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2011 Country Reports on Human Rights Practices - Romania

EXECUTIVE SUMMARY

Romania is a constitutional republic with a democratic, multiparty, parliamentary system. The bicameral parliament (Parlament) consists of the Senate (Senat) and the Chamber of Deputies (Camera Deputatilor), both elected by popular vote. The 2009 presidential elections were considered generally free and fair. Security forces reported to civilian authorities.

Major human rights problems included trafficking of persons for labor, sexual exploitation, and forced begging. Significant societal discrimination against Roma continued. Government corruption remained a widespread problem that affected all sections of society.

During the year there were reports that police and gendarmes mistreated and harassed detainees and Roma. Prison conditions remained poor. The judiciary lacked impartiality and was sometimes subject to political influence. Property restitution remained extremely slow, and the government failed to take effective action to return Greek Catholic churches confiscated by the former Communist government in 1948. A restrictive law on religion remained in effect. There were continued reports of violence and discrimination against women as well as child abuse. Anti-Semitic articles continued to be published and anti-Semitic, racist, xenophobic, and nationalistic views continued to be disseminated via the Internet. Government agencies provided inadequate assistance to persons with disabilities and neglected persons with disabilities who were institutionalized. Societal discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons and individuals with HIV/AIDS, particularly children, remained problems. A new labor code eliminated the legal basis for collective bargaining at the national level, reduced protections against antiunion discrimination, and generally weakened workers' position vis-a-vis employers.

The government took hesitant steps to prosecute and punish officials who committed abuses. Lawsuits alleging police abuse were repeatedly delayed and in many cases ended in acquittals.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

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

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; however, there were reports from nongovernmental organizations (NGOs) and the media that police mistreated and abused prisoners, pretrial detainees, and Roma, primarily through excessive force and beatings. There were also reports that some personnel in state institutions mistreated abandoned children with physical disabilities and subjected children in state orphanages to lengthy incarceration as punishment for misbehavior (see section 6, Children).

Prison and Detention Center Conditions

Prison conditions remained somewhat harsh and at times did not meet international standards. The media and human rights organizations reported that the abuse of prisoners by authorities and other prisoners continued to be a problem. According to media and NGO reports, prisoners at times assaulted and abused their fellow inmates, and prison authorities tried to cover up such incidents. Prisoners had access to potable water. A judge-delegate handles prisoner complaints. For nonviolent offenders the law provides for alternative sentences to prison, such as suspended sentences, sentences executed at the workplace, or penal fines. The government continued efforts, including through partnerships with NGOs, to alleviate harsh conditions; improve the condition of detention rooms; provide more daily activities, training courses, and educational programs; and deter the spread of HIV and tuberculosis.

According to the National Administration of Penitentiaries of the Ministry of Justice, at year's end there were 30,694 persons, including 1,376 women and 447 minors, in prison or juvenile detention facilities in a system with a stated capacity of 36,229 beds. Although according to the official figures overcrowding did not represent a serious problem overall, in some prisons the standard of 43 square feet per prisoner recommended by the Council of Europe's Committee for the Prevention of Torture (CPT) was not observed.

According to human rights NGOs, authorities made some progress in implementing the four detention regimes: closed, semiclosed, semiopen, and open. Prisoners assigned to semiopen and open regimes reportedly began to benefit from placement in the type of prison appropriate to their sentence. However, the NGO Association for the Defense of Human Rights in Romania-the Helsinki Committee (APADOR-CH) criticized the placement of some prisoners in prisons far from their hometowns.

The regulations allow all religious groups unrestricted access to prisoners.

The government permitted monitoring visits by independent human rights observers, and such visits occurred during the year. On November 24, the CPT released a report on its September 2010 visit to the country. The CPT reviewed conditions in police detention facilities and various issues related to prisons. It urged authorities, inter alia, to prevent mistreatment by adopting a "zero tolerance" policy and ensure minimum standards are met for individual space, lighting, hygiene, and food quality.

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 the Administration and Interior (MAI) is responsible for the national police, the gendarmerie, the border police, the Office for Immigration, the General Directorate of Information and Internal Protection (which oversees the collection of intelligence on organized crime and corruption), and the General Anticorruption Directorate. The national police agency is the General Inspectorate of the Romanian Police, which is divided into functional directorates and 42 regional directorates for each county and the city of Bucharest. The Romanian Intelligence Service (SRI) collects information on major organized crime, major economic crime, and corruption. Complaints of police misconduct are handled by the internal disciplinary councils where the accused officers work.

During 2010, 1,089 police officers received disciplinary sanctions as a result of internal council investigations.

Arrest Procedures and Treatment While in Detention

The law provides that only judges may issue detention and search warrants, and the government mostly respected this provision in practice. The law requires authorities to inform detainees at the time of arrest of the charges against them and their legal rights, including that they have the right to remain silent until a lawyer is present. Police must notify detainees of their rights in a language they understand before obtaining a statement. Detainees must be brought before a court within 24 hours of arrest. There was no information to suggest that the authorities did not respect these requirements in practice. The law provides for pretrial release at the discretion of the court. A bail system also exists but was seldom used in practice. Every detainee has the right to counsel and in most cases had prompt access to a lawyer of his choice. Indigent detainees were provided 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. The lawyer may be present during the interview or interrogation. Detainees also had prompt access to their families.

The law allows police to take into custody any person who endangers the public or other individuals, or disrupts 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, their right to counsel was not observed. APADOR-CH criticized this provision as leaving room for abuse.

A judge may order pretrial detention for periods of up to 30 days, depending on the status of the case. The court may extend these time periods; however, pretrial detention may not exceed 180 days. Courts and prosecutors may be held liable for unjustifiable, illegal, or abusive measures.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice. However, the system does not provide a corresponding level of judicial accountability. There was a lack of public confidence that judges were fair, unbiased, and not subject to outside political or financial influence.

In July the European Commission's annual report on the Cooperation and Verification Mechanism (CVM) for judicial reform and anticorruption in the country stated that "only limited progress has been achieved since the commission's last report in terms of improving the efficiency of the judicial process and the consistency of judicial decisions." However, it acknowledged some progress during the year on such issues as the adoption of new civil and criminal procedure codes and the development of a multiyear strategy for reforming the judiciary.

NGOs and public officials frequently criticized the judicial system during the year. The judiciary's self-governing oversight body, the Superior Council of Magistrates, increased

the transparency of its operations and adopted a strategy and action plan for strengthening integrity within the judiciary but failed to create procedures for addressing potential conflicts of interest among judges. It also failed to consistently identify and discipline judicial or prosecutorial misconduct, a significant part of its mandate. The practice of the High Court of Cassation and Justice (ICCJ) of returning case files to prosecutors for additional investigation contributed to frequent delays in court proceedings. However, the speed of high-level corruption trials increased toward year's end as the ICCJ's Criminal Section prioritized these files in order to avoid the expiration of the statutes of limitations.

Trial Procedures

The constitution and the law provide a presumption of innocence until a final judgment by a court. Trials are open to the public. The law does not provide for trial by jury. 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; in practice local bar associations provided attorneys to indigents and received compensation from the Ministry of Justice. Defendants may confront or question witnesses against them, present witnesses and evidence on their own behalf, and have a court-appointed interpreter. Defendants and their attorneys have the right of access to all prosecution evidence relevant to their cases. Both prosecutors and defendants have a right of appeal.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Regional Human Rights Court Decisions

During the year the European Court of Human Rights (ECHR) issued 59 judgments against the government for violations of one or more rights under the European Convention for the Protection of Human Rights and Fundamental Freedoms. The government complied with court orders to pay compensation in cases it lost, but in January the Parliamentary Assembly of the Council of Europe cited Romania for "extremely worrying delays" in implementing judgments of the ECHR.

Civil Judicial Procedures and Remedies

Civil courts functioned in every jurisdiction and operated with the same degree of judicial independence as criminal courts. Judicial and administrative remedies were available to individuals and organizations for violations of human rights by government agencies. Plaintiffs against the government may appeal to the ECHR.

Litigants sometimes encountered difficulties enforcing civil verdicts because the procedures for enforcing court orders were impractical and caused delays.

Property Restitution

Under the law, claims for property seized by the Communist-era government had to be filed with the National Restitution Agency in 2001-03. Of the 202,267 claims filed for restitution of buildings, 123,122 (2,383 in 2011) were considered by the agency to have been resolved as of the end of August. Of the claims resolved, 44,697 were rejected; 52,426 qualified for restitution with equivalent property; 5,609 resulted in restitution in kind and compensation; 286 qualified for combined measures (i.e., restitution in kind plus compensation with other assets); 1,001 qualified for allocation of other assets and compensation; 1,893 qualified for compensation with other assets or services; and 17,210 were resolved by return of the properties in their current condition.

At the end of August, a vice president of the National Authority for Property Restitution was arrested for receiving a bribe to expedite the resolution of restitution cases. The

arrest led to the quick replacement of the authority's president as well as further delays in adjudicating cases.

Organizations representing restitution claimants continued to assert that inertia at the local level hindered the process. In many cases local government officials delayed or refused to provide necessary documents requested by claimants. They also refused to return properties in which county or municipal governments had an interest.

There were numerous disputes over churches the Orthodox Church did not return to the Greek Catholic Church in violation of valid court orders to do so.

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

The constitution and the law prohibit such actions, and the government for the most part respected these prohibitions in practice. Nevertheless, there was a widespread perception that illegal surveillance still occurred, and there were credible media reports that authorities engaged in electronic eavesdropping in violation of these prohibitions.

The law permits the use of electronic eavesdropping in both criminal and national security cases. Under the criminal code, 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 interception without a judicial warrant, but they must then submit a request within 48 hours for retroactive authorization. When there is a threat to national security, the national security law permits prosecutors to authorize the issuance of a warrant for an initial period of six months, which can be extended indefinitely in three-month increments without judicial approval. Some human rights NGOs noted the contradiction between the two sets of laws with regard to the requirement for judicial approval of wiretaps.

On February 18, the ICCJ rejected an appeal by the SRI in a lawsuit filed by businessman Dinu Patriciu against SRI for illegally tapping his telephones. The court ordered the SRI to pay Patriciu 50,000 lei (\$14,950) in damages.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The constitution provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, a largely independent judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. Journalists and private citizens could criticize government authorities, including those at senior levels.

Freedom of Speech: Laws restricting freedom of speech continued to cause concern among the media and NGOs. Insulting the state insignia (the coat of arms, national flag, or national anthem) is an offense punishable by imprisonment.

The religion law forbids acts of "religious defamation" and "public offense to religious symbols." The law also prohibits public denial of the Holocaust. There were no prosecutions or convictions under any of these statutes during the year.

Freedom of Press: While the 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, and the news and editorial tone of these outlets frequently reflected the views of the owners. The tendency towards the concentration of national news outlets in the hands of a few wealthy individuals continued.

During the year there were isolated instances when public officials and politicians insulted or harassed journalists.

On May 31, Gheorghe Bunea Stancu, president of Braila County Council, verbally insulted several journalists who criticized his work, threatening to revoke their accreditations to cover the county council. Media NGOs characterized these actions as "nondemocratic abuses."

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and the law provide for freedom of assembly, and the government generally respected this right in practice. 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 be held 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 would occur. Requests for permits were generally approved. Delays or changes of location of the assembly sometimes occurred, although it was often impossible to determine whether they were politically motivated.

Freedom of Association

The constitution and the law provide for freedom of association, and the government generally respected this right in practice. However, the law prohibits fascist, communist, racist, or xenophobic ideologies, organizations, and symbols (such as statues of war criminals on public land). Political parties are required to have at least 25,000 members to have legal status.

c. Freedom of Religion

See the Department of State's [2010 International Religious Freedom Report](#).

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

The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation. The government generally respected these rights in practice. 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, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The law on asylum, based on EU legislation, prohibits the expulsion, extradition, or forced return of

any asylum seeker at the country's border or from within the country's territory but does not extend these protections to aliens and stateless persons who planned, facilitated, or participated in terrorist activities as defined by international instruments to which the country is a party. In July amended legislation on the status of foreigners in the country brought the law into line with the EU's Schengen rules and the Dublin II regulation. The UNHCR expressed concern that the provisions regarding the removal of unaccompanied children do not make specific reference to the child's best interest.

Safe Country of Origin/Transit: The law provides for the concept of safe countries of origin, and asylum seekers coming from such countries have their asylum applications processed in an accelerated procedure. EU member states are considered safe countries of origin, as are other countries specified by an order of the minister of interior proposed by the National Office for Refugees. Criteria defining safe countries of origin are the number of asylum applicants granted protection; observance of human rights; observance of democratic principles, political pluralism, and free elections; and the existence of operational democratic institutions to monitor human rights.

Nonrefoulement: The government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened based on their race, religion, nationality, membership in a particular social group or political opinion. However, there were still concerns that the law does not give rejected applicants enough time to prepare appeals and pursue them through the courts.

Access to Basic Services: While conditions improved somewhat from prior years, according to the UNHCR, refugees still faced integration difficulties accessing public housing, vocational training adapted to their specific needs, counseling programs, and information for citizenship interviews. Refugees reportedly complained about restrictive procedures for the recognition of their diplomas and the lack of mechanisms for the assessment of the refugee's prior education and experience. The UNHCR also expressed concern about the inadequate monthly allowance – equivalent to approximately \$30 – that was provided to asylum seekers.

Durable Solutions: Under a 2008 government decision, authorities resettle 40 persons yearly. The UNHCR added a reception center with 100 beds in Giurgiu in addition to the 250 beds it maintained at the emergency transit center in Timisoara.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In 2009 the country held national elections for president. Despite irregularities, including numerous allegations of vote buying and of multiple voting, the elections were judged free and fair. These irregularities did not appear to favor one political party over another. The report of the Organization for Security and Cooperation in Europe (OSCE) on the elections found them to be "generally conducted in conformity with OSCE commitments and international standards for democratic elections, as well as with national law."

Parliamentary elections, last held in 2008, are based on a complex single-representative district voting system for both the Senate and the Chamber of Deputies. The media, NGOs, and government officials criticized the voting system, which employs a complicated formula to assign parliamentary seats to party representatives, as too difficult for most voters to understand and for awarding seats to party members who finished second or third in their district.

Political Parties: The law requires political parties to register with the Bucharest Tribunal and to submit their statutes, program, and a roster of at least 25,000 signatures. Among these 25,000 "founding members," there must be individuals from at least 18 counties, including Bucharest, with a minimum of 700 persons from each county. The party statutes and program must not include ideas that incite war, discrimination, hatred of a national, racist, or religious nature, or territorial separatism.

Organizations representing ethnic minorities may also field candidates in elections. If the minorities in question are "national minorities," defined as those ethnic groups represented in the Council of National Minorities, their organizations must meet requirements similar to those for political parties. For organizations representing minorities not represented in parliament, the law sets more stringent requirements than those for minority groups already represented in parliament. They must provide the Central Electoral Bureau with a list of members 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 15 percent of the ethnic group amounts to more than 20,000 persons, the organization must submit a list with at least 20,000 names distributed among at least 15 counties plus the city of Bucharest, with no fewer than 300 persons from each county.

Participation of Women and Minorities: While the law does not restrict women's participation in government or politics, societal attitudes presented a significant barrier. There were 37 women in the 334-seat Chamber of Deputies, including the speaker, and eight women in the 137-seat Senate. At the end of September there were three women in the 18-member cabinet and no female prefects (governors appointed by the central government) of the 42 counties.

Under the constitution, each recognized ethnic minority is entitled to have one representative in the Chamber of Deputies even if the minority's organization cannot obtain the 5 percent of the vote needed to elect a deputy outright. However, this entitlement is qualified by the requirement that the organization receives votes equal to 10 percent of the average number of votes nationwide necessary for a deputy to be elected. Organizations representing 18 minority groups received deputies under this provision in the 2008 elections. There were 47 members of minorities in the 471-seat parliament: nine in the Senate and 38 in the Chamber of Deputies. At the end of the year there were four members of minorities (all ethnic Hungarians) in the 17-member cabinet. Ethnicity data was not available for members of the Supreme Court.

Ethnic Hungarians, represented by the Democratic Union of Hungarians in Romania, an umbrella party, were the sole ethnic minority to gain parliamentary representation by passing the 5 percent threshold. Only one Romani organization, the Roma Party-Pro Europe, was represented in the parliament with one member. Low Romani voter turnout likely resulted from a lack of awareness, inability to demonstrate an established domicile, and/or absence of identity documents.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the law was not implemented effectively, largely because of problems within the judicial branch, and officials sometimes engaged in corrupt practices with impunity. The World Bank's corruption indicators highlighted corruption as a problem. In 2007, as part of the country's agreement on accession to the European Union, the European Commission established the CVM to monitor the country's progress in reforming the judicial branch and fighting corruption.

The National Anticorruption Directorate (DNA) continued its investigation of medium- and high-level corruption cases at a steady pace throughout the year. A preliminary assessment showed that 2011 produced the highest number of final convictions in DNA cases since the agency's creation in 2002. The DNA sent 1,091 persons to trial (compared with 937 in 2010), of whom 536 held executive, oversight or senior positions. These included two members of parliament, one of whom was also a cabinet minister; one secretary general in the Health Ministry; the president of the National Employment

Agency; one vice president of the National Property Restitution Agency; one chairman and one vice chairman of county councils; two judges; three prosecutors; 231 police officers; 63 customs workers; 11 Financial Guard inspectors; 29 mayors; six vice mayors; one president of the National Drug Agency; one union leader; four army generals; and 38 directors from other public institutions. Of the 1,091 persons sent to trial during the year, 29 were sentenced and the other cases were pending at year's end. Courts handed down final convictions in 297 DNA cases, up from 154 in 2010. Persons receiving final convictions on corruption charges included one former member of parliament, two sitting members of parliament, two judges, two prosecutors, five mayors, three vice mayors, 24 police officers, eight customs officials, and 11 tax inspectors. Courts handed down nonfinal convictions in the cases of 881 defendants, compared with 786 defendants in 2010. These included two former ministers, a former deputy minister, two sitting deputies, two army generals, one judge and two prosecutors, 32 Interior Ministry officers, seven SRI officers (of whom two were generals), 40 customs workers, a former prefect, and a national union leader. Courts handed down final acquittal decisions in the cases of 38 defendants, including a former minister and a current deputy. Of 11 defendants who served as former or current members of parliament or cabinet ministers, eight were convicted and only three acquitted during the year. Between 2006 and 2011 the average conviction rate in DNA cases was 89 percent of the total final court rulings.

Significant delays generally persisted in high-level corruption trials, but towards the end of the year the pace of some of these trials started to accelerate. Verdicts in corruption offenses were often inconsistent. In December the ICCJ handed down a nonfinal acquittal in the high-profile corruption case of a former prime minister. In October the DNA started an investigation into alleged corruption offenses by two ICCJ judges.

Police corruption contributed to citizens' lack of respect for the police and a corresponding disregard for police authority. Low salaries and the absence of incentives and bonuses led to personnel shortages and contributed to the susceptibility of individual law enforcement officials to bribery. Instances of high-level corruption were referred to the General Anticorruption Directorate (DGA) within the MAI, which continued to publicize its anticorruption telephone hotline to generate prosecutorial leads for corruption within the police force. However, some local police departments ("inspectorates") did not adequately publicize the anticorruption hotline. A report by the DGA found an 81 percent increase in the number of MAI officials charged in corruption cases over the first six months of the year, while the number of indictments increased by 200 percent over the same period of 2010. The increase was due in part to several large-scale sweeps conducted by the DNA in cooperation with DGA on Romanian border checkpoints that resulted in hundreds of police and customs workers being investigated.

Conflicts of interest remained a concern for all three branches of government. In April a minister resigned over a conflict of interest. In December the prime minister dismissed a cabinet member for a conflict of interest. Individual executive agencies were slow in enforcing sanctions for such cases and agencies' own inspection bodies were generally inactive. In November the Constitutional Court dismissed a challenge that would have forbidden lawyers from representing clients in courts and prosecutors' offices where the lawyer has a relative serving as judge or prosecutor. In December the National Integrity Agency (ANI) found six members of parliament with conflicts of interest for having hired their relatives at their constituency offices.

The law empowers the ANI to administer and audit financial disclosure statements for all public officials and to monitor conflicts of interest. The ANI law stipulates that the agency can identify "significant discrepancies" (more than 10,000 euros, or \$13,000) between an official's income and his assets, and allows for the seizure and forfeiture of these "unjustified assets." The mechanism for initiating the confiscation of "unjustified assets" was cumbersome. In September the ICCJ handed down the first-ever final sentence concerning the confiscation of unjustified assets of a former minister.

The law provides for public access to government information related to official decision making; however, human rights NGOs and the media reported that the law was inadequately and unevenly applied. Procedures for releasing information were arduous

and varied greatly by public institution. Many agencies did not make public the annual performance reports required by law. NGOs and journalists continued to sue regularly in court to gain access to official government information.

Although the 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 latter remained limited because the law does not permit the college to issue binding decisions on naming 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 were generally cooperative and responsive to their views.

UN and Other International Bodies: The government cooperated during the year with international governmental organizations and permitted visits by UN representatives and other organizations. In May the UN special rapporteur on the independence of judges and lawyers visited the country; at the end of the year no report was yet released on this visit. EU Commission representatives also visited the country under the CVM to assess the situation of the judiciary and released two reports (see section 1.e.).

Government Human Rights Bodies: The Office of the Ombudsman had limited power and no authority to protect citizens' constitutional rights in cases requiring judicial action. The office handled 3,909 complaints during the first six months of the year. The NGO Romani CRISS criticized the Office of the Ombudsman for failing to address the cases the NGO brought to its attention.

The National Council for Combating Discrimination (CNCD) is an independent governmental agency under parliamentary control. During the year the CNCD received 465 public complaints of discrimination. Of the complaints, 95 involved alleged discrimination on the basis of nationality and ethnicity, eight involved discrimination because of sexual orientation, and five involved discrimination on religious grounds. The CNCD received 62 complaints regarding discrimination against Roma. Romani CRISS criticized the CNCD's delays in ruling on some of its complaints. In June the Center for Legal Resources and Romani CRISS expressed concern about the CNCD's alleged preferential and politicized approach to cases involving high officials.

The Ombudsman's Office and the CNCD operated with the government's cooperation and, for the most part, without government or party interference. Neither agency received adequate resources, although both enjoyed public trust. The CNCD was generally regarded as effective, while most observers regarded the Office of the Ombudsman as much less effective. Both the CNCD and the Ombudsman's Office issued yearly activity reports.

Each chamber of the parliament has a human rights committee. Their task is to draft reports on bills that pertain to human-rights-related issues. The members of these committees, however, usually expressed the views of their political parties, rather than addressing the issues objectively.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law forbids discrimination based on race, gender, disability, ethnicity, nationality, language, religion, social status, beliefs, sexual orientation, age, noncontagious chronic disease, HIV infection, or belonging to an underprivileged category. However, the government did not enforce these prohibitions effectively, and women, as well as Roma and other minorities, were often subjected to discrimination and violence.

Women

Rape and Domestic Violence: Rape, including spousal rape, is illegal. The successful prosecution of rape cases is difficult because the law requires a medical certificate in rape cases and, as in all criminal cases, requires either the active cooperation of the victim or a third-party witness to the crime. Police and prosecutors cannot pursue a case on their own, even with independent physical evidence. As a result a rapist could avoid punishment if the victim withdrew the complaint. The successful prosecution of spousal rape cases was more difficult because the law requires the victim personally to file a criminal complaint against the abusive spouse and does not permit third parties to file a complaint on the victim's behalf. The law provides for three to 10 years' imprisonment for rape; the sentence increases to five to 18 years if there are aggravated circumstances. According to police statistics, during the year 2,320 cases of rape were reported, of which 714 cases were prosecuted. Of these prosecutions, 672 cases resulted in convictions, acquittals or other verdicts while 42 cases were ongoing. Prosecutors dropped 1,606 cases without trial.

Violence against women, including spousal abuse, continued to be a serious problem, according to NGOs and other sources. The government did not effectively address it. The law prohibits domestic violence and allows police intervention in such cases. However, the law on domestic violence was difficult to apply because it contradicts the criminal procedures code and does not provide for the issuance of restraining orders. While the criminal code 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. Many cases were resolved before or during trial when alleged victims dropped their charges or reconciled with the alleged abusers. In cases with strong evidence of physical abuse, the court can prohibit the abusive spouse from returning home. The law also permits police to penalize spouses with fines of 100 lei to 3,000 lei (\$29.90 to \$897) for various abusive acts.

At the end of the year, 53 government and privately run shelters for victims of abuse provided free accommodation and food, assistance and counseling. The centers were too few and unevenly distributed, and some parts of the country lacked any kind of assistance. During the year the General Directorate for Child Protection (DGPC) in the Ministry of Labor, Family, and Social Protection, in partnership with NGOs, implemented programs to prevent and curb domestic violence and to provide better conditions for domestic violence victims.

Sexual Harassment: The law prohibits sexual harassment. Penalties vary significantly depending on whether the act is criminal or not and range from fines between 400 lei and 8,000 lei (\$120 and \$2,392) to imprisonment for three months to two years. Although the problem existed, public awareness of it continued to be low. No effective programs existed to educate the public about sexual harassment.

Reproductive Rights: Couples and individuals had the right to decide on the number, spacing, and timing of children and had the information and means to do so free from discrimination. The law provides for the right to information, education, and services for reproductive health without any discrimination, as well as the right to access modern family planning methods. The Ministry of Health provided free contraceptives to many women, including rural residents, students, and the unemployed. In 2009, according to the National Center for Statistics and Informatics in Public Health, 98.5 percent of mothers received skilled medical assistance during childbirth. According to the same source, in 2009, 82.5 percent of pregnant women were registered for prenatal care, and of those registered, 65.5 percent initially registered in the first quarter of pregnancy. Some women, especially Roma, had difficulty accessing reproductive health services for various reasons including lack of information, ethnic discrimination, lack of health insurance, and poverty. NGOs also noted the absence of a national strategy regarding reproductive rights, the lack of sexual education in schools, and the high number of teenage pregnancies (39 per 1,000 live births for girls aged 15 to 19).

HIV-positive women reported to the Euroregional Center for Public Initiatives (ECPI) that they had difficulty accessing maternal health care in maternity hospitals due to discrimination by medical personnel. They asserted they experienced degrading treatment, breaches of confidentiality, segregation, and denial of cesarean sections.

The ECPI noted that the medical staffs of obstetrics and gynecology units did not appear to understand and apply the Ministry of Health's clinical guidelines for the management of pregnancy in HIV-positive women. The center received information that in some hospitals pregnant women were automatically tested for HIV prior to giving birth without informed consent and prior counseling, although HIV testing is voluntary under the law.

While the law provides female employees reentering the workforce after maternity leave the right to return to their previous or a similar job, pregnant women could still suffer unacknowledged discrimination in the labor market.

Discrimination: Under the law women and men enjoy equal rights, including under family law, property law, and in the judicial system. In practice the government did not enforce these provisions, and authorities did not devote significant attention or resources to women's problems. Women occupied few influential positions in the private sector, and differences between the salaries of women and men continued to exist in most sectors of the economy. According to several surveys, including one from the National Statistics Institute and one from the World Bank, women were paid approximately 10-15 percent less than men doing the same work. According to the Ministry of Labor, Family, and Social Protection, women faced disadvantages in education; access to the labor market; social, political, and cultural life; and participation in decision-making. According to the ministry, many of these differences stemmed from segregation of labor (i.e., women work mostly in fields where salaries are lower, such as the service or public sector), traditions, and stereotypes.

Children

Birth registration: Citizenship is derived by birth from at least one citizen parent. Birth registration was not universal, and some children were denied public services as a result. The most common reason that children were not registered at birth was that parents did not declare 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. However, the education of unregistered children depended on the decision of school authorities. Undocumented children also faced difficulties in getting access to health care.

Education: There were reports that Romani children were effectively segregated from non-Romani students and subject to discriminatory treatment (see section 6, National/Racial/Ethnic Minorities).

Child Abuse: Child abuse and neglect continued to be serious problems, and public awareness of them remained poor. The media reported several severe cases of abuse or neglect in family homes, foster care, and child welfare institutions. According to the DGPC, during the first nine months of the year, child welfare services identified 8,431 cases of child abuse, of which 829 were cases of physical abuse; 953, emotional abuse; 388, sexual abuse; 170, work exploitation; 38, sexual exploitation; 51, exploitation to commit criminal offenses; and 5,912, neglect. The Ministry of Labor, Family, and Social Protection implemented a project costing 14.3 million euros (approximately \$18.6 million) jointly funded by the government and the Development Bank of the Council of Europe. The project's goal is to develop a community-based services network at local levels to prevent the separation of children from their families and to reunite children already separated from their families.

In the first nine months of the year, according to official statistics, parents abandoned 1,092 children in maternity hospitals. NGOs claimed that the official statistics did not accurately account for many abandoned children and that many children living in state institutions were never officially recognized as abandoned.

The government has not established a mechanism to identify and treat abused and

neglected children and their families.

Child Marriage: In most cases the legal age of marriage is 18, although girls as young as 15 may legally marry in certain circumstances. Illegal child marriage was reportedly common within certain social groups, particularly the Roma. There were no statistical data regarding the extent of the practice, and information about individual cases surfaced only from time to time in the media.

Sexual Exploitation of Children: The criminal code stipulates three- to 10-year jail sentences for sexual acts with minors under 15 years of age, the age of consent. The display, selling, dissemination, renting, distribution, and production of child pornography is punishable by five to 10 years in jail and, if coercion is used, by 15 to 20 years in jail.

Displaced Children: According to DGPC, at the end of September there were 730 homeless children nationwide. NGOs working with homeless children believed there were actually two or three times that number. They noted that the number of homeless children technically declined because many of them reached adulthood while remaining on the streets.

Institutionalized Children: According to Hope and Homes for Children Romania, the country's branch of a British NGO which works in partnership with the government to close orphanages, 256 orphanages in the country housed 11,000 children at the end of 2010. The NGO noted that conditions in the orphanages improved with the support of EU funding and assistance from NGOs working in the field of child protection. However, staffing in orphanages remained insufficient, and the self-financing of such institutions was limited. Media reported instances in which children from orphanages were reportedly victims of pedophilia or kidnapped and sold to human traffickers, who then forced them to steal and beg abroad.

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 report on compliance at travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

According to the 2002 census, the Jewish population numbered 5,785. Acts of anti-Semitism continued during the year. Unlike in previous years, there were not any reports of acts of vandalism against Jewish sites.

The NGO Center for Monitoring Anti-Semitism in Romania (MCA Romania) criticized authorities for playing down anti-Semitic vandalism, usually attributing the acts to children, drunks, or persons with mental disorders. The NGO asserted that police investigations of such acts were not thorough and criticized the lack of prosecutions that might deter future acts.

The law prohibits public denial of the Holocaust and includes the oppression of Roma as well as Jews in its definition of Holocaust. There were no prosecutions under the statute during the year.

In January the prosecutor's office of the Constanta Court of Appeals reopened for the third time the case against Constanta mayor Radu Mazare for marching onto a public stage in Mamaia in 2009 dressed as a Nazi officer, accompanied by his 15-year-old son dressed as a Nazi soldier. On March 23, the prosecutors closed the case once again, exonerating Mazare from any criminal offense.

Extremist organizations occasionally held high-profile public events with anti-Semitic themes and continued to sponsor events, including religious services, symposia, and marches, commemorating leaders of the pre-World War II fascist Legionnaire Movement.

Such events took place during the year in Bucharest and Piatra Neamt, where posters with former Legionnaire leader Corneliu Zelea Codreanu appeared in the streets.

MCA Romania repeatedly warned that anti-Semitic, racist, xenophobic, and nationalistic views continued to be distributed via the Internet. Extremists such as Ion Coja, a former professor at the University of Bucharest, continued to deny in public, in the publications of the extreme nationalist Greater Romania Party (PRM), and on the Internet that the Holocaust occurred in the country. He also denied that the country's leader during World War II, Marshal Ion Antonescu, participated in Holocaust atrocities in territory administered by the country.

During the year the extremist press continued to publish anti-Semitic articles. The New Right movement and similar organizations and associations continued to promote the ideas of the Iron Guard (an extreme nationalist, anti-Semitic, pro-Nazi group that existed in the country during the interwar period) in the media and on the Internet. Organizations with extreme right-wing views also republished inflammatory books from the interwar period.

During the year the publications of the PRM, headed by Corneliu Vadim Tudor, continued to carry statements and articles containing strong anti-Semitic attacks.

The government continued to make progress in its effort to expand education on the history of the Holocaust in Romania. The study of the Holocaust is included in history courses in the seventh, ninth, 11th, and 12th grades. The Elie Wiesel Institute for the Study of the Holocaust in Romania is also very active in educating the general public. On various occasions throughout the year, high-level officials continued to make public statements against extremism, anti-Semitism, xenophobia, and Holocaust denial.

Trafficking in Persons

See the Department of State's *2011 Trafficking in Persons Report*.

Persons with Disabilities

The law prohibits discrimination against all persons with disabilities in employment, education, access to health care, and the provision of other services. However, the government did not fully implement the law, and discrimination against persons with disabilities remained a problem.

The law mandates accessibility for persons with disabilities to buildings and public transportation. In practice the country had few facilities specifically designed to accommodate persons with disabilities, and persons with disabilities could have extreme difficulty navigating city streets or gaining access to public buildings. However, the number of buildings with facilities for persons with disabilities increased during the year.

According to the Ministry of Labor, Family, and Social Protection, 690,496 persons with disabilities were registered at the end of June, and only 12.04 percent were employed.

According to reports in previous years by the Center for Legal Resources, a human rights NGO, the procedures for commitment, living conditions, and treatment of patients in many psychiatric wards and hospitals did not meet international human rights standards and were below professional norms.

In many cases people with disabilities face institutional and societal discrimination, such as an occurrence during the year of a person being denied access to a club because he was in a wheelchair.

In August the CNCD fined a member of the European Parliament, Gigi Becali, for using the word "handicapped" in a derogatory sense for people with disabilities by calling a journalist "handicapped" in order to insult him.

Some minors were sent to psychiatric hospitals without the consent of their legal guardians. According to human rights NGOs, there was no system to ensure that government-run care institutions observed the rights of children with mental disabilities.

National/Racial/Ethnic Minorities

Discrimination against Roma continued to be a major problem. Romani groups complained that police brutality, including beatings, and harassment, was routine. Both domestic and international media and observers widely reported societal discrimination against Roma. At the end of the year, the parliament enacted a National Roma Strategy aimed at improving the lives of Roma. The NGO and diplomatic communities were widely critical of the strategy for not having measurable goals for progress or adequate funding.

Observers estimated that there were between 1.8 and 2.5 million Roma in the country, approximately 10 percent of the total population. However, the most recent official census, taken in 2002, counted 535,000 Roma, or 3 percent of the population. According to NGOs, earlier government figures were low because many Roma did not reveal their ethnicity, were mistakenly assumed to be Romanian, or lacked any form of identification.

On April 8, following a violent incident between the family of the mayor of Racos, Brasov County, and a group of Roma, four Roma and the mayor's son needed medical care. Approximately 300-400 ethnic Hungarians prepared to go to an area inhabited by Roma with stones, axes, and other weapons in hand. Significant police forces arrived in time to prevent violent clashes, and police started an investigation of the incident. The city hall subsequently hired a private security company to help defuse tensions in the locality. Both the mayor and the Roma filed complaints. The prosecutor's decision to send the Roma to court for disturbance of public order was appealed, and a decision was pending at year's end. Police were investigating the Romani complaint at the end of the year.

Stereotypes and discriminatory language regarding Roma were widespread; journalists and several senior government officials made statements that were viewed as discriminatory by members of the Romani community.

The Senate and the Chamber of Deputies rejected separately, on February 9 and April 5, a draft bill submitted by Chamber of Deputies member Silviu Prigoana that proposed replacing the word "Rom" with "Gypsy" in official documents. The initiative generated heated debates, with a broad range of state institutions, including the Ministry of Foreign Affairs, the National Agency for Roma, the Ministry of Culture, the Interethnic Relations Department, the government's Secretariat General, and the CNCD, opposing the bill. However, the Romanian Academy supported the bill, arguing that the term "Gypsy" represented the "correct name of this transnational population."

On October 17, the CNCD admonished President Basescu for a September statement blaming Finland's opposition to Romania's accession to the Schengen area on the "Gypsies," who "aggressively beg and steal" in Finland.

According to media reports, evictions of Roma continued in Bucharest, Buzau, Cluj Napoca, and other localities during the year. In a report released in June, Amnesty International criticized Romania for failing to observe the right of Roma to decent housing and urged the government to stop the evictions. Amnesty International noted that the alternative housing offered to the evicted Roma did not meet minimum living standards, lacking water, heating, and electricity.

On November 15, the CNCD decided that the forced relocation of 40 Romani families to an area next to a garbage dump in the Pata Rat neighborhood, on the outskirts of Cluj-Napoca, represented a discriminatory act and fined the local authorities 8,000 lei (\$2,392). It further recommended that local authorities identify an adequate solution for these Roma. Amnesty International called on the local authorities of Cluj-Napoca and

the national government to provide effective remedies and reparations to the victims of the forced eviction.

A similar crisis was averted by domestic and international pressure from Amnesty International, and with the assistance of the Soros Foundation, when the mayor of Baia Mare canceled the removal of four Romani neighborhoods and demolition of the houses there. However, on November 15, the CNCD fined the mayor 6,000 lei (\$1,794) for erecting a large concrete wall that separated the housing of Roma and their neighbors in a highly symbolic way. At year's end the wall remained in place, and negotiations continued concerning alternative housing for the affected Roma.

NGOs reported that Roma were denied access to, or refused service in, many public places. Roma also experienced persistent poverty, poor access to government services, a shortage of employment opportunities, high rates of school attrition, inadequate health care, and pervasive discrimination. According to the Barometer for Social Inclusion 2010, 45 percent of Roma who worked did not have a stable job. NGOs and the 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, there were anecdotal reports of Romani children being placed in the back of classrooms, teachers ignoring Romani students, and unimpeded bullying of Romani students by other schoolchildren. In some communities, authorities placed Romani students in separate classrooms or even in separate schools. The NGO Ovidiu Rom worked to assist and encourage Romani children in the school enrollment process. The NGO also continued its national public awareness campaign "scoala te face mare" ("school makes you great") to promote the importance of school enrollment, particularly kindergarten enrollment, to Romani parents and children.

A research project by the Impreuna Agency for Community Development conducted in April-May 2010 in 100 schools revealed that Romani children were segregated, received lower quality education, experienced discrimination from non-Romani peers and teachers, and had a higher dropout rate than non-Romani students (6.7 percent of Romani children, compared to 4.3 percent of non-Romani). The main reasons for dropping out of school were material shortages such as lack of school supplies and clothes (44 percent), poor grades (16 percent), lack of parental interest in schooling their children (9 percent), and early marriage (4 percent).

According to a survey conducted by Romani CRISS as part of a project funded by the UN Children's Fund entitled "Dimensions of Early Childhood Education and School Participation of Roma in Romania," segregation is more often encountered in primary school, where 64.5 percent of Romani students learned in segregated classes, whereas in secondary school 53 percent were in such classes.

On December 21, Romani CRISS and ECPI filed a complaint with the CNCD regarding the segregation of Romani children in Marie Sklodowska Curie Emergency Hospital for Children in Bucharest.

Romani communities were largely excluded from the administrative and legal systems. According to surveys in 2007 and 2008, between 1.9 and 6 percent of Roma lacked identity cards, compared to 1.5 percent of non-Roma. The lack of identity documents excluded 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. According to the Barometer for Social Inclusion 2010, 60 percent of Romani households lived on less than the minimum wage. The average monthly income of Romani households was 657 lei (\$196).

NGO observers noted Romani women faced both gender and ethnic discrimination. Romani women often lacked the training, marketable skills, or relevant work experience to participate in the formal economy. According to a survey by the Association of the

Romanian Romani Women, 67 percent of the Romani women polled were housewives and 80.7 percent did not report any professional skills.

The National Agency for Roma is tasked with coordinating public policies for Roma. Romani NGOs, however, criticized the scope of this agency's responsibilities, noting that they are too broad and often overlap with the activities of other government bodies. During the year, the National Agency for Roma worked on six three-year strategic projects, costing 22.2 million euros (\$28.9 million), financed jointly with the EU. The agency completed five of them by year's end.

In December the government approved a national strategy for the inclusion of the Roma for the period 2012-2020. Romani NGOs and others criticized the strategy for not defining specific measurable benchmarks and goals and failing to identify its funding sources.

To improve relations with the Romani community, police continued to use Romani mediators to facilitate communication between Roma and the authorities and assist in crises.

Within the General Inspectorate of the Romanian Police, an advisory board is responsible for managing the relationship between police and the Romani community. During the year the Institute for Public Order Studies within the Ministry of the Administration and Interior conducted six training sessions for more than 300 police officers to promote human rights legislation and the prevention of torture and other forms of mistreatment. In May the general inspectorate also signed a partnership with the Ovidiu Rom Association to implement a project designed to reduce juvenile delinquency and child victimization within the Romani population. Several other projects were implemented throughout the year by local police units in Bucharest, Braila, Dolj, and Mures to facilitate police interaction with the Romani community and to encourage young members of this ethnic group to apply for police jobs.

According to the most recent census conducted in 2002, ethnic Hungarians are the country's largest ethnic minority with a population of 1.4 million.

In the Moldavia region the Roman Catholic, Hungarian-speaking Csango minority continued to operate government-funded Hungarian-language classes. According to the Association of Csango Hungarians in Romania (AMCM), 1,011 students in 17 schools received Hungarian-language classes during the 2011-2012 academic year. In 25 localities the AMCM sponsored daily educational activities in the Hungarian language. In some other localities, such as Pargaresti, Luizi Calugara, and Tuta, requests for Hungarian language classes were denied. The AMCM continued to complain that there was no Hungarian-speaking school inspector at the School Inspectorate of Bacau County.

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

The law prohibits discrimination based on sexual orientation; however, NGOs reported that police abuse and societal discrimination against LGBT persons was common and that open hostility prevented the reporting of some harassment and discrimination. Members of the LGBT community continued to voice concerns about discrimination in public education and the health care system. During the year the NGO ACCEPT provided legal counseling to 50 people, primarily transgender persons. Most of them, fearing further discrimination, decided not to file formal complaints about their alleged mistreatment. The NGO also reported cases in which the police harassed individuals they suspected of being gay.

There were two officially registered LGBT organizations, ACCEPT and LGBTeam. Other LGBT groups lacked legal status and generally kept a low public profile.

On June 4, approximately 150 persons participated in the annual "March of Diversity" gay

pride parade in Bucharest. Local authorities mobilized numerous police to protect the participants, and the parade ended without violent incidents. The New Right, an extreme-right nationalistic and homophobic group, sponsored a "March for Normalcy" antigay rally on the same day as the March for Diversity, but at a different time and location. ACCEPT provided legal counseling to an individual who stated that he was beaten after the parade. The case was under investigation at year's end. Asking about the status of a case of five individuals who had been beaten after the gay pride parade in 2006, ACCEPT found out that the police dropped the investigation altogether, claiming that they could not identify the assailants, although the victims had identified one of them right after the incident.

In November, at the beginning of an artistic documentary about the life of two young Romanian gay men presented during a film festival in Bucharest, representatives of the extreme rightist organization the New Right entered the cinema hall, shouted homophobic slogans, lit a flare, and left after two to three minutes.

During the year ACCEPT filed several complaints with the CNCD, one against a television presenter who made antigay statements on his blog; the CNCD decided to admonish him. Two other complaints were filed with police against a person who harassed a client at a gym for his presumed sexual orientation and against several policemen who harassed an individual at the police precinct on the same grounds.

In November a member of parliament stated in an interview that pedophilia is a "branch of homosexuality."

Other Societal Violence or Discrimination

Under the law HIV-infected persons have the right to confidentiality and to adequate treatment. However, discrimination against persons with HIV/AIDS impeded access to routine medical and dental care, and authorities rarely enforced laws prohibiting this form of discrimination. Breaches of confidentiality involving individuals' HIV status were common and rarely punished.

Observers noted widespread discrimination faced by children with HIV/AIDS and authorities' failure to protect them from discrimination, abuse, and neglect. Some doctors reportedly refused to treat children and youths with HIV/AIDS. Medical personnel, school officials, and government employees did not always maintain the confidentiality of information about the children.

More than half of HIV-infected adolescents were sexually active; they frequently experienced reduced access to facilities for reproductive health care and the prevention of HIV and sexually transmitted infections. The government provided access to antiretroviral therapy; however, stigma and discrimination against persons with HIV/AIDS frequently impeded their access to education, other medical care, government services, and employment. Fewer than 60 percent of HIV-positive children and adolescents attended some form of schooling.

According to official statistics, 10,642 patients diagnosed with HIV and AIDS were registered as of June, 243 more than in 2010. Many of them were targets of social discrimination. Many, having dropped out of school due to stigmatization, discrimination, or disease, were believed to have a low level of formal education. In September the National Union of Organizations of Persons with HIV/AIDS (UNOPA) concluded a project that was aimed at giving vocational training to HIV-positive young people to help them find jobs. The program increased the capability of more than 1,000 HIV-positive individuals to work and raised employers' awareness regarding the rights and needs of HIV-positive persons.

According to a UNOPA report released in October, hundreds of HIV-positive persons in Bucharest, Botosani, Iasi, Suceava, and Petrosani had to discontinue treatment because of the faulty distribution of funds for HIV medications by the National Health Insurance House. The report also revealed difficulties in accessing dental and gynecological

services. UNOPA stated that only a small number of HIV-positive persons had jobs because they feared applying for work, believed coworkers might find out about their disease, or feared they were not up to the challenges of regular work.

Promotion of Acts of Discrimination

Throughout the year 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 constitution allows workers to form and join independent labor unions without prior authorization, and workers freely exercised this right. However, employees of the Ministry of National Defense, most MAI and Ministry of Justice employees, and prison and intelligence personnel did not have the right to unionize. The law allows unions to conduct their activities without interference, and the government protected this right in practice.

Although the law permits strikes by most workers, lengthy and cumbersome requirements made it difficult to hold strikes legally. Unions may strike only if all arbitration efforts have failed and employers are given 48 hours' notice. Strikes are only permitted in defense of workers' economic interests, and compulsory arbitration is required after 20 days. Judges, prosecutors, some justice ministry staff, and employees of the intelligence service and the ministries of national defense and interior do not have the right to strike.

Until May 1, when a new labor code went into effect, the law provided workers the right to bargain collectively at the national level. National collective labor contracts were previously negotiated every four years. After the implementation of the new code, employers and unions could negotiate collective bargaining agreements at lower levels, although these levels were not defined by year's end. The new law provides no legal basis for national umbrella collective labor contracts. Employers no longer need to consult with unions on such issues as granting employees leave without pay or reducing the workweek due to economic reasons. The main employers' associations, trade unions, and the government last negotiated a national collective labor contract for 2007-10.

The law protects against antiunion discrimination; however, due to extensive legal loopholes, enforcement remained minimal. Under the new labor code, union leaders may be fired for reasons related to their professional performance as an employee. The previous law protected them from dismissal during their mandate as union officials and for two years thereafter. Union leaders expressed discontent with the new law.

On the enforcement side, unions also complained that they must submit their grievances to government-sponsored arbitration before initiating a strike and that the courts had a propensity to declare strikes illegal. Companies may claim damages from strike organizers if a court deems a strike illegal.

Unions expressed concern about excessive political influence at workplaces in public institutions. The alleged interference included appointment of managers for political reasons and instances where politically connected managers received prior information about supposedly unannounced labor inspections.

In practice the right of association was generally respected and union officials stated that registration requirements stipulated by law were complicated but generally reasonable. However, 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 that this could lead to reprisals against individual unionized employees, hindering the formation of new unions.

In one example of antiunion discrimination, a major news organization fired six journalists, who were members of the Romanian Journalists Federation, after complaints to the Labor Inspection Authority led to the finding that the news organization ignored provisions of an existing collective labor agreement.

Public controversy regarding union leaders' wealth and allegations of corruption emerged. Media reports focused on the wealth accumulated by certain union leaders, and in February their personal declarations of assets submitted to the ANI were made public.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Persons, primarily Romanian women and children and women and children from Moldova, Colombia, and France, were forced to engage in begging and petty theft.

Also see the Department of State's *2011 Trafficking in Persons Report*.

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for most forms of employment is 16, but children may work with the consent of parents or guardians at age 15. The law prohibits minors 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. Parents whose children carry out hazardous activities are required to attend parental education programs or counseling and can be fined between 100 and 1,000 lei (\$30 to \$300) for failure to do so. Persons who employ children for hazardous tasks can be fined 500 to 1,500 lei (\$150 to \$449).

Minors over the age of 15 who are enrolled in school are also prohibited from performing specified activities that might endanger their health, morality, or safety. Children under the age of 16 who work have the right to continue their education, and the law obliges employers to assist in this regard. Children aged 15 to 18 may only work six hours per day and no more than 30 hours per week, provided their school attendance is not affected. In practice, however, many children reportedly did not attend school while working. Minors cannot 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. Social services have the responsibility to reintegrate such children into the educational system. The government did not conduct information campaigns to raise awareness of child labor and children's rights among children, potential employers, school officials, and the general public during the year as it had in previous years.

The Ministry of Labor, Family, and Social Protection can impose fines and close factories where it finds exploitation of child labor. However, enforcement of all but extreme violations tended to be lax. Employers found to have violated child labor laws were generally fined, not prosecuted in court. There were no anecdotal reports during the year of anyone being charged in court with violating child labor laws, and the Ministry of Justice does not maintain these statistics. In practice judges did not consider violations of the child labor law to be criminal offenses.

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.

The DGPC in the Ministry of Labor, Family, and Social Protection is mandated with monitoring and coordinating all programs for the prevention and elimination of the worst forms of child labor.

Of the 182 confirmed cases of child labor reported for the first six months of the year, 71 were in urban areas and 111 in rural areas; 83 of the victims were girls and 99 were boys; 114 victims were under 14 years of age, and 46 were between 14 and 18. The confirmed cases involved bonded labor (111 cases), sexual exploitation (23 cases), and exploitation for committing illicit activities (48 cases).

d. Acceptable Conditions of Work

Beginning in January the gross minimum wage was 670 lei (approximately \$200) for a full-time schedule of 170 hours per month, or approximately 3.94 lei (\$1.18) per hour. The minimum wage for skilled workers was 20 percent higher. According to Eurostat, the monthly individual income level for persons "at risk of poverty threshold" was 907 lei (\$271) in 2010.

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 in excess of 40 hours, which may not exceed 48 hours per week averaged over one month. The law requires a 24-hour rest period in the workweek, although most workers received two days off per week. The new law also allows employers to shorten employees' work schedules from five to four days per week when workplace activity is reduced for economic or technical reasons with a corresponding reduction in salary. The new labor code increased salaries for night-shift employees by 25 percent under certain conditions. Excessive overtime can lead to fines on employers if workers file a complaint; however, complaints are rare. The law provided for paid holidays.

The new labor code relaxes procedures for the hiring and firing of employees and provides employers more control regarding performance-based evaluation of employees. Lengthier trial periods for new employees are now permitted and termination procedures during this probationary period have been simplified.

The new labor code introduces provisions regarding temporary and seasonal work and provides penalties for work performed without a labor contract in either the formal or informal sectors of the economy. Employers who use illegal labor may be jailed or fined up to 100,000 lei (\$29,900). After the new law entered into force, tens of thousands of new, mostly temporary, contracts were registered. The maximum duration of a temporary contract is extended from 24 to 36 months and is now in accordance with EU law.

The Ministry of Labor, Family, and Social Protection is responsible for enforcing the law on working conditions, safety, and minimum wage rates. According to union reports, many employers paid supplemental salaries under the table to reduce both the employees' and employers' tax burdens. This practice negatively affected employees' future pensions and their ability to obtain commercial credit.

The ministry believed it effectively enforced working time standards. However, union leaders complained that overtime violations were the main problem facing their members, since employees were often required to work more than the legal maximum number of hours, and the overtime compensation required by law was not always paid. This practice was especially prevalent in the textile, banking and finance, and construction sectors. Union officials alleged that a majority of on-the-job accidents occurred during such compulsory, uncompensated overtime. During the year the prohibition on work without a labor contract was weakly enforced, in part because of corruption within the Labor Inspectorate, and also because both employers and employees could benefit from lower taxes by working without a labor contract or receiving a supplemental salary under the table. Sanctions against employers using illegal labor under the previous law were rarely fully enforced. The country had an estimated 1,500 labor inspectors at the national level.

The ministry is responsible for establishing and enforcing safety standards for most industries but lacked trained personnel to do so effectively. Employers often ignored the ministry's recommendations, which were usually implemented only after an accident

occurred.
