidemiologice generate de virusul SARS-CoV-2</u></a>, 15 May 2020.</p>	
	Any other category of TCN not listed above.	<p>Under the national legislation, TCN holders of short-term work permits (up to two years), were not covered by the general measure if their work contract was cancelled due to economic reasons. The national legislation stipulates that the employer is responsible for the immediate return of the employees to their countries of origin at the end of the contract, but it does not provide any guidelines for</p>	<p>Coalition for the Rights of Migrants and Refugees (<i>Coaliția pentru Drepturile Migranților și Refugiaților</i>), '<a href="#"><u>Scrisoare deschisă: situația muncitorilor străini din România</u></a>', 12 June 2020.</p>	

		<p>the situation where the contract ends because of an emergency. Such situations were addressed case by case.</p> <p>The situation was flagged up by the Coalition for the Rights of Migrants and Refugees (<i>Coaliția pentru Drepturile Migranților și Refugiaților</i>), a network of civil society organisations working on migration issues, in an open letter to the Government. No reply was received.</p>		
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Notes:

TCN = third-country nationals

EUMS = EU Member State

# Chapter 5. Information society, privacy and data protection

## 1. Legal and political initiatives that have been implemented to support access to, and use of, personal data.

On 5 February 2020, the National Data Protection Supervisory Authority (*Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal*, ANSPDCP) issued an overview of its activity for 2019.<sup>86</sup> In 2019, ANSPDCP received 6,193 complaints, based on which the authority initiated 912 investigations, issued 28 fines and 134 warnings and ordered 128 restorative measures. In 2020, between January and September, the ANSPDCP received 4,256 complaints and issued 22 fines, totalling € 68,900 and the highest fine issued was of RON 10,000; it also issued 46 warnings and ordered 42 restorative measures.<sup>87</sup>

In October 2020, the Romanian Association of Specialists in Privacy and Data Protection (*Asociația Specialiștilor în Confidențialitate și Protecția Datelor*) issued a press release in which it listed ten common practices found in Romanian online learning courses since schools started online classes because of the COVID-19 pandemic. The main issues were: the use of platforms with low security and which transfer data to the USA, using personal platforms with no antivirus software, not using passwords, lack of knowledge among teachers about how to protect privacy and deal with breaches of privacy, storing images of classes and children without their consent and without any information on why, how and for how long this data is stored.<sup>88</sup>

In November 2020, a draft law (bill) was lodged in Parliament seeking to regulate the role of data protection officers.<sup>89</sup> The bill establishes a set of

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<sup>86</sup> According to a press-release issued by the National Data Protection Supervisory Authority (*Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal*) on the 5 February 2020, available in Romanian at: [link](#)

<sup>87</sup> According to a press-release issued by the National Data Protection Supervisory Authority (*Autoritatea Națională de Supraveghere a Prelucrării Datelor cu Caracter Personal*) on 2 October 2020, available in Romanian at: [link](#)

<sup>88</sup> According to a press-release issued by the Romanian Associations of Specialist in Privacy and Data Protection (*Asociația Specialiștilor în Confidențialitate și Protecția Datelor*) on 3 October 2020, available in Romanian at: [link](#)

<sup>89</sup> Romania, Proposed Law B653/2020 on organising the profession of data protection officer (*B653/2020 Propunere legislativă privind organizarea profesiei de responsabil cu protecția datelor cu caracter personal*) available in Romanian at [link](#)



criteria that people need to meet in order to become a data protection officer, including the requirement to undergo specialised training and to have one year of work experience. It also establishes a professional body for data protection officers to regulate and governs the profession. The bill stipulates that it is a misdemeanour for anyone to act as a data protection officer if not formally authorised to do so. The bill was pending in the Parliament in December 2020.

## 2. Artificial intelligence and big data

Please fill in the table below with any initiatives you may identify in your country:

<b>MS</b>	<b>Actor*</b>	<b>Type*</b> *	<b>Description</b>	<b>Are Ethical concerns mentioned? (yes/no)</b>	<b>Are Human Rights issues mentioned? (yes/no)</b>	<b>Reference</b>
<b>Ro</b>	Government	Other projects	The Service for Special Telecommunications ( <i>Serviciul de Telecomunicații Speciale</i> , STS) announced on 1 April 2020 that advanced mobile location (AML) technology is available for everyone calling the emergency number; this technology allows the emergency number to receive geographical coordinates for the place from which the call is	No	no	According to a press release issued by the Service for Special Telecommunications ( <i>Serviciul de Telecomunicații Speciale</i> ) on 1 April 2020, available in Romanian at: <a href="https://www.sts.ro/ro/comunicate-de-presa/localizarea-aml-activa-pentru-apelurile-de-urgenta">https://www.sts.ro/ro/comunicate-de-presa/localizarea-aml-activa-pentru-apelurile-de-urgenta</a>

			made, information that is available only during the call.			
<b>Ro</b>	Government	Adopted acts	<p>The Government of Romania issued Emergency Ordinance no. 119 of 22.07.2020 for the amendment and completion of Law no. 362/2018 on ensuring a high common level of security of computer networks and systems (<i>Ordonanța de Urgență nr. 119 din 22.07.2020 pentru modificarea și completarea Legii nr. 362/2018 privind asigurarea unui nivel comun ridicat de securitate a rețelelor și sistemelor informatice</i>).</p> <p>This GEO modifies the setup of the Interinstitutional Working Group, making it easier to determine the threshold values necessary to establish the significant disruptive effect of incidents and allowing for the procedure of identification and registration by the National</p>	No	no	<p>Romania, Emergency Ordinance no. 119 of 22.07.2020 for the amendment and completion of Law no. 362/2018 on ensuring a high common level of security of computer networks and systems (<i>Ordonanța de Urgență nr. 119 din 22.07.2020 pentru modificarea și completarea Legii nr. 362/2018 privind asigurarea unui nivel comun ridicat de securitate a rețelelor și sistemelor informatice</i>) available in Romanian at <a href="http://legislatie.just.ro/Public/DetaliiDocument/228369">http://legislatie.just.ro/Public/DetaliiDocument/228369</a></p> <p>According to a press release issued by the National Centre for Responding to Cyber Security Incidents, (CERT-RO) on 3 August 2020, available in Romanian at: <a href="https://cert.ro/citeste/comunicat-oug-modificare-lege-362">https://cert.ro/citeste/comunicat-oug-modificare-lege-362</a></p>

			Centre for Responding to Cyber Security Incidents ( <i>Centrul National de Raspuns la Incidente de Securitate Cibernetice</i> , CERT-RO) in the Register of Essential Services Operators. <sup>90</sup>			

\*For the actors, please pick from the following suggestions:

Government/ Parliamentary

DPA

NGO/Other Non Profit

Academia

Domestic Courts

Business

Independent State Institution

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<sup>90</sup> CERT-RO is the national cyber security and incident response team, coordinated by the Ministry of Communications and Informational Society.

Other

\*\* for the type, please pick from the following suggestions:

National Draft Acts / Adopted Acts

report/study

other projects

## Chapter 6. Rights of the child

### 1. Measures taken during the COVID 19 to ensure the well-being of children living in poverty and the protection of children from violence.

Schools and kindergartens were closed in Romania on 11 March 2020.<sup>91</sup> Concerns about the risk of the further spread of COVID-19 significantly shaped how education facilities were to be reopened. The Ministry of Education and Research provided a guide including information on preventive measures.<sup>92</sup> On 14 September 2020, most schools were temporarily re-opened. Subsequently, the Ministry of Education provided regular guidance and information on how educational activities are to be carried out.<sup>93</sup>

The educational facilities functioned in three different regimes: (1) all pupils coming to school daily, (2) students coming to school following a rotating schedule, combining in-person attendance with online schooling and (3) online schooling.<sup>94</sup> With the passage of time, more and more schools were closed. On 22 September 2020, all schools were closed for three days,<sup>95</sup> following which some of them were re-opened. Finding that the measures taken were not sufficient, the Government decided to close all schools starting from 9 November 2020.<sup>96</sup> As of 5 January 2021, this measure was still in place.

UNICEF carried out four rounds of assessment of the situation of children and their families, with a focus on the vulnerable ones, in the context of the COVID-19 outbreak in Romania. It found that as the state of emergency extended, inequalities in access to public services (healthcare, education, social services) widened for different population groups. The COVID-19

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<sup>91</sup> Romania, National Committee for Special Emergency Situations (*Comitetul Național pentru Situații Speciale de Urgență*), (2020), Decision no. 6 of 09.03.2020 on the approval of additional measures to combat the new Coronavirus ([Hotărârea nr. 6 din 09.03.2020 privind aprobarea unor măsuri suplimentare de combatere a noului Coronavirus](#)), 9 March 2020.

<sup>92</sup> Romania, Ministry of Education and Research (*Ministerul Educației și Cercetării*), (2020), *MEC information guide in the context of COVID-19* ([Ghid informativ MEC în contextul COVID-19](#)), 12 July 2020.

<sup>93</sup> Romania, Ministry of Education and Research (*Ministerul Educației și Cercetării*), (2020), Press release ([Comunicate de presă](#)), 1 October 2020.

<sup>94</sup> Romania, Ministry of Education and Research (*Ministerul Educației și Cercetării*), (2020), *Newsletter: the dynamics of the functioning scenarios of the pre-university education units* ([Buletin Informativ: dinamica scenariilor de funcționare a unităților de învățământ preuniversitar \(1 octombrie 2020\)](#)), 1 October 2020.

<sup>95</sup> EVZ, (2020), 'Breaking news! All schools in Romania are closing! Official decision of the Government' ([Breaking news! Se închid toate școlile din România! Decizia oficială a Guvernului](#)), 18 September 2020.

<sup>96</sup> PROTV (2020), 'All schools in Romania will close on Monday. Orban: "The measures did not work"' ([Toate școlile din România se vor închide de luni. Orban : "Măsurile nu au dat rezultate"](#)), 5 November 2020.

pandemic has led to an increase in the vulnerabilities of people already at risk. Moreover, restrictions on movement have heightened domestic violence risks for those who were already at risk previously and the problems of those living in overcrowded dwellings have worsened. The economic effects of the crisis generated by the COVID-19 pandemic are being more strongly felt by Romanian society as the actions to contain the spread of the virus are maintained.<sup>97</sup>

<p><b>Measures to address the specific vulnerabilities of children living in poverty</b></p>	<p><b>Support for families who, due to infection with coronavirus, are temporarily not able to provide care to their children or other dependants<sup>98</sup></b></p> <p>Such support was made available for vulnerable families, who could not obtain it from their circle of friends or other family members. Temporary care and supervision services provided by public social assistance services, within their centres, were therefore made available upon request. In July 2020, it was reported that 611 such places had been made available, with four requests having been submitted.<sup>99</sup></p> <p><b>Lending, upon request, laptops or tablets to students in need</b></p> <p>The Government adopted Law no. 109 of 3 July 2020,<sup>100</sup> through which it guarantees access for teachers and</p>
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<sup>97</sup> UNICEF and others, (2020), [Rapid assessment of the situation of children and their families, with a focus on the vulnerable ones, in the context of the COVID-19 outbreak in Romania. Phase I. Round 4](#), July 2020.

<sup>98</sup> Romania, Ministry of Labour and Social Protection. National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2020), '[Precizări privind măsurile de sprijin destinate familiilor afectate de COVID-19, ai căror copii pot fi monitorizați, supravegheați sau îngrijiți de către DGASPC, în situații excepționale](#)', press release, July 2020.

<sup>99</sup> Romania, Ministry of Labour and Social Protection. National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2020), '[Precizări privind măsurile de sprijin destinate familiilor afectate de COVID-19, ai căror copii pot fi monitorizați, supravegheați sau îngrijiți de către DGASPC, în situații excepționale](#)', press release, July 2020.

<sup>100</sup> See Romania, Law no. 109 of 3 July 2020 amending the National Education Law no. 1/2011 ([Legea nr. 109 din 3 iulie 2020 pentru completarea Legii educației naționale nr. 1/2011](#)), 3 July 2020 and Romania, Ministry of Education and Research. Cabinet of a

	<p>students in need, upon request, to a device - laptop or tablet, connected to the internet. The measure is aimed at supporting e-learning activities, which might be necessary because of the pandemic. While € 150 million was reportedly allocated for this purpose,<sup>101</sup> issues started arising with the implementation of the measure. For example, very restrictive conditions were imposed, such as awarding tablets primarily to children in families where there was no other device with internet connection available; moreover, the number of available devices did not meet the number of requests.<sup>102</sup> <b>IT devices were also made available through private initiatives of companies or non-governmental organisations.<sup>103</sup> Overall, however, this failed to meet the need, given the fact that online schooling was so widespread.</b></p> <p>Forced evictions were suspended during the state of emergency.<sup>104</sup></p>
<p><b>Measures to protect</b></p>	<p><b>Family Tel – a free helpline for families whose children face emotional and behavioural difficulties during social distancing<sup>105</sup></b></p>

Minister (*Ministerul Educației și Cercetării. Cabinet de Ministru*), Order on the approval of the necessary electronic devices with internet connection, as well as of the criteria for the distribution of these devices, purchased through the National Home Schooling Programme ([Ordin privind aprobarea necesarului de dispozitive electronice cu conexiune la Internet, precum și a criteriilor de repartizare a acestor dispozitive achiziționate prin Programul Național „Școala de Acasă”](#)), 20 July 2020.

<sup>101</sup> Digi, (2020), 'The government has allocated 150 million lei for tablets for students from disadvantaged backgrounds' ([Guvernul a alocat 150 de milioane lei pentru tablete destinate elevilor din medii defavorizate](#)), 8 May 2020.

<sup>102</sup> Edupedu, (2020), 'Of the 250,000 tablets, none will reach teachers, although ministry officials announced that 1,900 teachers will receive such tools. Eliminary criteria for poor students: no one in the family should have a phone with internet connection' ([Din cele 250 de mii de tablete, niciuna nu va ajunge la profesori, deși oficialii ministerului anuntau că și 1.900 de cadre didactice vor primi astfel de instrumente. Condiție eliminatorie pentru elevii săraci: nimeni din familie să nu aibă telefon cu internet](#)), 3 August 2020.

<sup>103</sup> See for example World Vision Romania, (2020), *The wellbeing of children living in the rural area during the pandemic* ([Bunăstarea copilului din mediul rural în perioada pandemiei](#)), November 2020.

<sup>104</sup> The National Union of Bailiffs (*Uniunea Națională a Executorilor Judecătorești*), (2020), 'UNEJ suspends forced evictions during the state of emergency' ([UNEJ suspendă evacuările silite pe durata instituirii stării de urgență](#)), press release, 23 March 2020.

<sup>105</sup> Ministry of Labour and Social Protection. National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2020), 'Family Tel: 0800.070.009 – linie telefonică de suport pentru familiile ai căror copii întâmpină dificultăți emoționale și comportamentale în perioada de distanțare socială', press release, 23 June 2020.



<p><b>children from violence</b></p>	<p>This helpline was made available for parents and guardians in need of psychological counselling, given their inability to cope with or to manage the emotional state of their children. Ten specialised psychologists were made available across the country. The helpline is also a measure to protect children from violence, given that, with support from specialists, families are better equipped to deal with this unprecedented situation and are less likely to behave inappropriately.<sup>106</sup></p> <p><b>Measures imposed on services available for victims of domestic violence</b></p> <p>One centre for victims of domestic violence suspended its activity during the state of emergency, but was made available to children whose parents were detected with Covid 19. However, most other social services remained available for victims of domestic violence, with measures being imposed in the context of the pandemic; day-care services have modified and adapted their activity so that they can continue to provide counselling and information to victims of domestic violence (by keeping social distance and using alternative means of communication such as telephones, WhatsApp, Skype, etc.).<sup>107</sup></p> <p>The information provided on the national free helpline available for victims of domestic violence was extended and diversified to include topics such as guidance on teleworking, working from home, the ability to stay at home with children under 12, special leave from work, information for Romanian women abroad in other states</p>
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<sup>106</sup> Ministry of Labour and Social Protection. National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2020), 'Family Tel: 0800.070.009 – linie telefonică de suport pentru familiile ai căror copii întâmpină dificultăți emoționale și comportamentale în perioada de distanțare socială', press release, 23 June 2020.

<sup>107</sup> National Agency for Equal Opportunities for Women and Men (*Agencia Națională pentru Egalitatea de Șanse între Femei și Bărbați*) (2020), *Action Plan on preventing and combating domestic violence, in the light of the measures imposed at national level to combat the spread of COVID-19* ([Plan de măsuri privind prevenirea și combaterea violentei domestice, pe fondul măsurilor impuse la nivel național pentru combaterea răspândirii COVID-19](#)).

	<p>affected by COVID-19, information on national security measures adopted by Military ordinances, etc.<sup>108</sup></p> <p><b>Adaption of methods to comply with social distancing protocols</b></p> <p>Social protection agencies adapted their methods of conducting child protection investigations for cases where home visits become impossible. In such cases, the investigations are carried out on the basis of phone interviews, photos, video-recordings and other online communication methods; in person meetings are organised only when absolutely necessary, with the implementation of social distancing protocols.<sup>109</sup> An assessment of the practical efficiency of these measures has yet to be made.</p>
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## 2. Legal and policy measures or initiatives developed around criminal proceedings

<p><b>Legislative changes</b></p>	<p><b>Amendment of the Code of Criminal Procedure stalled for more than a year</b></p> <p>In February 2019, the Romanian Government published a draft law, which proposed amending the Code of Criminal Procedure, with the purpose of transposing Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal</p>
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<sup>108</sup> National Agency for Equal Opportunities for Women and Men (*Agencia Națională pentru Egalitatea de Șanse între Femei și Bărbați*), (2020), *Action Plan on preventing and combating domestic violence, in the light of the measures imposed at national level to combat the spread of COVID-19* ([Plan de măsuri privind prevenirea și combaterea violenței domestice, pe fondul măsurilor impuse la nivel național pentru combaterea răspândirii COVID-19](#)).

<sup>109</sup> For example, see Social Directorate of Social Assistance and Child Protection Sector 4 (*Direcția Socială de Asistență Socială și Protecția Copilului Sector 4*), (2020), 'Our institution launched several online services' ([Instituția noastră a lansat o serie de servicii online](#)).

	<p>proceedings.<sup>110</sup> The deadline for transposing the Directive expired on 11 June 2019.</p> <p>While the draft law made it on to the Romanian Government's Agenda of 25 June 2019,<sup>111</sup> it is yet to be adopted, and no other relevant proposals have been made.</p>
<b>Policy developments</b>	<p><b>Communicating with vulnerable persons during criminal investigations – training for law enforcement officers<sup>112</sup></b></p> <p>The National Authority for the Rights of Persons with Disabilities, Children and Adoptions (ANDPDCA) and the National Agency for Equal Opportunities for Women and Men (ANES), with the support of UNICEF Romania, organised an interactive training session between 4 and 6 March 2020 for 70 law enforcement officers from criminal investigation and public order departments across the country. Its purpose was to provide the officers with concrete and tailored tools for communicating with different vulnerable groups during criminal investigations, including adults with disabilities, children, children with disabilities and victims of domestic violence.</p>
<b>Other measures or initiatives</b>	No such measures or initiatives were identified.

<sup>110</sup> Romania, Draft law on some measures for the transposition into national legislation of EU Directive 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural guarantees for children who are suspected or accused persons in criminal proceedings (*Proiectul de lege privind unele măsuri pentru transpunerea în legislația națională a Directivei UE 2016/800 a Parlamentului European și a Consiliului din 11 mai 2016 privind garanțiile procedurale pentru copii care sunt persoane suspectate sau acuzate în cadrul procedurilor penale*), February 2019.

<sup>111</sup> Romania, General Secretariat of the Government (*Secretariatul General al Guvernului*) (2019), 'Informație de Presă privind proiectele de acte normative care vor fi incluse pe agenda ședinței Guvernului României din 25 iunie 2019', press release, 24 June 2019.

<sup>112</sup> National Agency for Equal Opportunities for Women and Men (*Agenția Națională pentru Egalitatea de Șanse între Femei și Bărbați*) (2020), 'Communicating with vulnerable persons during criminal investigations' (*Gestionarea comunicării cu persoanele vulnerabile în anchetele penale*), press release, 6 March 2020.

# Chapter 7. Access to justice including crime victims

## 1. Victims' Rights Directive

The Romanian Ministry of Justice modified the ECRIS system and added a new function that allows for the names of victims of human trafficking and child trafficking to be anonymised on the public online platform that holds information on court cases and court dates (<http://portal.just.ro/>).<sup>113</sup> ECRIS is the information system used by the Romanian judicial system in handling case files and court activity. The web portal <http://portal.just.ro/> is a publicly available official website where everyone can see all court cases, including court dates, solutions and the parties involved.

The issue of anonymising the name of the victims in certain proceedings is a longstanding one in the Romanian judicial system. In theory, the prosecutor during the criminal investigation and the judge during the court proceedings can anonymise the name of vulnerable witnesses, if they consider this necessary.<sup>114</sup> However, in practice it was technically impossible to anonymise only the names of the victims on the web portal, <http://portal.just.ro/>, and on other judicial web portals. Because of this, the Commission on updating names used on the ECRIS application (*Comisia de Actualizare a Nomenclatoarelor aferente Aplicației ECRIS*) decided on 18 October 2018 to take down all cases on human trafficking, child trafficking from the publicly available web portal <http://portal.just.ro/>.<sup>115</sup> The media noticed this and heavily criticised the decision, when it noticed that there was no longer any publicly available information on the development of some high profile human trafficking cases and because of this, the public could no longer see whether anyone was convicted or acquitted in those cases.<sup>116</sup> The Ministry of Justice announced the modifications to the system in this context.

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<sup>113</sup> According to a press release issued by the Romanian Ministry of Justice on 17 November 2020, available in Romanian at [link](#).

<sup>114</sup> Romania, Law no. 135/2010 on the Code of Criminal Procedure (*Legea 135/2010 privind Codul de Procedură Penală*), 15 July 2010, Articles 126, 127.

<sup>115</sup> According to a press release issued by the Romanian Ministry of Justice on 14 September 2020, available in Romanian at [link](#).

<sup>116</sup> Libertatea (2020) '[The Romanian justice solution to human trafficking](#)', 11 September 2020, available in Romanian.

The statute of limitation was raised for people accused of committing rape or sexual acts with a minor; previously the statute of limitation for such crimes was five years for sexual acts with a minor and eight years for rape.<sup>117</sup>

## 2. Violence against women

In 2020, the criminal sanctions for not complying with a restriction order were increased from imprisonment of one month to one year, to imprisonment of six months up to five years.<sup>118</sup> In addition, the definition of domestic violence in Law no. 217/2003 on domestic violence (*Legea 217/2003 pentru prevenirea și combaterea violenței domestice*), was broadened to include cyberviolence, which is defined as online harassment, online hate messages, online threats, non-consensual publication of information and intimate graphic content, illegal access to the interception of communications and private information and any other form of misuse of technological information and communications by using computers, smartphones or other similar devices that use telecommunications or can connect to the internet and can transmit and use social or email platforms, in order to shame, humiliate, scare, threaten, or silence a victim.<sup>119</sup>

According to the National Agency for Equality between Men and Women (*Agencia Națională pentru Egalitate de Șanse între Femei și Bărbați*, ANES), in the first seven months of 2020 (from January to July), 1,977 calls were made to the dedicated phone number for victims of domestic violence.<sup>120</sup> Out of these calls, 829 related to domestic violence and seven to human trafficking. These numbers are higher than the figures from 2019, which show that between

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<sup>117</sup> Romania, Law no. 217/2020 modifying Law no. 286/2009 on the Criminal Code and modifying Art. 223(2) of Law 135/2010 on the Code of Criminal Procedure (*Lege nr. 217 din 29 octombrie 2020 pentru modificarea și completarea Legii nr. 286/2009 privind Codul penal, precum și pentru modificarea art. 223 alin. (2) din Legea nr. 135/2010 privind Codul de procedură penală*), available in Romanian at [link](#).

<sup>118</sup> Romania, Law no. 183 of 19 August 2020 modifying Law no. 217/2003 on domestic violence (*Lege nr. 183 din 19 august 2020 privind modificarea Legii nr. 217/2003 pentru prevenirea și combaterea violenței domestice*) Art. 3, available in Romanian at [link](#).

<sup>119</sup> Romania, Law no. 106 of 3 July 2020 modifying Law no. 217/2003 on domestic violence (*Lege nr. 106 din 3 iulie 2020 privind modificarea și completarea Legii nr. 217/2003 pentru prevenirea și combaterea violenței domestice*) articles 1 and 2, available in Romanian.

<sup>120</sup> According to a press release of the National Agency for Equality Between Men and Women (*Agentia Nationala Pentru Egalitate de Sanse intre Femei si Barbati*), available in Romanian at [link](#).

January 2019 and 31 October 2019 (a ten-month period), there were 1,571 calls, of which 796 related to domestic violence.<sup>121</sup>

The increase is also noticeable when analysing the reference period between 16 March 2020 and 30 April 2020, during which there were 436 calls to the specialised number for victims, which is 255 calls more than during the same period in the previous year, when there were only 188 calls.<sup>122</sup>

According to a study published in the *Romanian Journal of Emergency Surgery*, between 16 March 2020 and 15 June 2020, the incidence of physical aggression in domestic violence in Romania was four times higher when compared to previous years.<sup>123</sup>

The National Agency for Equality between Men and Women (*Agentia Națională pentru Egalitate de Șanse între Femei și Bărbați*, ANES) developed a set of measures to address domestic violence in the context of COVID-19.<sup>124</sup> The measures include analysing the prevalence of domestic violence and the capacity of services designed for victims of domestic violence and continued communication and information sharing with all interested parties including victims, specialised NGOs, and relevant national and international authorities.<sup>125</sup>

Nationally there are 236 services for victims: 152 social services for domestic violence (of which 146 are designated for victims and six for perpetrators), and 84 specialised services (42 support groups and 42 vocational training

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<sup>121</sup> National Agency for Equality Between Men and Women (*Agentia Nationala Pentru Egalitate de Sanse intre Femei si Barbati*), (2020) [Activity Report 2019](#), p. 28, available in Romanian.

<sup>122</sup> According to a press release of the National Agency for Equality Between Men and Women (*Agentia Nationala Pentru Egalitate de Sanse intre Femei si Barbati*), available in Romanian at [link](#).

<sup>123</sup> Socea, B. (2020), '[Politrauma During Covid-19 Pandemic: An Increasing Incidence of Domestic Violence](#)', *Romanian Journal of Emergency Surgery*, Vol. 2, No. 1, 2020, available in English.

<sup>124</sup> According to a press release of the National Agency for Equality Between Men and Women (*Agentia Nationala Pentru Egalitate de Sanse intre Femei si Barbati*), available in Romanian at [link](#).

<sup>125</sup> According to a press release of the National Agency for Equality Between Men and Women (*Agentia Nationala Pentru Egalitate de Sanse intre Femei si Barbati*), available in Romanian at [link](#).

centres).<sup>126</sup> As of 31 of March 2020, the only residential centre for victims from Bucharest District 3 was closed and now only hosts children whose parents are infected with COVID-19. In four counties, the victims centres were full and had no more capacity (Bistrița-Năsăud, Mureș, Olt, and Bucharest District 3).<sup>127</sup>

In 2020, the Romanian Parliament adopted Law no. 183/2020, which grants free legal aid to everyone seeking a restriction order.<sup>128</sup> Anyone seeking a restriction order should be represented by a lawyer and in the event the person does not have his or her own lawyer, according to the Code of Criminal Procedure, the judicial body (*organul judiciar*) is responsible for appointing a lawyer to assist the victim.<sup>129</sup> A restriction order is a decision by which an aggressor is ordered to avoid contact with a victim. The order can be issued by a court; however, in special cases the police can issue a provisional protection order.<sup>130</sup>

The Romanian Criminal Code was also amended and now in cases of battery and other acts of violence, including bodily harm with basic intent, perpetrated against a family member, reconciliation can no longer remove the criminal liability of the offender.<sup>131</sup>

In November 2020, a draft law was lodged in Parliament to modify the Law on domestic violence.<sup>132</sup> The draft law grants victims of domestic violence the right to free meals for up to 180 days per year, specifies that perpetrators are to be housed in specialised residential centres established for them, imposes mandatory psychiatric evaluations before admission in such centres and guarantees free psychological therapy for perpetrators.

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<sup>126</sup> According to a press release of the National Agency for Equality Between Men and Women (*Agentia Nationala Pentru Egalitate de Sanse intre Femei si Barbati*), available in Romanian at [link](#).

<sup>127</sup> According to a press release of the National Agency for Equality Between Men and Women (*Agentia Nationala Pentru Egalitate de Sanse intre Femei si Barbati*), available in Romanian at [link](#).

<sup>128</sup> Romania, Law no. 183 of 19 August 2020 modifying Law no. 217/2003 on domestic violence (*Lege nr. 183 din 19 august 2020 privind modificarea Legii nr. 217/2003 pentru prevenirea si combaterea violentei domestice*) available in Romanian.

<sup>129</sup> Romania, Law no 135/2010 on the Code of Criminal Procedure (*Legea 135/2010 privind Codul de Procedură Penală*), 15 July 2010, Article 91.

<sup>130</sup> Romania, Law no. 217/2003 on domestic violence (*Lege nr. 217/2003 pentru prevenirea si combaterea violentei domestice*), Articles 28, 38, available in Romanian.

<sup>131</sup> Romania, Law no. 233/2020 modifying Art. 199 (2) of Law 286/2009 on the Criminal Code, (*Legea nr. 233 din 5 noiembrie 2020 pentru modificarea art. 199 alin. (2) din Legea nr. 286/2009 privind Codul penal*) available in Romanian.

<sup>132</sup> Romania, Law proposal B679/2020 on modifying and supplementing Law no. 217/2003 (*B679/2020 Propunere legislativă pentru modificarea și completarea Legii nr.217 din 22 mai 2003*) available in Romanian.



# Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

## 1. CRPD policy & legal developments

As emphasised in the previous FRA country report, several legal and policy reforms relevant for the implementation of the CRPD are currently in progress in Romania. One of these relates to the amendment of Law no. 448/2006 on the protection and promotion of the rights of persons with disabilities.<sup>133</sup> The reform was initiated in May 2017 with a view to implementing the general measures imposed following the ECtHR's judgment in the case of *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania*.<sup>134</sup> According to the Romanian Government, the draft law would make supported decision-making mechanisms available for people with disabilities.<sup>135</sup> However, the proposed amendments<sup>136</sup> were criticised by civil society as seeking to "insulate and preserve" a system of deprivation of legal capacity that violates the CRPD.<sup>137</sup> In the meantime, on 16 July 2020, the Romanian Constitutional Court declared the guardianship system unconstitutional.<sup>138</sup> A working group was subsequently established within the Ministry of Justice, with the objective of reviewing and reforming the guardianship system. Its first meeting was scheduled to take place in September 2020. The reform is ongoing in 2020.

In April 2020, the Romanian Government also stated before the Committee of Ministers of the Council of Europe that it would put in place a plan to reform the psychiatric system,<sup>139</sup> as imposed by the general measures

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<sup>133</sup> Romania, Law no. 448 of 6 December 2006 regarding the protection and promotion of the rights of persons with handicap (*Legea nr. 448 din 6 decembrie 2006 privind protecția și promovarea drepturilor persoanelor cu handicap*), 6 December 2006.

<sup>134</sup> European Court of Human Rights (ECtHR), [Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania](#), No. 47848/08, 17 July 2014.

<sup>135</sup> Romania, [Communication from the authorities on the general measures in the case of Centre for Legal Resources on behalf of Valentin Campeanu v. Romania \(Application No. 47848/08\)](#), 24 April 2019.

<sup>136</sup> Romania, Draft law for amending and completing some normative acts ([Proiect de Lege pentru modificarea și completarea unor acte normative](#)), 5 April 2019.

<sup>137</sup> Association for the support of children with special needs 'Dr. Katz'(2019), [Submission by the Association for the support of children with special needs 'Dr. Katz' in the case Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania \(Application no. 47848/08\)](#), 20 May 2019.

<sup>138</sup> Romania, Constitutional Court (*Curtea Constituțională*), (2020) Press release, 16 July 2020 ([Comunicat de presă, 16 iulie 2020](#)).

<sup>139</sup> Romania, [Communication from the authorities on the general measures \(05/05/2020\) in the cases of Cristian Teodorescu and Parascineti v. Romania \(Applications No. 22883/05, 32060/05\)](#), 7 May 2020.



ordered through two ECtHR judgments issued in 2012.<sup>140</sup> This should address the material conditions in psychiatric facilities, as well as problems regarding involuntary treatment and involuntary hospitalisation. On the other side, civil society claims the plan is long overdue and is yet to be written down, let alone implemented.<sup>141</sup>

Concerning the deinstitutionalisation of people with disabilities, on 13 February 2020, the National Authority for the Rights of Persons with Disabilities, Children and Adoptions (ANDPDCA) launched 'People with disabilities - the transition from residential to community services', a project that is to be carried out until 6 July 2022.<sup>142</sup> Its objectives include the development of public policy proposals to prevent institutionalisation and of tools for monitoring and overseeing standards in social services for adults with disabilities. ANDPDCA also monitors the distribution of funds available to support deinstitutionalisation. For example, it recently issued a call for proposals on the closure of institutions for children.<sup>143</sup> The deinstitutionalisation process is therefore still ongoing, with no significant achievements to be reported for 2020.

There are no developments to report concerning the reforms regarding mental health services<sup>144</sup> and the forensic system,<sup>145</sup> which were referred to in the 2020 report. Although Romania is to be commended for having initiated such reforms, their pace is slow and no period for their conclusion has been envisaged.

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<sup>140</sup> European Court of Human Rights (ECtHR), *Parascineti v. Romania*, no. 32060/05, 13 March 2012 and European Court of Human Rights (ECtHR), *Cristian Teodorescu v. Romania*, no. 22883/05, 19 June 2012.

<sup>141</sup> Centre for Legal Resources (*Centrul de Resurse Juridice*), (2020), 'The Romanian Government's action plan in the field of psychiatry is long overdue' ([Planul de Acțiune în domeniul psihiatriei al guvernului român se lasă așteptat](#)), press release, 16 June 2020.

<sup>142</sup> Romania, Ministry of Labour and Social Protection. National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2020), 'Press release following the launch of the project "People with disabilities - the transition from residential to community services"', ([Comunicat de presă în urma desfășurării Conferinței de lansare a proiectului "Persoane cu dizabilități – tranziția de la servicii rezidențiale la servicii în comunitate"](#)), press release, 14 February 2020.

<sup>143</sup> National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2020), 'The last round of calls for projects to close children's centres is extended with 2 months' ([Comunicat de presă. Ultima rundă de apeluri de proiecte pentru închidere centre copii se prelungeste cu 2 luni](#)), press release, 27 November 2020.

<sup>144</sup> Romania, Law no. 487 of 11 July 2002 on mental health and the protection of persons with mental disorders (*Legea nr. 487 din 11 iulie 2002 a sănătății mintale și a protecției persoanelor cu tulburări psihice*), 11 July 2002.

<sup>145</sup> Romanian National Council on Disability (2019), '[Modernizarea sistemului de psihiatrie medico-legală, în concordanță cu recomandările din decizia CEDO în cazul N contra României](#)' (Modernisation of the forensic psychiatric system, in accordance with the recommendations of the ECtHR decision in *N v. Romania* ), 19 February 2019.

Other minor changes include a new procedure adopted to ensure children with support needs receive adequate support during national examinations.<sup>146</sup> The funds allocated to the social services available for vulnerable groups, including children, adults with disabilities, elderly people cared for in institutions or at home and victims of domestic violence, were also significantly increased, for the first times since 2015; the increases ranged from 44 % to 98 %.<sup>147</sup>

The Romanian National Council for Combating Discrimination, NCCD (*Consiliul Național pentru Combaterea Discriminării*, CNCD) found to be discriminatory the provision according to which a particular number of seats is allocated in schools and universities for Roma children, considering that such places should be allocated to children with special educational needs. It emphasised that, given that many of these children encountered significant challenges during the education process, such as the lack of psychologists and support teachers, an affirmative measure should be taken in their favour, to compensate in the competition with other children and young people.<sup>148</sup> Following the decision, the Ministry of Education and Research, together with the National Authority for the Rights of Persons with Disabilities, Children and Adoptions (ANDPDCA) and members of civil society, initiated a debate aimed at amending the relevant policy.

## **Observations regarding COVID-19**

According to data made available on 30 December 2020, out of 55,000 residents in Romanian institutions, 1,796 were infected with COVID-19, 14,046 residents had had the virus and recovered and 870 residents had died because of COVID-19. Moreover, 800 employees working in these institutions were reported to be infected with the virus, with 11 deaths

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<sup>146</sup> Romania, Ministry of Education and Research (*Ministerul Educației și Cercetării*) (2020), 'Procedure for ensuring equal opportunities for students who are visually impaired/ hearing impaired/ with the autism spectrum disorder/ with specific learning disabilities during the national examinations: the national assessment for the 8th grade and the bacalaureate-the 2020 session' ([Procedura cu privire la asigurarea condițiilor de egalizare a șanselor pentru elevii cu deficiente de vedere/ deficiente de auz/ tulburare de spectru autist/ tulburări specifice de învățare care susțin examenele naționale: evaluarea națională pentru absolvenții clasei a VIII-a și examenul național de bacalaureat- sesiunea 2020](#)), 14 February 2020.

<sup>147</sup>Romania, Decision no. 426/2020 on the approval of cost standards for social services ([Hotărârea nr. 426/2020 privind aprobarea standardelor de cost pentru serviciile sociale](#)), 2 June 2020.

<sup>148</sup> Romanian National Council for Combating Discrimination, NCCD (*Consiliul Național pentru Combaterea Discriminării*, CNCD), App. no. 39251/09.07 .2019, Decision no. 202 of 26 February 2020.

having been reported among them nationwide.<sup>149</sup> These numbers have been steadily increasing in recent months. Specific measures were taken in relation to these institutions, including the creation of prevention protocols, a ban on the people living there from going outside the institutions (except if they moved to live with their family) and the temporary isolation of the staff working in institutions at their workplace. Moreover, funds were allocated to hire, where necessary, more staff and to cover their food and accommodation-related expenses.<sup>150</sup> In the meantime, NGOs were calling on the state to establish regular testing and to prioritise staff and residents of care homes.<sup>151</sup>

Social protection agencies took a variety of measures to ensure their services continued to be available during the pandemic, including conducting child protection and other types of investigations on the basis of phone interviews, photos, video recordings and other online communication methods, and organising in-person meetings only when absolutely necessary, with the implementation of social distancing protocols. Moreover, online services were made available in relation to relevant assessment procedures and obtaining disability certificates, with people being able to submit documentation and have their application dealt with online; such services will continue to be available after the end of the pandemic.<sup>152</sup> An easy-to-read guide was made available with information regarding the

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<sup>149</sup> Romania, Ministry of Labour and Social Protection. National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2020), *The situation of the spread of COVID-19 at the level of social services for vulnerable categories*. 30 December 2020 (<http://andpdca.gov.ro/w/wpcontent/uploads/2020/12/Situatia-raspandirii-COVID-30-decembrie.pdf>), 30 December 2020.

<sup>150</sup> Romania, Ministry of Labour and Social Protection. National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2020), '[Situatia raspandirii epidemiei COVID-19 în sistemul de asistență și protecție a copilului la finalul stării de urgență](#)', press release, 16 May 2020 and Romania, Ministry of Labour and Social Protection. National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2020), '[Protocol recomandări pentru serviciile sociale aplicabile în perioada stării de alertă generată de epidemia de COVID-19](#)', press release, 16 May 2020.

<sup>151</sup> Centre for Legal Resources (*Centrul de Resurse Juridice*), (2020), 'Why is the testing of institutionalised people with disabilities ignored?' ([De ce este ignorată testarea persoanelor cu dizabilități instituționalizate?](#)), 15 May 2020.

<sup>152</sup> For example, see Social Directorate of Social Assistance and Child Protection Sector 4 (*Direcția Socială de Asistență Socială și Protecția Copilului Sector 4*), (2020), 'Our institution launched several online services' ([Instituția noastră a lansat o serie de servicii online](#)).

transmission of COVID-19 and adequate preventive measures.<sup>153</sup> Moreover, the validity of disability certificates and other documents entitling people to social benefits was prolonged during the state of emergency state by 90 days.<sup>154</sup>

The Ministry of Labour and Social Protection also launched a project, funded by the European Social Fund, to provide direct support to 100,000 older people and people with disabilities affected by COVID-19-related measures. It includes direct financial assistance, and psychological and other tailored support to beneficiaries, and will be implemented in partnership with 116 municipalities.<sup>155</sup>

Overall, while many measures were implemented at the beginning of the pandemic, when the numbers of people being infected and deaths in residential settings were low, they have not been updated in recent months, and the situation is steadily deteriorating.

## 2. CRPD monitoring at national level

The National Authority for the Rights of Persons with Disabilities, Children and Adoptions (ANDPDCA) ensures the coordination mechanism established for the implementation of Article 33(1). In 2016, Romania also established the Council for Monitoring the Implementation of the UN CRPD, following the obligation related to the framework to promote, protect and monitor implementation of the CRPD – Article 33(2).<sup>156</sup> Until 2019, both these

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<sup>153</sup> Romania, Ministry of Labour and Social Protection. National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2020), *COVID-19 Prevention Guide (COVID-19 Ghid de Prevenire)*.

<sup>154</sup> For example, see Social Directorate of Social Assistance and Child Protection Sector 4 (*Direcția Socială de Asistență Socială și Protecția Copilului Sector 4*) (2020), 'Our institution launched several online services' (*Institua noastră a lansat o serie de servicii online*).

<sup>155</sup> <http://mmuncii.ro/j33/index.php/ro/transparenta/anunturi/5962-metodologie-selectie-proiect-covid-19>.

<sup>156</sup> Romania, Law no. 8/2016 regarding the establishment of the mechanisms provided by the Convention on the Rights of Persons with Disabilities (*Legea nr. 8/2016 privind înființarea mecanismelor prevăzute de Convenția privind drepturile persoanelor cu dizabilități*), 18 January 2016.

mechanisms carried out some activities, although they were hardly visible on the public scene and were known for their lack of collaboration with civil society.

At the end of 2019, Maria Mădălina Turza, a prominent children's rights activist, was appointed to lead the ANDPDCA.<sup>157</sup> Since then, this institution continued its activities, expanded them significantly and, most importantly, became visible among stakeholders, was involved in relevant decision-making processes and started what seems to be a fruitful collaboration with civil society. For example, it follows the monitoring visits and monitoring reports published by non-governmental organisations, provides information about them and, where appropriate and within its mandate, takes steps in response (e.g. following-up on the findings with monitoring visits, submitting complaints to other relevant authorities).<sup>158</sup> It also invites stakeholders, experts, parents of children with disabilities and non-governmental organisations to debates in relation to the activities it is carrying out; for example, it has invited people to submit opinions and participate in discussions in relation to its initiative to develop minimum standards for respite centres.<sup>159</sup>

The ANDPDCA has also obtained EU funds to strengthen its capacities as a coordination mechanism. It is therefore implementing a project on the matter, which runs from 25 January 2019 to 25 June 2021. During this time, the ANDPDCA plans to draft the 2021-2027 national strategy on the rights of persons with disabilities and to develop a mechanism to monitor the strategy's implementation.<sup>160</sup>

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<sup>157</sup> G4 Media, (2019), 'Maria Mădălina Turza, human rights activist, mother of a girl with Down syndrome, has been appointed to lead the National Authority for the Rights of Persons with Disabilities, Children and Adoptions' ([Maria Mădălina Turza, activistă pentru drepturile omului, mama unei fetite cu sindrom Down, a fost numită la conducerea Autorității Naționale pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții](#)), 17 November 2019.

<sup>158</sup> See for example Romania, Ministry of Labour and Social Protection. National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2020), 'Independent monitoring mechanisms - ZERO tolerance for inhuman treatment' ([Mecanismele independente de monitorizare - ZERO Toleranța pentru tratamentele inumane](#)), press release, 5 February 2020.

<sup>159</sup> Romania, Ministry of Labour and Social Protection. National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2020), 'DEBATE: Minimum quality standards for respite centers for children with disabilities' ([În DEZBATERE: Standarde minime de calitate pentru CENTRE RESPIRO destinate copiilor cu dizabilități](#)), press release, 21 August 2020.

<sup>160</sup> Romania, Ministry of Labour and Social Protection. National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2020), 'Strengthen the mechanism for coordinating the implementation of the UN Convention on the Rights of Persons with Disabilities' ([Consolidarea mecanismului de coordonare a implementării Convenției ONU privind Drepturile Persoanelor cu Dizabilități](#)), 23 June 2020.

The ANDPDCA was active in responding to the COVID-19 crisis. In the first weeks of the pandemic, all social services, including residential centres, were in dire need of masks, personal protective equipment and products. Before these were made available at a national level, the ANDPDCA entered partnerships with the National Committee for Special Emergency Situations, UN agencies and private companies to distribute over 1.5 million such items.<sup>161</sup> The ANDPDCA also created, on 10 March 2020, its own 'Crisis Cell',<sup>162</sup> which aimed to ensure the process of coordination and management of the crisis generated by the COVID-19 epidemic. This established mechanisms for real-time communication, coordination with the country's general directorates for social protection and data collection mechanisms. As a result, recommendations, circulars and methodological provisions on managing and combating the spread of COVID-19 virus in residential and community social services are being issued constantly.

However, there are some voices in civil society highlighting that the body is politically controlled, with its President having made multiple public appearances with the Minister of Labour, a prominent member of the National Liberal Party and demonstrating support for the party during the recent local elections. Moreover, the recently nominated Vice-President of the ANDPDCA<sup>163</sup> is a politician with a background in art, who recently lost her position as manager of a local theatre following allegations of mismanagement,<sup>164</sup> and who appears to have no relevant experience for the role.

The Council for Monitoring the Implementation of the UN CRPD appears to have become inactive. In January 2020, Ms. Turza accused its President of failure to fulfil its mandate, stating that although some monitoring visits were carried out in institutions, the Council was not taking any measures to

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<sup>161</sup> Romania, Ministry of Labour and Social Protection. National Authority for the Rights of Persons with Disabilities, Children and Adoptions (*Ministerul Muncii și Protecției Sociale. Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții*), (2020), '[Situația răspândirii epidemiei COVID-19 în sistemul de asistență și protecție a copilului la finalul stării de urgență](#)', press release, 16 May 2020.

<sup>162</sup> <http://andpdca.gov.ro/w/info-covid-19-2/>

<sup>163</sup> Agerpres, (2020), 'Vali Pena - the new vice-president of the National Authority for the Rights of Persons with Disabilities, Children and Adoptions' ([Vali Pena-noul vicepreședinte al Autorității Naționale pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții](#)), 3 September 2020.

<sup>164</sup> DCNEWS, (2020), 'The employees and collaborators of the Ambassadors Musical Theatre demand the dismissal of the interim manager' ([Angajații și colaboratorii Teatrului Muzical "Ambasadorii" cer demiterea managerului interimar](#)), 9 March 2020.



remedy the situations it was finding.<sup>165</sup> Since then no news items have been published on the Council's website and no information is available about the activities it might have carried out. In the meantime, the body continues to exist under the leadership of the same former Member of Parliament from the ruling party PSD, who has an academic background in engineering. In March 2019, a draft-law was introduced, proposing replacing the Council, at least partially, with a new body. The draft law was adopted on 30 June 2020; however, the provisions related to the replacement of the Council were dropped during the debates.<sup>166</sup> The Council's 2019 activity report has yet to be approved by the Parliament.

In conclusion, the monitoring of the CRPD is realised by two bodies, one that is non-existent and one that has become more and more visible among stakeholders, but about which concerns have been raised in relation to its independence from political influence and its impact on the development of relevant legislative and policy measures.

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<sup>165</sup> Newsweek, (2020), 'Assessment: The failures of the Council for Monitoring, which should protect people with disabilities' ([Analiză: Rateurile Consiliului de Monitorizare, care ar trebui să apere persoanele cu dizabilități](#)), 25 January 2020.

<sup>166</sup> Romania, Legislative proposal no. 204/2019 for amending acts for the protection and promotion of the rights of persons with disability, ([Pl-x nr. 204/2019 Propunere legislativă pentru modificarea unor acte normative privind protecția și promovarea drepturilor persoanelor cu handicap](#)).

# Annex 1 – Promising Practices

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one example of a promising practice to tackle discrimination against older people or LGBTI people such as awareness raising campaigns or ethical codes for healthcare staff held in your country in 2020. Where no such examples are available, please provide an example of an awareness raising campaign held in your country in 2020 relevant to equality and non-discrimination of older people or LGBTI people, preferably one conducted by a national equality body.
	No promising practice has been identified for this thematic area.

<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide one example of a promising practice to address racism and xenophobia in the context of the COVID-19 pandemic. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.
	No promising practice has been identified for this thematic area.

<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> Please provide one example of promising practice in relation to the legal and policy developments in regard to Roma/Travellers (or any group covered by this term as per the Council of Europe definition) in 2020 that relate to the (1) application of the EU Framework on national Roma integration strategies and (2) the preparations for the new post-2020 initiative on Roma equality, inclusion and participation or in relation to any measures in
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	your country in 2020 to address Roma inclusion and prevent discrimination, hate crime and hate speech with a particular focus on COVID-19.
Title (original language)	Pachetul minim de servicii Dezvoltarea copiilor în sânul familiei și accesul la servicii medicale și la educație oferă cea mai bună șansă de reușită în viață
Title (EN)	The Minimum Package of Services - Children growing up in their families and with easy access to education and medical treatment ensures the best chance to be prepared for the future.
Organisation (original language)	UNICEF România
Organisation (EN)	UNICEF Romania
Government / Civil society	Inter-governmental organisation
Funding body	Inter-governmental funds
Reference (incl. url, where available)	<a href="https://www.unicef.org/romania/minimum-package-services">https://www.unicef.org/romania/minimum-package-services</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2017 ongoing
Type of initiative	Providing integrated social services
Main target group	Vulnerable children and their families
Indicate level of implementation: Local/Regional/National	Regional – county level in Bacău county
Brief description (max. 1000 chars)	The Minimum Package of Services (MPS) involves cooperation in community-based services in health, social protection and education. It is universal as every family can access it, but it focuses on the most vulnerable children and their families. The MPS has a

	<p>strong prevention component. A community nurse and a school counsellor work jointly in the communities. They go from door to door and identify the needs of every household. This information is collected through an innovative online tool called Aurora, which helps to use the data to identify solutions, offer direct counselling and information. In the poorest communities, including those with Roma populations, the MPS may also include a school mediator and a health mediator.</p>
<p>Highlight any element of the actions that is transferable (max. 500 chars)</p>	<p>The Minimum Package of Services (MPS) provides integrated access to healthcare, social protection and education. These can prevent, at a fraction of the cost, many of the issues affecting the most vulnerable children and their families: separation, lack of minimum welfare payments, violence, early pregnancies, illness, school dropout or absenteeism.</p>
<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<p>The social worker, community nurse, and school counsellor are hired by the town hall. They get to know the community and intervene where needed, monitoring the situation of each child and his/her family. This can be a continuous process that in time would produce good results.</p>
<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>In time, any important and constant interventions that relate to access to healthcare services, social protection and education have concrete measurable results: reducing early school dropout, improving health, and increasing integration in the labour market.</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>Locally based integrated intervention is the best way to provide services to vulnerable communities. Currently, even if individual services already exist (such as school mediators, health mediators, social workers), if they do not work together and are not coordinated in their interventions, the results remain isolated and with limited chances of success.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>The intervention brings together different stakeholders such as the mayoralities, NGOs and other community members to form a strong network of partners.</p>

<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>Information is collected through an innovative online tool called Aurora, which can be used to identify solutions, offer direct counselling and information and facilitates integrated service delivery planning and case management. The intervention in the 45 communities in Bacău has been independently evaluated every year and has proven to provide tangible results for tens of thousands of children, their families and communities.</p>
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<p><b>Thematic area</b></p>	<p><b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> Please, provide one example of a promising practice related to any of the topics addressed in the chapter – i.e. in relation to data protection, and/or artificial intelligence systems - in 2020.</p>
<p>Title (original language)</p>	<p>Institutul de Cercetare în Inteligență Artificială (ICIA)</p>
<p>Title (EN)</p>	<p>Artificial Intelligence Research Institute</p>
<p>Organisation (original language)</p>	<p>Universitatea Tehnică din Cluj-Napoca</p>
<p>Organisation (EN)</p>	<p>Technical University of Cluj-Napoca</p>
<p>Government / Civil society</p>	<p>University</p>
<p>Funding body</p>	<p>European funding - the specific source of the funding is not stated</p>
<p>Reference (incl. url, where available)</p>	<p><a href="https://www.utcluj.ro/media/documents/2020/Institutul_de_Cercetare_in_Inteligența_Ar_tificiala.pdf">https://www.utcluj.ro/media/documents/2020/Institutul de Cercetare in Inteligența Ar tificiala.pdf</a> also an article in English available at <a href="https://www.cms-lawnow.com/ealerts/2020/06/romania-cluj-napoca-to-develop-largest-ai-research-centre-in-eastern-europe">https://www.cms-lawnow.com/ealerts/2020/06/romania-cluj-napoca-to-develop-largest-ai-research-centre-in-eastern-europe</a></p>

Indicate the start date of the promising practice and the finishing date if it has ceased to exist	The start date is unclear from the publicly available information
Type of initiative	Creating a learning and research institute.
Main target group	Students and artificial intelligence researchers.
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>The Technical University of Cluj-Napoca (UTCN) received a grant of RON 80 million (€ 16.7 million) in European funding to establish the Artificial Intelligence Research Institute (ICIA) and build a 10,500 sqm research centre. The centre will include several labs and researchers will investigate cybernetic security, robotics, artificial intelligence and products relating to the internet of things.</p> <p>The institute is set to accommodate the following centres, each made up of several laboratories:</p> <ul style="list-style-type: none"> <li>• Centre for Fundamental Research and Technologies in Artificial Intelligence;</li> <li>• Centre for Research and Design of Intelligent Systems;</li> <li>• Centre for Research in Support Domains for Development of Applications and Intelligent Systems;</li> <li>• Centre for Research in Intelligent Applications in Cybersecurity and Cyberspace;</li> <li>• Centre for Research in Applications for Intelligent Cities Domain;</li> <li>• Centre for Research in Intelligent Medical Diagnostics; and</li> <li>• Centre for Development, Innovation and Technology Transfer.</li> </ul>

Highlight any element of the actions that is transferable (max. 500 chars)	This investment in research and learning facilities can help promote a wider understanding and use of artificial intelligence.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This institute will be linked to an established university and will benefit from the university's infrastructure helping to ensure it is a sustainable initiative.
Give reasons why you consider the practice as having concrete measurable impact	One of the direct measurables of this project will be the number of students and researchers who will use this infrastructure, although this information is not currently available.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	Investing in learning and research facilities will be key in developing artificial intelligence and the practical applicability of new technologies.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Not clear from the project description.
Explain, if applicable, how the practice provides for review and assessment.	Not clear from the project description.

<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b>
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	Please provide one example of a promising practice relating to the topics addressed in this chapter.
Title (original language)	Pachetului Minim de Servicii pentru copii și familiile acestora în fiecare comunitate rurală și urbană din România
Title (EN)	The Minimum Package of Services for children and their families in every rural and urban community in Romania
Organisation (original language)	Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții și ministerele de resort
Organisation (EN)	National Authority for the Rights of Persons with Disabilities, Children and Adoptions and several ministries
Government / Civil society	UNICEF
Funding body	Inter-governmental organisation and Government
Reference (incl. url, where available)	<a href="https://www.unicef.org/romania/minimum-package-services">https://www.unicef.org/romania/minimum-package-services</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Start date: 2015
Type of initiative	A pilot project initially funded through Norway grants and by UNICEF and carried out in collaboration with private actors, relevant public authorities and ministries, which led to a legal amendment introducing the minimum package of services among the services publicly available
Main target group	Vulnerable children and their families in both rural and urban areas
Indicate level of implementation: Local/Regional/National	National

<p>Brief description (max. 1000 chars)</p>	<p>The package was designed to prevent and address at an early stage problems such as violence, poverty, early pregnancy, preventable diseases, lack of access to financial benefits, institutionalisation and dropping out of school. In most cases, vulnerable children face not just one, but several of these challenges, a cross-sectoral approach being necessary.</p> <p>The minimum package of primary services must consist of:</p> <ul style="list-style-type: none"> <li>- information activities that are crucial for the identification of potential beneficiaries and for early intervention services;</li> <li>- needs assessments and service planning based on family and person-based approach;</li> <li>- information and counselling services aimed at families with social problems, people who have been subjected to domestic violence or neglected, single-parent families with low incomes, as well as young people at risk (young offenders, school dropouts and children from low-income households )</li> <li>- administrative support (such as assistance to beneficiaries in completing the application forms for the various types of benefits), as well as social, medical and legal assistance;</li> <li>- referral to specialised services;</li> <li>- monitoring of all persons in the community in vulnerable situations and visits to their homes.</li> </ul>
<p>Highlight any element of the actions that is transferable (max. 500 chars)</p>	<p>In practice, the Minimum Package of Service requires the presence in each community of at least one social worker, a community nurse and a school counsellor. In the poorest communities, including those with Roma populations, the Minimum Services Package may also include a school mediator and a health mediator. Working closely together, these professionals help vulnerable children and their families by assessing their needs and providing individualised support. The community team also works with other local actors, such as the town hall, NGOs and other community partners. Such services are vital for communities and contribute to the promotion of children’s rights.</p> <p>The amendment of the law of adopted in the context of the COVID-19 pandemic, which helped decision-makers realise that children and their families need help at the</p>

	community level to support their development and protection across the board, in normal situations as well as during crises, such as the one generated by the virus. <sup>1</sup>
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	In order to make this package available through public funding, nationwide, the Parliament adopted, on 13 October 2020, an amendment to the Social Assistance Law no. 292/2011. The law is to enter into force 90 days after its adoption, if promulgated by the President. The amendment was based on a pilot project running since 2015, in 45 rural and urban communities in the Bacău county and set up by UNICEF, together with local, regional and national authorities and relevant ministries, including the National Authority for the Rights of Persons with Disabilities, Children and Adoptions. <sup>2</sup> Given the service is to be awarded public funding by law, it is likely to be sustainable.
Give reasons why you consider the practice as having concrete measurable impact	The amendment to the law was adopted following a pilot project, which was independently reviewed. According to this review, it had the following outcomes: <sup>3</sup> <ul style="list-style-type: none"> <li>- all children identified as not having identification documents at the beginning of the pilot project now have them and are registered with a family doctor;</li> <li>- the number of unvaccinated children in the targeted community decreased by 40 %;</li> <li>- the number of adolescent mothers in the targeted community decreased by 50 %;</li> <li>- all preschoolers in the targeted community were enrolled in kindergarten;</li> <li>- school dropout in the targeted community was reduced by 60 %;</li> <li>- the number of children living in poverty-stricken households in the targeted community has fallen from 29 % to less than 1 %.</li> </ul>
Give reasons why you consider the practice as transferable to other settings and/or Member States?	The practice addressed the needs of vulnerable children and their families, being therefore relevant for any state where such groups exist.

<sup>1</sup> Edupedu, (2020), 'Children in rural areas will benefit from a Minimum Package of Basic Services in Health, Education and Social Protection – UNICEF' ([Copiii din mediul rural vor beneficia de un Pachet Minim de Servicii de bază în domeniul sănătății, educației și protecției sociale – UNICEF](#)), 14 October 2020.

<sup>2</sup> UNICEF, [The minimum package of services](#), last checked on 30 November 2020.

<sup>3</sup> Edupedu, (2020), Children in rural areas will benefit from a Minimum Package of Basic Services in Health, Education and Social Protection - UNICEF ([Copiii din mediul rural vor beneficia de un Pachet Minim de Servicii de bază în domeniul sănătății, educației și protecției sociale – UNICEF](#)), 14 October 2020.



Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The amendment of the law was based on a pilot project, which involved a variety of stakeholders, who have contributed to the design, planning, evaluation, implementation and review of the practice. It is not clear to what extent beneficiaries were involved in these processes and how will they be carried out once the service is to be made widely available.
Explain, if applicable, how the practice provides for review and assessment.	As emphasised above, the aspects targeted by this package are specific and easily measurable. Now that the package is likely to become a publicly funded service, authorities will have to develop a plan for review and assessment, which appears feasible but cannot be assessed at this stage.

<b>Thematic area</b>	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b> Please provide one example of a promising practice relating to the topics addressed in this chapter.
Title (original language)	<i>Scurte recomandări pentru siguranța persoanelor aflate în situații de violență domestică repetată, pe fondul restricțiilor impuse la nivel național pentru combaterea răspândirii COVID-19.</i>
Title (EN)	Brief recommendations for the safety of persons in situations of repeated domestic violence, amid restrictions imposed at national level to combat the spread of COVID-19.
Organisation (original language)	<i>Agentia Nationala Pentru Egalitate de Sanse Intre Femei si Barbati, ANES</i>
Organisation (EN)	National Agency for Equality Between Women and Men.
Government / Civil society	Government
Funding body	Public funding

Reference (incl. url, where available)	<a href="https://anes.gov.ro/scurte-recomandari-pentru-siguranta-persoanelor-aflate-in-situatii-de-violenta-domestica-repetata/">https://anes.gov.ro/scurte-recomandari-pentru-siguranta-persoanelor-aflate-in-situatii-de-violenta-domestica-repetata/</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	It is a one-off activity
Type of initiative	A brief guide for victims of domestic violence on what they can do to escape abusive situations.
Main target group	The main target group is victims of domestic violence
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The National Agency for Equality Between Women and Men published a set of recommendations for victims of domestic violence in the context of the Covid-19 crisis. It includes practical tips on how to navigate such a situation, how to seek help and escape it.
Highlight any element of the actions that is transferable (max. 500 chars)	Given that the number of domestic violence cases has risen it is important to invest in assisting victims escape abusive situations.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The advice shared by the agency applies beyond the current crisis. In addition, the agency itself is state funded and will be able to continue its services and provide support in the future as well.
Give reasons why you consider the practice as having concrete measurable impact	The agency shared data on how many people called the specialized number for victims of domestic abuse; a rise in calls might indicate the fact that more victims are aware of existing services and seek help.
Give reasons why you consider the practice as transferable to	Unfortunately, the rise in domestic violence is seen all over the EU and Member States need to confront this situation and assist victims escape abusive situations.

other settings and/or Member States?	
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	It is unclear from the presentations how the practice involves victims.
Explain, if applicable, how the practice provides for review and assessment.	It is unclear from the presentations how the practice provides for review and assessment.

<b>Thematic area</b>	<b>DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)</b>  Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.
Title (original language)	Facilitarea inserției pe piața muncii a persoanelor cu dizabilități
Title (EN)	Facilitating the entry of people with disabilities in to the labour market
Organisation (original language)	Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții (ANDPDCA); Agenția Națională pentru Ocuparea Forței de Muncă (ANOFM)
Organisation (EN)	The National Authority for the Rights of Persons with Disabilities, Children and Adoptions and the National Employment Agency
Government / Civil society	governmental organisations

Funding body	The Romanian Government and the European Union through European Structural and Investment Funds
Reference (incl. url, where available)	<a href="http://anpd.gov.ro/web/despre-noi/programe-si-strategii/facilitarea-insertiei-pe-piata-muncii-a-persoanelor-cu-dizabilitati/">http://anpd.gov.ro/web/despre-noi/programe-si-strategii/facilitarea-insertiei-pe-piata-muncii-a-persoanelor-cu-dizabilitati/</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Project start date: 23.05.2019 Project completion date: 23.05.2022
Type of initiative	Project co-financed by the European Social Fund through the Human Capital Operational Programme 2014-2020
Main target group	The long-term unemployed, the elderly (55-64 years old), people with disabilities and people with a low level of education
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>The project, which will be carried out over 36 months, offers support to people with disabilities to ensure their access to the general labour market. Such support includes addressing physical, informational and communication related barriers. The activities to be carried out include support being offered to people with disabilities in identifying and applying for jobs, support for employers in order to ensure the accessibility of workplaces for people with disabilities and subsidies for people with disabilities for the purchase of devices and assistive and access technologies. The expected results are:</p> <ul style="list-style-type: none"> <li>- 7,000 people with disabilities to be informed and advised on employment;</li> <li>- 200 persons with disabilities will benefit from the subsidies offered by the state to employers (the state contribution to their salaries for a determined period of time);</li> <li>- as many people as possible will receive the subsidies awarded through the project for devices and special technologies;</li> <li>- 200 adapted workspaces to be created;</li> </ul>

	- 1 campaign to inform beneficiaries about the purchase of assistive products to be carried out.
Highlight any element of the actions that is transferable (max. 500 chars)	The entire project constitutes a promising practice related to addressing problems faced by people with disabilities in the labour market. One element that is important is understanding that many people with disabilities will need assistive technologies and devices and the project offers them support in obtaining them by creating a list of available providers and providing subsidies to support people in purchasing them.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The practice is sustainable as it provides people with knowledge on how to identify and apply for jobs, it provides subsidies for acquiring assistive technologies and other devices and it ultimately leads to people obtaining jobs. Therefore, a number of the beneficiaries of the project will, beyond its completion, have valuable knowledge on how to search for jobs, be owners of vital assistive technologies and devices or have a job.
Give reasons why you consider the practice as having concrete measurable impact	<p>The project includes measurable targets, which are being reviewed regularly. For example, it was found that in the period 01.05.2020 - 31.08.2020, the following has been achieved:</p> <ul style="list-style-type: none"> <li>- 103 people included in the target group received support (information services and vocational counselling, employment mediation or vocational training);</li> <li>- 67 people with disabilities requested subsidies for assistive technologies and devices; 51 of them received the requested subsidies;</li> <li>- 8 people with disabilities were employed;</li> <li>- the list of 13 suppliers/manufacturers of assistive technologies and devices has been updated and made available on <a href="http://www.andpdca.gov.ro">www.andpdca.gov.ro</a>;</li> <li>- information bulletins were produced and sent monthly for the communication of information regarding the progress made.</li> </ul>
Give reasons why you consider the practice as transferable to	People with disabilities face problems accessing the labour market in the EU and are, consequently, more likely to live in poverty and encounter significant difficulties in living

other settings and/or Member States?	and independent life. For this reason, collaboration between Government bodies and the labour market is essential.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Lack of sufficient information to provide such explanation.
Explain, if applicable, how the practice provides for review and assessment.	Lack of sufficient information to provide such explanation.

## Annex 2 – Case Law

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one high court decision addressing discrimination against older people or against LGBTI people. Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report.
<b>Decision date</b>	09.10.2019 (communicated in 2020)
<b>Reference details</b>	National Council for Combating Discrimination, NCCD ( <i>Consiliul Național pentru Combaterea Discriminării</i> , CNCD), Decision no.690 of 09.10.2019
<b>Key facts of the case</b> (max. 500 chars)	The case concerns the director of the Focșani Popular Athenaeum, who withdrew his approval for a public youth event three days prior to the date when it was supposed to take place, because on the list of speakers for the conference was Mr. Patrick Brăila, a trans man, who is a trans activist and the co-president of the NGO ACCEPT. In discussions with the organisers, who were high school students, and with a journalist, the director indicated that the reason for cancelling the hosting of the event was gender identity: “we are a serious institution... I am not going to admit in the Athenaeum discussions on homosexuality, lesbianism, transgender and so forth.” He also admitted receiving calls from the local archbishop of the Orthodox Church, the head of the county school inspectorate, the dean of the local bar association and one of the leaders of the Coalition for Family who incited him to cancel the event.
<b>Main reasoning/argumentation</b> (max. 500 chars)	The treatment was degrading because it touched upon human dignity of Mr Patrick Brăila. The NCCD found that the treatment was aimed at lowering his social status, his situation or reputation because it reached a certain degree of seriousness. The NCCD found a causality link between the refusal to host the event and the ground of discrimination (the sexual orientation of one of the speakers). As to the allegations of incitement to discriminate on the part of local opinion leaders and influencers, the NCCD qualified their behaviour and expressed the opposite opinion, stating that they did not influence the decision, which was taken by the head of the Athenaeum by himself.

<p><b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)</p>	<p>The case explains what constitutes degrading treatment and the connection between the refusal to host an event and the gender identity of one of the speakers at the event. The NCCD misinterprets the ECtHR jurisprudence, by imposing the condition that the behaviour should be intentional in order to qualify as degrading treatment.</p> <p>The NCCD does not manage to differentiate between sexual orientation and gender identity as grounds of discrimination, referring to both sexual orientation as a ground of discrimination and to the claimant, Patrick Brăila, being a transgender man. At the same time, the head of the Athenaeum, who made the statements, was also not clear on the difference between the groups and uses the general acronym "LGBT".</p> <p>The NCCD missed the opportunity to analyse and apply in this case the definition of incitement to discriminate in the context of political influence exercised at the local level by the key community leaders.</p>
<p><b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)</p>	<p>The NCCD found that the decision to cancel the event and the refusal to provide the public space amounts to discrimination in access to public venues and a breach of dignity and punished the head of the Athenaeum with a fine of RON 1,000 (approx. EUR 200). At the same time, the NCCD did not find the local authorities responsible for incitement to discriminate, in spite of their pressure on the director of the Athenaeum and on the organisers and in spite of the online hate campaign that targeted Patrick Brăila during and following the event. The head of the Athenaeum appealed the decision and the case is pending in front of the Court of Appeal of Galați.</p>
<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p>"Colegiul director reține legătura de cauzalitate dintre refuzul găzduirii evenimentului și criteriul care stă la baza faptei de discriminare, respectiv orientarea sexuală a unor dintre participanți/vorbitori. Nu încapă îndoială că refuzul a stat la baza orientării sexuale a petenților.</p> <p>Astfel, față de reclamatul Valentin Gheorghită, Colegiul director reține fapta de discriminare săvârșită prin încălcarea prevederilor art.2 alin.1, art.10 lit.e și art.15 din OG nr.137/2000, republicată.</p> <p>În ceea ce-I privește pe ceilalți reclamați, Colegiul director nu reține fapta de instigare la discriminare. Dacă părinții elevilor ori Înaltpresfințitul Părinte Ciprian nu au îmbrățișat idea desfășurării unui eveniment ce poate avea ca temă educarea tinerilor despre rolurile de gen, nu înseamnă că au săvârșit o faptă de discriminare. Decizia a stat la Directorul Ateneului, care, de altfel, a și refuzat desfășurarea evenimentului când a înțeles că unul dintre vorbitori este transgender.</p>



	<p>Potrivit jurisprudenței Curții Europene a Drepturilor Omului, tratamentul este calificat ca fiind “degradant” dacă a cauzat victimelor sentimente de teamă, de neliniște și de inferioritate, de natură a le umili și a le înjosi. Or, în prezenta speță simpla părere a unor părinți ori a unui Preot, care prin prisma credinței și meseriei sale nu acceptă o altă orientare sexuală, nu presupune intenția de a discredita ori de a îngrădi demnitatea altor persoane.”</p> <p>“The Steering Board finds there is a causality link between the refusal to host the event and the ground of discrimination, in particular the sexual orientation of one of the speakers. It is clear that the basis for the refusal was the claimant’s sexual orientation. Thus, with respect to the defendant Valentin Gheorghiuță, the Steering Board finds discrimination by breaching the provisions of Art.2.(1), Art.10.(e) and Art.15 of the GO no.137/2000, republished.</p> <p>With respect to the other defendants, the Steering Board does not find incitement to discrimination. If the pupils’ parents or His Holiness Ciprian did not embrace the idea of hosting an event that addresses youth education on gender roles, it does not mean that this is discrimination. The decision lay with the head of the Athenaeum, who refused to host the event when he understood that one of the speakers is transgender.</p> <p>According to the jurisprudence of the European Court of Human Rights, the treatment is “degrading” if it caused the victims feelings of fear, anguish, anxiety, and inferiority capable of humiliating and debasing them. Or, as in the current case, the simple opinion of certain parents or of a Priest, that is based on belief or profession, not to accept another sexual orientation, does not imply the intention to discredit or restrict the dignity of other persons.”</p>
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<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE.</b> Please provide the most relevant high court decision concerning the application of <u>either</u> the Racial Equality Directive <u>or</u> the Framework Decision on racism and xenophobia, addressing racism, xenophobia and other forms of intolerance more generally.
<b>Decision date</b>	20.02.2020

<b>Reference details</b>	High Court of Cassation and Justice, Decision No.1015/2020 of 20.02.2020
<b>Key facts of the case</b> (max. 500 chars)	Since 2004, when school building C was taken over by Haşdeu School in Iaşi municipality, the Roma children living in that neighbourhood were systematically assigned to study in school building C, allegedly closer to their home, and this building predominantly hosted Roma pupils, while other school buildings B and E were hosting predominantly non-Roma primary education pupils.
<b>Main reasoning/argumentation</b> (max. 500 chars)	As long as there are two other school buildings in which Roma children can study with other non-Roma children, it is not justified that the school administration deliberately directed them to school building C, because this constitutes segregation according to Article 4 of Annex 1 of the Ministry of Education Order No.1540/2007.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	First, the Court found that the Anti-discrimination Law provisions apply in segregation cases in corroboration with secondary legislation issued by the Ministry of Education on desegregation (at the time, Ministry of Education Order No.1540/2007). Secondly, the Court found that it is irrelevant that the pupils do not self-identify as being Roma, since it is notorious that the pupils studying in the particular school building are Roma. Thirdly, the Court found the geographical proximity criterion for allocating children to certain school buildings to be an unacceptable justification and the very definition of an act of ethnic segregation, based on the Ministry of Education Order No.1540/2007 applicable in the case.
<b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)	The Court quashed the decision of the Court of Appeal of Iaşi and upheld the NCCD decision to punish Haşdeu School and Iaşi County School Inspectorate for a grave act of discrimination based on the argument that after more than 12 years since taking over the neighbourhood school, the defendants did not take measures to desegregate, but perpetuated the old practice of segregation – the school did not draft a plan to implement desegregation measures, based on an agreement with parents and the local administration.
<b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)	"În concluzie, Înalta Curte constată că de la preluarea Corpului C al clădirii în anul 2004 și cel puțin până la emiterea Hotărârii nr.769/ 07.12.2016, reclamantii nu au reușit să rezolve problema segregării copiilor de etnie romă, prin măsuri de desegregare, dimpotrivă, au perpetuat aceeași situație anterioară, fapta reprezentând o formă gravă de discriminare.

	<p>Intimații-reclamanți nu au luat nicio măsură, astfel cum prevede art.7 din Anexa 1 la Ordinul nr.1540/2007, nu au elaborate un plan de implementare a desegregării, elaborate pe baza acordului și prin colaborare cu părinții și autoritățile locale.</p> <p>Față de acestea, Înalta Curte reține că sunt îndeplinite condițiile prevăzute de art.11 și 15 din OG nr.137/2000, fapta săvârșită reprezintă contravenție, iar cuantumul amenzii aplicate este proportional cu gravitatea discriminării produse.”</p> <p>“In conclusion, the High Court finds that since taking over school building C in 2004, at least until Decision No.769/ 07.12.2016 was issued, the complainants have not managed to solve the problem of segregation of Roma children, by taking measures to desegregate. On the contrary, they perpetuated the old situation, which represents a grave form of discrimination.</p> <p>The repondents-complainants did not take any measure in accordance with Article 7 of Annex 1 of the Order No.1540/2007; they did not draft a plan of action for desegregation, based on agreement and collaboration with parents and local authorities.</p> <p>Taken the above-mentioned into account, the High Court finds that the conditions prescribed by Articles 11 and 15 of the GO No.137/2000 are fulfilled and the facts constitute an administrative offence, and the amount of the fine ordered is proportionate with the seriousness of the act of discrimination committed.”</p>
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<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> Please provide the most relevant high court decision addressing violations of fundamental rights of Roma and Travellers.
<b>Decision date</b>	20.02.2020
<b>Reference details</b>	High Court of Cassation and Justice, Decision No.1015/2020 of 20.02.2020
<b>Key facts of the case</b> (max. 500 chars)	Since 2004, when school building C was taken over by Hașdeu School in Iași municipality, the Roma children living in that neighbourhood were systematically assigned to study in school building C, allegedly closer to their home, and this building predominantly hosted

	Roma pupils, while other school buildings B and E were hosting predominantly non-Roma primary education pupils.
<b>Main reasoning/argumentation</b> (max. 500 chars)	As long as there are two other school buildings in which Roma children can study with other non-Roma children, it is not justified that the school administration deliberately directed them to school building C, because this constitutes segregation according to Article 4 of Annex 1 of the Ministry of Education Order No.1540/2007.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	First, the Court found that the Anti-discrimination Law provisions apply in segregation cases in corroboration with secondary legislation issued by the Ministry of Education on desegregation (at the time, Ministry of Education Order No.1540/2007). Secondly, the Court found that it is irrelevant that the pupils do not self-identify as being Roma, since it is notorious that the pupils studying in the particular school building are Roma. Thirdly, the Court found the geographical proximity criterion for allocating children to certain school buildings to be an unacceptable justification and the very definition of an act of ethnic segregation, based on the Ministry of Education Order No.1540/2007 applicable in the case.
<b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)	The Court quashed the decision of the Court of Appeal of Iași and upheld the NCCD decision to punish Hașdeu School and Iași County School Inspectorate for a grave act of discrimination based on the argument that after more than 12 years since taking over the neighbourhood school, the defendants did not take measures to desegregate, but perpetuated the old practice of segregation – the school did not draft a plan to implement desegregation measures, based on an agreement with parents and the local administration.
<b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)	<p>“În concluzie, Înalta Curte constată că de la preluarea Corpului C al clădirii în anul 2004 și cel puțin până la emiterea Hotărârii nr.769/ 07.12.2016, reclamantii nu au reușit să rezolve problema segregării copiilor de etnie romă, prin măsuri de desegregare, dimpotrivă, au perpetuat aceeași situație anterioară, fapta reprezentând o formă gravă de discriminare. Intimații-reclamanți nu au luat nicio măsură, astfel cum prevede art.7 din Anexa 1 la Ordinul nr.1540/2007, nu au elaborate un plan de implementare a desegregării, elaborate pe baza acordului și prin colaborare cu părinții și autoritățile locale. Față de acestea, Înalta Curte reține că sunt îndeplinite condițiile prevăzute de art.11 și 15 din OG nr.137/2000, fapta săvârșită reprezintă contravenție, iar cuantumul amenzii aplicate este proportional cu gravitatea discriminării produse.”</p> <p>“In conclusion, the High Court finds that since taking over school building C in 2004, at least until Decision No.769/ 07.12.2016 was issued, the complainants have not managed to solve the problem of segregation of Roma children, by taking measures to desegregate. On</p>

	<p>the contrary, they perpetuated the old situation, which represents a grave form of discrimination.</p> <p>The respondents-complainants did not take any measure in accordance with Article 7 of Annex 1 of the Order No.1540/2007; they did not draft a plan of action for desegregation, based on agreement and collaboration with parents and local authorities.</p> <p>Taken the above-mentioned into account, the High Court finds that the conditions prescribed by Articles 11 and 15 of the GO No.137/2000 are fulfilled and the facts constitute an administrative offence, and the amount of the fine ordered is proportionate with the seriousness of the act of discrimination committed.”</p>
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<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> Please provide the most relevant high court decision related to the topics addressed in the chapter, i.e. in relation to data protection, and/or artificial intelligence systems.
<b>Decision date</b>	18 February 2020
<b>Reference details</b>	Romania, Constitutional Court decision no. 83 of 18 February 2020, available in Romanian at <a href="http://legislatie.just.ro/Public/DetaliiDocumentAfis/223796">http://legislatie.just.ro/Public/DetaliiDocumentAfis/223796</a>
<b>Key facts of the case</b> (max. 500 chars)	The Romanian Ombudsman ( <i>Avocatul Poporului</i> ) challenged before the Constitutional Court an emergency ordinance adopted by the Government that would institute the obligation to identify buyers when purchasing pre-paid phone cards.
<b>Main reasoning/argumentation</b> (max. 500 chars)	The Constitutional Court found that Emergency Ordinance no. 62/2019 was unconstitutional, because the Government failed to argue for the urgency of these modifications and to show why there was a need for an emergency ordinance and not regular legislation adopted by the Parliament. The Government even postponed the application of the emergency ordinance twice, which shows that there was no real urgency in passing this legislation.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	The main issue raised in this case related to the circumstances in which the Government can issue emergency ordinances, bypassing regular parliamentary legislative means.

<b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)	By finding the emergency ordinance unconstitutional, the Constitutional Court struck down this piece of legislation.
<b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)	<p>45. [...] <i>Curtea reține că referitor la prelucrarea datelor cu caracter personal și protecția vieții private în sectorul comunicațiilor electronice, respectiv în serviciile de telefonie destinate publicului la puncte mobile, pentru care plata se face în avans [...] legea trebuie să cuprindă „norme clare și precise cu privire la conținutul și aplicarea măsurii reținerii și utilizării, așa încât persoanele ale căror date au fost păstrate să beneficieze de garanții suficiente care să asigure o protecție eficientă împotriva abuzurilor și a oricărui acces sau utilizări ilicite”[...].</i></p> <p>45. [...] the Court notes that with regard to the processing of personal data and the protection of privacy in the electronic communications sector and in mobile phone services, for which payment is made in advance [...], the law must include “clear and precise rules on the content and application of the measure of retaining and using (the data), so that persons whose data have been retained enjoy sufficient safeguards to ensure effective protection against abuse and any unlawful access or use “[...]”.</p>

<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> Please provide the most relevant high court decision relating to the topics addressed in this chapter.
	No case law has been identified for this thematic area.

<b>Thematic area</b>	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b> Please provide the most relevant high court decision relating to the topics addressed in this chapter.
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	No case law has been identified for this thematic area.
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<b>Thematic area</b>	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.
<b>Decision date</b>	16 July 2020
<b>Reference details</b>	The judgment was issued in File no. 695D/2017, in an application submitted by Mr Nabosnyi Alexandru Stefan Francisc. The judgment has yet to be drafted and is therefore not available now. However, a press release about it was made available on 16 July 2020. <sup>1</sup>
<b>Key facts of the case</b> (max. 500 chars)	The case was brought before the Constitutional Court by an individual claiming Article 164(1) of the Romanian Civil Code, which had applied to him, was unconstitutional. According to this article, <i>"the person who does not have the necessary discernment to take care of his interests, due to alienation or mental weakness, will be placed under judicial interdiction"</i> . The Constitutional Court admitted the request and declared the article of the Civil Code unconstitutional.
<b>Main reasoning/argumentation</b> (max. 500 chars)	According to the press release issued in relation to the decision, <sup>2</sup> the Civil Code article did not provide sufficient guarantees to ensure respect for fundamental rights and freedoms, as required by the Romanian Constitution, interpreted in view of Article 12 of the CRPD. It found that the article in question did not take into account the fact that there may be different degrees of disability or that the person's interests can be diverse. The Court therefore held that any safeguard measure to be adopted in the future must be proportionate to the degree of capacity, be adapted to the person's life, apply for the shortest period of time, be reviewed periodically and should take into account the will and preferences of individuals with disabilities. The legislature must also take into account the

<sup>1</sup> Romania, Constitutional Court (*Curtea Constituțională*), (2020) [Comunicat de presă, 16 iulie 2020](#), press release, 16 July 2020.

<sup>2</sup> Romania, Constitutional Court (*Curtea Constituțională*), (2020) [Comunicat de presă, 16 iulie 2020](#), press release, 16 July 2020.

	<p>fact that there may be different degrees of disability, and that mental deficiency may vary over time.</p> <p>According to the Court, everyone must be free to act in order to develop his/her personality, and the state has the obligation to regulate a normative framework that ensures the respect of the individual, the full expression of personality, of rights and freedoms and of equal opportunities, resulting in the respect of human dignity.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)</p>	<p>Not yet available</p>
<p><b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)</p>	<p>Romania is undergoing a reform of its guardianship systems. This decision of the Constitutional Court can play a major role in this reform, having the potential to ensure that the guardianship system will be replaced with a system that fully respects the principles emphasised in Article 12 of the CRPD, respecting the will and preferences of people with disabilities, while offering them the tailored support that they might need.</p>
<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p>Not yet available.</p>