

# ROMANIA 2017 HUMAN RIGHTS REPORT

## 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. The country held parliamentary elections in December 2016 that observers generally considered to be free and fair and without irregularities. In 2014 the country held presidential elections in which electoral observers noted irregularities, including insufficient polling stations for the large diaspora community.

Civilian authorities maintained effective control over the security forces.

The most significant human rights issues included: endemic official corruption; police violence against the Roma community; and violence against LGBTI persons.

The judiciary took steps to prosecute and punish officials who committed abuses, but authorities delayed proceedings involving alleged police abuse; the result was that many of the cases ended 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.

The Institute for Investigating Communist Crimes and the Memory of the Romanian Exile is authorized to initiate criminal investigations of alleged communist-era crimes. On March 29, in a final ruling, the High Court upheld a 20-year prison sentence for inhuman treatment handed down to a former communist-era prison official. A second prison official from that era was also sentenced to 20 years.

On May 10, the trial began of former communist-era Securitate officials Marin Parvulescu, Vasile Hodis, and Tudor Postelnicu, accused of crimes against humanity before the Bucharest Court of Appeals. They were charged in the death

of dissident Gheorghe Ursu, arrested and allegedly beaten to death by investigators and cellmates in 1985.

On June 13, the Military Prosecutor's Office indicted several former high-level officials for crimes against humanity, including former president Ion Iliescu, former prime minister Petre Roman, former vice prime minister Gelu Voican Voiculescu, and former Romanian Intelligence Service director Virgil Magureanu. They were accused of involvement in the 1990 "miners' riot," when thousands of miners were brought to Bucharest to attack anticommunist demonstrators opposed to Iliescu's rule. According to official figures, the violence resulted in hundreds of injuries, illegal arrests, and four deaths. Media estimates of injuries and deaths were much higher.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

### **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 the 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. In most cases the police officers involved were exonerated.

The NGO Romani Center for Social Intervention and Studies stated that, in 43 cases of police brutality against Roma it documented over the previous 11 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. The average time for resolving a case involving police abuse of Roma was nearly four years.

According to the Association for the Defense of Human Rights-Helsinki Committee (ADHR-HC), authorities did not adequately investigate police abuse, and prosecutors do not oversee such investigations. In 2015 the ADHR-HC

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 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 balaclavas, reportedly beat a civil activist who was advising members of the community on how to file complaints. In 2015 the prosecutor's office attached to the Brasov Tribunal sent to trial several defendants, including the chief of the Racos police station, for inciting others to hit the victims and other acts of violence against the civil activist. As of October the case was pending before the Rupea Court.

As of October 20, the United Nations reported that it had received two allegations of sexual exploitation and abuse against Romanian peacekeepers during the year. One allegation related to the rape of a child in July 2016 and one allegation of transactional sex with an adult in February were made against Romanian military officers deployed with the UN Organization Stabilization Mission in the Democratic Republic of the Congo. Both investigations were pending.

### **Prison and Detention Center Conditions**

Prison conditions remained harsh and overcrowded and did not meet international standards. The abuse of prisoners by authorities and other prisoners reportedly continued to be a problem.

Physical Conditions: According to official figures, overcrowding was a problem, particularly in those prisons that did not meet the standard of 43 square feet per prisoner set by the Council of Europe. As of July the country held 24,813 persons in prisons designed for only 18,127. Conditions remained generally poor within the prison system, and observers noted insufficient spending on repair and retrofitting. According to the Ministry of Foreign Affairs, men and women, juveniles and adults, and pretrial detainees and convicted persons were not held together.

According to media, NGO, and ombudsperson reports, guards assaulted prisoners and, at times, prisoners assaulted and abused fellow inmates. As of September, 128 complaints against penitentiary staff had been lodged with the National Penitentiary Authority (NPA) for abuses and violations of inmates' rights, acts of corruption, threats, and failures in executing professional duties, mistreatment and inappropriate behaviors. Inmates can also file complaints directly with

prosecutors. Statistics on the number of complaints sent by the NPA or inmates to prosecutors were not available.

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 seven lei (\$1.80) per day per inmate. In some prisons heating and ventilation were inadequate. The ADHR-HC reported most were overcrowded and many had inadequate conditions, including insufficient medical care, poor food quality, mold in kitchens and cells, understaffing, an insufficient number of bathrooms, poor hygiene, insect infestation, an insufficient number of doctors (including no psychologists in some prisons), lack of work opportunities, and insufficient educational activities. Persons with mental disorder did not receive sufficient care and were frequently isolated by other inmates. The ADHR-HC stated that the actual number of persons who had mental health problems was three times higher than the number of inmates who received treatment for mental illness.

The ADHR-HC stated that most 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 sanitation. In some pretrial facilities and prisons, there was no possibility for confidential meetings between detainees and their families or attorneys. The ADHR-HC also criticized the lack of adequate treatment for former drug addicts and the lack of HIV and hepatitis prevention measures.

In April the ECHR issued a pilot judgment against the country regarding prison and detention center conditions. According to the decision, the court had previously observed more than 150 cases of overcrowding and improper material conditions in prisons and pretrial detention facilities. It found that the applicants' situation was part of a general problem originating in a structural dysfunction of the system.

Administration: Independent authorities did not always investigate credible allegations of inhuman conditions. Observers noted that situations such as the death of a prisoner's relative were not treated adequately by authorities. In March an inmate from the Rahova prison committed suicide after being denied permission to attend his brother's funeral because he had not submitted a copy of his brother's death certificate.

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 mandate to monitor places of confinement.

Improvements: On July 21, a law was passed reducing prison sentences for those held in inappropriate conditions. Under its provisions, for each 30 days a prisoner has been held since 2012 in inappropriate conditions, his/her sentence is reduced by an additional six days. Inappropriate conditions are those not meeting standards set by the Council of Europe or other conditions as defined by law, including having less than 43 square feet of living space per prisoner, dampness or mold in the walls, and lack of private toilets. Observers noted that the provisions of this law include unrealistic evaluation deadlines and problematic standards.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention, and the government generally respected these prohibitions. The law provides for the right of any person to challenge the lawfulness of his or her detention.

#### **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 General Directorate for Internal Protection (DGPI), and the Directorate General for Anticorruption. The DGPI has responsibilities for intelligence gathering, counterintelligence, and preventing and combatting vulnerabilities and risks that could seriously disrupt public order or target Ministry of Internal Affairs assets, staff, missions, decision making, or operations. The prime minister appoints the head of DGPI. The Romanian Intelligence Service (SRI), the domestic security agency, investigates terrorism and national security threats. The president nominates and the parliament confirms the SRI director.

Civilian authorities maintained effective control over the SRI and the security agencies that reported to the Ministry of Internal Affairs. The government did not have effective mechanisms to investigate and punish abuse, and impunity was a problem.

Police were frequently exonerated in cases of alleged beatings and other cruel, inhuman, or degrading treatment (see section 1.c.). Police corruption contributed to citizens' lack of respect for police and disregard for their authority. Low salaries also contributed to making individual law enforcement officials susceptible

to bribery. Authorities referred cases of high-level corruption to the Directorate General for Anticorruption in the Ministry of Internal Affairs.

### **Arrest Procedures and Treatment of Detainees**

By law only judges may issue detention and search warrants, and the government generally respected this provision. Authorities must 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 and bring them 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 the case does not present a “reasonable suspicion” that the person would have committed the offense, the investigation proceeds with the alleged offender at liberty. Depending on the circumstances of the case, aside from pretrial detention, the law allows home detention and pretrial investigation under judicial supervision, meaning that the person accused must report regularly to law enforcement. A bail system also exists, but 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. A detainee has the right to meet privately with counsel before the first police interview. A lawyer may be present during the interview or interrogation.

The law allows police to take an individual to a police station without a warrant for endangering others or disrupting public order. Police reportedly 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. The ADHR-HC criticized this provision as leaving room for abuse.

Pretrial Detention: A judge may order pretrial detention for up to 30 days, depending on the status of the case. A court may extend this period in 30-day increments up to a maximum of 180 days. Under the law detainees may hold courts and prosecutors liable for unjustifiable, illegal, or abusive 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 within 48 hours before a court other than the one that ordered it. The appeal is lodged with the court that ordered the measure, which must forward it 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 appeal, and the alleged offender must be assisted by a lawyer.

### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary. The government generally respected judicial independence and impartiality 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 is the country's judicial governance body. It generally maintained transparency of operations and acted 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 and 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 should take place without undue delay, but delays were common due to heavy caseloads 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) and present witnesses and evidence on their own behalf. 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 right to abstain from making statements. 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, and persons were placed under home detention without them. 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.

Prosecutors may introduce evidence, including evidence acquired from wiretaps, during their investigations and in their indictments. The 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 Superior Council of Magistrates that media outlets and politicians' statements damaged their professional reputations. The council determined some politicians' public statements infringed on judicial independence.

### **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 domestic courts.

Approximately 80 percent of court cases were civil cases. Caseloads were distributed unevenly, resulting in vastly different efficiency rates in different regions. 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 unwieldy and prolonged.

### **Property Restitution**

According to the National Authority for Property Restitution, the Jewish community is entitled to receive compensation for buildings and lands that

belonged to the Judaic religious denomination or legal entities of the Jewish community and were confiscated between September 6, 1940, and December 22, 1989. Individuals are entitled to compensation only for real estate confiscated between 1945 and 1989. The government has laws and/or mechanisms in place to address Holocaust-era property claims, and NGOs and advocacy groups reported some progress on resolution of such claims.

The law for returning 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. Claimants may use the points to bid in auctions of state-owned property or exchange them for monetary compensation. The parliament intended the law to speed up restitution, but local authorities hindered property restitution by failing to complete a land inventory stipulated by law. The government twice extended the deadline for the inventory’s completion.

There were numerous disputes over church buildings and property that the Romanian 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. There continued to be lengthy delays in processing claims related to properties owned by national minority communities. Under the law there is a presumption of abusive transfer that applies to restitution of private property but not to religious or communal property. In many cases documents attesting to the abusive transfer of such properties to state ownership no longer existed. Religious and national minorities are not entitled to compensation for nationalized buildings that were demolished.

Associations of former owners asserted that the points compensation system was ineffective and criticized the restitution law for failing to resolve cases fairly and generating lengthy delays and corruption. While the pace of resolving restitution cases at the administrative level increased, the number of properties returned involving churches and national minorities was disproportionately low. As of August the government had approved the restitution of two properties to religious denominations, approved compensation in 15 cases, and rejected 784 other claims. In 111 cases the filers withdrew, redirected, or attached their claims to other files. The number of cases resolved increased 30 percent in the past two years (from 1,140 in 2015 to 1,664), but the number of positive decisions remained extremely low. Religious communities disputing these rulings continued having to go to

court and incur additional costs. As of August 30, there were 6,617 pending requests for restitution from religious denominations.

According to advocates of the Romanian Jewish community, the disappearance of entire document repositories, combined with limited access to other archives, prevented the Jewish community from filing certain claims before the legal deadlines. The National Authority for Property Restitution (ANRP) rejected most restitution claims concerning former Jewish communal properties during its administrative procedure. The Caritatea Foundation, established by the Federation of Jewish Communities in Romania and World Jewish Restitution Organization (WJRO) to claim communal properties, reported it challenged these negative ANRP decisions in court and won most of its suits. The WJRO also reported that the restitution of heirless private Jewish properties was not completed and that there was insufficient research concerning property that had belonged to Jewish victims of the Holocaust.

#### **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 2016 the Constitutional Court found part of a provision enabling the intelligence services to conduct technical surveillance in criminal investigations to be unconstitutional. The court found the provision's lack of clarity, precision, and predictability could result in infringements on the rights and freedoms of citizens. The government restricted SRI technical surveillance to cases involving national security and terrorism.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. Independent organizations such as Media Monitoring Agency, Freedom House, and Center for Independent Journalism noted excessive politicization of the media, corrupt financing mechanisms, and editorial policies subordinated to owner interests.

Freedom of 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 among the perpetrators of the Holocaust in the country.

During a February press conference, Internal Affairs Minister Carmen Dan accused by name several prominent journalists of supporting antigovernment street protests. She also criticized the Facebook group Corruption Kills for calling on persons to protest against the government. Journalists and NGOs characterized her statements as contrary to freedom of expression and termed the issuing of such public “black lists” an act of intimidation. The Association for Technology and Internet called Dan’s comments “a threat against those who use social media channels for communication.”

On December 11, during antigovernment protests against corruption, police declared they had begun criminal investigations against several persons who posted calls for protests on Facebook, claiming they incited breaches of public order and peace due to the language used in the postings. Such crimes are punishable by imprisonment ranging from three months to three years or a criminal fine.

Two major private broadcasters, Antena 3 and Romania Television, were controlled by businessmen who were vocal supporters of the government. Both outlets gave strongly critical and factually inaccurate coverage of the January antigovernment protests. NGOs protested that the outlets sought to compromise the demonstrators as well as freedom of expression. On January 29, an estimated 45,000 demonstrators marched in front of the office of the National Audio-Visual Council, accusing the council of intentional delays in ruling against the outlets. Following public and NGO pressure in February, the council fined the two stations 50,000 lei (\$13,000) each for misinforming their viewers.

Press and Media Freedom: While independent media were active and expressed a wide variety of views without overt restriction, politicians or 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 stance of these outlets frequently reflected their owners’ views. There were also allegations that owners suppressed stories at odds with their interests or threatened the authors of such stories.

Various media outlets led by businessmen who were either found guilty or were under investigation for alleged fraud and corrupt activities forced the departure of reporters known for their promotion of the rule of law. During the year the daily newspaper *Romania Libera* fired or forced out several investigative reporters who had reported on corruption cases. Ondine Ghergut and Malin Bot were fired in February. In October the owners prompted the departure of the newspaper's editorial board, including editorial director Sabin Orcan, editor in chief Razvan Chiruta, deputy editor in chief Sabina Fati, and senior editors Catalin Prisacariu, Mircea Marian, Mihai Duta, Silviu Sergiu, and Petre Badica. According to media reports, they failed to meet the requirements of the newspaper's owner Alexander Adamescu, a fugitive wanted in a fraud case, to editorialize against anticorruption prosecutors and the judicial system.

Violence and Harassment: In January, *Romania Curata* investigative reporter Daniel Befu appealed to authorities and the public to protect his family from acts of intimidation. Befu stated that someone had scrawled threatening graffiti on his parents' house and other locations in his home city. The messages appeared after he published several investigative articles on alleged local corruption and the role of local criminal groups. The Internal Affairs Ministry had not identified any suspects as of September.

In July tax inspectors from the Finance Ministry began investigating the news group Rise Project and news website *Hotnews*. The investigations followed a series of articles by the two outlets on controversial domestic and international transactions allegedly coordinated by Chamber of Deputies president and Social Democratic Party leader Liviu Dragnea. Several NGOs and independent media groups asserted the tax inspection was aimed at intimidating the news organizations.

Censorship or Content Restrictions: In January the state agency Agerpres withdrew three translated reports from Reuters, Agence France Presse, and Deutsche Presse Agentur about the January protests. Agerpres stated that the three news items did not meet the agency's standards. Marius Hosu, the reporter who selected the three articles, alleged censorship and notified the agency's ethics committee.

Libel/Slander Laws: In March, Bucharest mayor Gabriela Firea filed a criminal complaint for "harassment" against the news website *Bucurestiul.ro*, which covers and aggregates reports on the activities of Bucharest's municipal government,

including public expenses. Firea repeatedly denied media and NGOs access to city council meetings on budget matters.

### **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 statistics compiled by the International Telecommunication Union, approximately 60 percent of the population used the internet in 2016.

### **Academic Freedom and Cultural Events**

In March media outlets and NGOs accused the Excelsior Theater of censorship, purportedly at the behest of the Bucharest municipal government, for canceling a planned video on the January-February pro-rule-of-law street protests. NGOs and some media outlets noted the theater had hosted progovernment political events in the past and accused the theater's management of yielding to political influence.

## **b. Freedoms of Peaceful Assembly and Association**

### **Freedom of Peaceful Assembly**

The constitution provides for freedom of peaceful assembly, and the government generally respected it. 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. Several LGBTI rights groups stated that in June, the Cluj-Napoca mayor's office rejected 23 requests for organizing a pride march before finally granting approval. They also claimed the approved route was located in an area of the city far away from the center.

Ethnic Hungarians reported that in March, Targu Mures city authorities did not allow them to organize a march on Szekler Freedom Day ("Szekler" refers to

ethnic Hungarians in Transylvania). They approved commemorations at the site of the Szekler Martyrs memorial but prohibited a march to take place afterward.

### **Freedom of Association**

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

### **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**

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, asylum seekers, stateless persons, and other persons of concern, which could include irregular migrants potentially in need of international protection.

Abuse of Migrants, Refugees, and Stateless Persons: Antirefugee sentiment continued to be widespread during the year at all levels of society. Public perception of the regional refugee and migrant crisis switched from initial empathy and a lukewarm reception to growing hostility and increasing antimigrant rhetoric in the public sphere. According to UNHCR, there were some street incidents involving harassment and xenophobic speech during the year. Several mainstream media outlets depicted refugees and asylum seekers as invaders, while conspiracy theories and hate speech against migrants were frequent on social networks. In August, during a World Cup qualification match between Romania and Armenia, Romanian supporters displayed a banner reading “No to Islamization” that observers considered directed against Muslim migrants.

In-country Movement: The internal movement of beneficiaries of international protection and stateless persons was generally not restricted. The law and

implementing regulations 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 pending deportation. 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, located 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. These reasons include cases where stateless persons are not accepted by their former country of habitual residence, or where the lives or well-being of returnees could be at risk. Persons with “tolerated status” have the right to work but not to 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, 121 persons were in “tolerated status” as of August.

### **Protection of Refugees**

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 declared “undesirable” on national security grounds were taken into custody pending the finalization of their asylum procedure and then deported. According to the Ministry of Foreign Affairs, as of the end of November, 465 persons had been subjected to refoulement.

Access to Asylum: The law provides 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 “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.

There were several allegations of denial of access to the country or deviations from asylum procedures at the border areas and transit zones. Several applicants for international protection, including Syrian nationals who arrived via the Black Sea in 2015, were convicted of "illegal entry" and of smuggling family members into the country 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 and judicial levels.

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 Internal Affairs Ministry at the recommendation of the General Inspectorate for Immigration. Procedurally, the government would normally reject applications for asylum by persons who had arrived from a safe country under accelerated procedures, except in cases where the factual situation or evidence presented by the applicant shows the existence of a well founded fear of persecution. The law does not provide exceptions for the serious risk of harm that would warrant the grant of subsidiary protection. Between January and July, three asylum applications by EU nationals were rejected at the administrative level of the asylum procedure; no information regarding the legal basis for the rejections was available.

The law also refers to the concept of a safe third country. 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.

Freedom of Movement: 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 or to reside at a regional reception center (similar to placement under judicial control under the criminal code). 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 applicants' absconding) or if the asylum seeker is deemed to pose a danger to national security. There was no case of placement in a specially arranged closed area through September of the year. 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 or if they have been declared "undesirable" for reasons of national security, pending their removal from the country.

Under provisions of the law to limit "abuse to the asylum procedure," irregular migrants who submit their first application for international protection while in public custody are released only if granted access to the ordinary procedure. The provisions 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 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 permission 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.

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: Effective access by persons with refugee status or subsidiary protection to education, housing, lifelong learning and employment, public health care, and social security varied across the country, depending on the level of awareness of various public and private actors responsible for ensuring access to these services.

The government provides asylum seekers 16 lei (\$4.10) per day in financial assistance, with slightly increased allowances for vulnerable persons. The allowance was low by the country's living standards, and 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. Applicants for international protection had limited options for meaningful activities, such as language classes, cultural orientation, and skills training. Romanian language classes were no longer available for adults. State-provided social, psychological, and medical assistance for applicants for international protection remained insufficient, with many dependent on NGO-implemented projects for such help. Proper identification and assistance for victims of trauma and torture was lacking.

Durable Solutions: In 2015 the country accepted a quota of 6,205 applicants for international protection for relocation from other EU member states, notably Greece and Italy. Relocations commenced in March 2016 and continued throughout the first half of 2017. Applicants arriving under the relocation program were channeled into the ordinary asylum procedure. As of September authorities had granted international protection to all relocated asylum seekers. An additional 11 Syrian refugees from Turkey were resettled to Romania in June under commitments made by the government. Relocated asylum seekers have the same rights as other asylum seekers in the country. Relocated refugees, resettled refugees, and newly arrived refugees were given priority for integration support.

Beneficiaries of international protection continued to face problems with local integration, including access to 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.

Temporary Protection: The government did not grant temporary protection to any individuals during the year.

### **Stateless Persons**

According to UNHCR statistics, as of August there were 342 stateless persons with valid residence documents in the country. These included legal residents under the aliens' regime, stateless persons of Romanian origin, as well as persons granted some form of international protection. Data on stateless persons, including on persons at risk of statelessness and persons of undetermined nationality, was not reliable 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.

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.

### **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: The country held parliamentary elections in December 2016 that were considered free and fair by international observers. In 2014 the country held presidential elections in which electoral observers noted irregularities, including insufficient polling stations for the large diaspora community.

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 slates 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: No laws limit participation of women and/or members of minorities in the political process, and they did participate. While the law does not restrict women's participation, societal attitudes presented a significant barrier, and women remained underrepresented in positions of authority. For example, as of September 1, there were 68 women in the 261-seat Chamber of Deputies and 19 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 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, claimed this rule was discriminatory.

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

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but despite numerous high-profile prosecutions, corrupt practices remained widespread. There were numerous reports of government corruption during the year.

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 and prosecute numerous corruption cases involving political, judicial, and administrative officials at a steady pace throughout the year. In May the DNA indicted Member of Parliament Ion Munteanu for trafficking in influence and money laundering for having received more than 400,000 euros (\$480,000) in

return for facilitating transactions between a businessman and a state-owned enterprise.

As of August 31, the DNA had sent to trial 209 cases involving 573 defendants, including a minister, two members of parliament, a deputy minister, a judge, a prosecutor, 12 mayors, and 16 police officers. 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 with respect 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. In July the president signed into law a bill that restricts the types of situations in which a public official is considered to be in conflict of interest and removed direct reference to it from the criminal code. Corruption was widespread in public procurement. A 2016 law provides for a comprehensive software mechanism to flag potential conflicts of interest in public procurement. Efforts to implement the system continued. 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. Despite the emphasis on prevention in the latest National Anticorruption Strategy, individual agencies and the government did not take significant action in this area.

Through August 31, the parliament had denied requests to lift immunity in order to allow investigations involving a current and a former minister.

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 (\$11,500), and allows for seizure and forfeiture of unjustified assets. The mechanism for confiscation of "unjustified assets" was cumbersome. Through October 13, ANI identified five cases of "significant discrepancies" totaling 6.2 million lei (\$1.6 million). Through October 13, ANI identified 139 cases of incompatibilities, 61 cases of conflicts of interest, 18 cases of criminal conflict of interest, and two other cases with strong indications of criminal or corruption offenses. During the year ANI reviewed 4,241 procurement procedures and issued three integrity warnings.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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 some 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. In July the Ministry of Labor and Social Justice ceased to allow representatives of the Center for Legal Resources (CLR) to visit institutions for persons with disabilities, stating that the ministry's agreement with CLR could not be renewed. CLR is an NGO that has reported over several years on alleged abuse of institutionalized 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. As of September the ombudsperson issued seven reports with recommendations, based mainly on visits to penitentiaries and psychiatric facilities. Most observers continued to regard the institution as ineffective. In October the government established the Office of the Children's Ombudsperson empowered to examine human right complaints made by children or their legal representatives.

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, the institution did not receive adequate resources. Observers generally regarded the CNCD as effective, but some criticized it for a lack of efficiency and political independence.

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

### **Women**

Rape and Domestic Violence: 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. 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 can avoid punishment if the victim withdraws 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 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. The FILIA Center for Gender Studies and Curriculum Development--an NGO that aims to promote gender equality--stated that police lacked procedures for the implementation and monitoring of restraining orders.

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. Many cases were resolved before or

during trial when the alleged victims dropped their charges or reconciled with the alleged abuser.

According to a FILIA center report issued during the year, women who wanted to leave an abusive relationship sometimes faced an additional obstacle when public authorities blamed them for domestic violence. The authors also found that Romani women who wanted to request social assistance in cases of domestic violence faced racist prejudice on the part of local authorities. Lawyers interviewed by the report's authors said police sought to avoid the filing of criminal cases related to domestic violence. Prosecutors dropped criminal prosecution in less severe cases, asserting that the damage is too small to justify further prosecutorial measures.

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.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

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 4.5 percent gender pay gap, according to EU data. Segregation by profession existed, with women overrepresented in lower-paying jobs. 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. Most unregistered 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. The law provides simplified 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. The 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.

In March the European Center for the Rights of Children with Disabilities notified prosecutors, the ombudsman, and the National Authority for the Protection of Children's Rights that, according to video footage in their possession, children enrolled in a special school in Bucharest were systematically beaten by teachers, tied with ropes, and subjected to emotional abuse. According to official data, during 2016 there were 14,323 cases of abuse, neglect, and exploitation of children recorded by child protection services throughout the country. According to statistics provided by the Ministry of Labor and Social Justice, in 2016 criminal prosecution was initiated in 719 of these cases. In the first half of the year, the Ministry of Internal Affairs recorded 5,300 criminal complaints about offenses committed against underage persons.

Early and Forced Marriage: The legal age of marriage is 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. Child protection authorities did not always intervene in such cases. There were no public policies to discourage 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 person under the age of 13 is punishable by a two- to seven-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 involve minors increase sentences by one-half. According to statistics provided by the Ministry of Internal Affairs, as of September criminal prosecution was started in 959 of the 2,977 cases concerning different types of sexual abuse against children recorded in 2016.

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 through September, 79 cases of child pornography had been resolved through indictment or plea bargain.

Institutionalized Children: During the year there were several media reports of abuses in placement centers for institutionalized children. The ombudsperson opened an investigation into the alleged sexual abuse of a 17-year-old child by an employee of the placement center in Brasov. According to media reports, the investigation revealed that physical abuse occurred in the center and that some of the children were also affected by substance abuse. In September 2016 prosecutors indicted members of an organized crime network who were recruiting girls from orphanages in Iasi for sexual exploitation. As of October 31, the case was pending before the Iasi Tribunal.

By law unaccompanied migrant children are housed in placement centers, where they have access to education and benefits other children receive. The detention of families with children is allowed by law, with preservation of family unity used as justification. Several such cases were recorded during the year.

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 2016, out of 12 cases brought 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. Local authorities continued to allow busts and statues depicting persons convicted for war crimes. Radu Gyr was a commander and anti-Semitic ideologist of the Legionnaire movement convicted of war crimes. The Wiesel Institute requested the renaming of Radu Gyr street in Cluj-Napoca. As of December the local government had not changed the name of the street. Mircea Vulcanescu was a cabinet member in the government of WWII leader Ion Antonescu and a convicted war criminal who, according to the Wiesel Institute, supported anti-Semitic policies. Nevertheless, the committee for renaming streets within the Bucharest prefect's office recommended against the renaming of Mircea Vulcanescu street. The Wiesel Institute stated that officials of the Romanian Orthodox Church made several statements that praised members of the Legionnaire movement and persons convicted for war crimes.

Material promoting anti-Semitic views and glorifying Legionnaires also appeared in media, including on the internet. According to a report published by the Wiesel Institute, considerable numbers of users and groups on social media in the country advocated extermination of Jews or other violent acts.

In April vandals destroyed 10 tombstones in a Jewish cemetery in Bucharest. Police identified three underage persons who were allegedly responsible for the crime and stated they had acted without any specific reason. As of September the case was pending before the Prosecutor's Office.

In May the Bratianu Foundation in Bucharest hosted the launch of an anti-Semitic book, *The Nazi Zionism*, by retired general Radu Theodoru. The Center for Monitoring and Combating Anti-Semitism informed the prosecutor's and mayor's offices of the launch before the event took place, but authorities did not interfere with it.

In June the Jewish community in Cluj-Napoca notified police of anti-Semitic and Holocaust denial messages painted on the exterior wall of the Memorial Temple of Deported Jews synagogue in the city. According to the Ministry of Foreign Affairs, as of December the case was pending before the court in Cluj-Napoca.

A survey by Kantar TNS, commissioned by the Wiesel Institute and released in October, found that, while 68 percent of the 1,014 adults surveyed had heard of the Holocaust, only 41 percent believed the Holocaust had occurred in the country.

Approximately 55 percent of the respondents blamed the Holocaust on Nazi Germany, while 22 percent considered the wartime government of general Ion Antonescu responsible. Of the respondents, 44 percent considered Antonescu a hero.

While not explicitly anti-Semitic, verbal attacks during the year holding a foreign Jewish philanthropist responsible for domestic problems had anti-Semitic connotations. Politicians and the media ascribed negative actions to him, such as controlling an “invisible army” and paying for activities of opposition parties.

The government continued to implement the recommendations of the 2004 International Commission on the Holocaust in Romania Report. High-level officials, such as the president, made public statements against anti-Semitism. The Wiesel Institute continued to organize training courses for teachers and other professionals on the history of the Holocaust. The general mayor’s office of Bucharest and the city council loaned a building to the institute to house a museum on Jewish history.

The Education Ministry did not include a mandatory class on the Holocaust as part of the general history curricula. The high school course *History of the Jews--The Holocaust* was optional. During the 2016-17 school year, 2,894 pupils from 75 schools took the course.

On May 25, the government adopted the International Holocaust Remembrance Alliance’s working definition of anti-Semitism. The definition is to be included in the national legal framework, and relevant ministries, such as Justice, Internal Affairs, and Education, are to include the definition in training programs and civic education curriculum.

### **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. The government did not fully implement the law, and discrimination against persons with disabilities remained a problem.

The law mandates that buildings and public transportation be accessible for persons with disabilities. 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 ramps, adapted public transportation, and adapted toilets in major buildings.

Discrimination against children with disabilities in education was 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. In May the Antidiscrimination Council fined a teacher and the directors of Petre Tutea School in Galati for their treatment of a girl with Asperger's syndrome.

Since 2016 the Center for Legal Resources (CRJ) made unannounced visits to centers for persons with disabilities or psychiatric sections. During the visits the NGO identified a series of problems, 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 problems including a general shortage of staff, a chronic shortage of specialized staff, reliance on psychiatric medication as the sole treatment solution, segregation from communities, lack of access to education, absence of a complaints mechanism, and a lack of community living options.

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. Romani groups complained that police harassment and 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, and inadequate health care. 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 had a higher unemployment rate and a lower life expectancy than non-

Roma. Negative stereotypes and discriminatory language regarding Roma were widespread.

Despite an order by the Ministry of Education forbidding segregation of Romani students, segregation along ethnic lines persisted. In March a house, annex, outbuildings, and agricultural storage belonging to Roma were burned and destroyed in the city of Gheorgheni as revenge for an alleged theft that took place earlier that same week. The media reported that, prior to the arson, local police noticed mobs moving towards the area where Roma lived in the city and observed several groups shouting anti-Roma statements. Romani activists claimed the attackers used social media to organize the attacks. Following the incidents, the Gheorgheni mayor made anti-Roma statements and blamed Roma for triggering the attack on their homes. As of December an investigation was pending before the prosecutor's office attached to the Harghita Tribunal. Forced evictions of Roma continued to be a problem. In February local authorities evicted several Romani families from a building located in Bucharest with no advance notice.

Ethnic Hungarians continued to report discrimination related mainly to the use of 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 native language in dealings with local government. In August the Covasna County prefect objected to the use of bilingual application forms for funding provided by the county council to NGOs, churches, and sports associations. The prefect asserted that official forms in Hungarian should be available only for individuals and that the law does not apply to legal entities. There were continued reports that local authorities did not enforce the law, which states that in localities where a minority constitutes at least 20 percent of the population, road signs have to be bilingual.

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

The law prohibits discrimination based on sexual orientation. NGOs reported that police abuse and societal discrimination against LGBTI persons were common.

Discrimination in employment occurred against LGBTI persons. On May 20, a pride parade with more than 2,000 participants took place without incident in Bucharest. Before the event approximately 100 persons took part in a counterprotest. Several individuals in the Piata Unirii subway station physically attacked a person wearing rainbow-colored suspenders who was heading to the

pride parade. The media reported that police tried to discourage him from filing a complaint. ACCEPT, an NGO that promoted LGBTI rights, reported that a transgender woman who wanted to complain about the violent behavior of a neighbor faced discrimination by the Bucharest police. Complaints concerning the behavior of police were filed with the National Council for Combatting Discrimination and the Bucharest police inspectorate.

The law governing the ability of transgender persons to change their identity was vague and incomplete. In some cases authorities denied recognition of a change in identity unless a sex-reassignment intervention had occurred. There were reports of transgender persons facing particular difficulties accessing health care because doctors had very limited knowledge about transgender issues and, consequently, did not know how to treat transgender patients. 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.

### **HIV and AIDS Social Stigma**

Although the law provides that HIV-infected persons have the right to confidentiality and adequate treatment, authorities rarely enforced it. Authorities did not adopt regulations that were necessary to provide confidentiality and fair treatment, and discrimination against persons with HIV/AIDS impeded access to routine medical and dental care.

### **Promotion of Acts of Discrimination**

Throughout the year some local government officials made statements that contributed to ethnic stereotyping of Roma. Public figures, politicians, and supporters of the Coalition for Family made discriminatory remarks concerning the LGBTI community. Some members of parliament made offending or discriminatory comments about women.

## **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 was 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, mayors, prime minister, ministers, employees involved in security-related activities, and president of the Supreme Court, did not have the right to unionize. Unions objected to the requirement that they submit lists of prospective union members with their registration application. Since employers also had access to the 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, and employers can challenge the right in court, effectively suspending a strike for months. 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 and not for the modification or change of a law. As a result, workers may not challenge any condition of work established by law, such as salaries for public servants.

Unions complained that the legal requirement for representativeness is overly burdensome and limits the rights of workers to participate in collective bargaining and to strike. The law acknowledges the right to collective bargaining and to strike only when asserted by a union that represents 50 percent plus one of the workers in an enterprise. In the absence of this clear majority, an employer can appoint a worker representative of its choosing to negotiate the agreement. Unions also complained that some companies created separate legal entities to which they transferred employees, thereby preventing them from reaching the threshold for representation.

The law requires employers with more than 21 employees to negotiate a collective labor agreement 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. Unions also complained that authorities could exercise excessive control over union finances, although the government asserted that national fiscal laws apply to all organizations. The International Labor Organization's Committee of Experts on the Application of Conventions and Recommendations 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 CNCD fines employers for antiunion discrimination, although it lacked the power to order reinstatement or other penalties. In the previous two years, the CNCD issued fines ranging from 1,000 lei to 50,000 lei (\$260 to \$13,000) in five cases involving antiunion discrimination. 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 (\$3,800 to \$5,100), but in recent years the Labor Inspectorate, which also has jurisdiction over discrimination claims, had not applied such sanctions. The potential fines were insufficient to deter violations, and employees must usually 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, disabled persons, and children. The government did not effectively enforce the law and took limited measures to prevent forced or compulsory labor. The law criminalizes forced labor with penalties ranging from one to three years' imprisonment, exploitation of beggary with penalties ranging from one to five years' imprisonment, and enslavement with penalties of imprisonment for three to 10 years. These penalties were insufficient to deter violations.

According to the Ministry of Internal Affairs, 132 of the 756 victims of trafficking officially identified in 2016 were exploited specifically for labor purposes. Appeals courts in Arges County affirmed the convictions of five defendants sentenced to between three and five years' imprisonment for their roles in a forced labor case in Berevoiesti. In 2016 the Directorate for Investigating Organized Crime and Terrorism (DIICOT) uncovered a human trafficking ring that had forced its kidnapped victims, including children, into beggary, slavery, and other forms of forced labor. The captors allegedly kept the victims locked and chained, beat them, and forced them to work.

In March, DIICOT uncovered a group of loan sharks in a Romani community in Mures County that had taken four children of a family in debt to them and forced them to work. The accused individuals had loaned money to the family at more than 100 percent interest. When they could not repay, the gang took the family's minor children and forced them to do manual farm labor over a period of several years.

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.).

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 damage to health, 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 (\$26 and \$260) for failing to do so. Persons or companies who employ children for hazardous tasks may be fined 500 to 1,500 lei (\$130 to \$380).

Children who work have the right to continue their education, and the law obliges employers to assist in this regard. Children between the ages of 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 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 did not follow the law. Social welfare services have the responsibility to reintegrate such children into the educational system.

Penalties for violation of child labor laws include sentences ranging from one to two years' imprisonment or fines. Violations were rarely prosecuted, and penalties were 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 the Protection of the Rights of the Child and Adoption (ANPFDC) in the Labor Ministry has responsibility for investigating reports 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 lacked personnel and capacity to address child labor violations.

The ANPFDC 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 the ANPFDC dedicated limited resources to prevention programs. According to ANPFDC statistics, 337 children were subject to child labor in 2016. The incidence of child labor was widely believed to be 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, and cases were usually documented only when police become involved. Of the 337 documented cases of child labor in 2016, authorities prosecuted only five 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, penalties were insufficient to deter violations. The penalties for discrimination with respect to employment and occupation include fines of between 400 and 4,000 lei (\$100 and \$1,000) if the discrimination refers to one individual, or between 600 and 8,000 lei (\$150 and \$2,100) 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 135 discrimination cases with respect to employment, of which 14 concluded with various penalties, mostly fines. The CNCD addressed cases in both the public and private sectors.

According to Eurostat, the pay gap between men and women in the country was 5.8 percent in 2015. 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 persons with disabilities did not exist, the public at large had a bias against those with disabilities. NGOs worked actively to change attitudes and assist persons with disabilities to gain skills and employment, but the government lacked adequate programs to prevent discrimination. A government ordinance that took effect in September includes a provision whereby companies or institutions with more than 50 employees whose workforce does not include at least 4 percent disabled workers must pay a fine for lack of compliance. Before the ordinance was adopted, the law allowed companies not in compliance with the quota to fulfil their legal obligation by buying products from NGOs or firms where large numbers of disabled persons are employed, known as “sheltered units.” NGOs reported that, as a consequence of this change, sheltered units lost an important source of income.

In 2016 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**

The law provides for a national minimum wage that was greater than the official estimate for the poverty income level. Authorities enforced wage laws adequately, although there was a significant informal economy. According to Eurostat data, in 2015 more than one-third (37.3 percent) of the population was at risk of poverty or social exclusion.

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 in 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 for employers if workers file a complaint, but complaints were rare. The law prohibits compulsory overtime.

The law gives employers wide discretion regarding the performance-based evaluation of employees. The law permits 90-day probationary periods for new employees and simplifies termination procedures during this 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 (\$130 and \$260) 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 was understaffed and inspectors underpaid; consequently, the inspectorate had 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. To address underreported labor, the Labor Inspectorate collaborated with the National Authority for Fiscal Administration to conduct joint operations to check employers in sectors prone to underreported labor, including the textile, construction, security, cleaning, food preparation, transportation, and storage industries. These investigations often focused on underpayment of taxes rather than workers' rights.

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 (\$77) for minor violations to 100,000 lei (\$26,000) 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 abuses. In 2016 inspectors focusing on workplace safety conducted 58,100 inspections, imposing 76,124 fines, and applied various sanctions ranging from remedial recommendations to workplace or equipment suspension. Workers could remove themselves from situations that endanger health or safety without jeopardy to their employment. Union leaders stated that labor inspectors only superficially investigated workplace accidents, including ones involving fatalities, and that inspectors wrongly concluded that the victims caused most fatal accidents.