

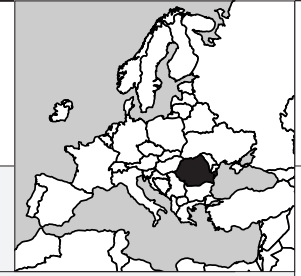


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7. Romania



Statistics

GENERAL

Population

- The total population of Romania is 22.4 million.¹
- The proportion of population residing in urban areas is 55%.²
- Between 1995 and 2000, the annual population growth rate is estimated at -0.4%.³
- In 1999, the gender ratio was estimated to be 104 women to 100 men.⁴

Territory

- The territory of Romania is 92,043 square miles.⁵

Economy

- In 1997, gross national product (GNP) was USD \$32.1 billion.⁶
- In 1997, gross domestic product (GDP) was USD \$35,204 million.⁷
- Between 1990 and 1997, the average annual growth was -0.3%.⁸
- From 1990 to 1995, public expenditure on health care was 3.6% of the GDP.⁹

Employment

- Women comprised 46% of the labor force in 1997, compared to 44% in 1990.¹⁰

WOMEN'S STATUS

- In 1999, the life expectancy for women was 73.9 years compared with 66.2 years for men.¹¹
- In 1997, the illiteracy rate among youth between the ages of 15-24 was 0% for females and 1% for males.¹²
- In 1998, gross primary school enrollment was 87% for boys and 86% for girls; gross secondary school enrollment was 83% for boys and 82% for girls.¹³

ADOLESCENTS

- 19% of the population is under 15 years of age.¹⁴

MATERNAL HEALTH

- Between 1995 and 2000, the total fertility rate is estimated at 1.17.¹⁵
- In 1998, there were 36 births per 1,000 women aged 15-19.¹⁶
- In 1998, the maternal mortality ratio was 41:100,000.¹⁷
- The infant mortality rate was at 23 per 1,000 live births.¹⁸
- 99% of births were attended by trained attendants.¹⁹

CONTRACEPTION AND ABORTION

- The contraceptive prevalence for any method (traditional, medical, barrier, natural) is estimated at 57%, and that for modern methods at 14%.²⁰

HIV/AIDS AND STIs

- In 1999, the estimated number of people living with HIV/AIDS was 7,000.²¹
- In 1999, the estimated number of women aged 15-49 living with HIV/AIDS was 750.²²
- In 1999, the estimated number of children aged 0-14 living with HIV/AIDS was 5,000.²³
- In 1999, the estimated cumulative number of AIDS deaths among adults and children was 4,000.²⁴

ENDNOTES

1. UNITED NATIONS POPULATION FUND (UNFPA), THE STATE OF WORLD POPULATION 1999 (visited July 14, 2000) <www.unfpa.org>.
2. *Id.*
3. *Id.*
4. THE WORLD'S WOMEN 2000. TRENDS AND STATISTICS, at 21.
5. UNITED NATIONS POPULATION FUND (UNFPA), THE STATE OF WORLD POPULATION 1998, at 811.
6. THE WORLD BANK, WORLD DEVELOPMENT REPORT 1998/9, at 191.
7. *Id.* at 213.
8. *Id.* at 211.
9. *Id.* at 203.
10. *Id.* at 195.
11. THE STATE OF WORLD POPULATION 1999, *supra* note 1.
12. THE WORLD BANK, WORLD DEVELOPMENT INDICATORS 1999, at 83.
13. *Id.*
14. CIA, ROMANIA, WORLD FACTBOOK (visited Sept. 23, 1999) <<http://www.odci.gov/cia/publications/factbook/ro.html>>.
15. THE STATE OF WORLD POPULATION 1999, *supra* note 1.
16. *Id.*
17. *Id.*
18. *Id.*
19. *Id.*
20. *Id.*
21. UNAIDS & WHO, EPIDEMIOLOGICAL FACT SHEET ON HIV/AIDS AND SEXUALLY TRANSMITTED DISEASES-ROMANIA 3 (2000) (visited July 14, 2000) <www.unaids.org>.
22. *Id.*
23. *Id.*
24. *Id.*

Romania is located in Southeastern Europe and borders the Black Sea, Bulgaria, Ukraine, Hungary, Serbia and Moldavia.¹ As of July 1999, there were 22.33 million people living in Romania, slightly more than half of them women — 11.42 million.² Romania is the second most populous country in East Central Europe and is larger than 10 of the 15 members of the European Union (EU), to which it has applied for admission.³ It is one of the poorer countries in the region, and since 1989 it has lagged behind its neighbors in transitioning to an open-market economy. In 1997, a new democratic coalition government launched a reform program that may accelerate the transition.⁴

Legislative activity in Romania has been complicated by ethnic politics, particularly conflicts between Romanian and Hungarian communities.⁵ The population of Romania is 89.1% Romanian, 8.9% Hungarian, 0.4% German, and 1.6% other (Ukrainians, Serbs, Croats, Russians, Turks and Roma). The country is 70% Romanian Orthodox, 6% Roman Catholic, and 6% Protestant. Another 18% of the population is unaffiliated with any religion.⁶

I. Setting the Stage: The Legal and Political Framework

A. THE STRUCTURE OF NATIONAL GOVERNMENT

Romania is a multiparty democratic state.⁷ The current legal system of Romania is modeled after the Fifth Republican Constitution of France.⁸ The Romanian Constitution, ratified in 1991, declares that national sovereignty resides with the Romanian people, who exercise it through representatives and through referenda.⁹

Executive branch

The president of Romania represents the Romanian state, oversees the observance of the Constitution, and acts as a mediator among powers in the state and between the state and society.¹⁰ The president is elected by majority vote through universal, equal, direct, secret and free elections. The president serves for no more than two four-year terms.¹¹ The president nominates the prime minister and appoints the government with a vote of confidence from Parliament.¹² The president may participate in meetings of the government concerning foreign policy, national defense, public order, or on other topics by request of the prime minister.¹³ The president concludes international treaties and submits them to Parliament for ratification,¹⁴ acts as commander-in-chief of the armed forces,¹⁵

declares states of emergency,¹⁶ makes appointments to public offices, confers decorations and titles, and grants pardons.¹⁷ In exercising his powers, the president of Romania issues decrees that must be countersigned by the prime minister.¹⁸

The government consists of the prime minister, ministers, and other members established by law;¹⁹ its duty is to implement domestic and foreign policy and to generally administer and manage the public affairs of the country.²⁰ The prime minister directs government actions and submits reports and statements on government policy to Parliament for debate.²¹ The government exercises its power and executes laws through decisions and statutory orders, which take effect once published.²² Parliamentary control over the government is expressed in the following forms: presentation of information,²³ questions and interpellations,²⁴ motion of censure²⁵ and provoked motion of censure.²⁶

The national health care system is managed by the Health Insurance National Fund, an independent agency set up by the government in 1993. This agency negotiates with the Ministry of Finance and the Ministry of Labor and Social Protection for funding approved by Parliament. It then allocates funds to various health care services at the county level.²⁷

Legislative branch

The legislative branch is bicameral, consisting of the Senate (*Senat*) and the Chamber of Deputies (*Adunarea Deputaților*). The Senate has 143 members elected for terms of four years by direct popular vote based on proportional representation. The Chamber of Deputies has 343 members also elected for four-year terms by direct popular vote based on proportional representation.²⁸

Parliament passes constitutional, organic and ordinary laws.²⁹ Constitutional laws revise the Constitution.³⁰ Organic laws regulate, *inter alia*, the electoral system, political parties, referenda, the organization of the government and governmental agencies, the courts (criminal and administrative), the legal status of property and inheritance, and general rules covering labor relations, social security, education, and the organization of local administration.³¹ Ordinary laws cover the remainder of issues and make up the largest sector of legislation. In addition, Parliament approves the state budget proposed by the government.³²

Laws can be initiated by the government, deputies, senators, or a petition signed by 250,000 citizens with the right to vote, with at least 10,000 supporters coming from each of at least one quarter of the country's counties.³³ Organic laws are passed by a majority vote of the members of each Chamber, while ordinary laws need only the majority vote of the members present in each Chamber.³⁴ Laws are promulgated by the

president of Romania, who may return the law to Parliament for reconsideration or may ask the Constitutional Court to rule on constitutionality.³⁵ Laws come into force on the day of their publication in the Official Gazette of Romania.³⁶

Judicial branch

The judicial branch consists of the Constitutional Court, the Supreme Court of Justice, courts of appeal, departmental (county) courts and the court of the municipality of Bucharest, and courts of first instance. The number of courts of first instance has been fixed by law at 179 (between three and six courts of first instance are located in each county), with eight in Bucharest. Each of the forty counties of Romania and the municipality of Bucharest has one county court, which acts as an appellate court to the local lower courts of first instance.³⁷ Each of 15 courts of appeal, which are the courts of third instance, have jurisdiction over two to five county courts. Final appeals are heard by one of the four sections (civil, criminal, military, or administrative) of the Supreme Court of Justice.³⁸ There is also a parallel system of military justice, composed of military courts, territorial military courts and the military court of appeal.³⁹

The president of Romania appoints judges to the Supreme Court of Justice for six-year terms; judges can serve more than one term.⁴⁰ The Superior Council of Magistracy, whose members are elected for four-year terms by Parliament,⁴¹ nominates judges and public prosecutors who are then appointed by the president of Romania.⁴²

The Constitutional Court adjudicates the constitutionality of laws both after and before promulgation. The Court decides the constitutionality of laws before promulgation only upon request of the president of Romania, the president of either chamber of Parliament, the government, the Supreme Court of Justice, at least 50 deputies or at least 25 senators.⁴³ The Constitutional Court consists of nine judges appointed for one nonrenewable term of nine years. Three judges are appointed by the Chamber of Deputies, three by the Senate and three by the president of Romania. One third of the Court is replaced every three years.⁴⁴ If the Constitutional Court rules a potential law to be unconstitutional, that ruling can be overturned if Parliament reconsiders the law and passes the measure again by a two-thirds vote of each chamber.⁴⁵

The Constitution also provides for an Ombudsman, or Advocate of the People, to defend the rights and freedoms of citizens.⁴⁶ The Ombudsman is appointed by the Senate for a term of four years.⁴⁷ While the judicial branch is meant to be independent, subject only to the law,⁴⁸ in practice, it is still subject to influence by the executive branch.⁴⁹

B. THE STRUCTURE OF TERRITORIAL DIVISIONS

Romania is divided into 40 counties, or *județe* (singular form is *județ*) and the Municipality of Bucharest.⁵⁰ Territorial-administrative subdivisions are communes and cities.

Regional and local governments

Local administration is based on the principle of local autonomy and decentralization of public services.⁵¹ Communes are administered by elected local councils, cities are administered by elected mayors and city councils, and an elected county council co-ordinates the activities of commune and city councils.⁵² The government appoints a prefect to each of the 40 counties to represent the government at the local level and to direct the decentralized public services of the ministries or other central agencies. The prefect can challenge in administrative court acts of the county council, local council or mayor.⁵³

C. SOURCES OF LAW

Domestic sources of law

Romania has a civil law system. The hierarchy of domestic laws is as follows: the Constitution; laws, resolutions and motions adopted by Parliament; decrees and statutory orders adopted by the executive branch to ensure enforcement of legislation; decisions of the prime minister; orders and instructions of ministers; decisions of local councils and orders of mayors for public administration; and orders of public services of ministries operating in counties.⁵⁴

Chapter II of the Constitution establishes fundamental rights and liberties. Among them, the Constitution guarantees the rights to life, physical and mental integrity of a person,⁵⁵ and the protection of health.⁵⁶ It is the responsibility of the state "to take measures to ensure public hygiene and health."⁵⁷ "The organization of the medical care and social security systems in case of sickness, accidents, maternity and recovery, the control over the exercise of medical professions and paramedical activities, as well as other measures to protect physical and mental health of persons" are established by law.⁵⁸ Working conditions for women and youth are constitutionally protected,⁵⁹ and women are entitled to equal pay with men for equal work.⁶⁰ Subsumed under the state's constitutional obligation to ensure a decent living standard for its citizens are the rights to paid maternity leave, to medical care in public health establishments, and to social security.⁶¹

Children and youth also enjoy special constitutional protection.⁶² The state is obliged to grant allowances to parents raising children and to pay benefits to people who care for sick or disabled children.⁶³ The Constitution prohibits the

exploitation of minors and their employment in activities that might be harmful to their health or morals or that might endanger their lives and normal development.⁶⁴ The Constitution also prohibits the paid employment of minors under the age of 15.⁶⁵

International sources of law

International treaties ratified by Parliament become national law.⁶⁶ Constitutional provisions concerning citizens' rights and freedoms must conform with the Universal Declaration of Human Rights and with covenants and other treaties to which Romania is a party. Where there are inconsistencies between national laws and international human rights agreements, the international regulations take precedence.⁶⁷

Romania ratified the Convention on the Elimination of All Forms of Discrimination Against Women in 1982.⁶⁸ Romania is also a party to the International Covenant on Civil and Political Rights⁶⁹ and its First Optional Protocol,⁷⁰ the International Covenant on Economic, Social and Cultural Rights,⁷¹ the Convention on the Rights of the Child,⁷² the International Convention for the Elimination of All Forms of Racial Discrimination,⁷³ and the European Convention of Human Rights.⁷⁴

II. Examining Health and Reproductive Rights

A. HEALTH LAWS AND POLICIES

Objectives of the health policies

As presented in the Governing Program of the current government,⁷⁵ the health policy is mainly focused on reforming the health system — primarily to increase accessibility to health care services.⁷⁶ This reform has been planned since 1990, but it is only since 1998 that significant legal changes have occurred. The reforms propose to reorganize the Ministry of Health to reduce its responsibility for service provision and instead to emphasize its role in strategic planning and health policy.⁷⁷ The physicians' and pharmacists' organizations of Romania would be primarily responsible for ensuring a fair distribution of medical and pharmaceutical services throughout the country.⁷⁸ Included in the governmental reform is a Reproductive Health Promotion Strategy. Its principal aim is to reduce abortion as a means of family planning, and to increase the use of modern types of contraceptives, particularly targeting adolescents. Health reforms also emphasize ways to reduce the incidence of sexually transmissible infections (STIs).⁷⁹

Implementing agencies

The Ministry of Health is to carry out the implementation

of the new Law on Health Insurance,⁸⁰ in addition to continuing its work managing the entire health care system. The National House for Health Insurance (NHHI) and the Romanian Board of Physicians are also involved in health care system reform.⁸¹

A series of public institutions, such as the Institute of Public Hygiene and Health, the Institute for Health Services and Management, and the Institute for Maternity and Child Protection, which provide counseling and undertake scientific research, work with the Ministry of Health.⁸² The National Center for Health Promotion, an arm of the National Institute for Health Services Management in Bucharest, is responsible for planning and development, training, research, and technical assistance at the national, regional, and local levels.⁸³

Operating within the Ministry of Health are County Directorates of Public Health for each county and Bucharest. Their job is to implement national policies and programs at local levels, including preventive medicine, medical inspection, statistical review and financial accountability.⁸⁴ In cooperation with the local authorities, education institutions, governmental and non-governmental organizations, these directorates organize educational activities in the field of reproductive health.⁸⁵ They are also in charge of all activities relating to the treatment and prevention of STIs.⁸⁶

The Ministry of Health is the central authority in the field of public health assistance.⁸⁷ It works in cooperation with the Romanian Board of Physicians in several important national programs that relate to reproductive health:⁸⁸ the National Program of HIV/AIDS supervision and control; the National Program on Family Planning and Protection of Mother and Child Health Status; and the National Program for the Evaluation of Population Health Status and Demographic Supervision.⁸⁹ Within the Ministry of Health are also the Institutes for Public Health in Bucharest, Cluj-Napoca, Iasi and Timisoara, and Centers of Public Health in Târgu-Mureş and Sibiu.

Romania's 1997 Health Insurance Act established compulsory social health insurance for all Romanian citizens, foreigners, and stateless persons who legally reside in the country.⁹⁰ Members of foreign diplomatic missions and foreign citizens who are temporarily in the country do not have to participate in the health insurance program.⁹¹ All insured persons must contribute 7% of their monthly gross income towards health care insurance.⁹² To these contributions are added subventions from the state budget and local budgets, as well as from other income sources.⁹³ Children and people under 26 do not contribute to insurance if they are students or apprentices and if they are not earning income. Other non-contributing individuals are disabled persons who do not earn income or are in their family's care; spouses, parents and grandparents who do

not earn their own incomes and are cared for by an insured person; persons who were politically persecuted under the post-World War II dictatorship, as well as deported people, prisoners, war veterans, heroes of the 1989 Revolution and their successors.⁹⁴

The health insurance system permits the insured to freely choose their doctors, medical institutions and health insurance institutions.⁹⁵ The law permits voluntary (private) health insurance for special individual situations.⁹⁶ The NHHI is the autonomous public institution that manages the social health insurance system of Romania.⁹⁷ It is divided into a network of regional health insurance groups, one for each county and for Bucharest. The NHHI is governed by a Board of Administration which is responsible for the smooth financing of the network and for financial oversight.⁹⁸

Health care is principally regulated by the Health Insurance Act.⁹⁹ The Health Insurance Act sets the framework and general principles of health insurance, including who can be insured,¹⁰⁰ the rights of the insured persons,¹⁰¹ the relations between health care providers and health insurance companies,¹⁰² funding of health care,¹⁰³ and the structure of health insurance companies.¹⁰⁴

Infrastructure of health services

Health services in Romania are organized locally. Urban and rural dispensaries (primary health care centers) provide primary health care services to children and adults, including pre- and postnatal care. Secondary health care consists of polyclinics located in urban areas which provide specialized health services, including obstetrical, pediatric and lab services on an outpatient basis. Tertiary health care consists of hospitals, also located in urban areas, with one or more polyclinics attached.¹⁰⁵ In addition to this public health care system, many companies and factories have dispensaries on their premises, as well as special polyclinics that look after the health of their employees. Twenty-one university hospitals act as referral centers for the most difficult, high-risk cases, but they also serve their local districts. Similarly, county hospitals also serve as referral hospitals and, at the same time, provide services for the surrounding communities. Hospitals and their subordinate polyclinics and dispensaries serve approximately 100,000 people in each area.¹⁰⁶ This translates to 5,883 medical dispensaries and 540 polyclinics operating throughout the country.¹⁰⁷ A typical dispensary is staffed by two physicians — usually a general practitioner and a pediatrician — and two medical assistants such as nurses, a midwife and one auxiliary staff member. The health reform proposals would modify the staffing of dispensaries by merging general practitioners (GPs) and pediatricians into a new “specialty” of family physician. A family

practitioner would be posted to the dispensary and manage an average caseload of 1,500 patients.¹⁰⁸

Reproductive health services are considered to fall within primary health care. Dispensaries have consultations for family planning, obstetrics-gynecology, and services for maternal health care. Family planning services have been authorized since 1990 by the Ministry of Health. These services were initially organized within maternity wards and in obstetrics-gynecology services offered in polyclinics; gynecologists were the only physicians designated to dispense family planning advice and services. In January 1991, however, the Loan Agreement between the government of Romania and World Bank (IBRD) provided funds for the improvement of reproductive health,¹⁰⁹ and NGOs began to provide counseling and contraceptive services.

Cost of health services

The Romanian health care system has much to be commended for, although both providers and patients voice much dissatisfaction with it. Officially, the national budget pays for universal care. In actual practice, however, the Romanian health care system is under tremendous strain stemming from decades of insufficient investment and management difficulties. Before 1989, Romanians were entitled to free health care, but individuals often paid for services under the table. Today, there continues to be mixed elements of public and private practice, and this arrangement determines, in part, what kinds of services are rendered and to whom.¹¹⁰

Most health care services are free of charge, although abortion upon request is an important exception. Other medical services for which payment is not covered by health insurance are those for occupational diseases, work accidents, some highly specialized medical treatments, and dental services. Even for services that ought to be covered, it is still a common practice for patients to offer money or gifts in exchange for services. There are state subsidies for some drugs depending on the person's employment status and for certain diseases (i.e., cancer, tuberculosis, and diabetes mellitus). Pregnant women and children under the age of 16 benefit from free medication.¹¹¹ Pharmacies have recently been privatized, and discussions are underway to develop a system of pharmaceutical insurance.¹¹²

Payment for medical services provided by the public/private system comes from the health insurance fund administered by the NHHI. In cases of private medical services, payments from the health insurance fund come only if there is a contract between the physician providing the service and the NHHI.¹¹³ Services provided outside of this contract are the responsibility of the patient. When medical services are provided through public dispensaries, polyclinics and hospitals, they are always

free of charge, with the exception of hospital services, where a 2% fee is charged as contribution to the special health fund.¹¹⁴

Of the budgetary funds spent on health care, 75.3% are spent as wages of the medical staff,¹¹⁵ even though these wages are among the lowest in Romania. The funds allocated to health care centers for repair and investment are extremely small. In 1995, the average household spent 7.9% of monthly income on medicine, dentistry and other health care. For retirees, that figure is 12%.¹¹⁶

Regulation of health care providers

The Romanian Board of Physicians (Physicians' Board) was established by Law No. 74/July 6, 1995¹¹⁷ and is a non-governmental, non-political professional organization that represents the interests of the medical profession.¹¹⁸ By law, the Physicians' Board includes all physicians, practicing or retired, who are Romanian citizens and reside in Romania.¹¹⁹ They are registered in a published periodical.¹²⁰ The Physicians' Board not only defends physicians' rights and interests, it interprets and implements the Code of Medical Ethics and advises the Ministry of Health on admission to practice and awarding of medical degrees. It also supervises, investigates, and rules on the professional behavior of physicians.¹²¹ Physicians may only practice their specialty with Physicians' Board authorization.¹²² The Physicians' Board has offices at national and county levels and in Bucharest.¹²³ There are similar boards for pharmacists¹²⁴ and medical assistants.¹²⁵

To become a physician, one must finish a six-year program at an accredited public or private medical school (Faculties of Medicine).¹²⁶ After graduation, physicians have to complete a year of compulsory practice.¹²⁷ Only after the completion of that internship may a physician obtain the right to practice. To specialize, a physician has to train as a resident for three to seven years and pass an exam in the respective specialization.¹²⁸ The residence exams are coordinated by the Ministry of Health, in cooperation with the Physicians' Board and the Ministry of Education.¹²⁹

Decision of government No. 312/1999 states that primary health care services are provided only by authorized or accredited *cabinete medicale* [doctors' offices].¹³⁰ GPs are not allowed to perform routine pre-natal services, such as blood and urine tests.

Physicians work with medical assistants, nurses and hospital attendants. Medical assistants and nurses are post-lyceum and high school graduates who pass an exam by the Ministry of Health,¹³¹ and their responsibilities are no longer different, although medical assistants earn more than nurses do. Nurses' training has been upgraded in the past three years to correspond to European standards; curriculum revisions place more emphasis on primary care, preventative care, and maternal and

child health.¹³² In order to work as a medical assistant, a person has to obtain a license from the Romanian Board of Medical Assistants. The profession of medical assistant is regulated by the Decision of government No. 463/1990.¹³³

Specialized studies are not necessary for medical attendants. Training takes place on the job. Formally, no midwives have been trained in Romania since 1978. Most practicing midwives were trained as hospital nurses, and then specialized in obstetrics and gynecology. Midwives have recently formed an association in order to support their work and are advocating for post-secondary training and certification.

Graduates of public or private accredited universities for pharmaceutical education (Faculties of Pharmacy) may be licensed as pharmacists. The requirements are similar to those for physicians, except that the Romanian Board of Pharmacists reviews and approves candidates.¹³⁴

Patients' Rights

Physicians are obliged to respect human life and to exercise their profession correctly and with devotion.¹³⁵ Physicians are independent in the exercise of their profession. They have the right to initiate and prescribe courses of medical action; they are responsible for their medical decisions and actions¹³⁶ under disciplinary, criminal and civil provisions of various codes.¹³⁷ There are no specific provisions in Romanian law concerning medical malpractice, but general rules on negligence apply.¹³⁸ The Health Insurance Act has delegated to the NHHI responsibility for organizing a system of medical malpractice insurance.¹³⁹

The Physicians' Board, acting through the National Council, can file a civil action or complaint to the legal authorities and demand an investigation of anyone suspected of practicing medicine illegally.¹⁴⁰ The Physicians' Board has disciplinary power over physicians who violate the legal provisions on the exercise of the medical profession and the Code of Medical Ethics.¹⁴¹ The Board may censure, suspend, or revoke a physician's license to practice.¹⁴²

Quality control of medical services is the responsibility of the health insurance groups and special committees of the Physicians' Board.¹⁴³ The criteria for quality control are to be elaborated by the NHHI and the Physicians' Board, on the basis of the criteria set by articles 31 and 32 of Law No. 145/1997.¹⁴⁴ A patient's right to confidentiality is guaranteed by law.¹⁴⁵ Article 30 ensures that a patient's health records will be kept by the County Directorate of Public Health and that information only be released if the patient agrees, if the information is needed to prevent the sickness of other persons, if such information is necessary for criminal investigation, or if it is otherwise authorized by law.¹⁴⁶ Employers and all other persons who have access to records must also respect the

confidentiality of health records.¹⁴⁷ Within the Romanian legislation, there are no special rules regarding consent of the patient to medical acts.

Conclusions

The Romanian health care system's medical staff is well trained. The number of doctors per capita (one doctor for 494 inhabitants in 1997)¹⁴⁸ appears to be on par with other European countries, although less so regarding specialists.¹⁴⁹ Equipment, medical centers and hospital beds, however, suffer in comparison due to lack of resources. Efforts have been made over the last few years to improve the general health of the population but the situation, particularly relating to the quality of medical services, leaves much to be desired. Insufficient budget resources and increasing poverty among certain sectors of the population can be partially attributed to Romania's failure to promote public health. Private medical practices do not yet offer a realistic alternative to public services; they are a viable solution only for an extremely small proportion of the population, as the fees for service are prohibitive. Private dentistry practices are the most common private practice, and there now exist a growing number of private pharmacies. Health insurance can not, at least in the short and medium terms, resolve the growing sense of insecurity in the provisioning of health services. It is expected that the state will need to increase its health budget, particularly to cover the fundamental health care needs of the population, to finance preventive medicine programs, and to improve basic medical assistance.

B. POPULATION POLICY

Romania does not have an explicit population policy and there are no specialized institutions devoted to this field. However, various state institutions have articulated objectives related to the population and family, particularly responding to the demographic decline.¹⁵⁰

In 1999, the population of Romania was estimated at 22.3 million inhabitants in comparison with 23.2 million in 1990.¹⁵¹ The average annual population growth between 1990 and 1997 has been -0.4, due both to a declining birth rate (registered after 1991) and to emigration.¹⁵² Women outnumber men, noticeably those aged 45 and over. The male death rate is twice as high as the female death rate for people between 15 and 64 due to stress, injuries, alcoholism, tobacco addiction and suicide. Female deaths are higher in cases of circulatory system diseases and cancer.¹⁵³ Overall, there is a "graying" and a "feminization" of the population.¹⁵⁴ Despite a large proportion of women of childbearing age, the birth rate has been declining. The birth rate has fallen below the population replacement rate: there were 10.8 babies born for every 1,000 inhabitants in 1998, up slightly from 10.5 in 1997 and 10.2 in 1996.¹⁵⁵

These overall demographic trends are reflected in recent policies of the Ministry of Health and the Ministry of National Education, which have presented programs to increase public awareness of reproductive health and sexual behavior among young persons. The major objectives of this policy are to promote reproductive health; to reduce the maternal death rate, especially those related to abortion; to reduce the number of abortions and abortion-related complications; to disseminate modern contraceptive methods; to increase the population's awareness of sexual activity and STI prevention; to reduce the number of unwanted pregnancies, the number of abandoned children, and the incidences of teenage pregnancies; and to increase the number of healthy newborn children.¹⁵⁶ The state also actively promotes family formation. Law No. 61/1993 as modified by Law No. 261/1998 establishes a state child allowance.¹⁵⁷ The state's principal motivation is to encourage the birth of children, as those with more than two children receive financial support¹⁵⁸ and extended parental leave.¹⁵⁹ Also, families in need of financial assistance in supporting their children may receive state allocations.¹⁶⁰ There is no comprehensive reproductive health policy that promotes women's health throughout their lives.

C. FAMILY PLANNING

Government delivery of family planning services

A loan agreement with the World Bank, signed in 1991, provided the impetus for the state's family planning services.¹⁶¹ Some of the agreement's principal points were to improve reproductive health care services, to focus on maternal and child health, to increase access and choice in family planning services, and to decentralize the primary health care system. The organizational structure of family planning and reproductive health activity was partially established by Law No. 79/1991.

In 1992, the Ministry of Health established the Family Planning and Sex Education Unit (FPSEU),¹⁶² and currently there are 230 family planning and reproductive health clinics run by the state and 11 referral centers operating in the university centers.¹⁶³ The Ministry of Health maintains a network of 40 Health Promotion Departments — one per county — that in part work to promote issues of family planning and reproductive health. At the regional level, there are, within the Ministry of Health's Institutes of Public Health, Health Promotion Teams that review and provide information about family planning and reproductive health to the population.¹⁶⁴ As a component of the primary health care reform initiated by the Ministry of Health in 1997, family planning has been integrated in 1999 into the basic 'package' of services provided to the population.¹⁶⁵ Reproductive health is one element of GP skill

upgrading, and will be carried out in part through a United Nations Population Fund (UNFPA)-financed Family Planning Project by the Ministry of Health.¹⁶⁶

Dispensaries, as already mentioned, deliver some reproductive health services: counseling, oral contraceptives prescriptions, and recommendations for contraceptive devices. Unfortunately, in most dispensaries, contraceptive pills, condoms, and IUDs are not available. Most dispensaries have no educational materials on family planning methods. OB/GYNs in public hospitals, maternities and in private practice provide family planning services and counseling. They have been less active, however, in family planning programs than their colleagues who work in family planning clinics.

A World Bank Health Rehabilitation Loan provides UNFPA technical assistance and procurement services which supply contraceptives for the National Family Planning Program.¹⁶⁷ Under this project, which started in 1997 with expenditures of about USD \$322,397, demand for contraceptive pills was so high, that an emergency order was filled to cover the shortage. In November 1998, the National Consultative Council for Family Planning met to decide on a new order for modern contraceptives, including more condoms, in order to meet the estimated needs for a period of two to three years.¹⁶⁸ Thanks to the World Bank agreement, the Ministry of Health is able to sell its imported contraception through a public network at lower prices than do pharmacies or private clinics. The price difference is considerable; oral birth control pills distributed through this network are 10 to 30 times cheaper; IUDs are 60 to 80 times cheaper than the cost on the free market. The medical assistance provided within these consultations is free of charge.¹⁶⁹

The Ministry of Health guidelines for prenatal care are explicit. Healthy pregnant women should receive 10 prenatal consultations. Women with risk factors or complications may have more visits and tests, as well as specialist care at polyclinics or, if necessary, hospitals. All women are to receive at least one home visit during pregnancy (by a nurse) to assess their social circumstances and to receive prenatal education. The Ministry of Health also specifies the content of prenatal care.¹⁷⁰ Women who work outside the home receive maternity benefits and child support but must first register at the local dispensary. Women must use the maternity care services available within their residential area unless they are receiving services from special polyclinics or a company's dispensary. Home deliveries are not recommended, and nearly all deliveries take place in the hospital.

The Ministry of Health guidelines for prenatal care do not guarantee the quality of the services. In fact, the system's organization makes it difficult to assure quality. Since pregnant women see GPs for their prenatal visits in dispensaries, there

are cases of women being admitted to the hospital in labor, and the attending obstetrician never having seen her before, let alone having access to her medical records. Ordinarily women do not bring their own medical records to the hospital. Since most maternal deaths occur during labor, delivery and the postpartum period, the quality of hospital obstetrical services is of key importance.

Services provided by NGOs/private sector

NGOs and the private sector have taken on increasing importance in the provision of family planning services.¹⁷¹ For example, the private sector has become increasingly active in the sale of contraceptive products. Currently, the private sale of birth control pills accounts for over half the total pills distributed in the country, and it is estimated that the proportion is increasing dramatically. Recent figures show that commercial sale of oral contraceptives more than doubled in 1997 over the 1996 level.

Also, the network of NGOs providing services such as counseling, contraception, and training has been growing. Family planning consultations are also provided by *Societatea de Educație Contraceptivă și Sexuală* (The Society for Contraceptive and Sex education — SECS), a non-governmental organization with 20 consultation centers throughout the country. SECS can provide imported contraceptives with the financial support of the International Planned Parenthood Federation (IPPF). In contrast to the state system, the consultations at SECS are not free of charge,¹⁷² but they are affordable, at approximately USD \$2. Other major international organizations, such as IPPF and *Medecins Sans Frontier* (MSF) Belgium-France, have been active in this field. There are 11 clinics of family planning organized by NGOs; all NGO family planning consultations are located in urban areas.¹⁷³

UNFPA's assistance over the last few years has been crucial to the status of family planning services. UNFPA provides a total budget of about USD \$700,000 as a national program support package.¹⁷⁴ It also supports Reproductive Health (RH) Information, Education, and Communication (IEC) activities. A joint UNFPA/UNICEF-supported project to strengthen women's health services in three counties of Romania was agreed to in principle by the Ministry of Health in 1997. UNFPA and UNICEF approved it in July 1999, but there is an ongoing need to solicit donors. UNFPA and UNICEF promised to jointly support the Romanian government in finding additional donor sources.¹⁷⁵

Conclusions

The lack of a national strategy concerning women's health is part of the lack of a general health care policy for underserved or marginalized individuals. Women who live in rural

areas have increasingly less access to high-quality medical service because of several factors: the “migration” of doctors from rural medical dispensaries, the lack of up-to-date information and training available to rural doctors, and insufficient financial resources, poor equipment and ambulance services.¹⁷⁶ These factors combine to make the maternal and infant mortality rate in Romania one of the highest in Europe. In Romania the risk for a woman to die from a pregnancy-related cause is 14 times higher than in Austria and four times higher than in the Czech Republic, Poland or Hungary.¹⁷⁷ The neglect of women’s health is furthermore attributable to women’s lack of influence in political circles and their poor representation in international health institutions.

D. CONTRACEPTION

Prevalence of contraceptives

According to a 1993 survey on reproductive health in Romania, 41% of women of childbearing age indicated that they used contraceptive methods. The percentage of married women using contraceptive methods was 57%, 43% using traditional methods and only 14% using modern methods. The utilization of modern contraceptive methods by single women was negligible.¹⁷⁸

The most frequent method of family planning is withdrawal (*coitus interruptus*) (34%), followed by the rhythm/calendar method (8%). The modern contraceptive methods used are IUDs (4%), condoms (4%) and oral pills (3%). Less than 1% of women use spermicides, and only 0.3% use injectible contraceptives, diaphragms, or other modern methods. Only 1.4% of married women have been sterilized.¹⁷⁹ More women in urban areas used modern contraceptive methods compared with rural areas.¹⁸⁰ Women between the ages of 30 and 34 (69%) used contraceptive methods more frequently than women between the ages of 25 to 29 (66%).¹⁸¹

In Romania, most modern contraception is imported from other countries. Birth control pills, both the COC (combined oral contraceptive) and the POP (progesterone only pill) types, are available under the brand names Minidril, Varnoline, Diane 35, Mercilon, Phaeva, and Microgynon 30. RU-486 (Mifepristone) as a method of early abortion is not available. Diaphragms and spermicides are difficult to procure. Both pills and intrauterine contraceptive devices require prescriptions, and insertions are performed only by OB/GYNs. There are no accurate sources of information about emergency contraception and emergency contraception is not readily available.

A 1999 Reproductive Health Survey shows an increase of contraceptive use (to 64% from 57% in 1993). The most important feature is that modern contraceptive use grew as follows: condoms (8.5%), oral pills (7.9%), IUDs (7.3%), spermicides

(2.8%) and female sterilization (2.5%). Other modern methods accounted for only 0.5%.¹⁸²

Legal status of contraceptives

There are no specific laws regarding the sale and distribution of contraceptives. However, the future of the governmental birth control pill subsidy is uncertain.¹⁸³ Contraceptive products have the same legal status as any other drug used in Romania. To be imported or sold, all drugs need the approval of the Ministry of Health, through the Pharmaceutical Directorate and the Institute for State Control of Drug and Pharmaceutical Research. According to the Order of the Ministry of Health No. 1988/1996, any pharmaceutical product or product for human use may be distributed only after a quality verification, the issuance of a quality certificate and its registration by the Commission for Drugs, within the Institute for State Control of Drug and Pharmaceutical Research. The importing agency must cover the expenses relating to quality verification. The products imported and produced within the member states of the Convention for Mutual Recognition of Pharmaceutical Inspection are exempted from this control.

Regulation of information on contraception

There are no direct regulations governing the advertisement of contraceptives. Possible threats to potentially limit information concerning contraception are provisions of the Criminal Code on obscenity and provisions of the Audio-Visual Law.¹⁸⁴ The law against obscenity in the Romanian Criminal Code imposes a prison term from six months to four years, or a fine, for selling, distributing, making or possessing with a view to distribute objects, pictures, written materials or other materials having obscene character.¹⁸⁵ The respective law neither defines what “material having obscene character” is, nor specifies if medical material is included. To date, there have been no prosecutions under this law.

An information campaign on reproductive health, called “Women Choose Health,” has been launched in recent years. The campaign is widely supported by the Ministry of Health through Health Promotion departments, and by the NGO Coalition for Reproductive Health.¹⁸⁶

E. ABORTION

Immediately after the legalization of abortion in 1989, Romania had the highest number of abortions in the region. The absolute number of abortions leaped from 192,500 in 1989 to 992,300 in 1990. It has been steadily decreasing since then, reaching 347,100 in 1997.¹⁸⁷ In 1998 there were 207,117 induced abortions and in 1999 there were 198,846 induced abortions. Even though induced abortions are widely available throughout the country, both in public and private facilities, there are still some illegal induced abortions (224 in 1998 and 207 in

1999).¹⁸⁸ The abortion rate also increased initially to 300 abortions per 100 live births. The rate has since decreased, but is still high at 150 abortions per 100 live births. As a result of the liberalization, the registered number of maternal deaths caused by abortion declined from 545 in 1989 (out of a total of 627 maternal deaths) to 51 in 1996, leading to a drop of 76 percent in the maternal mortality rate.¹⁸⁹

Legal status of abortion

Under the Criminal Code, induced abortion is legal if it is performed by a medical doctor upon a woman's request up to 14 weeks from the presumed date of conception.¹⁹⁰ If the abortion is necessary to save the life, health or bodily integrity of the pregnant woman, or if the pregnant woman for physical, mental, or legal reasons, cannot express her will and the abortion is necessary for therapeutic reasons, it can be performed at any time by a medical doctor.¹⁹¹ Abortion is the predominant form of managing unwanted pregnancy.¹⁹²

Requirements for obtaining legal abortion

The only absolute condition the law places on abortion is that it must be performed by a doctor.¹⁹³ There is neither a spousal consent requirement nor any other mandatory counseling or waiting periods. Public abortion services are organized within hospital-based OB/GYN clinics/departments on a one-day care basis. Private OB/GYN clinics provide induced abortions on an outpatient basis. Abortion services provide safe procedures, and post-abortion complication rates (both immediate and late) are low. Still, the quality of abortion care is sometimes wanting because of large caseloads and limited time. Abortion counseling and post-abortion family planning counseling are not routinely offered in all abortion clinics.¹⁹⁴

Policies on abortion

Under the dictatorship of Ceaușescu, with its forced and brutal pronatalist policies, abortion was illegal and there were mandatory work place pregnancy screenings. The old anti-abortion law was among the first laws to be abolished in December 1989.¹⁹⁵ To give women an alternative to abortion, the Ministry of Health has developed an "Operative Plan to Promote Reproductive Health for the period 1998-2003." The plan is essentially a public education campaign to promote family planning and contraceptive methods and to encourage women to avoid abortions as a method of family planning.¹⁹⁶ Governmental public education efforts and those of NGOs, such as the Center for Development and Population Activities (CEDPA) in Bucharest, are limited in their reach. In rural areas, access to family planning consultation centers is almost non-existent; more than 45% of the population lives in rural areas.

Government funding/subsidizing of abortion services

Public facilities that offer abortions and post-abortion counseling services provide their services either for free or at nominal cost. Free abortions are available to students, the unemployed, women who are destitute, mothers with four or more children, women with life-threatening pregnancy-associated diseases, pregnancies occurring in parents with congenital or inherited disabilities, women who are severely physically or psychologically disabled, and women pregnant due to rape or incest.¹⁹⁷

Private medical facilities charge substantially more. Induced abortions provided in private clinics are entirely paid for by the patients, and the charge varies depending on the clinic. Family planning consultations in polyclinics and at maternity hospitals are free of charge.

Penalties for abortion

The Criminal Code attaches penalties of six months to three years¹⁹⁸ for the illegal performance of abortions "either by a non-physician, outside an authorized facility, or beyond fourteen weeks (with no legal indication)." Also, if an abortion occurs without the consent of the pregnant woman, it is punishable with a prison term of two to seven years.¹⁹⁹ If a woman is injured during an illegal abortion procedure, there is a three to ten year prison term, and if the abortion leads to the death of the pregnant woman, the punishment is five to 15 years imprisonment.²⁰⁰ Physicians who illegally perform abortions can lose their medical license.²⁰¹ A woman who undergoes an illegal abortion is not subject to punishment.

Regulation of abortion information

There are no regulations on advertising abortion services or information, or information on family planning methods. In rural areas, the Orthodox Church is strong, but because of Romania's recent history, the anti-choice movement is still in its infancy. The Association of Orthodox Christian Students under the control of the Orthodox Church occasionally organize violent anti-abortion and anti-gay actions.²⁰² In 1998, draft legislation outlawing abortion was co-sponsored by the Orthodox Church and the Catholic-Greek Unitarian Church.

F. STERILIZATION

Legal status of sterilization

There are no specific laws in Romania regulating voluntary sterilization as a family planning method. A small percentage of the population uses this method: 1.4% of women were sterilized in 1993²⁰³ and 2.5% in 1999.²⁰⁴ There is no specific provision of the Criminal Code that would punish illegal sterilization.

Requirements for sterilization

Normally, anyone seeking to be sterilized as a contraceptive method must undergo preliminary counseling, and notice to both spouses concerning the permanence of sterilization must be given.²⁰⁵ The National Health Insurance Fund covers voluntary sterilization. There is no policy that encourages Romanians to choose sterilization as a contraceptive method.

G. HIV/AIDS AND SEXUALLY TRANSMISSIBLE INFECTIONS (STIs)

STI rates are of much concern in Romania, especially primary and secondary syphilis. The reported syphilis rate increased by almost five times between 1986 and 1996, from 71 to 32.2 per 100,000 inhabitants,²⁰⁶ but since many cases are not declared, official statistics are considered inaccurate. The public health sector is in charge of STI services, organized within the dermatology and venerology units in polyclinics and hospitals. GPs are, in theory, not authorized to treat STIs, but in reality they do, without reporting the cases.

HIV/AIDS has become an increasingly important concern in Romania, but as yet there has been no integrated approach to address it. Through the efforts of UNAIDS a National AIDS Commission was established in 1995.²⁰⁷ This Commission, which is still in formation, will be responsible for establishing HIV/AIDS policy, identifying programs, and soliciting funds from United Nations members of UNAIDS.

The National AIDS Commission has two major responsibilities: AIDS education and prevention, and data collection. With the support of UNICEF, training courses in the field of sex education and AIDS prevention have been organized for teachers, nurses, physicians, and community leaders,²⁰⁸ but STI and AIDS prevention education is really only beginning. STI and HIV/AIDS cases detected by primary health care providers are referred to hospital infectious diseases departments and reported to the Country Directorates of Public Health. The reporting is strictly confidential. The Ministry of Health coordinates this activity and centralizes data from the territorial network for infectious diseases. The prevention of STIs — excluding HIV/AIDS — has been almost non-existent.²⁰⁹

Prevalence of HIV/AIDS

In Romania the reporting of HIV, syphilis, and gonorrhea is mandatory by law, but statistics reflect only the patients who seek medical care.²¹⁰ The situation is particularly bad regarding children. As reported in March 1999, one- to four-year-old children accounted for 37.3% of registered AIDS cases, and five- to nine-year-old children for 38.7%.²¹¹ There were 5,097 AIDS cases among children, including 2,105 girls.²¹² In 1997, more than half of all European cases of children with HIV/AIDS were in Romania. Most children were infected as

a result of injections with contaminated blood and needles. A high number of children with AIDS have been institutionalized.²¹³ Of adult HIV infections, the most frequent transmission path is heterosexual sex, accounting for 48.8% of the total infections.²¹⁴

Laws affecting HIV/AIDS and STIs

A 1998 Order of the Minister of Health establishes the AIDS reporting system. This Order specifies the categories of persons who submit to mandatory testing and reporting for HIV/AIDS: STI patients, pregnant women, long-distance truck drivers, sailors, Romanian citizens working abroad for more than six months, or coming back after travel longer than six months, those wanting to marry after working abroad, and foreign students.²¹⁵

There are a number of laws which affect STIs and HIV/AIDS. Many govern the handling of blood and blood products.²¹⁶ Others concern intentionally transmitting HIV/AIDS, which carries a prison term of five to fifteen years and court-ordered medical treatment.²¹⁷ Evading the treatment carries a penalty of three months to year in prison, or a fine.²¹⁸ Same-sex activity which knowingly leads to the transmission of STIs is subject to one to five years imprisonment.²¹⁹ Other laws concern the protection of children with HIV/AIDS, such as guaranteeing their access to education.²²⁰

Persons with AIDS are entitled to a small “disability” pension. In the case of children, the caretaker receives the funds. Anti-retroviral drugs are provided free of charge in a limited quantity by the public health system (USD \$2.2 million for 7,900 registered HIV/AIDS cases in 1997). However, pharmaceuticals, including AZT and medications for opportunistic infections, are often not available at the local level. In institutions, people with AIDS are isolated. Understaffing and poor training of the staff result in poor care. Social services for families are also understaffed, with individual social workers carrying caseloads of up to 130 families.²²¹

Policies on prevention and treatment of HIV/AIDS and STIs

The National Program for AIDS that is organized and funded by the Ministry of Health should ensure access to medical care, diagnosis, and prevention, but it is grossly underfunded.²²² Still, there is a commitment to treating HIV/AIDS. AIDS is included in the group of 18 diseases the Ministry of Health has designated as worthy of free medications.²²³ The treatment is to be in accordance with the disease’s progress and the location of the patient (in a hospital or at home). There are outpatient clinics at hospitals throughout the country. Every three months an assessment of the patient’s condition is made, after a clinical exam and lab investigation.²²⁴ The medical personnel, physicians and nurses, involved in the medical

assistance of AIDS attend special training sessions organized by NGOs.²²⁵ The territorial directorates of public health have their own labs for HIV testing. There is a great willingness to introduce HIV/AIDS and STI prevention programs into the youth education system. Nonetheless, inaccurate information circulates freely about HIV infection and transmission. The limited ability of the state to act in this field is a function of its precarious economic situation, and the ever-shrinking health budget. Physicians often face shortages of lab materials and medications, and those with HIV/AIDS usually have few financial resources at their disposal.

III. Understanding the Exercise of Reproductive Rights: Women's Legal Status

A. LEGAL GUARANTEES OF GENDER EQUALITY/NON-DISCRIMINATION

Romania guarantees the equality of all its citizens, regardless of "race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property, or social origin."²²⁶ Women are constitutionally entitled to equal pay for equal work.²²⁷ Equality between the spouses in marriage is also constitutionally secured.²²⁸ Both the Family Code and the Labor Code implement the constitutional guarantees.²²⁹

B. CIVIL RIGHTS WITHIN MARRIAGE

Marriage laws

Both the Constitution and the Family Code establish the principle of equality between spouses, relations of mutual respect,²³⁰ common rights and obligations of the spouses to each other,²³¹ over their common assets,²³² and towards their children.²³³ Only marriages that are freely consented to are valid.²³⁴ The minimum age of consent for marriage is 18 years for a man, 16 years for a woman.²³⁵ If there are solid grounds, a woman may marry at the age of 15 with the approval of the executive committee of the town council of her residence, after a physician's examination.²³⁶

Women's freely given consent to marriage is undermined by a provision of the Criminal Code, known as "reparatory marriages."²³⁷ Women who are raped may remove their "shame" by "consenting" to marry the rapist. Under such circumstances, the crime of rape is construed as never having occurred. Particularly in rural parts of Romania, the stigma of rape is very strong and believed to ruin a single woman's marriage prospects.

Only marriages concluded in the presence of the public official in charge of the civil state office are valid.²³⁸ By law, the mayor or one of his representatives officiates at the marriage.²³⁹ There is no law elevating religious marriages to the same status as civil ones; however, the Romanian Constitution does guarantee freedom of belief,²⁴⁰ and allows religious marriages to be celebrated after the civil ceremony.²⁴¹

Sexual relations outside of marriage (adultery) is a crime,²⁴² as is bigamy.²⁴³

Domestic partnership (concubinage), in spite of its growing frequency, is not very significant. Unmarried couples living together, however, do not have the same rights as they would have in marriage. In this kind of partnership, there are no succession rights. In addition, if one partner wants to divide the property acquired while living together, the rules of any ordinary division of property apply, and not those pertaining to spouses. As a result, a woman's housework and child rearing is not valued as "property investment." Women are the ones who are usually disadvantaged in such cases, since men generally work outside the home and can prove their practical contribution to the unit. The lack of legal recognition of such relationships perpetuates women's subordinate economic status.

Divorce and custody laws

Divorce is permitted in Romania,²⁴⁴ and it is regulated by the Code of Civil Procedure.²⁴⁵ Divorce lawsuits are regularly adjudicated in public sessions; however, the court may exclude the public from the proceedings.²⁴⁶ Lawsuits for divorce require the presence of both spouses.²⁴⁷

Grounds for divorce

The court determines whether the marriage should be dissolved based on "solid grounds" that the relationship between the spouses is irreparably damaged.²⁴⁸ The law does not define the term "solid grounds," yet courts routinely recognize the following practices as sufficient: the violent actions of one spouse against the other; adultery (stipulated by the Criminal Code); physical discrepancies between spouses such as illness; non-fulfillment of spousal obligations (including household and sexual duties).²⁴⁹

"No fault" divorce does not exist in Romanian law; fault must be alleged and proved. However, the Family Code, modified by Law No. 59/1993, provides the possibility of divorce on mutual consent without lengthy proceedings.²⁵⁰ Evidence proving the guilt of a spouse often reflects the paternalistic stereotype concerning marriage; women are commonly blamed for not doing the housework, for example.

Maintenance

The Family Code provides mutual rights and obligations of spouses both during marriage and after its termination.

Concurrent to declaring the divorce, the court must settle the issues of the names of spouses after divorce (a problem especially for women), custody of minor children and their financial support, and property division.

Under the Family Code, a spouse who did not work outside of the home can receive a third of the net revenue of the other spouse, but together with any child support, the total support may not exceed half of a spouse's net revenue.²⁵¹ After divorce, either ex-spouse may sue for the payment of alimony if he or she is in need due to an inability to work related to their time as a couple.²⁵² Non-married partners cannot request this alimony after their relationship has ended.

The Family Code establishes the criteria for awarding child custody. The court consults with the parents and with children over 10 years of age, taking into account the interests of the minor children.²⁵³ Although formally parents have equal rights, in fact children are entrusted, in most of cases, to the mother. In special cases, custody may be awarded to relatives, other consenting individuals or child-protection institutions. The court sets the financial contribution to cover the expenses of rearing and educating the children.²⁵⁴ Non-custodial parents are entitled to visitations with minor children. Where parents disagree, a court may be asked to establish a visitation schedule.

C. ECONOMIC AND SOCIAL RIGHTS

Property rights

The Constitution guarantees the right to private ownership of property.²⁵⁵ The right to inheritance is also constitutionally guaranteed,²⁵⁶ and there is to be no discrimination on the basis of gender in the ownership, transfer or inheritance of property. In practice, however, there are procedures that favor men regarding inheritance or transfers, especially in rural areas. Women often have difficulties asserting control over their own property and usually are "watched over" by men, even if the women are the sole owners.

Labor rights

Article 16 of the Constitution provides the equal rights of citizens and article 38 the right to work. The principle "equal pay for equal work" in case of women and men is provided in the Constitution,²⁵⁷ as well as in the Labor Code. The Labor Code generally affirms a woman's right to occupy any position based on her education and training.²⁵⁸

The Labor Code specifies special treatment for women during pregnancy and when breastfeeding their children.²⁵⁹ Pregnant and breastfeeding women are prohibited from working during the night or where there are dangers and risks to health.²⁶⁰ If a pregnant or lactating woman must change her workplace to conform with the code, her pay may not be reduced.²⁶¹ For childbirth, women are entitled to a paid leave

of 112 days (52 days before the birth and 60 days afterwards).²⁶² The rate of pay during maternity leave depends on the woman's length of service, monthly wage, and number of children, ranging from 50% to 94% of her monthly base wage. For employees with three or more children, the pay during maternity leave is 94% of the monthly wage, regardless of the length of employment, thus providing incentives for giving birth to more children.²⁶³

Maternity leave may be combined with family leave to take care of children under the age of two.²⁶⁴ This leave may be taken by either parent.²⁶⁵ Provided the parent has worked at least six months, the amount of paid leave is 85% of the monthly base wage and is paid out of the social insurance budget.²⁶⁶

Women are granted the right to paid medical leave for taking care of a sick child up to the age of three.²⁶⁷ Women taking care of children up to six years old may work half time without losing any seniority.²⁶⁸ A woman's employment contract may not be terminated while she is pregnant, breastfeeding or taking a medical leave to tend to a sick child.²⁶⁹ Teachers may take a break of up to three years in order to raise children with a guarantee of keeping their job.²⁷⁰ In practice, private employers avoid paying for maternity and other leaves simply by hiring women without a contract. This is obviously illegal and prejudicial, and deprives women of their social security, health care, and record of employment for pensions, unemployment and other benefits. This "illegal" labor market does, however, observe some rules such as the minimum wage law in order to avoid overt governmental intervention. Temporary or short-term work contracts are other devices used to avoid paying maternity leave.²⁷¹ It should also be noted that those self-employed in agriculture, along with their family members over 15 years of age who perform unpaid household work (or other unpaid work) are entitled to birth and maternity benefits.²⁷²

A very recent victory for women's rights was the adoption by Parliament of the Law on Paternal Leave.²⁷³ The law aims to ensure the effective participation of fathers as caretakers for their newborns.²⁷⁴ The father of a newborn is entitled to five business days of leave.²⁷⁵ If he participates in the state social insurance system, the paternal leave is paid.²⁷⁶ If the father does compulsory military service, he is entitled to seven days of leave.²⁷⁷ If the mother dies during childbirth or maternity leave, the father is entitled to the remainder of the maternal leave, benefits included.²⁷⁸

Social insurance and other related benefits are assured only in the public sector, and, given the deteriorating economic situation, collective bargaining agreements between public employers and employees are tending to include concessions regarding benefits.

Recent studies show that the average wage of women is only 75% of the average wage earned by men.²⁷⁹ Women who raise their children alone are in an especially difficult position. Women perform the majority of unpaid work like household, child and elder care. But even when they work for wages, they are more likely to be employed in low-paying occupations. Women are overrepresented in the fields of health and social assistance (77%), education (70.8%), finance, banking and insurance (65.3%), hotels and restaurants (63.6%), and postal services and telecommunications (52.9%).²⁸⁰

Protective legislation focused exclusively on maternity protection at work and payment of some financial benefits (for instance, allowance for children) has resulted in an increase in inequality of opportunities and of discrimination against women in the labor market. The precarious position of women in the labor market serves to reduce the constitutional rights of equality and non-discrimination.

Unemployment/pension benefits

Laws regarding unemployment make no distinction on the basis of gender,²⁸¹ except to specify that women who interrupt their work to raise children are entitled to receive unemployment benefits based on the date when they were first officially enrolled at the Labor Offices.²⁸²

Official retirement age differs on the basis of gender. Men may voluntarily retire at 60, and women at 55, provided they have worked at least 30 and 25 years, respectively.²⁸³ Until year 2000, mandatory retirement was 62 for men and 57 for women, with a possibility to extend the age of retirement by three years,²⁸⁴ but the new Law on Retirement and other forms of State Social Insurance, adopted in March 2000, raised the mandatory retirement age to 65 for men and 60 for women,²⁸⁵ to be phased in over the next 13 years.²⁸⁶ The Constitutional Court has upheld distinct retirement ages for men and women.²⁸⁷

Access to credit

There are no laws relating to credit that discriminate on the basis of gender. If anything, the law is designed to impede access for both men and women.²⁸⁸ Self-employment and the creation of small businesses are not perceived as solutions to unemployment and poverty. As a result there are no programs providing information and support to women seeking to start businesses, and there are no favorable conditions for grants or loans.

Access to education

The Constitution of Romania guarantees free public education to all²⁸⁹ and the right of persons belonging to national minorities to learn and be educated in their mother tongue.²⁹⁰ The right to education extends from compulsory general edu-

cation to "education in high schools and vocational schools, by higher education, as well as other forms of instruction and post-graduate refresher courses."²⁹¹ The equal right of access to education, regardless of social status, gender, race, nationality, political or religious belief is also guaranteed by law.²⁹²

Women are involved in the education system both as students and teachers. In 1997, the enrollment rate at all levels of education was nearly the same for women (63.5 %) as for men (62.3 %), although the level of adult literacy is higher for men (98.7%) than for women (95.4%).²⁹³ Certain gender disparities do exist within the educational system regarding access to and attainment of specific qualifications, skills and opportunities. There tends to be gender stratification as a result of socialization and training in accordance with gender-stereotyped curricula and extracurricular activities. Women predominate as students in the social sciences, humanities, health, law and education, which coincides with the sex segregation found in the labor market. There are also no special programs to combat female illiteracy, re-train older women who wish to enter the labor market, or assist adult women with limited education and women with disabilities. No attention has been given to gender-neutral curricula or to ensuring women better access to and participation in technical and scientific areas, as suggested by the Fourth World Conference on Women's Platform for Action.²⁹⁴

National machinery for the promotion of women's equality

There are a number of national organizations working for women's rights, directly or indirectly. Within Parliament's Commission for European Integration, there is the Subcommittee on Equal Opportunities, created in September 1997.²⁹⁵ The Subcommittee is composed of members of political parties represented in Parliament and of independent experts. The Subcommittee disseminates rules, recommendations, and international standards with regard to women's rights, and drafts legislation to promote equal opportunities in light of European Union standards.²⁹⁶ The Subcommittee's most important activities to date are the draft Law on Equal Opportunity Law,²⁹⁷ the 1999 Law on Paternal Leave,²⁹⁸ and the draft Law on the Legalization of Prostitution.²⁹⁹

Pursuant to the 1995 Fourth World Conference on Women (Beijing), the government of Romania established the Department for the Advancement and Protection of Women's Rights within the Ministry of Labor and Social Protection.³⁰⁰ The Department studies the condition of women and proposes solutions for the elimination of discrimination, supervises the realization of family policies, proposes legal measures for the harmonization of legislation, and ensures equal access of women on the labor market. In addition, there are 41

inspectors in charge of the advancement and supervision of women rights and family policies, one in each county and Bucharest.³⁰¹ The Ministry of Labor and Social Protection was reorganized in early 1999; its staff was reduced and the Directorate for Equal Opportunities³⁰² was established to promote gender equality. The Directorate coordinates the activity of two centers: the Pilot Center for Assistance and Protection of Domestic Violence Victims³⁰³ and the Information Center for Family Counseling.³⁰⁴ In 1998 the Ministry of Labor and Social Protection allocated USD \$63,476 for programs to advance women's rights.³⁰⁵

Other national institutions include the Department for Children, Women and Family Protection (within the Ombudsman's Office, since February 1998), the Presidential Counselor for Relations with NGOs (since December 1996, indirectly dealing with women's issues),³⁰⁶ and the Consultative Council of the Prime Minister for Relations with NGOs (since September 1998, indirectly dealing with women's issues).³⁰⁷

In September 1996, pursuant to Beijing, the Romanian government presented its plan for implementing the Beijing Platform for Action. The Romanian plan, not yet implemented, aims to develop institutional mechanisms to advance women's rights and equal opportunities for men and women; to improve the participation of women in public life and decision-making; to better the economic situation of women (to ensure their equal access to the labor market and to ensure their control and use of economic resources); to improve women's health; to prevent and diminish domestic violence, especially against women and children; to encourage the participation of women in environmental protection activities; and to cooperate with NGOs.³⁰⁸

Currently, there are approximately 60 women's rights organizations, including NGOs and groups affiliated with political parties or trade unions. They focus on everything from women's participation in public life, social protection of women and assistance for the elderly, training, Christian moral education, and feminist philosophical and sociological research.³⁰⁹ No legal restrictions hinder the participation of women in government or politics, but they are underrepresented due to cultural attitudes. Unofficial statistics estimate women's participation in political parties at between 20% and 50%, usually in subordinate positions.³¹⁰

D. RIGHT TO PHYSICAL INTEGRITY

Rape

The Romanian Criminal Code considers rape and other sexual assaults as "violations related to sexual life." Rape is defined as sexual intercourse by use of force or by taking advantage of a woman's inability to defend herself or to express her will.

Rape is punishable by a three- to 10-year prison term.³¹¹ Aggravated rape, punishable by five to 15 years in prison,³¹² includes gang rape, when the woman suffers serious physical and health injuries, or when the girl or woman was in the aggressor's care, protection, education, supervision or treatment. The punishment grows to 10 to 20 years in prison if the victim was under 14 years old, or if the woman dies or commits suicide as a result of the rape.³¹³ Attempted rape is a crime as well.³¹⁴

A criminal action for rape is initiated only upon the complaint of the woman.³¹⁵ If the complaint is withdrawn or marriage between the perpetrator and the woman occurs, the investigation is dropped. The so-called "reparatory marriage" between the perpetrator and the victim exonerates the perpetrator from criminal responsibility.³¹⁶ Such cases of marriage are frequently the result of family pressure. Article 197 of the Criminal Code does not distinguish between married or unmarried women. Statutorily, a married woman can be raped by her husband and could therefore pursue criminal charges against him. However, legal jurisprudence maintains that the existence of a marriage implies the woman's consent to sexual intercourse with her husband. As no case dealing with rape within marriage has come before the court to settle the matter, the criminality of rape within marriage remains a disputed area of law. Other factors contribute to such a presumption. The reconciliation clause in article 197 indirectly implies that a marriage exempts the criminal responsibility of the defendant. Furthermore, it is argued that rape within a marriage should be dealt with under a different chapter of the criminal code that addresses crimes against the family. Incest is defined by the Criminal Code as sexual intercourse between next-of-kin or between brother and sister, and it is punished by imprisonment from two to seven years.³¹⁷ Attempted incest is also a crime.³¹⁸

Domestic violence

There is no specific legislation concerning domestic violence and violence against women. Rather, laws relating to assault, public order, and divorce apply. Verbal abuse and cruelty that leads to mental and emotional injury affecting the person's dignity can be treated criminally as an insult or as defamation.³¹⁹ Chasing away from the common home one of the spouses, the children or other members of the family is a misdemeanor under the law.³²⁰ Domestic violence actions are most commonly charged under battery, murder or manslaughter.³²¹

For all domestic violence actions, the extent of the person's injuries determine the severity of punishment. The Criminal Code mandates that the longer it takes an individual to heal, the heavier the penalty, and if the injured person is the perpetrator's spouse, the criminal penalty can be even more severe.³²²

All survivors of domestic violence, therefore, need to see a medical examiner, who must establish the approximate date of the injuries, how they were caused, and how long it will take to heal. The medical examination is ordered by the criminal investigator or the public prosecutor.³²³

There are varying legal procedures depending on the degree of the injuries. Certain categories of domestic violence, such as aggravated battery or murder,³²⁴ do not require the survivor's prior complaint in order to start a criminal investigation. Others, however, such as simple battery, cannot be initiated by the police and prosecuted without the survivor's involvement.³²⁵ In practice, few survivors of domestic violence file criminal complaints and even when the accusations are proved, the criminal penalties often do not deter the behavior. Furthermore, since courts cannot issue an "order of protection" during the period the case is pending before the court, the survivor often must continue to live with the perpetrator. Because of the onerous nature of the proceedings and the ineffective remedies, survivors of domestic violence often withdraw their complaints or reconcile with the aggressor.

Domestic violence is a common fact in Romania. According to a September 1999 UNICEF report, the country has an average of 108 sexual assaults per 1,000 women and 41 non-sexual assaults per 1,000 women. Police are reluctant to intervene in cases of domestic violence.³²⁶ There are no specialized police units to deal with domestic abuse, and there are no special training sessions or guidelines for police officers. Police, prosecutors, judges, teachers, health workers, social workers, doctors and many other professional groups do not receive mandatory regular training sessions on domestic violence.

Sexual harassment

There is no specific legislation pertaining to sexual harassment. However, there is a draft Law on Equal Opportunities Between Women and Men, initiated by the Directorate for Equal Opportunities within the Ministry of Labor and Social Protection. This law would sanction sexual harassment on the job. The draft law is currently being debated within the Senate and the Commission for Human Rights.³²⁷

Trafficking in women

Trafficking in women is much overlooked by the authorities. The existing law is not capable of responding to the problem. Trafficking may be prosecuted under offenses such as prostitution and procurement, falsifying documents, aiding persons to cross borders illegally, blackmail, forced labor, or kidnapping.³²⁸

Prostitution is defined as the action of a person who earns his or her living by performing sexual intercourse with different people. It is punishable by imprisonment of three months

to three years.³²⁹ Pandering is defined as persuading or coercing someone to prostitute himself or herself, facilitating prostitution, taking advantage from that activity as practiced by someone else, or recruiting or trafficking for prostitution. Trafficking and recruiting for prostitution are sanctioned with imprisonment from two to seven years and loss of civil rights. When minors are recruited for prostitution, the criminal penalty is higher.³³⁰ Recently, a bill on establishing "intimate houses" was submitted to the Chamber of Deputies; its principal purpose is to decriminalize and regulate prostitution performed in certain places and under certain conditions. This bill is still being debated in a parliamentary special commission.³³¹

Romania is both a source and a transit country for trafficked women and girls. The full extent of the problem is not known, since neither the government nor NGOs collect statistics, but NGOs that work on women's issues suspect that several thousand women are trafficked to other countries each year. It is estimated that there are between 20,000 to 22,000 illegal immigrants and that part of this total is a result of illegal trafficking. Several domestic prostitution rings are also active.³³²

Conclusions

The Ministry of Justice is in the process of drafting a new Criminal Code³³³ that is expected to include a specific provision on domestic violence. This revision is welcomed, as the current situation does little to prevent such violence. Still, there are no procedures to remove a violent person from a home, no judicial orders of protection, and few shelters. Domestic violence is still considered to be acceptable as a legitimate exercise of a man's authority as the head of the household. There is a great need for public, non-sexist education so that survivors can seek justice and not simply "reconcile" because procedures are burdensome.

IV. Focusing on the Rights of a Special Group: Adolescents

In Romania, children represent a segment of the population that has suffered greatly during the political and economic transition of the last decade. Following the collapse of salaries and family benefits, larger families with low incomes have suffered disproportionately.³³⁴ Children and adolescents comprise 19% of Romania's population.

To comply with the principles and provisions of the United Nations Convention on the Rights of the Child, the government in 1997 established the Department for Child Protection and reorganized the local administration of child protection services and the National Committee for Adoptions.

The vast number of legal reforms Romania has undertaken regarding children is most encouraging.³³⁵ However, the government still has a number of problems to resolve. According to official statistics, there are 33,000 orphans in state institutions, and the number of institutionalized children reportedly has increased by 20% since 1989. Large numbers of impoverished and apparently homeless, but not necessarily orphaned, children are seen on the streets of the larger cities.³³⁶

A. REPRODUCTIVE HEALTH AND ADOLESCENTS

There are no separate family planning services for adolescents. The Ministry of Education allows students access to family planning services, including gynecological consultations, pre-marriage consultations, contraceptives and consultations for young families.³³⁷

The biggest suppliers of contraceptives for adolescents are public and private pharmacies, followed by the public sector through contraceptive offices set up in hospitals, polyclinics, and dispensaries. Private physicians also supply adolescent users. The principal family planning NGO is SECS (IPPF affiliate).³³⁸ To focus on adolescent reproductive health in Romania, in 1997 the Ministry of Health approved a new UNFPA project entitled "Reproductive Health and Sexual Education for Adolescents."³³⁹ It is administered by the national NGO Youth for Youth, and aims to educate adolescents through volunteer peer sex education in schools, STI/HIV prevention videos, and print materials.

There has been considerable debate about whether promoting abstinence is effective for preventing unwanted pregnancies and STIs. There is already an extremely low rate of sexual activity among teenagers relative to rates in the West. According to the 1996 Young Adult Reproductive Health Survey, 91% of 15- to 17-year-old girls have had no sexual experience. The figure for men is 76%. Of women aged 18-19, 63% have had no sexual experience. Some observers have suggested that if these rates can be maintained, there could be a significant slowing of rates of abortion and STIs among teenagers.³⁴⁰ Despite Romania's generally conservative culture, this may be difficult to accomplish. With all the social changes occurring in the country, there is no reason to suspect that sexual behavior will be spared. The 1999 Reproductive Health Survey already shows changes in sexual activity among teenagers, with a slight decrease in the numbers of adolescents who have not have sex: 88% of women and 54.6% of men age 15-17, and 61% of women aged 18-19. The government endorses condom usage at least until marriage; certain NGOs have also begun to look at ways to promote reproductive health information and condom usage in schools and elsewhere.

B. MARRIAGE AND ADOLESCENTS

Girls may legally marry at age 16; boys at age 18.³⁴¹ The average age of women at first marriage is 22.9 years, while for men it is 26.2 years.³⁴² As of 1996, 9% of girls 15 to 19 years old are married.³⁴³

C. SEXUAL OFFENSES AGAINST ADOLESCENTS AND MINORS

The Criminal Code punishes rape more severely if the victim is younger than 14.³⁴⁴ If the woman is under the age of 14, sexual intercourse is punishable regardless of whether there was consent.³⁴⁵ Sexual intercourse between a girl under the age of 18 and her tutor, supervisor, physician, professor, or instructor who uses his rank to obtain sexual intercourse is also a crime.³⁴⁶ The sentences are higher if the aggressor is someone to whom the girl had been entrusted (teacher, doctor, or supervisor), if the girl was badly injured, or if she died.³⁴⁷ Seduction is a separate crime; it entails obtaining sexual intercourse from a woman under age 18 in exchange for promises of marriage.³⁴⁸

Consensual sexual relations between same-sex adults and minors are considered crimes and are punishable by imprisonment of two to seven years.³⁴⁹ If serious injury to bodily integrity or health of the minor results from the act, the sentence is five to 15 years. If the minor dies or commits suicide, the sentence is imprisonment of 15 to 25 years.³⁵⁰ Obscene acts performed upon a minor or in his or her presence can carry a prison sentence of three months to two years, or a fine.³⁵¹ Attempts to commit any of these crimes are also punishable.³⁵² The law does not outlaw pedophilia expressly. Instead, pedophiles are charged with rape, corporal harm, and sexual corruption.³⁵³

D. EDUCATION AND ADOLESCENTS

Traditionally, especially in rural areas, women marry and start their childbearing at young ages, which can lead to young women leaving school and limiting their future job prospects. Despite socio-economic changes and an increasing number of young people living in urban areas who are more informed about lifestyle options, there are still many young women who have little education and low-level incomes. Compared with their counterparts who have better educational and job opportunities, poor women have less control over their lives, less understanding of their bodies and less knowledge about and access to family planning.

E. SEX EDUCATION

There are no laws either restricting or permitting sex education in schools. Under the dictatorship of Ceaușescu, elements of reproductive biology were taught in high school biology and anatomy classes, and lectures about venereal diseases were

sometimes taught by visiting health professionals, usually separately for boys and girls.³⁵⁴ According to a recent survey, the few efforts that have been made to introduce sex and contraceptive education in secondary school curricula have been hindered by the resistance of both teachers and parents and the lack of adequate teacher training. The first source of information on contraception for young women is a friend (27%) or a colleague (13%), followed by media (17%) and health providers (12%). Ten percent have heard about contraception first from their mothers, and 6% from their partners. Only 4% cited school courses.³⁵⁵

After 1990, with the continuous support of several international agencies, local NGOs started to send volunteers to lecture in high schools about methods of birth control and sexually transmissible infections. These lectures must be approved by the local school boards, and their content varies. Thus, sex education in some areas is sporadic or non-existent (especially in rural areas) and the amount of information is variable. In surveys, both young women and men — regardless of their age, residence, education, or social-economic status — overwhelmingly support sex education in school. More than 93% felt that reproductive biology, birth control methods, and STIs should be part of the school curriculum.³⁵⁶

Romania formally entered the “European Network of Schools Promoting Health” in March 1994. Participating schools receive funds from the government of Switzerland, and specially developed courses concerning food, alcohol abuse, sexuality, AIDS, family life and education.³⁵⁷ The NGO Youth to Youth has published, with the support of USAID and CED-PA, a “Manual for Education of Life” that includes chapters on communication about sexuality, contraception, and birth control. The manual may be used in schools with Ministry of Education and school board approval. This organization, with UNFPA support, also launched in 1999 a program entitled “The reproductive health of youth — STI prevention.”

F. TRAFFICKING IN ADOLESCENTS

The law pertaining to pandering prescribes a harsher punishment when minors are recruited or trafficked into prostitution.³⁵⁸

NOTE ON SOURCES

The information in this chapter is drawn from primary sources of law in Romanian and secondary sources in English and Romanian. All primary sources of national law are in Romanian. Unless otherwise noted, they are available in SUPERLEX at <<http://domino2.kappa.ro/mj/superlex.nsf>> (database of the Romanian Ministry of Justice), and at <<http://www.cdep.ro>> (database of the Chamber of Deputies). The chapter conforms to THE BLUEBOOK (16th ed. 1996).

Blue book footnote style may show variations due to production incompatibilities with certain character fonts.

GLOSSARY OF ABBREVIATED TERMS

CONST.: Constitution of Romanian
 M.Of.: Official Gazette of Romania
 C.PEN.: Criminal Code
 C.PROC.PEN.: Code of Criminal Procedure
 C.CIV.: Civil Code
 C.PROC.CIV.: Code of Civil Procedure
 C.FAM.: Family Code
 C.MUNCII: Labor Code

ENDNOTES

1. CIA, ROMANIA, 1999 WORLD FACTBOOK (visited Nov. 30, 1999) <<http://www.odci.gov/cia/publications/factbook/ro.html>> [hereinafter WORLD FACTBOOK].
2. *Id.*
3. THE WORLD BANK GROUP, ROMANIA (visited Nov. 30, 1999) <<http://www.worldbank.org/html/extdr/offrep/eca/ro2.htm>>.
4. *Id.*; see also WORLD FACTBOOK, *supra* note 1.
5. *Constitution Watch - Romania*, EAST EUROPEAN CONSTITUTIONAL REVIEW, Fall 1998, vol.7, No.4, at 1, 45-47 (visited Nov. 30, 1999) <<http://www.law.nyu.edu/eecr>>.
6. WORLD FACTBOOK, *supra* note 1.
7. CONSTITUȚIA ROMÂNIEI [CONSTITUTION OF ROMANIA], art. 1 [CONST]. The Constitution was adopted on Nov. 21, 1991, was approved by referendum and entered into force on Dec. 8, 1991, and was published in the MONITORUL OFICIAL [OFFICIAL GAZETTE OF ROMANIA] [M.Of.] Part I, No.233/Nov. 21, 1991. The English translation can be found at <<http://www.uni-wuerzburg.de>> (visited Nov. 30, 1999).
8. WORLD FACTBOOK, *supra* note 1.
9. CONST. art. 2(1).
10. *Id.* art. 80.
11. *Id.* art. 81(4).
12. *Id.* art. 85(1).
13. *Id.* art. 87(1).
14. *Id.* art. 91(1).
15. *Id.* art. 92(1).
16. *Id.* art. 93(1).
17. *Id.* art. 94.
18. *Id.* art. 99(1).
19. *Id.* art. 101(3).
20. *Id.* art. 101(1).
21. *Id.* art. 106(1).
22. *Id.* art. 107(1).
23. *Id.* art. 110.
24. *Id.* art. 111.
25. *Id.* art. 112.
26. *Id.* art. 113.
27. SIGMA PUBLIC MANAGEMENT PROFILES, ROMANIA: DELIVERY SYSTEM (visited Nov. 30, 1999) <<http://www.oecd.org/puma/sigmaweb/profiles/romania/rom6.htm>>.
28. WORLD FACTBOOK, *supra* note 1.
29. CONST. art. 72(1).
30. *Id.* art. 72(2).
31. *Id.* art. 72(3).
32. *Id.* art. 137(2).
33. *Id.* art. 73(1).
34. *Id.* art. 74(1), (2).
35. *Id.* art. 77.
36. *Id.* art. 78.
37. Legea pentru organizarea judecătorească [Law on the Judiciary] No. 92/1992, M.Of. No. 197/Aug.13, 1992.
38. *Core document forming part of the reports of States Parties: Romania*, 23/06/97. HRI/CORE/1/Add.13/Rev.1, ¶¶ 51-58. (June 23, 1997), U.N. HIGH COMMISSIONER FOR

HUMAN RIGHTS (visited Nov. 30, 1999) <<http://www.unhcr.ch>> [hereinafter CORE DOCUMENT]; see also SIGMA PUBLIC MANAGEMENT PROFILES, ROMANIA: JUDICIAL AUTHORITY (visited Nov. 30, 1999) <<http://www.oecd.org/puma/sig-maweb/profiles/romania/rom2.htm>>.

39. CORE DOCUMENT, *supra* note 38, ¶¶ 59-61.

40. CONST. art. 124(1).

41. *Id.* art. 132.

42. *Id.* art. 133(1).

43. *Id.* art. 144(a).

44. *Id.* art. 140.

45. *Id.* art. 145(1).

46. Lege privind organizarea și funcționarea instituției Avocatul Poporului [Law on the Ombudsman], No. 35/1997, M.Of. No.48/Mar. 13, 1997.

47. CONST. art. 55(1).

48. *Id.* art. 123(2).

49. BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEPARTMENT OF STATE, ROMANIA COUNTRY REPORT ON HUMAN RIGHTS PRACTICES FOR 1998 (released Feb. 26, 1999) (visited Nov. 30, 1999) <<http://www.state.gov>>.

50. WORLD FACTBOOK, *supra* note 1.

51. CONST. art. 119.

52. *Id.* arts. 120, 121.

53. *Id.* art. 122.

54. SIGMA, ROMANIA: JUDICIAL AUTHORITY, *supra* note 38.

55. CONST. art. 22(1).

56. *Id.* art. 33(1).

57. *Id.* art. 33(2).

58. *Id.* art. 33(3).

59. *Id.* art. 38(2).

60. *Id.* art. 38(4).

61. *Id.* art. 43.

62. *Id.* art. 45(1).

63. *Id.* art. 45(2).

64. *Id.* art. 45(3).

65. *Id.* art. 45(4).

66. *Id.*, art. 11(2).

67. *Id.* art. 20.

68. The Convention on the Elimination of All Forms of Discrimination against Women, *Opened for signature* Mar. 1, 1980, 1249 U.N.T.S. 13 (*entry into force* Sept. 3, 1981) (*ratified* Jan. 7, 1982, *entry into force for Romania* Feb. 6, 1982).

69. The International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171 (*entry into force* Mar. 23, 1976).

70. *Adopted* Dec. 16, 1966, 999 U.N.T.S. 171 (*entry into force* Mar. 23, 1976). The Protocol enables individuals to petition the Human Rights Committee set up by the Covenant about alleged violations of any of the rights set forth in the Covenant. The Protocol covers states party to both the Covenant and the Protocol.

71. The International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, 993 U.N.T.S. 3 (*entry into force* Jan. 3, 1976).

72. The Convention on the Rights of the Child, *Opened for signature* Nov. 20, 1989, 1577 U.N.T.S. 3 (*entry into force for Romania* Oct. 28, 1990).

73. The International Convention for the Elimination of all Forms of Racial Discrimination, *Opened for signature* Mar. 7, 1966, 660 U.N.T.S. 195 (*entry into force for Romania* Oct. 15, 1970).

74. Convention for the Protection of Human Rights and Fundamental Freedoms, ETS No. 5 (*entry into force* Sept. 3, 1953). Last amended by Protocol No. 11, ETS No. 155 (*entry into force* Nov. 1, 1998).

75. GOVERNMENT OF ROMANIA, GOVERNMENT PROGRAM, POLICIES REGARDING HUMAN CAPITAL - HEALTH CARE (visited Nov. 30, 1999) <<http://domino.kappa.ro/govern/home.nsf>>.

76. *Id.* ¶ 2.

77. *Id.* ¶ 3. A number of other reforms are envisioned, relating to the privatization of the health care sector, private health insurance, disease prevention, and population policy. *Id.* ¶¶ 4-18.

78. *Id.* ¶ 2.

79. NATIONAL CENTER FOR HEALTH PROMOTION, MINISTRY OF HEALTH, REPRODUCTIVE HEALTH PROMOTION: OPERATIONAL PLAN 1998 - 2003, at 1 (1998).

80. Legea asigurărilor sociale de sănătate [Health Insurance Act] No. 145/1997, art. 34,

M.Of. No.178/Jul. 31, 1997. As of 2000, however, the health insurance system is still in the process of total reorganization. The implementation of the Health Insurance Act No. 145/1997 has been delayed, as have the Law No. 100/1998 on public health assistance, and the reform of the medical system.

81. Law No. 145/1997 on Health Insurance, art. 34. The provision provides that "the Ministry of Health designs, implements and coordinates programs of public health, in order to achieve the objectives in the field of health, with the participation of all responsible institutions in the area of implementation of the state's health care policy. The objectives are determined in cooperation with the National House of Health Insurance, the Physicians Board of Romania, the representatives of the hospitals, university clinics, research institutes, NGOs, trade unions and population."; see also Legea privind asistența de sănătate publică [Law on Public Health Assistance] No. 100/1998, arts. 8, 12, M.Of. No. 204/Jun. 1, 1998.

82. INSTITUTE FOR MOTHER AND CHILD CARE, MINISTRY OF HEALTH & DIVISION FOR REPRODUCTIVE HEALTH, CENTERS FOR DISEASE CONTROL AND PREVENTION, ROMANIA REPRODUCTIVE HEALTH SURVEY 1993, FINAL REPORT 1 (1995) [hereinafter REPRODUCTIVE HEALTH SURVEY].

83. REPRODUCTIVE HEALTH PROMOTION: OPERATIONAL PLAN 1998 - 2003, *supra* note 79, at 1; Interview with Mrs. Dincă, Executive Director, National Centre for Health Promotion (December 1999) (on file with AnA - Societatea de Analize Feministe [Society for Feminist Analyses]).

84. Law No. 100/1998 on Public Health Assistance, art. 13(1).

85. *Id.* art. 16.

86. *Id.* art. 15(h), (i).

87. *Id.* art. 12.

88. *Id.* art. 33.

89. *Id.* app. 1, Nos. 4, 12, 26.

90. Legea asigurărilor sociale de sănătate [Health Insurance Act] No. 145/1997, art. 4(1), M.Of. No.178/Jul. 31, 1997.

91. *Id.* art. 7.

92. *Id.* art. 52(2), as amended by Ordonanța de urgență [Emergency Statutory Order] No. 30/1998, art. 1(4), M.Of. No. 421/Nov. 6, 1998.

93. Law No. 145/1997 on Health Insurance, art. 51.

94. *Id.* art. 6, as amended by Emergency Statutory Order No. 30/1998, art. 1(1).

95. Law No. 145/1997 on Health Insurance, art. 1(2).

96. *Id.* art. 1(3).

97. Statutul Casei Naționale de Asigurări de Sănătate [Rules of the National House for Health Insurance], art. 1, M.Of. No. 114/Mar. 19, 1999.

98. *Id.* arts. 10-23.

99. Legea asigurărilor sociale de sănătate [Health Insurance Act] No. 145/1997, M.Of. No.178/Jul. 31, 1997, amended by Ordonanța de urgență [Emergency Statutory Order] No. 30/1998, M.Of. No. 421/Nov. 6, 1998. Other major acts include Legea privind exercitarea profesiei de medic, înființarea, organizarea și funcționarea Colegiului Medicilor din România [Law Concerning the Exercise of the Profession of Physician, the Creation, Organization and Functioning of the Romanian Board of Physicians] No. 74/1995, M.Of. No. 149/Jul. 14, 1995; Legea privind asistența de sănătate publică [Law on Public Health Assistance] No. 100/1998, art.8, M.Of. No. 204/Jun. 1, 1998; Ordonanța privind organizarea și funcționarea cabinetelor medicale [Statutory Order Concerning the Organization and Functioning of Medical Facilities] No. 124/1998, M.Of. No. 328/Aug. 29, 1998.

100. Law No. 145/1997 on Health Insurance, arts. 4-10.

101. *Id.* arts. 11-39.

102. *Id.* arts. 40-50.

103. *Id.* arts. 51-61.

104. *Id.* arts. 62-81.

105. As of 1995, there were 243 hospitals in Romania. REPRODUCTIVE HEALTH SURVEY, *supra* note 82, at 1.

106. THE NATIONAL COMMITTEE FOR CHILD PROTECTION & UNICEF ROMANIA COUNTRY OFFICE, THE SITUATION OF CHILD AND FAMILY IN ROMANIA 41 (1997).

107. REPRODUCTIVE HEALTH SURVEY, *supra* note 82, at 1. By 1997, there remained only 511 polyclinics and 5, 205 dispensaries. CENTRUL DE CALCUL, STATISTICĂ SANITARĂ ȘI DOCUMENTARE MEDICALĂ [THE CENTER FOR CALCULUS, MEDICAL STATISTICS AND DOCUMENTATION], MINISTERUL SĂNĂTĂȚII [MINISTRY OF HEALTH], ANUARUL DE STATISTICĂ SANITARĂ [ANNUAL REPORT OF MEDICAL STATISTICS] (1997). For a comprehensive study, see OBSERVATORUL NAȚIONAL ROMÂN [ROMANIAN NATIONAL OBSERVATORY], STRATEGIA NAȚIONALĂ DE DEZVOLTARE A RESURSELOR UMANE [NATIONAL STRATEGY OF HUMAN RESOURCES DEVELOPMENT] (1999)

(visited Dec. 14, 1999) <<http://servernt.lexec.gov.ro>> [hereinafter NATIONAL STRATEGY OF HUMAN RESOURCES DEVELOPMENT].

108. Communication with Dr. Marius Mărginean, Head of Family Medicine Department, Institute of Public Health Timișoara, Member of the National Council of the National Society of General & Family Practice of Medicine, Romania (Jan. 17, 2000) (on file with The Center for Reproductive Law & Policy).

109. Law No. 79/1991, app. 2, M.Of. No. 267/Dec. 31, 1991; see also Alin Stănescu & Luminița Marcu, *Politica sănătății reproducerii: evaluarea disponibilității serviciilor de planificare familială în România, Raport Final* [The Policy on Reproductive Health: The Assessment of Family Planning Services Availability in Romania, Final Report] 3 (CEDPA, 1997).

110. See WORLD HEALTH ORGANIZATION, REGIONAL OFFICE FOR EUROPE, HEALTH CARE SYSTEMS IN TRANSITION, ROMANIA (PRELIMINARY VERSION) (1996) (visited Jan. 14, 2000) <<http://www.who.dk>>.

111. Communication with Dr. Mihaela Poenariu, Programme Director, East European Institute of Reproductive Health (Apr. 27, 2000) (on file with The Center for Reproductive Law & Policy).

112. Legea asigurărilor sociale de sănătate [Health Insurance Act] No. 145/1997, art. 14(1)(a)-(c), M.Of. No.178/Jul. 31, 1997; THE SITUATION OF CHILD AND FAMILY IN ROMANIA, *supra* note 106, at 41.

113. Law No. 145/1997 on Health Insurance, arts. 44-45.

114. UNITED NATIONS DEVELOPMENT PROGRAMME, NATIONAL HUMAN DEVELOPMENT REPORT: ROMANIA (1997) (visited Jan. 14, 2000) <http://www.undp.ro/nhdr97/ch_03_04.html>.

115. *Id.*

116. *Id.*

117. Legea privind exercitarea profesiei de medic, înființarea, organizarea și funcționarea Colegiului Medicilor din România [Law Concerning the Exercise of the Profession of Physician, the Creation, Organization and Functioning of the Romanian Board of Physicians] No. 74/1995, M.Of. No. 149/Jul. 14, 1995.

118. *Id.* art. 12(1).

119. *Id.* arts. 12(3), 14(2), (3).

120. *Id.* art. 14(1).

121. *Id.* art. 13.

122. *Id.* art. 8.

123. *Id.* art. 18.

124. Lege privind exercitarea profesiei de farmacist, înființarea, organizarea și funcționarea Colegiului Farmaciștilor din România [Law Concerning the Exercise of the Profession of Pharmacist, the Establishment, Organization and Functioning of the Pharmacists Board of Romania] No. 81/1997, M.Of. No. 89/May 14, 1997.

125. Hotărâre de Guvern privind aprobarea principiilor de bază ale Statutului asistentului medical în România [Government Decision on the Approval of the Basic Principles of the Romanian Medical Assistants Status and Organization] No. 379/July 10, 1992, M.Of. No. 172/July 22, 1992.

126. Legea privind exercitarea profesiei de medic, înființarea, organizarea și funcționarea Colegiului Medicilor din România [Law Concerning the Exercise of the Profession of Physician, the Creation, Organization and Functioning of the Romanian Board of Physicians] No. 74/1995, arts. 1, 4, M.Of. No. 149/Jul. 14, 1995.

127. Hotărâre privind introducerea stagiului de pregătire practică cu durata de un an pentru absolvenții facultăților de medicină și farmacie [Decision on the Introduction of the Practical Training Stage of One Year for Graduates of Medicine and Pharmacy Schools] No. 325/1997, art. 1, M.Of. No. 157/Jul. 16, 1997, amended by government Decision No. 41/1999, M.Of. No. 48/Jan. 30, 1999.

128. Ordin pentru aprobarea nomenclatorului specialităților medicale și farmaceutice, precum și a duratei de pregătire în fiecare specialitate [Order Approving the List of Medical and Pharmaceutical Specialties and the Duration of the Training Period] No. 990/1993, app., M.Of. 214/Aug. 15, 1994.

129. Law No.74/1995 on the Profession of Physician, art. 13(g), (h); Hotărâre privind organizarea și funcționarea Ministerului Sănătății [Decision on the Organization and Functioning of the Ministry of Health] No. 244/1997, art.2(17),(23), M.Of. No. 110/Jun. 03, 1997.

130. Hotărâre pentru aprobarea Contractului-cadru privind condițiile acordării asistenței medicale în cadrul sistemului asigurărilor sociale de sănătate pe anul 1999 [Government Decision for the Approval of the Frame-Contract Regulating the Conditions for Medical Assistance within the Health Insurance System for 1999] No. 312/1999, app. art. 6, M.Of. No. 176/Apr. 26, 1999. Art. 8 further sets the obligations of the medical associations: to respect the insured persons' right to free choice of the physician and his right to change his family physician; to update his own list of insured persons when modifications occur and to communicate these communications to houses of health insurance; to establish its own activity

agenda and to communicate it to insured persons and to the house of health insurance; to request to insured persons, the documents of justification proving the coverage of the insured person.

131. Hotărârea Guvernului privind organizarea, coordonarea și finanțarea învățământului sanitar postliceal [Government Decision on the Organization, Coordination and Financing of Vocational Medical Training] No. 253/1992, art. 7, M.Of. No. 108/May 27, 1992. Up to 1992, studies took place at a medical high school, but such schools have since been suppressed.

132. THE SITUATION OF CHILD AND FAMILY IN ROMANIA, *supra* note 106, at 42.

133. Hotărârea Guvernului privind reînființarea funcției de asistent medical [Government Decision on Re-establishing the Profession of Medical Assistant] No. 463/1990, M.Of. No. 75/Apr. 24, 1992.

134. Lege privind exercitarea profesiei de farmacist, înființarea, organizarea și funcționarea Colegiului Farmaciștilor din România [Law Concerning the Exercise of the Profession of Pharmacist, the Establishment, Organization and Functioning of the Pharmacists Board of Romania] No. 81/1997, art. 1, M.Of. No. 89/May 14, 1997.

135. Legea privind exercitarea profesiei de medic, înființarea, organizarea și funcționarea Colegiului Medicilor din România [Law Concerning the Exercise of the Profession of Physician, the Creation, Organization and Functioning of the Romanian Board of Physicians] No. 74/1995, art. 3(2), M.Of. No. 149/Jul. 14, 1995.

136. *Id.* art. 4(2); see also Ordonanța privind organizarea și funcționarea cabinetelor medicale [Statutory Order Concerning the Organization and Functioning of Medical Facilities] No. 124/1998, art. 6(2), M.Of. No. 328/Aug. 29, 1998: "Physicians and other medical staff who work in a doctor's office are personally responsible for their professional decisions, in conformity with the law, with regard to possible injuries against patients."

137. Law No. 74/1995 on the Profession of Physician, art. 39.

138. Codul civil [Civil Code] [C.CIV], arts. 998-1003 (3rd ed. ALL 1994); the recent Hospitals Act also provides that hospitals are responsible for injuries caused to patients, including medical malpractice. Lege privind organizarea, funcționarea și finanțarea spitalelor [Law on the Organization, Functioning and Financing of Hospitals] No. 146/1999, M.Of. No. 370/Aug. 3, 1999.

139. Legea asigurărilor sociale de sănătate [Health Insurance Act] No. 145/1997, art. 41(2), M.Of. No.178/Jul. 31, 1997.

140. Law No. 74/1995 on the Profession of Physician, art. 11(2).

141. *Id.* art. 36. The Code of Medical Ethics was adopted in 1997 by the General Assembly of the National Board of Physicians.

142. *Id.* art. 37(1).

143. Law No. 145/1997 on Health Insurance, art. 33.

144. *Id.* art. 32(1).

145. Legea privind asistența de sănătate publică [Law on Public Health Assistance] No. 100/1998, arts. 30, 31, M.Of. No. 204/Jun. 1, 1998.

146. *Id.* art. 30(1) (a)-(d).

147. *Id.* art. 30(2).

148. NATIONAL STRATEGY OF HUMAN RESOURCES DEVELOPMENT, *supra* note 107, at 140 tbl.19.

149. *Id.* at 142.

150. See COMISIA NAȚIONALĂ PENTRU STATISTICĂ [THE NATIONAL COMMISSION FOR STATISTICS], CONDIȚIA FEMEII ÎN ROMÂNIA 1990-1994 [WOMEN'S STATUS IN ROMANIA 1990-1994] (1995).

151. INFOSTAT - INFORMAȚII ALE COMISIEI NAȚIONALE PENTRU STATISTICĂ [INFORMATION OF THE NATIONAL COMMISSION FOR STATISTICS] 1 tbl. 1 (Mar. 8, 1999), reprinted in NATIONAL STRATEGY OF HUMAN RESOURCES DEVELOPMENT, *supra* note 107, at 49 tbl.10.

152. NATIONAL HUMAN DEVELOPMENT REPORT, *supra* note 114, at 132 tbl. 10.

153. AnA - SOCIETATEA DE ANALIZE FEMINISTE [SOCIETY FOR FEMINIST ANALYSES], STATUTUL FEMEII ÎN ROMÂNIA. 1998: FAPTE ȘI CIFRE [THE STATUS OF WOMEN IN ROMANIA. 1998: FACTS AND STATISTICS] (visited Feb. 29, 2000) <[http://www.anasf.ro/index\(rom\).html](http://www.anasf.ro/index(rom).html)>.

154. INFOSTAT, *supra* note 151, at 1; NATIONAL STRATEGY OF HUMAN RESOURCES DEVELOPMENT, *supra* note 107, at 46, 54 tbl.11.

155. NATIONAL HUMAN DEVELOPMENT REPORT, *supra* note 114, at 132 tbl.10.

156. On file with AnA - Societatea de Analize Feministe [Society for Feminist Analyses].

157. Lege privind alocația de stat pentru copii [Law Concerning the State Allowance for Children] No. 61/1993, M.Of. No. 233/Sept. 28, 1993, amended by Law No. 261/1998, M.Of. No. 523/Dec. 31, 1998.

158. Lege privind alocația suplimentară pentru familiile cu copii [Law Concerning the Supplementary Allowance for Families with Children] No. 119/1997, art. 1, M.Of. No.149/Jul.

- 11, 1997.
159. *Lege privind concediul plătit pentru Țngrijirea copiilor în vârstă de până la doi ani* [Law Concerning the Paid Parental Leave for the Benefit of Children up to Two Years Old] No. 120/1997, M.Of. 149/Jul. 11, 1997.
160. *Lege privind ajutorul social* [Law on Social Welfare] No. 67/1995, art. 3, M.Of. No. 131/Jun. 29, 1995.
161. See Health Sector Rehabilitation Project (visited Jan. 14, 2000) <<http://www.worldbank.org.ro>>; Law No. 79/1991, M.Of. No. 267/Dec. 31, 1991.
162. Under the World Bank Health Rehabilitation loan project, Law No. 79/1991 art. 1. WORLD HEALTH ORGANIZATION & UNITED NATIONS POPULATION FUND, FAMILY PLANNING AND REPRODUCTIVE HEALTH IN CCEE AND CIS 81 (1997).
163. Stănescu & Marcu, *supra* note 109, at 3.
164. REPRODUCTIVE HEALTH PROMOTION: OPERATIONAL PLAN 1998 - 2003, *supra* note 79, at 10.
165. Communication with Dr. Mihaela Poenariu, Programme Director, East European Institute of Reproductive Health (Apr. 27, 2000) (on file with The Center for Reproductive Law & Policy).
166. REPRODUCTIVE HEALTH PROMOTION: OPERATIONAL PLAN 1998 - 2003, *supra* note 79, at 7; Support to the Romanian National Family Planning Programme (visited Jan. 14, 2000) <<http://www.unfpa.ro/2.html>>.
167. World Bank Office Romania, Health Sector Rehabilitation Project (visited Feb. 26, 2000) <<http://www.worldbank.org.ro>>.
168. UNITED NATIONS POPULATION FUND, OVERVIEW OF UNFPA ASSISTANCE TO: ROMANIA, RUSSIA, MOLDOVA, BELARUS, UKRAINE (1998).
169. Stănescu & Marcu, *supra* note 109, at 17.
170. THE SITUATION OF CHILD AND FAMILY IN ROMANIA, *supra* note 106, at 42.
171. REPRODUCTIVE HEALTH PROMOTION: OPERATIONAL PLAN 1998 - 2003, *supra* note 79, at 1, 10.
172. MANAGEMENT SCIENCES FOR HEALTH, ENTREPRENEURIAL FAMILY PLANNING CLINICS IN ROMANIA (visited Apr. 5, 2000) <http://www.msh.org/projects/fpmd26_72ro.html>.
173. REPRODUCTIVE HEALTH PROMOTION: OPERATIONAL PLAN 1998 - 2003, *supra* note 79, at 7.
174. Support to the Romanian National Family Planning Programme, *supra* note 166.
175. UNFPA ONGOING PROJECTS (visited Feb. 28, 2000) <<http://www.unfpa.ro>>.
176. Communication with Dr. Mihaela Poenariu, Programme Director, East European Institute of Reproductive Health (Apr. 27, 2000) (on file with The Center for Reproductive Law & Policy).
177. INSTITUTUL PENTRU OCROTIREA MAMEI ȘI COPILULUI [THE INSTITUTE FOR MOTHER AND CHILD CARE], WHY REPRODUCTIVE HEALTH IS IMPORTANT IN ROMANIA 4 (1999).
178. REPRODUCTIVE HEALTH SURVEY, *supra* note 82, at 69.
179. *Id.*
180. *Id.* at 71.
181. *Id.* at 72.
182. REPRODUCTIVE HEALTH SURVEY 1999, PRELIMINARY REPORT; Communication with Dr. Mihaela Poenariu, Programme Director, East European Institute of Reproductive Health (Apr. 27, 2000) (on file with The Center for Reproductive Law & Policy).
183. The subvention is underwritten by the World Bank Rehabilitation Program which allows the pills to be purchased below their market value. NGOs are actively at work to maintain the integral financing of reproduction health services from the Health Insurance Fund and/or from the state budget in order to make contraception affordable for all.
184. *Legea audiovizualului* [Audio-Visual Law] No. 48/1992, art. 2(4), M.Of. No. 104/May 25, 1992 (forbidding the broadcast of obscene materials).
185. Codul penal [Criminal Code] [C.PEN.], art. 325, BULETINUL OFICIAL [OFFICIAL BULLETIN] [B.O.E.] No. 79-79bis/Jun. 21, 1968. The Criminal Code has been successively amended since 1968. The most important recent changes were adopted by Law No. 140/1996, M.Of. 289/Nov. 14, 1996.
186. Communication with Dr. Mihaela Poenariu, Programme Director, East European Institute of Reproductive Health (Apr. 27, 2000) (on file with The Center for Reproductive Law & Policy).
187. INTERNATIONAL CHILD DEVELOPMENT CENTRE, UNICEF, WOMEN IN TRANSITION 117 tbl.2.8 (1999) (visited Apr. 10, 2000) <<http://www.unicef-icdc.org>>.
188. REPRODUCTIVE HEALTH SURVEY 1999, *supra* note 182, at 12.
189. WOMEN IN TRANSITION, *supra* note 187, at 64.
190. C.PEN. art. 185. This means 12 weeks from the date of conception or alternatively 14 weeks from the last menstrual period.
191. *Id.* art. 185(3).
192. See REPRODUCTIVE HEALTH SURVEY, *supra* note 82, at 45-60. For a comparative perspective, see Stanley K. Henshaw, Sushela Singh and Taylor Haas, *The Incidence of Abortion Worldwide*, INTERNATIONAL FAMILY PLANNING PERSPECTIVES, 1999, 25(Supplement):S30-S38, <<http://www.agi-usa.org>> (visited Dec. 8, 1999).
193. Under punishment by art. 185(1)(b) of the Criminal Code.
194. Communication with Dr. Mihaela Poenariu, Programme Director, East European Institute of Reproductive Health (Apr. 27, 2000) (on file with The Center for Reproductive Law & Policy).
195. Decret pentru reglementarea intreruperii cursului sarcinii [Decree to Regulate Abortion] No. 770/1966, B.Of. No. 60/Oct. 1, 1966. Abrogated by Decret-lege [Decree-Law] No. 1/1989, M.Of. 4/Dec. 4, 1989.
196. In 1997, the parliamentary Commission for Human Rights submitted for public debate a bill against the legalization of abortion (initiated by the governmental coalition at the time). Women's NGOs voiced their opposition and the project was dropped. THE STATUS OF WOMEN IN ROMANIA. 1998: FACTS AND STATISTICS, *supra* note 153.
197. Hotărârea Ministerului Sănătății [Health Ministry Order] No. 206/1997 on Abortion Exemptions.
198. C.PEN. art. 185(1).
199. *Id.* art. 185(2).
200. *Id.* art. 185(3).
201. *Id.* arts. 185(4), 64(1)(c).
202. The Orthodox Patriarch has regularly condemned homosexuality as the "acceptance of the degrading abnormal and unnatural as a natural and legal style of living." EVENIMENTUL ZILEI, Dec. 16, 1993.
203. REPRODUCTIVE HEALTH SURVEY, *supra* note 82, at 69.
204. REPRODUCTIVE HEALTH SURVEY 1999, *supra* note 182; Communication with Dr. Mihaela Poenariu, Programme Director, East European Institute of Reproductive Health (Apr. 27, 2000) (on file with The Center for Reproductive Law & Policy).
205. Information on file with AnA - Societatea de Analize Feministe [Society for Feminist Analyses].
206. FLORINA ȘERBĂNESCU & LEO MORRIS, NATIONAL INSTITUTE FOR MOTHER AND CHILD CARE ET AL., YOUNG ADULT REPRODUCTIVE HEALTH SURVEY ROMANIA 1996, at 165 (1998) [hereinafter YOUNG ADULT REPRODUCTIVE HEALTH SURVEY].
207. The Commission's members come from different fields of activity, representing various ministries involved in the prevention and fighting against AIDS' activity (Ministry of National Education, Ministry for Interior, Ministry of Labor and Social Protection, Ministry of Health, Ministry of Youth and Sports, Ministry of Justice, Ministry for National Defence, Department for Cults, etc) and NGOs developing programs in this area.
208. JULIA SOUTH, UNAIDS, SNAPSHOT OF EXTERNAL SUPPORT FOR NATIONAL RESPONSES TO THE EPIDEMIC OF HIV/AIDS IN CENTRAL & EASTERN EUROPE (INCLUDING CENTRAL ASIA) AS REPORTED BY CO-SPONSORS, BILATERAL AGENCIES AND NGOS 54 - 60(1999); UNAIDS, ELEMENTS OF NATIONAL RESPONSES TO HIV/AIDS (1999).
209. YOUNG ADULT REPRODUCTIVE HEALTH SURVEY, *supra* note 206, at 165-166.
210. *Id.* at 165. The new health insurance system mandates that doctors are paid based on the number and age of patients, the realization of preventative activities, and the number and value of points. For example, for each patient between 19 and 44 years, the doctor receives 4 points. Sexually transmissible infections are also worth 4 points. Thus, doctors have an incentive to keep track and report all diseases. Hotărâre privind introducerea experimentală a unui nou sistem de acordare a asistenței medicale și de alocare a resurselor în acest domeniu [Decision on the Introduction of an Experimental System of Health Assistance] No. 370/1994, M.Of. No. 185/July 20, 1994; Communication with Dr. Marius Mărginean, Head of Family Medicine Department, Institute of Public Health Timișoara, Member of the National Council of the National Society of General & Family Practice of Medicine, Romania (Jan. 17, 2000) (on file with The Center for Reproductive Law & Policy).
211. See MINISTRY OF HEALTH STATISTICS, tbl. 3.1 (March 1999) (on file with The Center for Reproductive Law & Policy).
212. *Id.*
213. UNITED NATIONS DEVELOPMENT ASSISTANCE FRAMEWORK (UNDAF), COMMON COUNTRY ASSESSMENT OF ROMANIA 38 - 41 (1998) [hereinafter COMMON COUNTRY ASSESSMENT].
214. MINISTRY OF HEALTH STATISTICS, *supra* note 211, tbl. Distribuția cazurilor SIDA la adulți după calea de transmitere [Distribution of AIDS Cases for Adults Taking into

Account the Mode of Transmission].

215. Hotărâre privind școlarizarea cetățenilor din alte țări în România, în anul de învățământ 1991/1992 [Decision Regarding the Education in Romania of Foreign Citizens for 1991/1992] No. 627/1991, M.Of. No. 195/Sept. 27, 1991. Article 7 requires applicants to submit to a medical and epidemiological test, including AIDS. The cost of the AIDS test is covered by the applicants.

216. Legea privind asistența de sănătate publică [Law on Public Health Assistance] No. 100/1998, art.15(h), (i), M.Of. No. 204/Jun. 1, 1998. The provision charges the Directorates of Public Health at the county level and in Bucharest to organize, guide and control the detection, treatment and prevention of STIs according to norms set out by the Ministry of Health, to ensure the detection of HIV, HBV, HCV and other viral infections transmitted by blood and to control the implementation of the legal norms in force concerning the medical assistance and correct treatment; *Lege privind donarea de sânge, utilizarea terapeutică a sângelui uman și organizarea transfuzională în România* [Law Concerning Blood Donation, the Therapeutical Use of Human Blood and the Organization of Transfusion in Romania], M.Of. No. 9/Jan. 18, 1995. The law designates the Ministry of Health as the main authority in the field of blood donation and transfusion.

217. C.PEN. art. 309(2), (3). The first paragraph of this provision imposes a prison sentence of one to five years for the transmission of STIs.

218. *Id.* art. 3091.

219. *Id.* art. 309(1).

220. Hotărâre privind acordarea de burse și alte facilități financiare și materiale pentru copii, elevii, studenții și cursanții din învățământul de stat [Decision Concerning Scholarships and Other Financial and Material Benefits for Children and Students Attending State Schools] No. 859/1995, app. 1 pt. III (A)(1)(a), M.Of. 250/Nov. 1, 1995. ; Hotărâre privind aprobarea Planului național de acțiune în favoarea copilului [Decision for the Approval of the National Plan for Children] No. 972/1995, app. pts. I (A)(10), IV(11), M.Of. 290/Dec. 14, 1995.

221. COMMON COUNTRY ASSESSMENT, *supra* note 213, at 39.

222. ELEMENTS OF NATIONAL RESPONSES TO HIV/AIDS, *supra* note 208, at 7 - 8.

223. Health Ministry Orders No. 493/1995, 1423/1993 (on file with AnA - Societatea de Analize Feministe [Society for Feminist Analyses]).

224. *Id.*

225. Communication with Liana Velica, Consultant, Asociația Română Anti Sida (on file with AnA - Societatea de Analize Feministe [Society for Feminist Analyses]).

226. CONST. art. 4(2).

227. *Id.* art. 38(4).

228. *Id.* art. 44(1): "The family is founded on the freely consented marriage of the spouses, their full equality, as well as the right and duty of the parents to ensure the upbringing, education and instruction of their children."

229. Legea No. 4/1953 [Family Code] [C.FAM.], B. Of. No. 1/Jan. 4, 1954; amended by Legea No. 59/1993, M.Of. No. 177/Jul. 26, 1993. Article 1 provides that men and women have equal rights with regard to their children. Article 25 establishes that men and women have equal rights and obligations in their marriage. Furthermore, they decide by common agreement everything concerning their marriage (art. 26). Legea No. 10/1972 [Labor Code] [C.MUNCII], art. 14, B.Of. 140/Dec. 1, 1972 asserts that women must have broad possibilities of affirmation, on the basis of full social equality to men. Furthermore, women have the right to occupy any job or function, as well as the right to all conditions necessary to raise children.

230. C.FAM. arts. 1, 2.

231. *Id.* arts. 25, 26.

232. *Id.* art. 30.

233. *Id.* art. 97(1).

234. CONST. art. 44(1); C.FAM. art. 1(3).

235. C.FAM. art. 4(1).

236. *Id.* art. 4(2).

237. C.PEN. art. 197(5).

238. C.FAM. art. 16(1), as amended by Law No. 23/1999, art. 2, M.Of. No. 35/Jan. 28, 1999.

239. Legea administrației publice locale [Law on Local Public Administration] No. 69/1991, arts. 44(1)(f), 46(2), (3), M.Of. No. 79/Apr. 18, 1996.

240. CONST. art. 29.

241. *Id.* art. 44(2).

242. C.PEN. art.304.

243. *Id.* art. 303.

244. C.FAM. arts. 37 - 44. as amended by Law No. 59/1993, art. VIII, M.Of. No. 177/Jul. 26, 1993.

245. Codul de procedură civilă [Code of Civil Procedure] [C.PROC.CIV], arts. 607 - 619, as amended by Law No. 59/1993 art. I (34)-(41).

246. C.PROC.CIV. art. 615.

247. *Id.* art. 614.

248. C.FAM. art. 38(1) as amended by Law No. 59/1993, art. VIII(1).

249. It is because of this interpretation of the law that the draft law on marital rape was rejected.

250. C.FAM. art. 38(2) as amended by Law No. 59/1993, art. VIII(2).

251. C.FAM. art. 41(3).

252. *Id.* art. 41(2).

253. *Id.* art. 42(1).

254. *Id.* arts. 42(2), (3).

255. CONST. art. 41.

256. *Id.* art. 42.

257. *Id.* art. 38(4).

258. C.MUNCII arts. 14, 151 (1).

259. *Id.* arts. 151-158. According to article 156 of the Labor Code, women who are breast-feeding are entitled to reduce their work load and take breaks of up to two hours per day in order to breast-feed. This is permitted until the child is nine months, with the possibility to extend it up to 12 months.

260. *Id.* art. 152(1).

261. *Id.* art. 152(2).

262. *Id.* art. 155(1); *see also* Lege privind concediul plătit pentru Țngrijirea copiilor în vârstă de până la doi ani [Law Concerning the Paid Parental Leave for the Benefit of Children up to Two Years Old] No. 120/1997, art. 1, M.Of. 149/Jul. 11, 1997.

263. Lege pentru modificarea și completarea unor reglementări din legislația de asigurări sociale [Law to Amend Some Provisions of the Social Insurance Legislation] No. 49/1992, art. IV(5), M.Of. No. 107/Jun. 26, 1992.

264. Law No. 120/1997 Concerning the Paid Parental Leave for the Benefit of Children up to Two Years Old, art. 2.

265. *Id.* art. 6.

266. *Id.* arts. 3, 7.

267. Legea privind pensiile de asigurări sociale de stat și asistență socială [Social Security Law] No. 3/1977, art. 72, B.Of. 82/Aug. 6, 1977, as amended by Law No. 49/1992, art. III(8), M.Of. No. 107/Jun. 26, 1992; C.MUNCII art. 157.

268. C.MUNCII art.158.

269. *Id.* art. 146.

270. Lege privind Statutul personalului didactic [Law Concerning Rules that Govern the Status of Teachers] No. 128/1997, art. 106(1), M.Of. No. 158/Jul. 16, 1997.

271. Lege privind unele măsuri de protecție a persoanelor încadrate în muncă [Law Concerning Some Measures of Protection for Employees] No. 83/1995, M.Of. No. 166/Jul. 31, 1995. Art. 4(1) provided that part-time and temporary employees are not covered by social security and unemployment benefits. Law No. 83/1995 was abrogated by the new law on social protection for employees No. 130/1999, M.Of. No. 355/Jul. 27, 1999. In an attempt to correct some of the problems created by the old law, Law No. 130/1999 provides that part-time employees can be covered by social security (art. 5), but not by unemployment benefits (art. 6).

272. Lege privind pensiile și alte drepturi de asigurări sociale [Law Concerning Pensions and Other Social Security Rights] No. 80/1992, art. 1, M.Of. No. 180/Jul. 29, 1992.

273. Legea concediului paternal [Law on Paternal Leave] No. 210/1999, M.Of. No. 654/Dec. 31, 1999.

274. *Id.* art. 1(1).

275. *Id.* art. 1(2).

276. *Id.* art. 2(1).

277. *Id.* art. 3(1).

278. *Id.* art. 5.

279. ACADEMIA ROMÂNĂ [ROMANIAN ACADEMY], RAPORTUL NAȚIONAL AL DEZVOLTĂRII UMANE ÎN ROMÂNIA [NATIONAL REPORT OF HUMAN DEVELOPMENT IN ROMANIA] 34 (1997).

280. THE STATUS OF WOMEN IN ROMANIA. 1998: FACTS AND STATISTICS, *supra* note 153. However, women teachers or nurses have experienced job losses and wage freezes as the budgets for education and health care have been cut back. STATISTIC DOCUMENTARY ON EDUCATION IN ROMANIA, in UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP), NATIONAL HUMAN DEVELOPMENT REPORT: ROMANIA 1998.

281. Lege pentru protecția socială a șomerilor și reintegrarea lor profesională [Law on the Social Protection of the Unemployed and Their Professional Reintegration] No. 1/1991,

- M.Of. No.257/Sept. 9, 1994.
282. *Id.* art. 7(4).
283. Minimum retirement age is fifty-five for men and fifty for women. **Lege privind pensionarea anticipată** [Law on Early Retirement] No. 2/Jan. 10, 1995, art. 1(3), M.Of. No. 5/Jan. 13, 1995.
284. **Legea privind pensiile de asigurări sociale de stat și asistență socială** [Social Security Law] No. 3/1977, art. 8(1), 8(3), B.Of. 82/Aug. 6, 1977.
285. **Lege privind sistemul public de pensii i alte drepturi de asigurări sociale** [Law on the Public System of Pensions and Other Social Insurance Rights] No.19/2000, art. 41(2), M.Of. No.140 / Apr. 1, 2000.
286. *Id.* app. 3.
287. Decizie nr. 20 din 2 februarie 2000 referitoare la sesizarea de neconstituționalitate a art. 41 alin. (2) din **Legea privind sistemul public de pensii și alte drepturi de asigurări sociale și a dispozițiilor art. 198 din aceeași lege prin care a fost abrogat art. 103 din Legea nr. 92/1992 pentru organizarea judecătorească, republicată** [Decision on the Constitutionality of art. 41(2) of the Law on the Public System of Pensions and Other Social Insurance Rights, and on the Constitutionality of art. 198 of the Same Law] No. 20/Feb. 2, 2000, M.Of. No.72/Feb. 18, 2000.
288. UNITED NATIONS DEVELOPMENT PROGRAMME, THE STATUS OF WOMEN IN ROMANIA 1997 - 1998, at 76 (1999) ; *see also* Law No. 114/1996 on Housing, M.Of. No. 393/Dec. 31, 1997, as amended by Emergency Statutory Order No. 44/1998 and Law No. 145/1999, M.Of. No. 439/Sept. 9, 1999 (credits for young couples).
289. CONST. art. 32(4).
290. *Id.* art. 32(3).
291. *Id.* art. 32(1).
292. **Legea învățământului** [Education Law] No. 84/1995, art. 5(1), M.Of. No. 167/Jul. 31, 1995.
293. THE STATUS OF WOMEN IN ROMANIA. 1998: FACTS AND STATISTICS, *supra* note 153.
294. COMMON COUNTRY ASSESSMENT, *supra* note 213, at 59.
295. SUBCOMISIA PENTRU OPORTUNITĂȚI EGALE [SUB-COMMITTEE ON EQUAL OPPORTUNITIES] (visited Feb. 28, 2000) <<http://www.cdep.ro>>; *see also* KARAT COALITION FOR REGIONAL ACTION, REGIONAL REPORT ON INSTITUTIONAL MECHANISMS FOR THE ADVANCEMENT OF WOMEN IN THE COUNTRIES OF CENTRAL AND EASTERN EUROPE 6 (1999).
296. SUB-COMMITTEE ON EQUAL OPPORTUNITIES, *supra* note 295; THE STATUS OF WOMEN IN ROMANIA. 1998: FACTS AND STATISTICS, *supra* note 153.
297. The bill guarantees equal opportunities for men and women in all fields of society, mandates public authorities to observe the provisions of the law, regulates the activities of local public administration and social partners, defines direct and indirect gender-based discrimination, forbids employers to condition job offers by gender and marital status and regulates sexual harassment. THE STATUS OF WOMEN IN ROMANIA. 1998: FACTS AND STATISTICS, *supra* note 153.
298. **Legea concediului paternal** [Law on Paternal Leave] No. 210/1999, M.Of. No. 654/Dec. 31, 1999.
299. THE STATUS OF WOMEN IN ROMANIA. 1998: FACTS AND STATISTICS, *supra* note 153.
300. KARAT COALITION FOR REGIONAL ACTION, *supra* note 295, at 6; **Hotărâre privind organizarea și funcționarea Ministerului Muncii și Protecției Sociale** [Decision for the Organization and Functioning of the Ministry for Labor and Social Protection] No. 448/1994, app. 1, M.Of. No. 219/Aug. 16, 1994; Decision of government No. 816/1995, M.Of. No. 247/Oct. 31, 1995 added new responsibilities for the Ministry in the area of women rights; Decision of government 890/1997, M.Of. No. 3/Jan. 7, 1998 added the General Directorate for the Coordination of Efforts for the Promotion of Women Rights.
301. THE STATUS OF WOMEN IN ROMANIA. 1998: FACTS AND STATISTICS, *supra* note 153.
302. **Hotărâre privind organizarea și funcționarea Ministerului Muncii și Protecției Sociale** [Decision for the Organization and Functioning of the Ministry for Labor and Social Protection] No.188/1999, app. 1, M.Of. No. 122/Mar. 24, 1999.
303. Established by **Hotărârea privind înființarea Centrului Pilot de Asistență și Protecție a Victimelor Violenței în Familie** [Decision for the Establishment of the Pilot Center for Assistance and Protection of Victims of Domestic Violence] No. 852/1996, M.Of. No. 241/Oct. 3, 1996.
304. **Hotărârea Guvernului privind înființarea Centrului de Informare și Consultanță pentru Familie** [Government Decision on the Establishment of the Centre for Information and Family Planning Consultations] No. 938/1998, M.Of. No. 509/Dec. 29, 1998.
305. THE STATUS OF WOMEN IN ROMANIA. 1998: FACTS AND STATISTICS, *supra* note 153.
306. **Decret al Președintelui României pentru numirea unor consilieri prezidențiali** [Decree of the President of Romania for the Appointment of Presidential Counsellors] No. 590/1996, M.Of. No. 343/Dec. 12, 1996.
307. THE STATUS OF WOMEN IN ROMANIA. 1998: FACTS AND STATISTICS, *supra* note 153.
308. *Id.*
309. *Id.*
310. Seven percent of members of the Chamber of Deputies are women, and only 2.1% of senators are women. There are no women ministers. There are no women in key positions in some other major institutions, such as the Constitutional Court, the Legislative Council, and the Court of Audit. Women are better represented in local public administration. Seventy percent of the officers in public administration are women. *Id.*
311. C.PEN. art. 197(1).
312. *Id.* art. 197(2).
313. *Id.* art. 197(3).
314. *Id.* art. 204.
315. *Id.* art. 197(4). Prosecution of rape is difficult because it requires both a medical certificate and a witness. BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEPARTMENT OF STATE, 1999 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: ROMANIA §5 (released Feb. 25, 2000, visited Apr. 18, 2000) <<http://www.state.gov>> [hereinafter STATE DEP'T REPORT].
316. C.PEN. art. 197(5).
317. *Id.* art. 203.
318. *Id.* art. 204.
319. *Id.* arts. 205, 206.
320. **Lege pentru sancționarea faptelor de încălcare a unor norme de conviețuire socială, a ordinii și liniștii publice** [Law for the Punishment of Acts that Infringe on Norms of Social Behaviour, on Public Order and Tranquillity] No. 61/1991, art. 2(), M.Of. No. 196/Sept. 9, 1991.
321. C.PEN. arts. 174-176, 178, 180-184.
322. *Id.* art. 175(c).
323. **Codul de procedură penală** [Code of Criminal Procedure] [C.PROC.PEN.], art. 114, M.Of. No. 78/Apr. 30, 1997. The medical examination and expertise is further regulated by arts. 115-127.
324. C.PEN. arts. 174-176, 178, 182, 183.
325. *Id.* arts. 180, 181, 184. Articles 279-286 of the Code of Criminal Procedure regulate the criminal complaint procedure. The complaint, addressed to the court, the police or the public prosecutor, depending on the specific charge, must present the facts, the perpetrator, the evidence, and whether the woman asks for damages. The complaint must be submitted within two months from the date the woman could identify the perpetrator.
326. Under a government pilot project begun in 1997, a shelter for victims of domestic violence opened in Bucharest in 1997. The shelter can accommodate only four persons. It received 490 calls for help during 1998 on a hot line, and registered 230 walk-in victims. STATE DEP'T REPORT, *supra* note 315, §5.
327. GOVERNMENT OF ROMANIA, NATIONAL PLAN FOR ACTION OF THE IMPLEMENTATION OF THE MAIN OBJECTIVES PROVIDED FOR BY THE FINAL DOCUMENTS OF THE BEIJING FOURTH CONFERENCE ON WOMEN 3 (June 24, 2000) [hereinafter NATIONAL PLAN FOR ACTION].
328. STATE DEP'T REPORT, *supra* note 315, §6.f.
329. C.PEN. art. 328.
330. *Id.* art. 329.
331. NATIONAL PLAN FOR ACTION, *supra* note 327, at 5.
332. STATE DEP'T REPORT, *supra* note 315, §6.f.
333. In March 2000, the government introduced to Parliament a set of laws meant to promote major reforms in the Romanian legal system in order to harmonise it with European standards. The amendments concern the Criminal Code, the Code of Criminal Procedure, the Code of Civil Procedure, the Civil Code, the Family Code, and the law of administrative proceedings.
334. *See* ELENA ZAMFIR & CĂTĂLIN ZAMFIR, POLITICI SOCIALE. ROMÂNIA ÎN CONTEXTE EUROPEAN [SOCIAL POLICY: ROMANIA IN THE EUROPEAN CONTEXT] (1995).
335. Romania ratified the Convention on the Rights of the Child through Law No. 18/1990, M.Of. No. 109/Sept. 28, 1990. Other major acts regarding children are **Ordonanța de urgență privind înființarea Agenției Naționale pentru Protecția Drepturilor Copilului și reorganizarea activităților de protecție a copilului** No. 192/1999, M.Of. No. 599/Dec. 8, 1999; **Legea concediului paternal** [Law on Paternal Leave] No. 210/1999, M.Of. No.

- 654/Dec. 31, 1999; Lege privind alocația de stat pentru copii [Law Concerning the State Allowance for Children] No. 61/1993, M.Of. No. 233/Sept. 28, 1993, amended by Law No. 261/1998, M.Of. No. 523/Dec. 31, 1998; Ordonanța de urgență cu privire la adopție [Emergency Statutory Order on Adoption] No. 25/1997, M.Of. No. 120/Jun. 11, 1997, approved and amended by Legea No. 87/1998, M.Of. No. 168/Apr. 29, 1998; Ordonanța de urgență privind protecția copilului aflat în dificultate [Emergency Statutory Order Concerning the Protection of Children in Distress] No. 26/1997, M.Of. No. 120/Jun. 11, 1997, approved and amended by Law No. 108/1998, M.Of. No. 205/Jun. 2, 1998; Lege privind alocația suplimentară pentru familiile cu copii [Law Concerning the Supplementary Allowance for Families with Children] No. 119/1997, art. 1, M.Of. No. 149/Jul. 11, 1997; Lege privind concediul plătit pentru îngrijirea copiilor în vârstă de până la doi ani [Law Concerning the Paid Parental Leave for the Benefit of Children up to Two Years Old] No. 120/1997, M.Of. 149/Jul. 11, 1997; Lege privind ajutorul social [Law on Social Welfare] No. 67/1995, art. 3, M.Of. No. 131/Jun. 29, 1995; Lege privind protecția specială a persoanelor handicapate [Law on the Special Protection of Persons with Disabilities] No. 53/1992, M.Of. No. 119/Jun. 4, 1992; Hotărâre cu privire la criteriile de autorizare a organismelor private care desfășoară activități în domeniul protecției drepturilor copilului prin adopție [Decision of government on the Authorization of Private Bodies Active in the Field of Adoption] No. 245/1997, M.Of. No. 112/Jun. 5, 1997; Hotărâre privind aprobarea Planului național de acțiune în favoarea copilului [Decision for the Approval of the National Plan for Children] No. 972/1995, M.Of. 290/Dec. 14, 1995; Hotărâre cu privire la organizarea activității autorităților administrației publice locale în domeniul protecției drepturilor copilului [Decision of government on the Activities of Local Public Administration Authorities in the Field of Children's Rights], M.Of. No. 100/June 26, 1997; Hotărâre pentru modificarea Hotărârii Guvernului nr. 591/1993 privind măsurile pentru aplicarea dispozițiilor Legii nr. 61/1993 referitoare la gestionarea fondurilor, stabilirea și plata alocației de stat pentru copii [Decision of government on the Administration of Child Allowance Funds] No. 425/1999, M.Of. No. 250/Jun. 2, 1999.
336. STATE DEPT REPORT, *supra* note 315, §5.
337. Nota privind reforma asistenței medicale pentru elevi și studenți [Note on the Reform of Medical Assistance for Students] No. 10364/April 21, 1999 (visited Feb. 26, 2000) <<http://www.edu.ro>>.
338. YOUNG ADULT REPRODUCTIVE HEALTH SURVEY, *supra* note 206, at 86–88.
339. UNFPA, REPORT OF THE EXECUTIVE DIRECTOR FOR 1998: REGIONAL OVERVIEW ¶¶ 32, 33 (visited Feb. 27, 2000) <<http://www.unfpa.org>>. This project, ROM/97/P01, having a total budget of USD \$265,000 for the period 1997–99, will have close links with ROM/97/P02, and will make use of common and coordinated technical assistance.
340. YOUNG ADULT REPRODUCTIVE HEALTH SURVEY, *supra* note 206, at 43.
341. C.FAM. art. 4. In special cases, girls are allowed to marry at 15, *see above* Marriage Laws.
342. WOMEN IN TRANSITION, *supra* note 187, at 127–128 tbls. 5.2, 5.3.
343. UNITED NATIONS STATISTICS DIVISION, AGE AT MARRIAGE AND PERCENTAGE MARRIED AMONG 15–19 YEAR-OLDS, BY SEX, 1985/96 (visited Apr. 18, 2000) <www.un.org>.
344. The sentence is ten to twenty years in prison. C.PEN. art. 197(3).
345. *Id.* art. 198(1). The sentence is one to five years in prison.
346. *Id.* art. 198(2).
347. *Id.* art. 198(3), (4). In the first two cases, the sentence is three to twelve years in prison. If the victim dies, it is seven to fifteen years in prison.
348. *Id.* art. 199. The sentence is one to five years in prison, but reconciliation between the two parties removes criminal responsibility.
349. *Id.* art. 200(2).
350. *Id.* art. 200(4).
351. *Id.* art. 202.
352. *Id.* art. 204.
353. STATE DEPT REPORT, *supra* note 315, §5.
354. YOUNG ADULT REPRODUCTIVE HEALTH SURVEY, *supra* note 206, at 15.
355. *Id.* at 37. However, as the study shows, there has been a slight increase in the contribution of health providers (from 9% to 12%) and mothers (from 7% to 10%).
356. *Id.* at 16.
357. COMMON COUNTRY ASSESSMENT, *supra* note 213, at 45–47; *see generally* European Network of Health Promoting Schools (visited Feb. 29, 2000) <<http://www.who.dk/enhps/page/info.html>>.
358. C.PEN. art. 329(2). The sanction is prison between three and ten years.