

# EXECUTIVE SUMMARY

Romania is a constitutional republic with a democratic, multiparty parliamentary system. The bicameral parliament consists of the Senate and the Chamber of Deputies, both elected by popular vote. In 2014 the country held presidential elections in which electoral observers noted irregularities, including insufficient polling stations for the large diaspora community. In contrast, the country held parliamentary elections in December 2016, which observers generally considered to be free and fair and without irregularities.

Civilian authorities maintained effective control over the security forces.

Major human rights problems included police and gendarme mistreatment and harassment of detainees and Roma. Government efforts to address systemic corruption continued, but it remained a widespread problem. Systematic societal discrimination against Roma affected their access to adequate education, housing, health care, and employment.

Other human rights problems included poor prison conditions and overcrowding. The judiciary lacked sufficient personnel, physical space, and technology to function efficiently. The government failed to take effective action to return Greek Catholic and other churches confiscated by the communist-era government. There were continued reports of violence and discrimination against women. There were some anti-Semitic acts and statements, and Holocaust denial continued to be a problem. Anti-Semitic, racist, xenophobic, and nationalistic views continued to be disseminated via the internet. Government agencies provided inadequate assistance to persons with disabilities and did not respect standards of care for persons with disabilities in institutions, exposing them to abuse. Societal discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons, particularly children, remained at high levels. Persons with HIV/AIDS continued to be subject to discrimination and harassment. Employers subjected men, women, and children to labor trafficking, particularly in agriculture, construction, domestic service, hotels, and manufacturing. Child labor was also a problem, and inadequate protection of children against abuse remained a general problem.

The judiciary took steps to prosecute and punish officials who committed abuses. Authorities repeatedly delayed lawsuits involving alleged police abuse, which in many cases resulted in acquittals.

## SECTION 1. RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

### a. Arbitrary Deprivation of Life and other Unlawful or Politically Motivated Killings

There were no reports that the government or its agents committed arbitrary or unlawful killings.

As of September 20, the trial of police officer George Stefan Isopescu was pending before the Bucharest Court of Appeals after the Bucharest Tribunal sentenced him to seven years'

imprisonment for aggravated battery leading to death. In 2014 Isopescu, who was working at Bucharest Precinct 10, allegedly beat to death a 26-year-old Romani man, Daniel Gabriel Dumitrache, who worked as a “parking boy,” earning income by finding parking spaces for drivers in exchange for tips.

In 2012 the Institute for Investigating Communist Crimes and the Memory of the Romanian Exile received authority to initiate criminal investigations of communist-era crimes discovered through its research. On February 10, in a final ruling, the High Court upheld a 20-year prison sentence for crimes against humanity given in 2015 to former communist-era prison official Alexandru Visinescu, whose trial began in August 2014 at the request of the institute. On March 30, the Bucharest Court of Appeals sentenced another such official, Ion Ficior, who ran a communist forced labor camp, also to 20 years in prison for inhuman treatment. The sentence was appealed before the High Court and remained pending as of mid-October.

## b. Disappearance

There were no reports of politically motivated disappearances.

## c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices, but there were reports from nongovernmental organizations (NGOs) and media that police and gendarmes mistreated and abused prisoners, pretrial detainees, Roma, and other vulnerable persons, including homeless persons, women, sex workers, and substance users, primarily with excessive force, including beatings. Media reported various instances of such abuse throughout the year. In most cases, the police officers involved were exonerated.

The NGO Romani Center for Social Intervention and Studies (CRISS) stated that, in 43 cases of police brutality against Roma it documented over the previous 10 years, there were no convictions at the national level, in part because of prosecutorial decisions not to send the cases to court. Racism was not investigated as a motive in any of the cases. The European Court of Human Rights (ECHR) ruled in a number of cases after finding the justice system had failed to deliver a just outcome, including cases of police brutality, particularly against Roma, and cases involving abuses in psychiatric hospitals. At the national level, the average time for resolving a case involving police abuse of Roma was 3.76 years, with another five years on average before the ECHR.

On June 6, media showed images of police in the middle of Bucharest beating and taunting a naked man, whose hands and feet were in restraints. The victim was later committed to a psychiatric hospital. Police announced they would conduct an investigation, which was still pending at year's end.

In May 2015 the Association for the Defense of Human Rights-Helsinki Committee (APADOR-CH) published a report on the situation in Racos, Brasov County, where a Romani community of more than 1,200 persons was located. Community members complained that police had terrorized and repeatedly beaten them over the previous three years and that the Brasov prosecutor's office had handled their complaints improperly, closing all cases. In addition, four men, two wearing overalls and the other two balaclavas, reportedly beat a civil activist who was advising members of the community on how to file complaints. As of September, the case was still pending before the Brasov Tribunal, with the head of the local police among the defendants.

## Prison and Detention Center Conditions

Prison conditions remained harsh and did not meet international standards. The abuse of prisoners by authorities and other prisoners reportedly continued to be a problem. According to media, NGO and ombudsperson reports, guards assaulted prisoners and at times prisoners assaulted and abused fellow inmates. In March the government adopted new regulations for prisons and pretrial arrest, detention, and confinement, bringing prison regulations in line with criminal legislation in force since 2014.

Physical Conditions: According to official figures, overcrowding was a problem, particularly in a number of prisons that did not meet the standard of 43 square feet per prisoner set by the Council of Europe's Committee for the Prevention of Torture. As of July, the country held 28,278 persons in prisons that had space for only 18,826. While observers noted some improvements in certain areas--mainly in existing spaces or as a consequence of greater spending on repair and retrofitting--conditions remained generally poor within the prison system.

In July protests broke out and spread to about one-half of the country's prisons for several days due to poor living conditions. Protesters went on hunger strikes, burnt mattresses, and threw bottles at guards. Four inmates from Giurgiu maximum-security penitentiary filed a complaint with the penitentiary administration, claiming they had been severely beaten by unidentified assailants wearing balaclavas, at the instruction of guards, retaliating after the protests. An investigation by the National Penitentiary Administration (NPA) was pending. A team from the ombudsperson's office also made visits to penitentiaries in Iasi and Botosani during the protests and found that specially trained prison guards used beatings during their interventions to stop the protests. Guards also used tear gas in Iasi. Authorities transferred 53 prisoners from Iasi and 46 from Botosani, whom they considered to be instigators, to other penitentiaries. Inmates in Iasi told the ombudsperson's team they were afraid to talk for fear of reprisals. As of September, five complaints against penitentiary staff had been lodged with the NPA for actions falling under the category of crimes against life, torture, or other cruel and inhuman treatment. The NPA sent the complaints to prosecutors, who dismissed one case; the other four remained pending. Also, inmates filed another 15 complaints with NPA for abusive behavior by staff. Of these, prosecutors dismissed nine and six were in the process of being resolved. Inmates can also file complaints directly with prosecutors. Statistics were not available.

According to reports by the NPA, in the first eight months of the year, 58 persons died in prisons, three from suicide and 55 from various illnesses.

In September and October, penitentiary staff began protests over poor working conditions related to too many overtime hours without pay and not being able to take annual leave due to a chronic staffing shortage. They also asked for equity in salary with other professionals in the defense and public-order sectors, in accordance with the law.

In April the government adopted an investment plan through 2023 to improve living conditions and create additional space in prisons. The plan was adopted to avoid a potential ECHR decision that could halt all cases related to prison conditions until the systemic situation is remedied. In October Justice Minister Raluca Pruna stated she had lied to the ECHR when she reported that the government had money for penitentiaries, noting that the documentation she had been provided was not based on actual budgetary allocations. Following these statements, the Chamber of Deputies called for Pruna to step down via a nonbinding vote. Pruna countered that only the prime minister could ask for her resignation, which did not happen. As of August, 371 new spaces for prisoners had been created.

A number of prisons provided insufficient medical care, and food quality was poor and sometimes insufficient in quantity. The standard food allotment was less than 17 lei (four dollars) per day per inmate. In some prisons, heating and ventilation were inadequate. While noting improvements at some prisons, APADOR-CH reported that most were overcrowded and that a number of them had inadequate conditions, including insufficient medical care, poor food quality, mold in kitchens and cells, understaffing, an insufficient number of bathrooms, poor hygiene, insects, an insufficient number of doctors (including no psychologists in some prisons), lack of work opportunities, and insufficient educational activities.

APADOR-CH stated that most police pretrial detention facilities had inadequate conditions, particularly in terms of hygiene and overcrowding. Such facilities were often located in basements and had no natural light and inadequate sanitary and water accommodations. In some pretrial facilities and prisons, there was no possibility for confidential meetings between detainees and their families or attorneys. APADOR-CH also criticized the lack of adequate treatment with substitute substances for former drug addicts, and the lack of HIV and hepatitis prevention measures.

As of mid-July 2016, the ECHR ruled in 11 cases against Romania and ordered 287,700 euros (\$316,000) to be paid to victims. Also, in 20 cases, settlements were reached that paid a total of 720,570 euros (\$793,000) to victims and, in one case, there was a unilateral declaration acknowledging the violation with 12,600 euros (\$13,900) to be paid to victims.

Administration: Independent authorities did not always investigate credible allegations of inhuman conditions.

Independent Monitoring: The government permitted monitoring visits by independent human rights observers, and such visits occurred during the year. The ombudsperson also visited prisons as part of his new mandate to monitor places where persons are confined.

## d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally respected these prohibitions.

## ROLE OF THE POLICE AND SECURITY APPARATUS

The Ministry of Internal Affairs is responsible for the General Inspectorate of the Romanian Police; the gendarmerie; the border police; the Department of Intelligence and Internal Protection (DIPI), which oversees the collection of intelligence on organized crime and corruption; and the Directorate General for Anticorruption. The prime minister appoints the head of DIPI. The General Inspectorate of the Romanian Police is divided into functional directorates, and there are 42 regional directorates, one for each county and the city of Bucharest. Internal disciplinary councils at the work locations of accused police officers handle complaints of misconduct.

The Romanian Intelligence Service (SRI), the country's domestic security agency, investigates terrorism and national security issues. The president nominates and parliament confirms the SRI director. SRI submits annual activity reports to parliament, which has a standing committee for SRI oversight. Some observers, however, regarded this committee as lacking independence and as ineffective in conducting meaningful oversight of SRI.

Impunity was a problem. Police were frequently exonerated of allegations of beatings and other cruel, inhuman, or degrading treatment (see section 1.c.). Police corruption contributed to citizens'

lack of respect for police and a corresponding disregard for their authority. Low salaries and the absence of incentives and bonuses led to personal financial difficulties and contributed to making individual law enforcement officials susceptible to bribery. Authorities referred instances of high-level corruption to the Directorate General for Anticorruption within the Ministry of Internal Affairs.

In September a court ordered police to provide, free of charge, their stop-and-search procedures to an NGO that had requested them. The procedures were used to identify persons, take fingerprints and photographs, perform body and bag searches, and “administratively take” persons to a police station. APADOR-CH had previously requested the procedures, but police claimed the information was classified. The NGO sued under the freedom of information act. In court, police argued they did not provide the procedures in order to prevent criminals from gaining knowledge of police methods. APADOR-CH later found the procedures in a book prefaced by former interior minister Petre Toba, meaning they were available via other, open-source means. The Bucharest court ruled that police had to give the procedures to the NGO, as a matter of access to public information. As of October, police had not provided the information, and the NGO was preparing to file another suit to force execution.

## ARREST PROCEDURES AND TREATMENT OF DETAINEES

The law provides that only judges may issue detention and search warrants, and the government generally respected this provision. The law requires authorities to inform detainees at the time of their arrest of the charges against them and their legal rights, including the right to remain silent and the right to an attorney. Police must notify detainees of their rights in a language they understand before obtaining a statement. Authorities must bring detainees before a court within 24 hours of arrest. Although authorities generally respected these requirements, there were some reports of abuses during the year. Pending trial, if the alleged offender does not pose any danger to conducting the trial, there is no concern of flight or commission of another crime, and if the case does not present a “reasonable suspicion” that the person would have committed the offense, the investigation is conducted with the alleged offender at liberty. Depending on the circumstances of the case, aside from pretrial detention, the law provides for home detention and for pretrial investigation under judicial supervision, meaning, among other provisions, that the person must report regularly to law enforcement. A jail system also exists, but it was seldom used. Detainees have the right to counsel and, in most cases, had prompt access to a lawyer of their choice. Authorities provided indigent detainees legal counsel at public expense. The arresting officer is also responsible for contacting the detainee’s lawyer or, alternatively, the local bar association to arrange for a lawyer. The detainee has the right to meet privately with counsel before the first police interview. A lawyer may be present during the interview or interrogation. Detainees also had prompt access to their families.

The law allows police to take an individual to a police station without a warrant for endangering the public or other individuals or disrupting public order. There were allegations that police often used this provision to hold persons for up to 24 hours. Since those held in such cases were not formally detained or arrested, authorities determined their right to counsel did not apply. APADOR-CH criticized this provision as leaving room for abuse.

Pretrial Detention: A judge may order pretrial detention for periods up to 30 days, depending on the status of the case. While a court may extend this period in 30-day increments, total pretrial detention may not exceed 180 days. Under the law, detainees may hold courts and prosecutors liable for unjustifiable, illegal, or abusive measures. According to human rights NGOs, in many cases authorities automatically extended pretrial detention, even if the reasons for the original arrest no longer existed. APADOR-CH conducted research into how preventive arrest is determined and

found it was the most common pretrial preventive measure ordered. Most decisions in such cases were upheld upon judicial review, and courts rarely considered more lenient measures.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Any measure taken against an alleged offender pending trial, including pretrial detention, home arrest, or judicial supervision, may be contested before a court different from the one that ordered it, within 48 hours. The new court must rule on the contestation within five days of registration. The contestation is lodged with the court that ordered the measure, which must forward it, together with the case file, to the next-level court, also within 48 hours. Contesting such a measure does not suspend its execution. The prosecutor must be present when the court rules on the contestation, and the alleged offender must be assisted by a lawyer, either of the offender's choice or provided by the state.

## e. Denial of Fair Public Trial

The constitution provides for an independent judiciary. The government generally respected judicial independence but failed to provide sufficient personnel, physical space, and technology to enable the judiciary to act swiftly and efficiently, thereby resulting in excessively long trials.

The Superior Council of Magistrates (CSM) is the country's judicial governance body. It generally maintained transparency of operations and acted promptly to suspend judges and prosecutors suspected of legal violations. The number of high-level corruption trials remained steady during the year.

## TRIAL PROCEDURES

The constitution and the law provide for the right to a fair public trial, and an independent judiciary generally enforced this right.

Under the law, defendants enjoy the right to the presumption of innocence, have the right to be informed promptly and in detail of the charges against them, and have the right to free linguistic interpretation if necessary from the moment charged through all appeals. Trials are open to the public and should take place without undue delay, but in many cases delays occurred because of the heavy caseload or procedural inconsistencies. Defendants have the right to be present at trial. The law provides for the right to counsel and the right to consult an attorney in a timely manner. The law requires that the government provide an attorney to juveniles in criminal cases; the Ministry of Justice paid local bar associations to provide attorneys to indigent clients. Defendants may confront or question witnesses against them (unless the witness is an undercover agent), present witnesses and evidence on their own behalf, and have a court-appointed interpreter. The law generally provides for the right of defendants and their attorneys to view and consult case files. The prosecution may restrict access to evidence for reasons such as victim's rights and national security. Both prosecutors and defendants have a right of appeal. Defendants may not be compelled to testify against themselves and have the legal right to abstain from making statements with no negative legal consequence. Prosecutors may use any statements by defendants against them in court.

The law allows for home detention using electronic monitoring devices, but the government did not procure such devices. A judge may detain a person for up to five years during a trial, which is deducted from the prison sentence if the person is convicted. Arrests generally took place during the investigative phase rather than during the trial phase. The law separates the roles of various types of judges, including the preliminary judge, who examines evidence and pretrial motions; the judge for rights and liberties, who seeks to ensure the defendant's constitutional rights are not violated; and

the trial judge, who is legally required to be separate from the judge for rights and liberties. Some courts, however, lacked a sufficient number of judges to separate these functions.

Prosecutors may introduce evidence, including evidence acquired from wiretaps, during their investigations and in their indictments. Media often reported this information, especially in high-level corruption cases. Some judges and human rights advocates complained that excessive media coverage of arrests and the use of pretrial detention resulted in unfair justice. Some prosecutors and judges complained to the CSM that media outlets and politicians' statements damaged their professional reputations. The CSM determined some politicians' public statements infringed on judicial independence.

In June the informant in one of three corruption cases against the former head of the Organized Crime Directorate, Alina Bica, testified before the High Court of Cassation and Justice that, while he was under arrest, he made a deal with National Anticorruption Directorate (DNA) prosecutors to testify against Bica, in exchange for leniency in his case. He later recanted his accusation. The case remained pending.

The DNA indicted Craiova mayor Lia Olguța Vasilescu for allegedly using her influence before becoming mayor in 2012 to illegally pressure local business leaders to sponsor her political campaign. As mayor, she also allegedly pressured companies that had contracts with the mayor's office to sponsor an NGO to rehabilitate a number of buildings in Craiova. During the year Vasilescu was charged with bribery, using her authority or influence to obtain money or other undue benefits, and money laundering. The mayor was initially detained for 24 hours in March when the investigations against her started, but the courts did not sanction keeping her under preventive arrest. She was placed under house arrest for a week, and courts then ruled against house arrest as well. Courts also rejected subsequent requests by the DNA for judicial supervision, and she was investigated and then went to trial while remaining free. She was re-elected mayor of Craiova in June. In December the court rejected some of the evidence against her and remanded her case to the DNA for further review. The case remained pending.

In September several professional associations released a joint "Memorandum Concerning Justice," which enumerated some of the issues the associations found troubling, including a request for "guaranteeing magistrates' status and independence, including by appropriate compensation levels and ensuring decent working conditions."

## POLITICAL PRISONERS AND DETAINEES

There were no reports of political prisoners or detainees.

## CIVIL JUDICIAL PROCEDURES AND REMEDIES

Civil courts are independent and function in every jurisdiction. Judicial and administrative remedies are available to individuals and organizations for violations of human rights by government agencies. Plaintiffs may appeal adverse judgments involving alleged violations of human rights by the state to the ECHR after exhausting the avenues of appeal in the domestic courts.

Approximately 80 percent of court cases in the country were civil cases. Caseloads were divided unevenly, which resulted in vastly different efficiency rates across the country. A lack of both jurisprudence and a modern case management system contributed to a high number of appeals as well as lengthy trials. Litigants sometimes encountered difficulties enforcing civil verdicts because the procedures for enforcing court orders were impractical and caused delays.

## PROPERTY RESTITUTION

The law for restituting property seized by the former communist and fascist regimes includes a “points” system (one point for each Romanian leu of property value) to compensate claimants for whom restitution of the original property is not possible. The claimants may use the points to bid in auctions of state-owned property or exchange them for monetary compensation. Parliament intended the law to speed up restitution and aimed for in-kind restitution whenever practicable, but local authorities hindered land restitution by failing to complete a land inventory by the deadline stipulated in the law, and the central government facilitated delays by twice extending the deadline for the inventory’s completion.

There were numerous disputes over church buildings and property that the Orthodox Church failed to return to the Greek Catholic Church, despite court orders to do so. The government also did not take effective action to return churches confiscated by the post-World War II communist government. In January 2015, following a 2014 ruling by the Ploesti Court of Appeals, the local council of Sfantu Gheorghe took over the Miko School, which the former communist government had expropriated from the Hungarian Reformed Church. Viewing the move as renationalization, the Reformed Church filed a complaint with the ECHR. It also asked the National Authority for the Restitution of Property for the school’s return, but the request was denied in May. Amendments to address properties forcibly “donated” during these eras and to grant priority status to Holocaust survivors were adopted in May. Associations of former owners asserted that the points compensation system was ineffective and continued to criticize the restitution law for failing to resolve the problem in a fair manner and generating lengthy delays and corruption. The pace of resolving restitution cases at the administrative level increased. In the case of churches and national minorities, however, the number of properties returned was disproportionately low. Through September, out of 1,278 resolved church cases, 13 properties were returned, compensation was granted in 12 cases, 21 cases were withdrawn, and the remaining 1,232 cases ended with negative decisions. Regarding national minorities, of the 79 cases resolved through September, none resulted in restitution. Many of these decisions have been appealed. As of September 30, there were 7,885 pending requests for restitution from denominations.

### f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

Although the constitution and law prohibit such actions, there were accusations by NGOs, politicians, and journalists that authorities illegally engaged in electronic eavesdropping. In 2014 an SRI report stated that it completed 44,000 legal wiretaps, or nearly 122 per day, that year. In February the Constitutional Court found part of a provision enabling the intelligence services to conduct technical surveillance in criminal investigations unconstitutional. The court found the provision’s lack of clarity, precision, and predictability could result in infringements on the fundamental rights and freedoms of citizens. In March the government passed an emergency ordinance restricting the conduct of technical surveillance by the SRI to cases involving national security and terrorism.

The law permits the use of electronic eavesdropping in cases involving organized crime, national security, and other serious offenses. By law the investigating prosecutor must first obtain a warrant from a judge. In exceptional circumstances, when delays in getting the warrant would seriously affect a criminal investigation, prosecutors may begin surveillance for 48 hours without a judicial warrant but must then submit a request within 24 hours for retroactive authorization. When there is a threat to national security, the law permits the prosecutor general to request authorization from the president of the High Court of Cassation and Justice for issuance of a warrant for an initial period of six months and to request extensions for up to two years in three-month increments. Some human



rights NGOs noted the contradiction between the two laws with regard to the requirement for judicial approval of wiretaps.

## SECTION 2. RESPECT FOR CIVIL LIBERTIES, INCLUDING: SHARE

### a. Freedom of Speech and Press

The constitution provides for freedom of speech and press, and the government generally respected these rights. An independent press, largely independent judiciary, and functioning democratic political system combined to promote freedom of speech and press. Independent organizations such as Reporters without Borders noted excessive politicization of the media, corrupt financing mechanisms, editorial policies subordinated to owner interests, and influence by intelligence services.

Freedom of Speech and Expression: The law prohibits denying the Holocaust and promoting or using the symbols of fascist, racist, xenophobic, or Legionnaire ideologies, the latter being the nationalist, extremist, anti-Semitic interwar movement that was the main perpetrator of the Holocaust in the country.

Press and Media Freedoms: While independent media were active and expressed a wide variety of views without overt restriction, politicians and persons with close ties to politicians and political groups either owned or indirectly controlled numerous media outlets at the national and local levels. The news and editorial tone of these outlets frequently reflected the views of the owners. There were also allegations that owners suppressed stories at odds with their interests or threatened the authors of such stories.

There were attempts to restrict the editorial independence of the print media. In April a Caras Severin County court imposed total civil damages of 15,000 lei (\$3,700) against reporters Oana Bejenariu and Alexandra Jurca of *Epress de Banat* jointly for writing a report critical of the professional performance of the head of the local public-labor agency, ruling the report damaged the official's public image. Reporters of 10 local and national media outlets protested the decision. The journalists appealed, but a higher court rejected the appeal in September.

There were also reports of restrictions on the independence of broadcast media. On March 15, three reporters from public radio station Radio Romania accused station management of running a biased campaign, allowing only views that opposed a draft amendment to the public broadcasters' law concerning the leadership position in public media. The National Audio-Visual Council found the management's alleged campaign in breach of media law, for its lack of balance in debates on the topic. Following the reporters' disclosures, Radio Romania leadership asked for a disciplinary commission against two of the journalists, but the commission concluded that there was no disciplinary breach and dismissed the case. Media NGOs warned that the number of Radio Romania journalists harassed through these types of disciplinary investigations was increasing.

Radio Romania also faced accusations of censorship. In November, Radio Romania Actualitati--its primary news channel--cut the live transmission of a debate between civil society, media, and the president on the topic of public media services when the debate turned to issues of concern to the public radio broadcaster. A media NGO asked the National Audio-Visual Council to verify whether Radio Romania Actualitati infringed on audio-visual regulations by intentionally cutting the live radio

transmission and later censoring radio reports on the debate. The council had not addressed the request as of late December.

Violence and Harassment: Politicians and citizens sometimes insulted or harassed journalists.

Freelance reporter Emilia Sercan, who was also a lecturer at the University of Bucharest School of Journalism, received multiple threats for stories exposing plagiarism in doctoral papers by top officials, including former prime minister Victor Ponta, former interior minister Petre Ţoba, former interior and defense minister Gabriel Oprea, and others. Sercan reported receiving threats from unknown individuals over the telephone and on her Facebook page.

On June 4, reporter Robert Iosub published a telephone conversation with deputy Liviu Harbuz, who repeatedly insulted and cursed him after he called for a comment. Iosub also claimed he has been threatened and monitored illegally by unknown individuals. Harbuz publicly admitted to the conversation and claimed the reporter was supporting one of his political opponents.

Libel/Slander Laws: Under the law, libel, slander, and insult are civil, not criminal, matters.

National Security: On August 18, four local media NGOs protested authorities' opening a criminal investigation against a team of British journalists from Sky News who were accused of communicating false information that could affect national security. Sky News had reported on alleged weapons smuggling through the country from Ukraine to Western countries or the Middle East. The NGOs claimed that a media report could not affect national security and that the government's argument implied authorities could place under criminal investigation anyone who criticizes the government on national security matters. The government maintained that the story, which was proven false, was intended to provoke a law enforcement reaction, which diverted intelligence and counterterrorism resources and damaged relations with other countries. The case continued. On October 10, the Supreme Court ordered that the three persons interviewed by Sky News be released from pretrial arrest. Prosecutors had appealed to the Supreme Court after a lower court of appeal had also ordered their release.

## INTERNET FREEDOM

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. According to the latest European Commission report, 52 percent of the population regularly used the internet.

## ACADEMIC FREEDOM AND CULTURAL EVENTS

There were no government restrictions on cultural events.

## b. Freedom of Peaceful Assembly and Association

### FREEDOM OF ASSEMBLY

The constitution provides for freedom of assembly, and the government generally respected this right. The law provides that unarmed citizens may assemble peacefully but also stipulates that meetings must not interfere with other economic or social activities and may not take place near such locations as hospitals, airports, or military installations. Organizers of public assemblies must

request permits in writing three days in advance from the mayor's office of the locality where the gathering is to occur. There were reports that some protesters had difficulty obtaining permits.

In June, 10 human rights NGOs wrote an open letter to the minister of the interior, claiming the gendarmerie had abused protesters at events with the aim of discouraging free speech. The letter referred mainly to an event commemorating the October 2015 Colectiv nightclub fire, which killed more than 60 persons and led to the resignation of the prime minister. A few days after the event, the organizer was fined for organizing an undeclared and unregistered public gathering.

The LGBTI rights group Accept Association claimed the procedures for organizing a pride parade during the year were overly burdensome, with some authorizations coming through only shortly before the event, although initial requests had been made months before.

## FREEDOM OF ASSOCIATION

The constitution provides for freedom of association, and the government generally respected this right. The law prohibits fascist, communist, racist, or xenophobic ideologies, organizations, and symbols.

In February the Mures Court of Appeals rejected the registration request of an association seeking to promote the historically ethnic-Hungarian region of Szeklerland as a tourist destination and bearing a name that included "Szeklerland." The court upheld the decision of the lower-level Mures Tribunal on the grounds that Szeklerland was being defined along ethnic lines, which, according to the courts, is not permitted in the country. The court acknowledged that other historic regions of the country could be promoted as tourist destinations because they were not defined along ethnic lines and their existence as tourist areas could be recognized for other reasons.

### c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for the freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees and beneficiaries of subsidiary protection (collectively referred to as "beneficiaries of international protection"); asylum-seekers and applicants for subsidiary protection (collectively referred to as "applicants of international protection"); stateless persons; and other persons of concern, which can include irregular migrants potentially in need of international protection.

In-country Movement: The internal movement of beneficiaries of international protection and stateless persons was generally not restricted. Changes made to the law on asylum and its regulations in December 2015 and January provide that the General Inspectorate for Immigration may designate a specific place of residence for an applicant for international protection while

authorities determine his or her eligibility or may take restrictive measures that amount to detention in “specially arranged closed areas.” Applicants who do not qualify for international protection are treated as aliens who no longer have a right to stay in the country and may be taken into custody with the goal of removal. Applicants for or beneficiaries of international protection in certain circumstances--particularly those declared “undesirable” for reasons of national security--may be subject to administrative detention in public custody centers. The two public custody centers in the country are in Arad and Bucharest.

While the internal movement of asylum seekers was generally not restricted, the government may grant “tolerated status” to asylum seekers who do not meet the requirements for refugee status or subsidiary protection, but who cannot be returned for various reasons, such as where the life of the rejected asylum seeker would be in danger or where she or he could be submitted to torture or inhuman and degrading treatment. Persons with “tolerated status” had the right to work but did not benefit from any other social protection or inclusion provisions and the government restricted their freedom of movement to a specific region of the country. According to official statistics from the General Inspectorate for Immigration, there were 303 individuals registered with “tolerated status” as of December 2015.

## PROTECTION OF REFUGEES

Access to Asylum: The law provides for access to asylum procedures to foreign nationals and stateless persons who express their desire for protection, which may be in the form of refugee status or temporary protection (“subsidiary protection” status in the EU). The asylum law prohibits the expulsion, extradition, or forced return of any asylum seeker at the country’s border or from within the country’s territory, but this was not without exception, particularly in cases that fell under the country’s terrorism laws.

Applications for international protection may also be filed with border police upon entering or exiting the country. In such situations, applications are channeled into a “border procedure,” which is carried out by the designated asylum authority, the General Inspectorate for Immigration’s Directorate for Asylum and Integration. Under border procedures, decisions are made within three days, and applicants may either be granted access to the country and to the ordinary procedure or have their claims rejected as manifestly unfounded. In theory it is also possible to grant refugee status from the moment an application is filed, but no known cases of this have occurred.

UNHCR noted no significant impediments regarding access to asylum procedures or discrimination in access during the year with respect to specific populations. Nevertheless, there were several allegations of denial of access to the country and/or the asylum procedures at the border areas and transit zones. Several applicants for international protection, including Syrian nationals who arrived via the Black Sea in February 2015, were convicted of “illegal entry” and prosecuted for smuggling in their family members while their applications for protection continued to be rejected during the year. A court granted one Syrian national from the group access to a new asylum procedure, but his case was rejected once again at the administrative level and remained pending in a local court as of late December.

Approval of an international protection application filed in the country may result in the granting of either refugee status or subsidiary protection. The latter is a form of complementary protection that, pursuant to EU directives, is granted at the EU level to an applicant who does not qualify as a refugee but has shown substantial grounds for needing protection.

Between January and July, 274 individuals were granted international protection at the administrative level (176 refugee status and 98 subsidiary protection) and nine at the judicial level (three refugee status and six subsidiary protection).

Safe Country of Origin/Transit: The law provides for the concept of safe countries of origin. This normally refers to EU member states but also includes a list of countries approved by the Interior Ministry at the recommendation of the General Inspectorate for Immigration, which must be published in accordance with the law. As of September, a minister's order to this effect had not been issued. Procedurally, the government would normally reject applications for asylum by persons who had arrived from a safe country under accelerated procedures as manifestly unfounded, except in cases where the factual situation or evidence presented by the applicant shows the existence of a well-founded fear of persecution. In the latter case, the adjudicating authority is required to grant the applicant access to the ordinary procedure. The law does not provide exceptions for the serious risk of harm that would warrant the grant of subsidiary protection. There were no known reports of rejections of applications for international protection based on application on safe country of origin. Three asylum applications by EU nationals were rejected at the administrative level of the asylum procedure between January and July; no information regarding the legal basis for the rejections was available.

The law also refers to the concept of a safe third country. The provisions in the law related to this concept are far reaching, as the law extends to irregular migrants who transited and were offered protection in a third country considered safe or who had the opportunity at the border or on the soil of a safe third country to contact authorities for the purpose of obtaining protection. In such cases, authorities may deny access to asylum procedures if the designated safe third country agrees to readmit the applicant to its territory and grant access to asylum procedures.

Refoulement: The law establishes exceptions to the principle of nonrefoulement and the withdrawal of the right to stay following a declaration of a person as "undesirable." This may occur, for example, when classified information or "well-founded indications" suggest that aliens (including stateless persons), applicants for international protection, or beneficiaries of international protection, intend to commit terrorist acts or favor terrorism. Applicants for protection who are declared "undesirable" on national security grounds were taken into custody pending the finalization of their asylum procedure and then deported.

Freedom of movement: While the internal movement of applicants for international protection was generally not restricted, legislation adopted in 2015 provides for placing asylum seekers under detention. Authorities may detain regular asylum seekers in custody centers or in "closed spaces arranged for this purpose" for a maximum of 60 days. Authorities may detain asylum seekers who present a danger to national security but may also use detention to limit abuses of the asylum procedure. NGOs and UNHCR expressed concern that the vague wording "abuse of the asylum procedure" could lead to abusive placement of migrants in detention.

The law incorporates four "restrictive" measures under which the internal movement of applicants for international protection may be limited. The first two establish an obligation to report regularly to the General Inspectorate for Immigration and to reside at a regional reception center (similar to placement under judicial control under the criminal code). These were deemed alternatives to detention.

A third restrictive measure allows authorities to place applicants in "specially arranged closed areas" for a maximum of 60 days, either to conduct the asylum procedure (especially if there is a risk of absconding) or if the asylum seeker is deemed to pose a danger to national security. There was one

case of placement in a specially arranged closed area since the measure came into force on April 20.

Authorities may also place applicants for international protection in administrative detention in a public custody center if they are subject to a transfer decision to another EU member state under the Dublin Regulations III or if they have been declared “undesirable” for reasons of national security, pending their removal from the country. Public custody centers are normally used to detain apprehended irregular migrants.

During the year amendments to the asylum law to limit “abuse to the asylum procedure” took effect. Under these amendments, irregular migrants who submit their first application for international protection while in public custody are no longer automatically released but are only released if granted access to the ordinary procedure. The amendments raised concerns among UN agencies and civil society due to the ambiguity in the phrases “abuse of the asylum procedure” and “risk of absconding.”

The period of detention in a public custody center can periodically be prolonged, up to a maximum of 18 months.

Employment: Asylum seekers have the right to work starting three months after they submit their first asylum application, if the process has not been completed. This period begins again if the applicant obtains access to a new asylum procedure. Even when granted the right to work, many asylum seekers faced problems finding legal work, mainly due to the limited validity of their identification documents and lack of awareness among potential employers of their right to work.

Beneficiaries of international protection do not face any legal obstacles in accessing employment, as they have the right to work under the same conditions as citizens and do not require additional work permits or other documents. While persons granted protection have the legal right to work, job scarcity, low wages, lack of language proficiency, and lack of recognized academic degrees and other certifications often resulted in unemployment or employment without a legal contract and its related benefits and protections.

Access to Basic Services. By law persons granted refugee or subsidiary protection status have the same rights as citizens to access education, housing, lifelong learning and employment, public health care, and social security. Nevertheless, effective access to these rights varied across the country, depending on the level of awareness of various public and private actors responsible for ensuring access to these services.

State financial assistance to asylum seekers increased during the year from approximately 3.6 lei (one dollar) per day to 16 lei (four dollars) per day, with slightly increased allowances for vulnerable persons, which was low by the country’s living standards. Persons with special needs or vulnerabilities were particularly affected. Although supplementary financial support was provided under EU-sponsored projects, annual gaps between these projects regularly led to limits in funding availability. New provisions granting applicants of international protection explicit access to social assistance have yet to yield results, due primarily to a lack of awareness and/or incorrect interpretation of different laws at the local level. Applicants for international protection had limited options for meaningful activities, such as language classes, cultural orientation, and skills training, while Romanian language classes were no longer available. State-provided social, psychological, and medical assistance for applicants for international protection remained insufficient, with many dependent on NGO-implemented projects for such help. Assistance for victims of trauma and torture was lacking.

Durable Solutions: According to the Justice and Home Affairs Council decisions in September 2015, the country was allocated a quota of 6,205 applicants for international protection for relocation from other EU member states facing pressure on their national asylum systems, most notably Greece and Italy. Relocations commenced in March; applicants for international relocation were channeled into the ordinary asylum procedure. As of December 31, authorities had relocated 554 asylum seekers to the country from Italy and Greece after vetting them for national security risk. Authorities granted international protection to nearly 100 percent of relocated asylum seekers. Relocated asylum seekers have rights identical to those of other asylum seekers within the country.

Despite the low number of refugees in the country, anti-refugee sentiment increased dramatically during the year. Public perception toward the regional refugee and migrant crisis switched from initial empathy and a lukewarm reception to growing hostility due to increasing anti-migrant rhetoric within the public sphere. According to a national poll by INSCOP Research, almost 90 percent of the public would not agree to hosting refugees in their community. The poll had a 3 percent margin of error. In February an NGO attempted to build a small refugee shelter in Ardud, a town in the north of the country but gave up after residents protested and signed a petition against it. In April residents of Vama Veche, a popular seaside resort, protested the building of a government transit center there. The extreme-right party Noua Dreapta (New Right) was very active and vocal in protesting the establishment of such centers.

Beneficiaries of international protection continued to face problems with local integration, including accessing housing, employment, education, vocational training adapted to their specific needs, counseling programs, and citizenship information. Obtaining a legal work contract remained difficult for various reasons, including tax concerns. Beneficiaries of subsidiary protection complained of problems regarding their freedom of movement to other countries due to the additional visa requirements. Persons granted refugee status may apply for citizenship after four years of continuous legal residence in the country. These conditions, however, do not apply to persons under subsidiary protection, who are required to have eight years of continuous legal residence.

Temporary Protection: The government provided temporary protection to individuals who may not qualify as refugees and through September provided it to approximately 120 persons at the administrative level (statistics on persons provided temporary protection at the judicial level were unavailable).

## STATELESS PERSONS

According to statistics provided to UNHCR by the General Inspectorate for Immigration, as of June there were 318 stateless individuals with valid residence documents in the country. These included legal residents under the aliens regime, stateless persons of Romanian origin, as well as 67 persons granted some form of international protection. Concerns remained as to the reliability of data on stateless persons in the country, including persons at risk of statelessness and persons of undetermined nationality, due to the absence of a procedure to determine statelessness, the absence of a single designated authority responsible for this purpose, and the lack of adequate identification and/or registration of persons with unknown or undetermined nationality.

Stateless persons officially registered in the country have legal rights depending on whether they are beneficiaries of international protection, alien persons with short- or long-term residence, or persons granted tolerated stay. Persons with tolerated stay only have the right to work, with a requirement to renew regularly permission to stay and restrictions on movement within the country. Persons in other categories benefit from rights similar to those of citizens, apart from political rights. The law includes favorable provisions for stateless persons of Romanian origin to reacquire citizenship. Nevertheless, a significant gap persisted due to the lack of safeguards against statelessness for children born in

the country, who would be stateless because their parents either were themselves stateless or were foreigners unable to transmit their nationality.

In June the government amended the law on birth registration of Romanian nationals, simplifying late registration procedures to reduce the number of unregistered children, thereby ensuring them access to health services, social assistance, and education.

## SECTION 3. FREEDOM TO PARTICIPATE IN THE POLITICAL PROCESS

The law provides citizens the ability to choose their government in free and mostly fair periodic elections held by secret ballot based on universal and equal suffrage.

### Elections and Political Participation

Recent Elections: On December 11, the country held parliamentary elections under a legal framework that parliament has revised in recent years. Logistical and other technical problems were minor compared with those of the 2014 presidential election. In September a needs assessment mission from the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights concluded that the government had addressed prior recommendations and that a full-scale observation mission was not required. Separately, an NGO coalition fielded more than 1,300 domestic observers.

There were minor problems with absentee ballots, some of which were invalidated due to technicalities (e.g., senders did not include the required voter affidavit). The government did not publicize the rules on absentee voting effectively. In some polling stations, the seals used to secure the voting boxes were faulty, leading some officials to use duct tape to close them.

Political Parties and Political Participation: The law requires political parties to register with the Bucharest Tribunal and to submit their statutes, program, and a roster of at least three members. Critics asserted that certain requirements undermine the right to association. These include the requirement that parties field candidates--by themselves or in alliance--in at least 75 electoral constituencies in two successive local elections or that they field a full slate of candidates in at least one county or partial slate of candidates in a minimum of three counties in two successive parliamentary elections. A party's statutes and program must not include ideas that incite war; discrimination; hatred of a national, racist, or religious nature; or territorial separatism.

Participation of Women and Minorities: While the law does not restrict women's participation in government or politics, societal attitudes presented a significant barrier, and women remained underrepresented in positions of authority. For example, as of December 20, there were 64 women in the 261-seat Chamber of Deputies and 20 women in the 136-seat Senate.

Under the constitution, each recognized ethnic minority is entitled to a representative in the Chamber of Deputies. An organization is required, however, to receive votes equal to 5 percent of the nationwide average number of votes necessary for a deputy to be elected. The list of organizations that benefit from these provisions is limited to those that are already part of a National Council of Minorities, which consists of organizations already in parliament. The law sets more stringent requirements for minority organizations without a presence in parliament. To participate in elections,



such organizations must provide the Central Electoral Bureau a membership list equal to at least 15 percent of the total number of persons belonging to that ethnic group, as determined by the most recent census. If this number amounts to more than 20,000 persons, the organization must submit a list with at least 20,000 names distributed among a minimum of 15 counties plus the city of Bucharest, with no fewer than 300 persons from each county. Some organizations and individuals, particularly Romani individuals, have claimed this rule was discriminatory. There were 42 members representing ethnic minorities in parliament, eight in the Senate and 34 in the Chamber of Deputies.

Ethnic Hungarians, represented by the Democratic Union of Hungarians in Romania party, were the sole ethnic minority to gain parliamentary representation by surpassing the 5-percent threshold. One Romani organization, the Roma Party-Pro Europe, had a single representative in parliament.

## SECTION 4. CORRUPTION AND LACK OF TRANSPARENCY IN GOVERNMENT

The government continued a high-profile fight against corruption, investigating and successfully prosecuting prominent public officials and business leaders. Despite progress, corruption remained a problem according to World Bank indicators. Bribery remained common in the public sector. Laws were not always implemented effectively, and officials, including judges, sometimes engaged in corrupt practices with impunity. Immunity from criminal prosecution held by existing and former cabinet members who were also members of parliament sometimes blocked investigations.

Corruption: The National Anticorruption Directorate (DNA) continued to investigate corruption cases involving political, judicial, and administrative officials at a steady pace throughout the year. As of October 31, courts had issued 264 final convictions to 676 defendants in cases investigated by the DNA, compared with 239 final convictions against 785 defendants in the same period of 2015. Among the defendants convicted were one minister and one deputy minister, five members of parliament, 12 judges, four prosecutors, 10 mayors, six generals and one commander from the Ministry of National Defense, and 44 police officers. As of October 31, DNA sent to trial 284 cases regarding 914 defendants, 48 of whom were indicted with plea bargain agreements. These defendants included one former speaker of the Chamber of Deputies, 16 members of parliament, one former minister, two deputy ministers, seven judges, eight prosecutors, 18 mayors, and 47 police officers. Through October DNA prosecutors ordered seizures worth 292 million euro (\$321 million). As of October 31, courts had ordered the forfeiture of 29.3 million euros (\$32.2 million) as a result of DNA cases. The courts acquitted 64 defendants through September 1. Verdicts in corruption cases were often inconsistent, with sentences varying widely for similar offenses. Enforcement of court procedures lagged mostly due to procedural and administrative problems, especially in regards to asset forfeiture.

Conflicts of interest, disrespect for standards of ethical conduct, and general improbity in public office remained problems in all three branches of government. Corruption was widespread in public procurement. In October the president signed into law a bill to provide for a comprehensive software mechanism to flag potential conflicts of interest in public procurement. Bribery was common in the public sector, especially in health care. Individual executive agencies were slow in enforcing sanctions, and agencies' own inspection bodies were generally inactive.

Through October 31, the DNA sent parliament six requests for pretrial detention of six members of parliament. Parliament approved three requests and denied three. The DNA asked parliament to lift immunity five times to investigate current and former Cabinet members. Parliament approved three requests and denied one, while one member of parliament resigned to forgo his immunity.

The law provides for asset forfeiture, but judges and prosecutors did not regularly order confiscation and authorities' ability to track assets remained subpar. The National Agency for Fiscal Administration (ANAF) was charged with confiscating, managing, and liquidating assets acquired from criminals but was understaffed and lacked resources and adequate interagency coordination. In January, ANAF's internal unit, formally set up in November 2015 to handle major cases of court-ordered confiscation, became operational. Preseizure planning between police, prosecutors, and ANAF, and parallel investigations (i.e., investigating a suspect's financial situation simultaneously with the criminal investigation) did not occur in either cases of corruption or organized crime. In November 2015 the National Agency for Managing Seized Assets was created by law. In May the government adopted the agency's rules of procedure and, in subsequent months, continued to act towards making it operational. The agency's mission will be tracking, managing, and selling seized assets in close cooperation with law enforcement until ANAF can enforce the final confiscation order.

Financial Disclosure: The law empowers the National Integrity Agency (ANI) to administer and audit financial disclosure statements for all public officials and to monitor conflicts of interest. The law stipulates that the agency may identify "significant discrepancies" between an official's income and assets, defined as more than 45,000 lei (\$11,000) and allows for seizure and forfeiture of unjustified assets. The mechanism for confiscation of "unjustified assets" was cumbersome. Through October 25, ANI identified 23 cases of "significant discrepancies" totaling 8.1 million lei (\$1.998 million). The 23 officials included one senator, one former member of parliament, one mayor, eight senior civil servants, one former senior prosecutor, one local councilor, and five public servants in executive positions. Through October 25, ANI identified 216 cases of incompatibilities, 105 cases of conflicts of interest, 42 cases of criminal conflict of interest, and 15 other cases with strong indications of criminal or corruption offenses.

Public Access to Information: Although the law provides for public access to government information related to official decision making, human rights NGOs and media reported that the government applied the law inadequately and inconsistently. Parliament often wrote and passed laws in a nontransparent manner, and the government continued to pass a large number of emergency ordinances. According to the constitution, emergency ordinances should only be used in extraordinary situations and cannot affect, among other issues, fundamental institutions or constitutional rights and liberties. In May the government adopted an emergency ordinance making more than 150 modifications to the criminal code and the criminal procedure code, asserting that several Constitutional Court decisions related to provisions in the codes had to be implemented as a matter of emergency, as well as to comply with EU directives. The government sought parliamentary support, but did not receive it. Civil society protested the way in which the ordinance was adopted, noting that the text had not been made public, that some provisions infringed upon fundamental rights and freedoms, and that a number of Constitutional Court decisions were already undergoing the parliamentary process for adoption.

Procedures for releasing information were arduous and varied greatly by public institution. Many agencies did not make public their annual performance reports as required by law. NGOs and journalists continued to sue in court regularly to gain access to official government information. In July amendments to the law on access to public information took effect, expanding coverage of the law to political parties, public utility associations and operators, and sports federations. Also in July, the government adopted a resolution to streamline, update, and align with current communication technology the implementation rules for the 2001 law on access to public information and to standardize the manner in which agencies release such information. The measure includes provisions mandating that agencies enable access to their webpages to persons with vision or cognitive disabilities. The Ministry for Public Consultation and Civic Dialogue acted to increase the transparency of government operations and policy-making, including by starting the process of establishing a single registry for transparency of interests.

Representatives of several media outlets such as Press One, EurActiv, and Timpolis complained that the government refused to provide them the public information they requested on the mission of the National Security Science Academy (ASSN) and its programs, employees and expenses. Media claimed ASSN was a publicly sponsored ghost institution that funded the salaries of high-ranking politicians or officials connected to the security and law enforcement sectors.

The government often did not observe the law requiring transparency in governmental decision making. The Department for Online Service and Design in the prime minister's office is responsible for coordinating the implementation of the Open Government Partnership (OGP) action plan for the country in coordination with NGOs. The OGP process was somewhat successful in increasing the amount of open data and in teaching citizens how to use the data. In August the government adopted its OGP action plan for 2016-18.

Although intelligence services transferred the majority of the files of the communist-era Securitate intelligence service to the National College for the Study of the Securitate Archives, the powers of the college remained limited because the law does not permit it to issue binding verdicts on individuals' past records as Securitate collaborators.

## SECTION 5. GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NONGOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally met with human rights NGOs and were cooperative and sometimes responsive to their views. There were limited reports that government officials were reluctant to cooperate with NGOs that focused on institutionalized persons with disabilities or to accept NGO criticism of institutions for persons with disabilities.

Government Human Rights Bodies: The Office of the Ombudsperson has limited power and no authority to protect citizens' constitutional rights in cases requiring judicial action. Although the Office of the Ombudsperson is the only institution that may challenge emergency ordinances in the Constitutional Court, it failed to challenge several controversial ordinances despite persistent calls by civil society to do so. The ombudsperson is the national preventive mechanism implementing the optional protocol to the UN Convention against Torture. This gives the ombudsperson the power to conduct monitoring visits to places where individuals are deprived of their liberty, including prisons, psychiatric hospitals, and asylum centers. Through September the ombudsperson issued 23 reports with recommendations, mainly reporting on visits to penitentiaries.

Each chamber of parliament has a human rights committee tasked with drafting reports on bills pertaining to human rights. Members of these committees usually expressed the views of their political parties rather than addressing problems impartially.

The National Council for Combating Discrimination (CNCD) is the government agency responsible for applying domestic and EU antidiscrimination laws. The CNCD reports to parliament. The CNCD operated with the government's cooperation and, for the most part, without government or party interference. According to the CNCD and the Office of the Ombudsman, neither institution received adequate resources. Observers generally regarded the CNCD as effective, but some criticized it for a lack of efficiency and political independence. While some observers praised the activity of the Office of the Ombudsman, particularly in relation to the monitoring of prisons and other closed institutions, most continued to regard the institution as ineffective.

## SECTION 6. DISCRIMINATION, SOCIETAL ABUSES, AND TRAFFICKING IN PERSONS

### Women

Rape and Domestic Violence: Societal views on rape remained a concern. A November European Commission report based on a June poll noted a high number of respondents suggested certain situations may justify nonconsensual sex. Rape, including spousal rape, is illegal. The law provides for three to 10 years' imprisonment for rape and two to seven years' imprisonment for sexual assault. The sentence for rape increases to five to 12 years if there are aggravating circumstances and to seven to 18 years if it led to death. For sexual assault, the sentence increases to three to 10 years if there are aggravating circumstances and to seven to 15 years if it led to death. If there are no aggravating circumstances and the attack did not lead to death, police and prosecutors may not pursue a case on their own, but they require a victim's complaint, even if there is independent physical evidence. As a consequence, the perpetrator of a sexual assault could avoid punishment if the victim withdrew the complaint.

The criminal code classifies family violence as a separate offense and stipulates that when murder, battery, or other serious violence is committed against a family member, the penalty is increased by one-quarter of what it would have been otherwise. The code also states that if the parties reconcile, criminal liability is removed.

Violence against women, including spousal abuse, continued to be a serious problem that the government did not effectively address. The law provides for the issuance of restraining orders by a court for a maximum of six months upon the victim's request or at the request of a prosecutor, the state representative in charge of protecting victims of family violence, or, if the victim agrees, a social service provider. Violation of a restraining order is punishable by imprisonment for one month to one year. If the parties reconcile, criminal liability is removed. The law requires that the court must decide on the issuance of the order within a three-day period. The court may also order the abuser to pay some of the victim's expenses, such as the cost of the victim's accommodation in a shelter or domicile apart from the abuser. The court may also order the abuser to undergo psychological counselling. Restraining orders, shelters, and other services are not available to victims of violence who may be in relationships but do not cohabit with alleged abusers.

While the law imposes stronger sanctions for violent offenses committed against family members than for similar offenses committed against others, the courts prosecuted very few cases of domestic abuse. According to official statistics, only 2 percent of complaints become criminal cases. Many

cases were resolved before or during trial when the alleged victims dropped their charges or reconciled with the alleged abuser.

Sexual Harassment: The law prohibits sexual harassment, which it defines as repeatedly asking for sexual favors in a work or similar relationship. A victim complaint is necessary to initiate a criminal investigation. Penalties range from fines to imprisonment of three months to one year. Although sexual harassment was a problem, public awareness of it remained low, and the crime continued to be severely underreported. No effective programs existed to educate the public about sexual harassment, and schools did not educate students on sexual harassment, gender violence, and gender equality.

Reproductive Rights: Couples and individuals had the right to decide the number, spacing, and timing of their children; manage their reproductive health; and have access to the information and means to do so, free from discrimination, coercion, or violence. There were, nevertheless, barriers to couples' and individuals' ability to maintain their reproductive health, including a lack of age-appropriate sex education for adolescents, a lack of funds allocated to contraception programs, and lack of a national strategy regarding sexual and reproductive health and rights.

Some women, especially Roma, had difficulty accessing reproductive health services for reasons that included lack of access to information, ethnic discrimination, lack of health insurance, and poverty.

Discrimination: Under the law, women and men enjoy equal rights. Women experienced discrimination in marriage, divorce, child custody, employment, credit, pay, owning or managing businesses or property, education, the judicial process, and housing. The law requires equal pay for equal work, but there was a 7.1 percent gender pay gap, according to EU data. Segregation by profession exists, with women overrepresented in lower-paying jobs such as education, health care, and social work. Authorities did not devote significant attention or resources to challenges facing women. There were reports of discrimination in employment.

## Children

Birth Registration: Children derive citizenship by birth from at least one citizen parent. Although birth registration is mandatory by law, it was not universal, and authorities denied some children public services as a result. The most common reason for failure to register children at birth was the parents not declaring the child's birth to authorities, sometimes because the parents lacked identity documents or residence papers or because the birth took place abroad in countries where parents were present illegally. Most such children had access to schools, and authorities assisted in obtaining birth documents for unregistered children, but the education of unregistered children depended on the decision of school authorities. Undocumented children also faced difficulties gaining access to health care. This was a particular problem among the Romani population, but it also occurred in other communities. In July parliament amended the law to simplify birth registration for children whose mothers do not have proper documentation to register their children.

Child Abuse: Child abuse and neglect continued to be serious problems, and public awareness of it remained poor. Media reported several severe cases of abuse or neglect in family homes, foster care, and child welfare institutions. The government has not established a mechanism to identify and treat abused and neglected children and their families. According to a national survey conducted by Save the Children Romania in 2013, 63 percent of children surveyed reported their parents spanked them, while 18 percent say they were hit with a stick, and 13 percent with a belt. Some 38 percent of

parents admitted to spanking their children, while an additional 18 percent said they used more severe forms of punishment.

According to official data, during the first quarter of the year, there were 3,933 cases of abuse, neglect, and exploitation of children recorded by child protection services throughout the country. Law enforcement authorities initiated a criminal investigation in only 189 of the cases.

Early and Forced Marriage: The legal age of marriage is officially 18 for both men and women, but the law permits minors as young as 16 to marry under certain circumstances. Illegal child marriage was reportedly common in certain social groups, particularly among some Romani communities. Media occasionally reported individual cases. Child protection authorities did not intervene in such cases. There were no public policies to prevent child marriage.

Sexual Exploitation of Children: The law provides one- to 10-year prison sentences for persons convicted of sexual acts with minors, depending on the circumstances and the child's age. Sexual intercourse with a minor who is 13 to 15 years of age is punishable by a one- to five-year prison sentence. Sexual intercourse with a minor under 13 years of age is punishable by a two- to seven-year prison sentence and deprivation of some rights. In neither case is the act punishable if the age difference between the perpetrator and the victim is less than three years. Sexual intercourse committed by an adult with a minor who is 15 to 18 years of age is punishable by a two- to seven-year prison sentence and the deprivation of some rights if the adult abused his or her authority or influence over the victim; the child was a family member; the abuse endangered the life of the minor; or the abuse was done with the purposes of producing pornographic material. If the child is younger than 15 and the same aggravating circumstances existed, the act is punishable by a three- to 10-year prison sentence and deprivation of some rights. The law also criminalizes sexual corruption of minors (which includes subjecting minors to sexual acts other than intercourse or forcing minors to perform such acts), luring minors for sexual purposes or child prostitution, and trafficking in minors. Pimping and pandering that involves minors incur sentences that are increased by one-half.

Child pornography is a separate offense and carries a sentence, depending on the circumstances, of up to seven years' imprisonment, which may be increased by one-third if the perpetrator was a family member or someone in whose care the child was trusted or if the life of the child victim was endangered.

During the year the ECHR issued two rulings against the country for inadequately handling cases of child rape. In one decision, *M.G.C v. Romania*, the ECHR reviewed the case of an 11-year-old girl who was repeatedly raped in 2008 and 2009 by a 52-year-old man and several younger men. The girl became pregnant and had an abortion. The prosecution proposed and courts upheld fines for the younger men and sentenced the older man to three years' imprisonment for sexual intercourse with a minor, instead of charging him with rape. The prosecution relied mainly on the statements of the perpetrators, who said the girl had acted provocatively and initiated the sex, as well as the fact that the girl did not tell her parents about it, discounting a police report that the girl's age precluded the existence of valid consent and a forensic psychiatric report pointing to post-traumatic stress. An appellate court later changed the conviction to rape, but on further appeal, the Supreme Court reinstated the initial ruling. In the case, the ECHR also analyzed a large number of Romanian court decisions involving the rape of minors and found a failure to adopt a child-sensitive approach when judging such cases. The ECHR observed that "authorities' failure to investigate sufficiently the surrounding circumstances was the result of their having attached little or no weight at all to the particular vulnerability of young persons and the special psychological factors involved in cases concerning the rape of minors." It concluded that the courts had not developed a settled and

consistent practice to differentiate clearly between the crimes of rape and sexual intercourse with a minor.

Institutionalized Children: During the year there were several media reports of abuses in placement centers for institutionalized children. Prosecutors started investigations of placement centers in Bucharest and Brasov for alleged abusive medication of children with psychiatric drugs and for neglect. In the specific centers under investigation, more than 50 percent of the institutionalized children received such medication. The ombudsperson opened an investigation in a placement center in Barlad for alleged sexual abuse of children, in particular a child with a disability.

In June prosecutors indicted members of an organized crime network who were recruiting female victims from orphanages in Iasi for sexual exploitation. Child neglect was a common problem in placement centers due to insufficient and unqualified staffing. Adequate psychological support was also lacking. The absence of monitoring of these centers, a tendency to address abuse administratively rather than through criminal investigations and sanctioning, and the absence of an effective complaint mechanism for children were other systemic problems.

By law unaccompanied migrant children are housed in placement centers, where they have access to education and other benefits other children receive. The NGO Jesuit Refugee Service Romania filed a complaint with Giurgiu child protection authorities following complaints from an Iraqi refugee minor in a residential facility for children. The child reported mental, emotional, and physical abuse against children. The Giurgiu child protection authority began an investigation, fired one employee, and sanctioned another with a 5 percent salary reduction. NGOs also reported that authorities placed irregular migrant children in administrative detention with their families if they crossed the border illegally and authorities determined their parents should be placed in detention until their situation was resolved.

Children with disabilities in state care were particularly vulnerable to abuse (see Persons with Disabilities).

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

## Anti-Semitism

According to the 2011 census, the Jewish population numbered 3,271. Acts of anti-Semitism occurred during the year.

The law prohibits public denial of the Holocaust and fascist, racist, and xenophobic language and symbols, including organizations and symbols associated with the indigenous Legionnaire interwar fascist movement. The oppression of Roma as well as Jews is included in the definition of the Holocaust. In the first half of the year, out of 12 cases pertaining to this law, prosecutors dismissed 11 and waived criminal prosecution in the remaining case.

Streets, organizations, and even schools or libraries continued to be named after persons convicted for war crimes or crimes against humanity, according to the Elie Wiesel Institute for the Study of the Holocaust in Romania. Authorities allowed demonstrations that promoted the Legionnaire movement. The memorial exhibition "Ion Gavrilă Ogoranu--Present!" was displayed in May in the central University Square of Bucharest and in the Alba Iulia National Museum. Ogoranu was a

leader of anticommunist resistance in the first years of communism, but prior to that he was a member of the Legionnaire movement. The exhibition presented his Legionnaire past as part of an “exemplary biography.” Material promoting anti-Semitic views and glorifying Legionnaires also appeared in media, including on the internet.

On April 14, the National Bank of Romania issued a set of commemorative coins honoring three former bank governors. One of them, Mihail Manoilescu, who led the bank for several months in 1931, was also an active advocate of fascist ideology and anti-Semitism before World War II. The Wiesel Institute strongly protested the issuance of the coin. The bank stated it did not want to offend anyone and that the coin issuance concerned only Manoilescu’s activity as bank governor. The bank did not withdraw the coin but did meet with representatives of a foreign government to discuss how to better vet individuals who might be remembered in the future.

On April 8, a Bucharest bookstore hosted the launch of a book denying the Holocaust by Vasile Zarnescu, a retired SRI officer, titled *The Holocaust--the Diabolical Scarecrow--Money Extortion for the Holocaust*. In a media interview, Zarnescu stated that he was tasked by SRI in the 1990s to write and publish under a pseudonym articles against the “propaganda and actions” of Jewish community leaders. He wrote one specific piece against then chief rabbi Moses Rosen, who he called “anti-Romanian” for monitoring the media to track anti-Semitism. The Center for Monitoring and Combating Anti-Semitism filed a complaint with the prosecutor’s office over Holocaust denial.

In July police learned that a monument in Brasov County commemorating seven members of the military (six Israelis and one Romanian) who died in a helicopter training exercise in 2010 was defaced with swastikas, graffiti, and a pig.

A survey by the Center for Public Opinion Polls, commissioned by the Wiesel Institute and released in July 2015, found that, while 73 percent of the 1,016 adults surveyed had heard of the Holocaust, only 34 percent accepted as fact that the Holocaust had occurred in the country. Approximately 69 percent of the respondents blamed the Holocaust on Nazi Germany, while 19 percent considered the wartime government of general Ion Antonescu responsible. Of the respondents, 54 percent considered Antonescu a hero. The survey had a margin of error of 3 percent. The respondents were 18 and older.

In December 2015 the CNCD fined Serban Suru, the self-proclaimed leader of the Legionnaire movement, 2,000 lei (\$490) for publishing on his Facebook page an anti-Semitic caricature representing the Wiesel Institute’s director. In the caricature, the director represented “Jewish Nazism” by carrying “anti-Romanian laws” in his bag, with a reference to amendments to Holocaust denial legislation that included the prohibition of Legionnaire symbols and organizations.

The government continued to implement the recommendations of the International Commission on the Holocaust in Romania Report of 2004. High-level officials, such as the president, made public statements against anti-Semitism. In July the Romanian Jewish Federation, together with the Bucharest District 3 mayor’s office, inaugurated a monument dedicated to the martyrs of the Bucharest Pogrom of January 1941. The Wiesel Institute continued to organize training courses for teachers and other professionals on the history of the Holocaust. In September the government approved the Wiesel Institute’s hiring of three people to organize the creation of a future museum on the history of Jews. The general mayor of Bucharest agreed to make a building available to house the museum.

During the year the country held the annual chairmanship of the International Holocaust Remembrance Alliance. On May 26 the Plenary of the International Holocaust Remembrance Alliance voted by consensus to adopt a legally nonbinding working definition of anti-Semitism.



The government introduced mention of the Holocaust in the country in its seventh-, eighth-, 10th-, and 12th-grade curricula. The curricula did not include a class on the topic as part of the general history curricula, however. The high school course "History of the Jews--the Holocaust" remained optional, and very few schools offered it.

## Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

## Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, and the provision of other services. The government did not fully implement the law, and discrimination against persons with disabilities remained a problem.

In many cases persons with disabilities faced institutional and societal discrimination. According to a 2012 report by the EU's Agency for Fundamental Rights (FRA), 1 percent of persons with mental disabilities had employment. The FRA report also indicated that persons with mental disabilities in institutional settings, in particular children, were subjected to various forms of bullying, harassment, and abuse.

The law mandates that buildings and public transportation be accessible for persons with disabilities. While the number of buildings with facilities for persons with disabilities increased during the year, the country continued to have an insufficient number of facilities specifically designed to accommodate persons with disabilities, who could have extreme difficulty navigating city streets or gaining access to public buildings. Persons with disabilities reported a lack of access to ramps, adapted public transportation, and adapted toilets in major buildings.

In May the CNCD fined the Ministry of Labor, Family, Social Protection, and the Elderly and the National Agency for Payments and Social Inspection 30,000 lei (\$7,400) each for failing to fulfil their legal duty to enforce, including by issuing sanctions, the right of persons with disabilities to accessible public transportation. It also fined 18 municipalities, including Bucharest, 10,000 lei (\$2,450) each for failing to make public transportation accessible for persons with disabilities. It fined another eight municipalities 8,000 lei (\$1,960) each for insufficient accessibility and issued warnings to two others that did not fully implement accessibility measures but had made significant progress. This was the third year that the CNCD initiated a case ex officio, reviewed accessibility in large municipalities, and issued sanctions.

Discrimination against children with disabilities in education was also a widespread problem due to lack of adequate teacher training on inclusion of children with disabilities and lack of investment to make schools accessible. Most children with disabilities were either placed in special schools or not placed in school. According to a 2015 study conducted by the Institute for Public Policy, approximately 40 percent of the 70,000 children registered with disabilities were not enrolled in school. Of those in school, more than 60 percent were attending special schools. During the year the NGO European Center for the Rights of Children with Disabilities documented several cases of discrimination, abuse, and exclusion of children with disabilities from mainstream education. The NGO also made various complaints to the relevant authorities, with most cases pending a decision or a solution.

Persons with disabilities also faced discrimination in employment (see section 7.d.).

In 2014-15, the Center for Legal Resources (CRJ) made unannounced visits to public and private residential centers for children and young persons with disabilities on the basis of written protocols with the labor ministry. As a result of the visits, the NGO identified a series of violations, including verbal and physical abuse of children, sedation, excessive use of physical restraints, lack of hygiene, inadequate living conditions, and lack of adequate medical care. The CRJ also noted a general shortage of staff, a chronic shortage of specialized staff, reliance on psychiatric medication as the only treatment solution, segregation from communities, lack of access to education, absence of a complaints mechanism, and a lack of community living options. During the year media published or aired several investigations into such problems in centers for persons with disabilities.

In August the Center for Media Investigations reported on the death of an HIV positive young woman with disabilities living in a private facility operating under a government contract to provide services to persons with disabilities after she was transferred from state care. The 27-year-old woman, who had spent her life in state institutions, weighed 74 pounds. There was reportedly no investigation into the circumstances of her death. The CRJ visited the center accompanied by the president of the National Authority for the Protection of Persons with Disabilities and reported finding extremely precarious living conditions and inadequate medical care.

At the end of 2015, the Center for Legal Resources and the Center for Media Investigations reported that approximately 4,500 persons with disabilities died in state care between 2010 and 2015. There were approximately 25,000 persons in state care in 2015.

The National Authority for the Protection of Persons with Disabilities, under the labor ministry, coordinated services for persons with disabilities and drafted policies, strategies, and standards in the field of disabilities rights.

## National/Racial/Ethnic Minorities

Discrimination against Roma continued to be a major problem. Accurate numbers on the size of the Romani population were hard to pinpoint due to problems with identification documents, residence registration, and reluctance by some Roma to declare their ethnicity due to discrimination. Observers estimated there were between 1.8 and 2.5 million Roma in the country, constituting approximately 10 percent of the total population. According to the most recent official census in 2011, there were 621,573 Roma in the country, or 3.1 percent of the population.

Romani groups complained that harassment and police brutality, including beatings, were routine. Both domestic and international media and observers reported societal discrimination against Roma. NGOs reported that Roma were denied access to, or refused service in, many public places. Roma also experienced poor access to government services, a shortage of employment opportunities, high rates of school attrition, inadequate health care, and pervasive discrimination. A lack of identity documents excluded many Roma from participating in elections, receiving social benefits, accessing health insurance, securing property documents, and participating in the labor market. Roma were disproportionately unemployed or underemployed. Roma had a higher unemployment rate and a lower life expectancy than non-Roma.

Stereotypes and discriminatory language regarding Roma were widespread.

In March the ECHR issued an emergency order stopping the government from carrying out the third eviction in three years of a Romani community in Eforie. In June a trial court ordered local authorities

to provide the Roma with houses; the ruling was not final. In 2013 local authorities in Eforie ordered the eviction from their homes of approximately 100 Roma, one-half of them children. Authorities immediately demolished the homes before any legal review could be undertaken. Some of the evicted Roma found shelter in an abandoned school, from which they were evicted in 2014 and taken to an overcrowded container settlement on the city outskirts. Because they could not afford to pay for water and electricity, authorities threatened to evict them from the containers in March, when the NGOs Romani CRISS and European Roma Rights Center obtained the ECHR emergency order.

NGOs and media reported that discrimination by teachers and other students against Romani students was a disincentive for Romani children to complete their studies. Despite an order by the Ministry of Education forbidding segregation of Romani students, segregation along ethnic lines persisted. In April the NGO Center for Human Rights and Advocacy published a monitoring report on segregation in 112 localities in the northeastern part of the country. According to the report, segregation occurred in at least one school in one-half of the localities monitored. The most common type of segregation was by classroom, followed by segregation by school, then by buildings within the same school, and then within the classroom.

NGO observers noted that Romani women faced both gender and ethnic discrimination and often lacked the training, marketable skills, or work experience needed to participate in the formal economy.

On April 8, International Roma Day, a member of the Alba-Iulia local council advocated that no mother should have more children than she can raise to avoid dependence on others, including the state. In 2013 the same council member advocated for the sterilization of Romani women who demonstrate “they have neither the means nor the intent” to raise children in adequate, “humane” conditions. At the time, the CNCD fined him 8,000 lei (\$1,960).

In June the CNCD fined the Sibiu mayor’s office 5,000 lei (\$1,230) for offending the dignity of a Romani community by proposing they be moved outside the city, where they would “benefit from the result of their labor,” implying the Roma would not work otherwise. The mayor’s office said this in the context of a request that this community, living at the outskirts of the city, be linked to the water system and be provided with better living conditions. The CNCD noted that the mayor’s office defended its position by asserting that people around the community had lodged complaints against the Roma for “uncivilized behavior.”

According to the 2011 census, the ethnic Hungarian population was approximately 1.2 million. The majority of Hungarians lived in the historical region of Transylvania, and they formed a majority in Harghita and Covasna Counties.

Ethnic Hungarians continued to report discrimination related mainly to their ability to use the Hungarian language. The law provides that, where a group speaking a minority language is at least 20 percent of the population, they have the right to use their mother tongue in dealings with local government. In August the political umbrella group Democratic Alliance of Hungarians in Romania released a report on the government’s implementation of the European Charter for Regional or Minority Languages. The report asserted that ethnic Hungarians were not permitted to use Hungarian in courts or administrative matters and that many municipalities did not use bilingual signs. The report claimed the government continued to refuse to establish a public Hungarian-language university. The report also noted inadequacies in teaching Romanian to children who are native Hungarian speakers, leading to underperformance on national examinations.

In February a doctor in Cluj-Napoca children’s hospital refused to give a 17-year-old ethnic Hungarian girl and her parents medical information in Hungarian regarding a foot injury the girl

received in a bus accident and also refused to communicate through a translator. According to the law, medical information must be provided to the patient in a language she or he understands. The National Council for Combatting Discrimination issued the minimum fine of 2,000 lei (\$490) to the hospital and 1,000 lei (\$245) to the doctor. The CNCD explained it wanted to signal there is a problem with discrimination but did not want to create financial difficulties for the underfinanced medical sector. The hospital's appeal of the fine was pending at the end of September.

Ethnic Hungarians also complained of obstructions and bans against the use of the regional Szekler flag and symbols.

In the region of Moldavia, the Roman Catholic, Hungarian-speaking Csango minority continued to operate government-funded Hungarian language classes. In some other localities, authorities denied requests for Hungarian-language classes.

## Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The law prohibits discrimination based on sexual orientation. There are no laws, however, that address sources of discrimination against transgender and intersex persons. NGOs reported that police abuse and societal discrimination against LGBTI persons were common and that open hostility generally prevented the reporting of harassment and discrimination.

ACCEPT, an NGO that promoted LGBTI rights, managed an on-line legal counselling service. During the year ACCEPT reported that 28 out of 106 requests for counselling were based on discrimination in employment or education on the grounds of sexual orientation or hate-speech against LGBTI persons. By mid-September, ACCEPT received two reports of police failing to intervene or to receive complaints from LGBTI individuals facing violence and abuse in Bucharest. In both cases, the perpetrator targeted gay men or individuals affiliated with the LGBTI community who were entering or leaving bars frequented by LGBTI persons.

Bullying remained a problem in high schools in the absence of discussions on diversity, equality, sexual orientation and gender identity. Comprehensive sexual education programs were absent from the curriculum.

LGBTI and human rights NGOs claimed the signature-collection process for a pending referendum to define the family as based on a union between a man and woman presented irregularities and lacked transparency. They noted the signature collection happened in schools, leading to a hostile environment against LGBTI students. The NGOs also claimed this was a breach of education laws that ban political activities in schools. The Ministry of Education spokesperson declared the ministry issued an instruction to county school administrators about respecting the law. There was no monitoring or report on how this instruction was implemented.

In March ACCEPT released the results of a study on perceptions and attitudes related to LGBT students in high schools. The study included 613 responses from students in 10 high schools and 157 online responses from self-identified LGBT students. The main results among non-LGBT students included: 25 percent of the students believed that gay persons are inferior; 50 percent would not accept a gay classmate, and 33 percent would not accept a lesbian one; 40 percent believed gay persons should not teach; 20 percent would not step in if they saw violence against an LGBTI colleague or would even participate in the violence; and only 5 percent stated they would inform school leadership if they witnessed bullying or aggression against a colleague on account of

sexual orientation. Of the LGBT children surveyed, 71 percent did not feel safe at school, particularly emotionally; 61 percent claimed they have been victims of or witnessed aggression; and 65 percent said their teachers made homophobic remarks.

Discrimination in employment occurred against LGBTI persons (see section 7.d.).

In April the ECHR decided against the state in the case of *M.C. and A.G. v. Romania* for failing to investigate the case of a group of youths who were severely beaten in 2006 after leaving a Pride parade as well as for failing to take into account the possible homophobic motivations of the attack.

Prior to the June 25 pride parade in Bucharest, which transpired without incident and included over 1,000 participants, approximately 50 persons took part in a “normalcy march” counterprotest sponsored by the extreme-right NGO New Right (Noua Dreapta), which also registered as a political party at the end of 2015.

The law governing the ability of transgender persons to change their identity was vague and incomplete, resulting in inconsistency in judicial practice concerning legal recognition of gender identity. In some cases authorities denied recognition of a change in identity unless a sex-reassignment intervention had occurred. Because of the difficult legal procedure for gender recognition, it was often impossible for transgender persons to get documents reflecting their gender identity, which led to difficulties in obtaining all services requiring identity documents (e.g., health care, transportation passes, and banking services). There were reports of transgender persons facing particular difficulties in accessing health care because doctors had very limited knowledge about transgender issues and, consequently, did not know how to treat transgender patients. There were almost no doctors who had the knowledge or willingness to undertake sex-reassignment surgery. Access to adequate psychological services was also limited because there were few specialists with the knowledge and expertise to deal with transgender issues, while others refused to accept transgender patients.

During the year the ACCEPT received two complaints from transgender persons who had changed their names through the Romanian legal system or an administrative body abroad, but who could not change their study diplomas due to a Ministry of Education order prohibiting name changes that occur after graduation.

There was a lack of training for medical staff working with the LGBTI community regarding communication skills, heteronormativity, confidentiality concerns, and discriminatory attitudes. Education in medical schools and in faculties of psychology on homosexuality and especially transgenderism was limited, with homosexuality presented in some faculties as a deviant behavior and illness.

## HIV and AIDS Social Stigma

Societal discrimination against persons with HIV/AIDS was widespread. Although the law provides that HIV-infected persons have the right to confidentiality and adequate treatment, authorities rarely enforced the law, and discrimination against persons with HIV/AIDS impeded access to routine medical and dental care. Breaches of confidentiality involving individuals' HIV status occurred. Incidents were severely underreported, and authorities did not adopt all necessary regulations to guarantee confidentiality and fair treatment.

According to a national survey conducted at the request of the CNCD in 2015, persons with HIV/AIDS were among the groups most subject to discrimination in the country. According to the

survey, a majority of respondents indicated they would not want to be in direct contact or have social interactions with persons with HIV/AIDS. Only 10 percent of respondents would accept a person with HIV/AIDS as a relative, 16 percent as a friend, and 14 percent as a co-worker. Some 15 percent of respondents would accept the idea of persons with HIV/AIDS living on the same street, 13 percent in the same community, and 15 percent in the country. Approximately 6 percent would only accept persons with HIV/AIDS visiting the country.

Observers noted that authorities failed overall to protect children with HIV/AIDS from widespread discrimination, abuse, and neglect. Some doctors reportedly refused to treat children and youths with HIV/AIDS, while medical personnel, school officials, and government employees did not always maintain the confidentiality of information about infected children. HIV-infected adolescents frequently experienced reduced access to facilities for reproductive health care and the prevention of HIV and sexually transmitted infections. Stigma and discrimination against persons with HIV/AIDS frequently impeded their access to education, other medical care, government services, and employment. Several infected persons dropped out of school due to stigmatization, discrimination, or disease.

In March the CNCD sanctioned the Ministry of Health, a private clinic, and one of its doctors in the case of a young person who asked for medical certification that he was fit to enroll in university, who instead received a certificate saying he was HIV-positive. The CNCD fined the clinic 5,000 lei (\$1,230) and gave the doctor a warning for breach of confidentiality and limiting the victim's right to education. The CNCD fined the Ministry of Health 5,000 lei for failing to adopt adequate instructions for medical staff on HIV/AIDS confidentiality standards.

## Promotion of Acts of Discrimination

Throughout the year some local government officials made statements that contributed to ethnic stereotyping of Roma (see section 6, National/Racial/Ethnic Minorities).

# SECTION 7. WORKER RIGHTS

## a. Freedom of Association and the Right to Collective Bargaining

The law provides for the rights of workers to form and join independent labor unions, bargain collectively, and conduct legal strikes. The law prohibits antiunion discrimination but does not require reinstatement of workers fired for union activity. The law provides for protection of freedom of association and collective bargaining, but unions complained there is little enforcement to protect against violations of these rights.

Employees of the Ministry of National Defense, certain categories of civilian employees of the Ministries of Interior and Justice, judges, prosecutors, intelligence personnel, and senior public servants including the president, parliamentarians, mayor, prime minister, minister, president of the Supreme Court did not have the right to unionize. The law does not allow certain public-sector workers, such as those involved in border protection, prisons, or the military, to form unions or strike. This includes any employee involved in security-related activities, which was broadly defined. Unions objected to the requirement that they submit lists of prospective union members with their registration application. Since employers also had access to this list, union officials feared this could

lead to reprisals against individual unionized employees, particularly dismissals, hindering the formation of new unions.

Unions may strike only if they give employers 48 hours' notice. Although not compulsory, unions and employers often sought arbitration from the Ministry of Labor's Office for Mediation and Arbitration. Companies may claim damages from strike organizers if a court deems a strike illegal. The law permits strikes only in defense of workers' economic, social, and professional interests.

The law requires collective labor agreements to be in place for employers with more than 21 employees, but provides no basis for national collective labor agreements. Employers refusing to initiate negotiation of a collective bargaining agreement can receive fines. The law permits, but does not impose, collective labor agreements for groups of employers or sectors of activity. The law requires employers to consult with unions on such topics as imposing leave without pay or reducing the workweek due to economic reasons.

Unions complained that the government's general prohibition on unions' engaging in political activities was intended to prohibit unions from entering unofficial agreements to support political parties. The law provides for this control due to past abuses by union officials, but the International Labor Organization Committee of Experts on the Application of Conventions and Recommendations (CEACR) in a 2016 report claimed this was at odds with the country's obligations under international conventions. Unions also complained that the government could exercise excessive control over union finances, although the government asserts that national fiscal legislation applies to all organizations. The CEACR also identified this as an area of concern.

Union representatives alleged that official reports of incidents of antiunion discrimination remained minimal, as it was difficult to prove legally that employers laid off employees in retaliation for union activities. The National Council for Combatting Discrimination (CNCD) does fine employers for antiunion discrimination, although it lacked the power to order reinstatement or other penalties. The law prohibits public authorities, employers, or organizations from interfering, limiting, or preventing unions from organizing, developing internal regulations, and selecting representatives with possible fines of 15,000 to 20,000 lei (\$7,680 to \$4,910), but in recent years, the Labor Inspectorate, which also has jurisdiction over discrimination claims, has applied no such sanction. The potential fines are insufficient to deter violations, but employees may seek judicial remedies to order reinstatement.

The government and employers generally respected the right of association and collective bargaining, and union officials stated that registration requirements stipulated by law were complicated but generally reasonable.

## b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. Nevertheless, there were reports that such practices continued to occur, often involving Roma and children. The government did not effectively enforce the law and took no significant measures to prevent forced or compulsory labor. Penalties for forced labor included prison terms of one to three years and were insufficient to deter violations.

According to the Ministry of Internal Affairs, 180 of the 880 victims of trafficking officially identified in 2015 were exploited specifically for labor purposes. In 2015 police investigated 183 persons for forced labor, prosecuting 28 defendants for trafficking in persons for labor purposes and four defendants for trafficking in minors for forced labor purposes. On July 13, the Directorate for Investigating Organized Crime and Terrorism (DIICOT) uncovered a human trafficking gang in Berevoiesti, Arges County, which had forced dozens of kidnapped victims, including children, into

beggary, slavery, and other forms of forced labor. DIICOT and media reports indicated that members of Romani clans kidnapped members of vulnerable social groups, including children, persons with mental disabilities, and those with no relatives. The captors allegedly kept the victims locked and chained, and beat them and forced them to work.

Men, women, and children were subjected to labor trafficking in agriculture, construction, domestic service, hotels, and manufacturing. Organized rings, often involving family members, forced persons, including significant numbers of Romani women and children, to engage in begging and petty theft (see section 7.c.).

On March 30, the Bucharest Court of Appeals sentenced former communist-era prison official, Ion Ficior, who ran a forced labor camp, to 20 years in prison.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### c. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for most forms of employment is 16. Children may work with the consent of parents or guardians at age 15 if the activities do not endanger their health, morality, or safety. The law prohibits minors (under 18) from working in hazardous conditions, provides a basis for the elimination of hazardous work for children, includes a list of dangerous jobs, and specifies penalties for offenders. Some examples of hazardous jobs for children include those posing a high risk of accident or health risk, exposure to psychological or sexual risk, night shifts, exposure to harmful temperatures, and those requiring use of hazardous equipment. Parents whose children carry out hazardous activities are required to attend parental education programs or counseling and may be fined between 100 and 1,000 lei (\$24.50 and \$245) for failing to do so. Persons or companies who employ children for hazardous tasks may be fined 500 to 1,500 lei (\$123 to \$368).

Children who work have the right to continue their education, and the law obliges employers to assist in this regard. Children between ages 15 and 18 may work a maximum of six hours per day and no more than 30 hours per week, provided their school attendance is not affected. Many children reportedly did not attend school while working. Minors may not work overtime or during the night and have the right to an additional three days of annual leave.

The law requires schools to notify social services immediately if children miss class to work, but schools often do not follow the law. Social welfare services have the responsibility to reintegrate such children into the educational system. The government conducted an information campaign during the year to raise awareness of child labor and children's rights among children and school officials.

Penalties for violation of child labor laws include sentences ranging from one to two years or fines. Violations were rarely prosecuted and penalties are not sufficient to deter violations. The Ministry of Labor may impose fines and close factories where it finds exploitation of child labor. The National Authority for Child Protection (ANPC) in the Labor Ministry has responsibility for investigating any report of child labor abuse, but enforcement of child labor laws tended to be lax, especially in rural areas with many agricultural households and where social welfare services lack personnel and capacity to address child labor violations.



The ANPC is responsible for monitoring and coordinating all programs for the prevention and elimination of child labor. Government efforts focused on reacting to reported cases and it does not appear that the ANPC dedicated any resources to prevention programs. According to ANPC statistics, 214 children were subject to child labor in 2015. Of these, 132 cases occurred in urban areas and 82 cases in rural areas; 103 cases involved girls and 111 involved boys; 170 of the children were under 14, while 44 were between ages 14 and 18. The incidence of child labor was likely much higher than official statistics reflected. Child labor, including begging, selling trinkets on the street, and washing windshields, remained widespread in Romani communities, especially in urban areas. Children as young as five engaged in such activities. Of the 214 documented cases of child labor violations in 2015, authorities prosecuted only 12 alleged perpetrators.

## d. Discrimination with Respect to Employment and Occupation

Labor laws and regulations prohibit discrimination with respect to employment and occupation because of race, sex, gender, age, religion, disability, language, sexual orientation or gender identity, HIV-positive status or other communicable diseases, or social status. The government did not enforce these laws effectively, and only reacted to claims of discrimination and did not adequately engage in programs to prevent discrimination. Although the CNCD and the Labor Inspectorate investigated reported cases of discrimination, the penalties were insufficient to deter violations. The penalties for discrimination with respect to employment and occupation include fines between 400 and 4,000 lei (\$98 and \$980) if the discrimination refers to one individual, or between 600 and 8,000 lei (\$147 and \$1,960) if the discrimination targets a group of individuals or communities.

Discrimination in employment or occupation occurred with respect to gender, disability, and HIV-positive status. There was also discrimination against Roma and migrant workers. In the first six months of the year, the CNCD processed 187 discrimination cases with respect to employment, of which 18 concluded with various penalties, mostly fines. The CNCD addressed cases in both the public (local public administration, public media, and communications) and private sectors (food, energy, transportation companies). The government largely reacted to complaints and did not engage in adequate programs to prevent discrimination.

According to Eurostat, the salary gap between men and women in the country was 10 percent in 2014. While the law provides female employees re-entering the workforce after maternity leave the right to return to their previous or a similar job, pregnant women and other women of childbearing age could still suffer unacknowledged discrimination in the labor market.

Although systematic discrimination against people with disabilities did not exist, the public at large had a bias against those with disabilities. NGOs worked actively to change attitudes and assist those with disabilities to gain skills and employment, but the government lacked adequate programs to prevent discrimination and promote integration.

The LGBTI rights group Accept received reports of eight cases of employment discrimination against LGBTI persons and guided the complainants in possible courses of action. One case was resolved after the complainant filed an internal complaint with the employer in June; three other individuals refused to appeal to the CNCD or the courts due to concerns about further harassment, preferring settlements with their employers.

## e. Acceptable Conditions of Work

Effective May 1, the monthly gross minimum wage increased to 1,250 lei (\$307). According to Eurostat data, the annual individual income level for persons "at risk of the poverty threshold" was 1,388 euros (\$1,530) for a single-person household in 2015. The law provides for equal pay for equal work.

The law provides for a standard workweek of 40 hours or five days. Workers are entitled to overtime pay for weekend or holiday work or work of more than 40 hours, which may not exceed 48 hours per week, averaged for the month. The law requires a 24-hour rest period in the workweek, although most workers received two days off per week. During reductions of workplace activity for economic or technical reasons, the law allows employers to shorten an employee's workweek and reduce the associated salary. Excessive overtime may lead to fines on employers if workers file a complaint, but complaints were rare. The law prohibits compulsory overtime.

The law gives employers wide discretion regarding performance-based evaluation of employees. The law permits 90-day trial periods for new employees and simplifies termination procedures during this probationary period.

The law provides for temporary and seasonal work and sets penalties for work performed without a labor contract in either the formal or the informal sector of the economy. Penalties for employers using illegal labor range from fines between 500 lei and 1,000 lei (\$123 and \$245) for cases involving fewer than five persons to imprisonment in cases of more than five persons. The maximum duration of a temporary contract is 24 months, which may be extended as long as the total contract length does not exceed 36 months, in accordance with EU regulations.

The Ministry of Labor, through the Labor Inspectorate, is responsible for enforcing the law on working conditions, health and safety, and minimum wage rates. The inspectorate has 1,400 inspectors to cover over 550,000 employers with more than 5.5 million employees. Of the 1,400 inspectors, approximately 900 cover labor relations, including issues related to work contracts, collective bargaining, minimum wage, with the other inspectors addressing workplace health and safety issues. The inspectorate was understaffed and inspectors underpaid; consequently, the inspectorate has high turnover and limited capacity. Minimum wage, hours of work, and occupational safety and health standards were not effectively enforced in all sectors.

According to trade union reports, many employers paid supplemental salaries under the table to reduce both employees' and employers' tax burdens. This practice decreased employees' future pensions and limited their ability to obtain credit from banks and other lenders. To address underreported labor, the Labor Inspectorate collaborated with the National Authority for Fiscal Administration to conduct a joint operation from June 16 to September 23, in which the labor and fiscal inspectors jointly checked employers in sectors prone to underreported labor, including the textile, construction, security, cleaning, food preparation, transportation, and storage industries.

The government did not effectively enforce overtime standards. Union leaders complained that overtime violations were the main problem facing their members, since employers often required employees to work longer than the legal maximum without always receiving mandatory overtime compensation. This practice was especially prevalent in the textile, banking and finance, and construction sectors. Penalties for violations ranged from 300 lei (\$74) for minor violations to up to 100,000 lei (\$24,600) for more serious violations.

The Ministry of Labor is responsible for establishing occupational, health, and safety standards, and the Labor Inspectorate inspects employers for compliance with regulations. The high number of violations indicated that the penalties did not deter violations. From January to June, labor inspectors conducted more than 37,000 inspections and sanctioned more than 9,000 employers for violations

related to labor conditions, including unreported or undeclared labor, imposed and unremunerated overtime, payment below the gross minimum wage, and unremunerated work on holidays. During this same period, inspectors focusing on workplace safety inspected more than 27,000 employers, issued almost 2,500 fines, and applied various sanctions ranging from remedial recommendations to workplace or equipment suspension against 20,000 employers. Workers could remove themselves from situations that endanger health or safety without jeopardy to their employment. Union leaders complained that labor inspectors only superficially investigated workplace accidents, including incidents involving fatalities, and that inspectors wrongly concluded that the victims caused most fatal accidents. The Labor Inspectorate lacked sufficient personnel to carry out its responsibilities effectively.

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