

Council of Europe contribution for the 29th UPR session (Jan-Feb 2018) regarding Romania

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Prevention of torture (CPT)

The 'European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment' organises country visits in order to visit places of detention to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned. This report includes the CPT's findings, and its recommendations, comments and requests for information.

[Executive summary of the report on the CPT's visit to Romania from 5 to 17 June 2014](#) (French only)

[Report on the CPT's visit to Romania from 5 to 17 June 2014](#) (French only)

[Government response](#) (French only)

Council of Europe Commissioner for Human Rights

The Commissioner for Human Rights is an independent and impartial non-judicial institution established by Council of Europe to promote awareness of and respect for human rights in the 47 Council of Europe member States.

On 8 July 2014, the Commissioner published the [report](#) following his visit to Romania, held from 31 March to 4 April 2014. The visit focused on the human rights of persons with disabilities, of children, and of Roma.

The Commissioner expressed concern about the ill-treatment faced by adults and children with disabilities living in a large number of institutions and their lack of access to justice. He called on the Romanian authorities to draw up a plan for replacing institutions with community-based services, to ensure the effective access of persons with disabilities to legal proceedings, and to set up an efficient national mechanism for the prevention of torture to safeguard the protection of the human rights of persons deprived of their liberty. In addition, the authorities should fully align domestic legislation with the UN Convention on the Rights of Persons with Disabilities so as to ensure that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.

In the field of education, the Commissioner called on the authorities to promote inclusive education, to establish targets for the transfer of children with disabilities from special to mainstream education and to ensure the accessibility of all education institutions to persons with disabilities.

As regards the human rights of the child, the Commissioner urged Romania to increase its efforts to prevent child abandonment and the phenomenon of children living on the streets and to take measures to ensure the reintegration of abandoned children in their families or in alternative settings, in the best interests of the child. He called on the authorities to show commitment to the deinstitutionalisation of child protection services and to continue to develop the alternative protection measures already in place. While the abolition of the penalty of imprisonment for minors is a positive development, the authorities should adapt their practice to the new legislation and ensure that children are no longer held in prisons or other similar settings. The Commissioner welcomed the re-establishing of the National Authority for the Protection of the Rights of the Child and Adoption and urged the Romanian government to allocate adequate resources to ensure its effective functioning.

The Commissioner noted with satisfaction the measures taken by the authorities to enhance the social inclusion of Roma, including by the registration of children and the issuing of identification documents to adults. However, he deplored the fact that many Roma remain without any formal education given that the reported drop-out rate of Roma pupils is still too high.

The Commissioner called on Romania to step up its efforts to fight anti-Gypsyism, to pay particular attention to the recording of hate speech and other forms of hate crime, and to ensure that law enforcement officials and legal professionals are adequately trained to be able to recognise and effectively investigate and sanction all hate crimes.

Furthermore, all acts of ill-treatment, including those with an alleged racist motive, committed by law enforcement officers, should be promptly and effectively investigated and adequate, dissuasive penalties should be imposed on those committing such acts. The establishment of a fully independent complaints mechanism covering the action of all law enforcement authorities, in line with Council of Europe standards, would be a useful step in this regard.

Lastly, the Commissioner called on the authorities to allocate sufficient funding for the implementation of the strategy for Roma inclusion for the period 2012-2020, to strengthen its implementation mechanism at central level, and to ensure the accountability of local authorities in implementing the strategy.

On 23 August 2016, the Commissioner published a [letter](#) sent on 23 June to the Prime Minister of Romania, Mr Dacian Cioloş, concerning certain major issues affecting the human rights of Romania's Roma population.

Concerning anti-Roma public rhetoric, the Commissioner asked whether any self-regulatory measures had yet been adopted to sanction racist hate speech used by politicians. As regards forced evictions, the Commissioner reiterated his concern about Roma living under continuous threat of having to leave their homes. The question of the segregation of Roma children in schools was also raised, and in particular the importance of having official data.

The Commissioner urged the authorities to set up the relevant commission within the Ministry of Education in charge of putting into operation the Romanian government's strategy for improving Roma education. It was also noted that a number of pending cases before the European Court of Human Rights on the issue of police violence against Roma still attest to the fact that this remains an issue of concern. The establishment of a fully independent police complaints mechanism was highlighted as a priority.

On 15 May 2017, the Commissioner published a [letter](#) that had been sent on 16 March to the Prime Minister of Romania, Mr Sorin Grindeanu, concerning the human rights of persons with disabilities.

The Commissioner called for a thorough investigation of allegations concerning serious human rights violations, such as ill-treatment of inmates of the Centre for recovery and neuropsychiatric rehabilitation in Măciuca. He also urged the authorities to take measures in order to ensure the reporting and effective investigation of cases of deaths of persons with disabilities which have occurred in residential institutions.

As regards the issue of guardianship of persons with disabilities, the Commissioner called on the authorities to adopt and effectively implement the new legislation aimed at enhancing their legal representation. He also called on the authorities to develop alternatives to institutional care for adults with disabilities, to further the deinstitutionalisation of children with disabilities and to investigate all allegations of abuses of institutionalised children.

Fight against racism and intolerance (ECRI)

The European Commission against Racism and Intolerance ([ECRI](#)) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as “race”, national/ethnic origin, colour, citizenship, religion and language. It prepares reports and issues recommendations to member States, in which its findings, along with recommendations are published. These reports are drawn up after a contact visit to the country in question and a confidential dialogue with the national authorities. The country monitoring takes place in five-year cycles. As part of the fourth round of ECRI’s monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI’s country reports.

ECRI adopted its Conclusions on the Implementation of the Recommendations in Respect of Romania Subject to Interim Follow-Up on 24 March 2017.

http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Romania/Romania_CBC_en.asp

Protection of minorities

Framework Convention for the Protection of National Minorities

The monitoring procedure for this convention requires each state party to submit a report within one year following the entry into force of the Framework Convention and additional reports every five subsequent years. State reports are examined by the [Advisory Committee](#), a body composed of 18 independent experts responsible for adopting country-specific opinions. These opinions, on which States Parties have an opportunity to comment, are meant to advise the Committee of Ministers in the preparation of its resolutions, containing conclusions and recommendations to the State concerned.

European Charter for Regional or Minority Languages

The [Charter's monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within the year following the entry into force of the Charter with respect to the Party concerned. The subsequent reports are presented at three-yearly intervals. A committee of independent experts examines the state’s periodical report and addresses an evaluation report to the Committee of Ministers, including proposals

The [Charter's monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within a year of the entry into force of the Charter with respect to the Party concerned and subsequent reports at three-yearly intervals. A committee of independent experts then examines the state’s periodical report and addresses an evaluation report to the Committee of Ministers, including proposals for recommendations.

Romania submitted its 2nd periodical [report](#) in March 2016. The Committee of Experts is due to adopt its evaluation report on Romania in June 2017.

In its last monitoring cycle, the Committee of Experts commended the positive initiatives taken by Romania to provide an infrastructure for minority language education and highlighted the fact that, for most minority languages, a comprehensive offer of cultural activities exists.

The Committee of Experts confirms its readiness to work together with the Romanian authorities on building a structured approach for the implementation of each undertaking under the Charter, in co-operation with representatives of the minority language speakers, and appreciates the Romanian authorities' willingness to work on further developments in this field.

The Committee of Ministers' recommendations are scheduled to be adopted by the end of 2017.

Action against trafficking in human beings (GRETA)

The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008, following its 10th ratification. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims.

The Convention has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

The main added value of the Convention is its human rights perspective and focus on victim protection. Its Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. The Convention provides for a series of rights for victims of trafficking, in particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for the damages suffered.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

Romania <http://www.coe.int/en/web/anti-human-trafficking/romania>

[*GRETA's 2nd round evaluation report and Government's comments
Committee of the Parties' recommendations – 2nd evaluation round*](#)

Preventing and combating violence against women and domestic violence

*The Council of Europe Convention on preventing and Combating violence against women and domestic violence ([*Istanbul Convention*](#), CETS No. 210) provides for two types of monitoring procedures: a country-by-country evaluation procedure and a special inquiry procedure in exceptional cases where action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention. [*GREVIO*](#), the Group of Experts on Action against violence against women and domestic violence, is the independent body responsible*

for monitoring the implementation of CETS No. 210. GREVIO launched its first evaluation procedure in spring 2016, after adopting a questionnaire on legislative and other measures giving effect to the Istanbul Convention.

Romania ratified the Istanbul Convention on 23 May 2016 with the following [reservations](#) : in accordance with Article 78, paragraphs 1 and 2, of the Convention, Romania reserves the right not to apply or to apply only in specific cases or conditions the provisions laid down in Article 30, paragraph 2; Article 44, paragraphs 1.e, 3 and 4; Article 55, paragraph 1, in respect of Article 35 regarding minor offences; Article 59. In accordance with Article 78, paragraphs 1 and 3, of the Convention, Romania reserves the right to provide for non-criminal sanctions, instead of criminal sanctions, for the behaviours referred into Articles 33 and 34. According to GREVIO's provisional timetable, Romania will be asked to submit its report in reply to GREVIO's questionnaire in the first half of 2019, and, following, inter alia, a state dialogue and a country visit, GREVIO is scheduled to finalise its report on Romania at the beginning of 2020.

Fight against corruption (GRECO)

The 'Group of States against Corruption' (GRECO) monitors all its members through a "horizontal" evaluation procedure within thematic evaluation rounds. The evaluation reports contain recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of those recommendations is examined in the framework of a "compliance procedure", assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report.

The 'Group of States against Corruption' (GRECO) monitors all its members through a country-by-country evaluation procedure within thematic evaluation rounds. The evaluation reports contain country-specific recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of those recommendations is examined in the framework of a "compliance procedure", assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report.

Third Evaluation Round: "Incrimination of corruption and Transparency of Party Funding"

Fourth Evaluation Round: "Corruption prevention in respect of members of parliament, judges and prosecutors".

GRECO's Third Round Compliance Report on Romania was published in April 2017 (<https://rm.coe.int/168070a582>). In this report, GRECO, while expressing concern about the use of emergency procedures to amend legislation instead of using proper parliamentary process, concluded that Romania has so far implemented satisfactorily fifteen of the twenty recommendations it issued in the first evaluation report on these topics adopted in 2010. Two recommendations remain not implemented and three recommendations have been partly implemented.

GRECO's Fourth Round Evaluation Report on Romania has been published in January 2016 (<https://rm.coe.int/16806c7d05>) and a compliance report will be discussed by GRECO at its December 2017 Plenary meeting.

Execution of judgments and decisions of the European Court of Human Rights

Statistical data

At 31 December 2016, there were 588 cases against Romania pending before the Committee of Ministers for supervision of their execution (652 at 31.12.2015). 72 of these cases were “leading cases” (76 at 31.12.2015), i.e. raising a new structural / general problem and requiring the adoption of general measures, the other cases being “repetitive cases” (including a number of friendly settlements) concerning issues already raised before the European Court of Human Rights.

In 2016, the CM was seized by 151 new cases (135 in 2015) against Romania of which 20 leading cases (17 in 2015) and the sums awarded in 2016 as just satisfaction amounted to 4 104 685 euro.

In 2016, 214 cases (123 in 2015) were closed by the adoption of a Final Resolution, of which 27 leading (24 in 2015).

Main cases /groups of cases pending before the Committee of Ministers for supervision of execution under the enhanced and standard procedures

Main cases pending execution before the Committee of Ministers under the enhanced procedure cover issues like protection against ill-treatment ([M.G.C.](#)); actions of security forces ([Association “21 December 1989” and Others group of cases](#)); detention conditions ([Bragadireanu](#)); detention of mentally-ill and juveniles ([Centre for Legal Resources on behalf of Mr Valentin Câmpeanu and Cristian Teodorescu group of cases](#)); length of judicial proceedings ([Vlad and Others group of cases](#)); protection of private life and freedom of expression ([Bucur and Toma](#)), etc.

Protection against ill-treatment - specific situations

[M.G.C.](#), application No. 61495/11, judgment final on 15/06/2015, enhanced supervision

Failure to develop a settled and consistent judicial practice as to the notion of consent in order to clearly differentiate between cases of rape and those of sexual intercourse with a minor.

Security forces – military: use of force and effective investigations

[Association “21 December 1989” and Others group of cases](#), application No. 33810/07, judgment final on 28/11/2011, enhanced supervision

Ineffective investigations into the violent crackdown on anti-governmental protests which surrounded the fall of the communist regime in Romania.

Security forces – police: use of force and effective investigations

[Soare and Others](#), application No. 24329/02, judgment final on 22/05/2011, enhanced supervision

Disproportionate use of fire-arms by the police or special intervention forces in incidents occurred in 2000, 2005 and 2006; absence of adequate statutory and regulatory framework governing the use of fire-arms during police operations, the preparation and control of such operations; unjustified involvement of special intervention forces in a routine operation.

Detention conditions - medical care

Bragadireanu, application No. 22088/04, judgment final on 06/03/2008, enhanced supervision

Overcrowding and poor material conditions in prisons and police detention facilities; lack of effective remedies.

Predică, application No. 42344/07, judgment final on 07/09/2011, enhanced supervision

Death or ill-treatment of prisoners occurred in penitentiary facilities.

Enache, application No. 10662/06, judgment final on 01/07/2014, enhanced supervision

Poor material conditions of detention of life-sentenced prisoners, isolation, systemic handcuffing.

Detention of mentally-ill, juveniles – lawfulness, medical care

Centre for Legal Resources on behalf of Mr Valentin Câmpeanu, application No. 47848/08, judgment final on 17/07/2014, enhanced supervision

Deficient legal protection, medical and social care afforded to young people with mental disabilities.

Cristian Teodorescu group of cases, application No. 22883/05, judgment final on 19/09/2012, enhanced supervision

Deficiencies in the legal framework governing involuntary placement in psychiatric hospitals and general failure by psychiatrists to apply the procedure set by the law in this regard.

Ticu, application No. 24575/10, judgment final on 01/01/2014, enhanced supervision

Inadequate management of psychiatric conditions of detainees: placement of mentally-ill detainees in ordinary detention facilities; lack of constant psychiatric supervision and counselling, lack of forensic psychiatric examinations; severe overcrowding.

Parascineti, application No. 32060/05, judgment final on 13/06/2012, enhanced supervision

Overcrowding and poor conditions in psychiatric facilities.

Length of judicial proceedings

Vlad and Others group of cases, application No. 4075606, judgment final on 26/02/2014, enhanced supervision

Excessive length of civil and criminal proceedings; lack of an effective compensatory and acceleratory remedies.

Enforcement of domestic judicial decisions

Săcăleanu, application No. 73970/01, judgment final on 06/12/2015, enhanced supervision

Failure or significant delay in abiding by final domestic court decisions by the Administration or legal persons under the State responsibility.

Protection of private life

[Bucur and Toma](#), application No. 40238/02, judgment final on 08/04/2013, enhanced supervision

Lack of safeguards in the security related legislation for protection of private life in the context of secret surveillance measures that could be carried out under the National Security Act.

Freedom of expression - protection of sources

[Bucur and Toma](#), application No. 40238/02, judgment final on 08/04/2013, enhanced supervision

Unjustified conviction of a whistle blower for having disclosed wide-scale illegal telephone tapping by the intelligence services.

Protection of property rights - expropriation, nationalisation

[Străin and Others group of cases](#), application No. 57001/00, judgment final on 30/11/2005, enhanced supervision

[Maria Atanasiu and Others](#), application No. 30767/07, judgment final on 12/01/2011, enhanced supervision

Ineffectiveness of the mechanism set up to afford restitution or compensation for properties nationalised under the communist regime.

Social and Economic Rights (ECSR)

The European Committee of Social Rights (ECSR) monitors compliance with the [European Social Charter](#) under two procedures: the national periodic reporting system and the collective complaints procedure. Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

[Romania and the European Social Charter](#)

Venice Commission

The [European Commission for Democracy through Law](#) (Venice Commission) is the Council of Europe's advisory body on constitutional matters. It provides States and international organisations working with it (EU, OSCE/ODIHR) with legal advice in the form of opinions.

In 2014 the Commission adopted the Opinion on the draft law on the review of the Constitution of **Romania**, requested by the Romanian Prime Minister ([CDL-AD\(2014\)010](#)).

In 2012, the Commission had already adopted an opinion on constitutional reforms in which it had recommended inter alia clarification and improvement of a number of institutional and other arrangements provided by the Constitution. The 2014 opinion welcomed the steps taken to improve a preliminary draft already discussed with its experts in 2013. However, issues of key importance

were still to be addressed. A clear option for one particular form of government was still missing and the definition of the respective roles and inter-relations of the main state institutions lacked clarity.

Recommendations aimed at strengthening the independence of the judiciary, in particular of the Superior Council of Magistracy, and the status of prosecutors had not been adequately taken up. The need to streamline the legislative procedure and limit to a minimum the use of government ordinances, as well as the recommendation to transform the procedure on the suspension of the President, if maintained, into a clearly legal responsibility, initiated by Parliament but settled by a court, remained unaddressed. Further work was therefore needed both as regards the substance, the formulation and the consistency of the constitutional provisions. The draft opinion further recommended a more transparent and inclusive approach in the forthcoming stages of the revision of the Constitution.