

Distr.
GENERAL

E/CN.4/2005/78/Add.2
26 January 2005

ARABIC
Original: ENGLISH

المجلس الاقتصادي والاجتماعي



لجنة حقوق الإنسان

الدورة الحادية والستون

البند ١٣ من جدول الأعمال المؤقت

حقوق الطفل

تقرير السيد خوان ميغيل بيتيت، المقرر الخاص المعني بمسألة بيع الأطفال
واستغلالهم في البغاء وفي إنتاج المواد الإباحية

إضافة

البعثة إلى رومانيا**

* يعمم موجز تقرير البعثة هذا بجميع اللغات الرسمية. أما التقرير ذاته فيرد في مرفق هذه الوثيقة
ويعمم باللغة التي قُدم بها وبالفرنسية فقط.

** تأخر تقديم التقرير توجهاً لتضمينه أحدث المعلومات.

موجز

قام المقرر الخاص بزيارة إلى رومانيا في الفترة من ١ إلى ١٠ أيلول/سبتمبر ٢٠٠٤، زار أثناءها كلاً من بوخارست، وبياترا نيامت، وإياس، وكلوج نابوكا، وبييتيسي.

وتعيش رومانيا مرحلة تحول تاريخية حافلة بالتحديات. ولم يزل انضمامها المنتظر إلى الاتحاد الأوروبي في عام ٢٠٠٧ محركاً قوياً للتغيير ومثاراً للتوقعات في أوساط المجتمع.

وقد حققت رومانيا إنجازات هامة في مجال حماية الطفل خلال السنوات الأخيرة، من ضمنها إدخال تغييرات هامة على مؤسسات الرعاية من النمط القديم؛ وسنّ طائفة جديدة من القوانين المعنية بحقوق الأطفال؛ وإضفاء طابع لا مركزي على نظام حماية الطفل؛ ووضع عدد من خطط العمل الوطني للاسترشاد بها في تنفيذ السياسات العامة المتعلقة بحقوق الأطفال؛ وتأهيل جيل جديد من المهنيين المتخصصين العاملين في ميدان حماية الطفل. وقد تحقّق الكثير من هذه الإنجازات بفعل ضغوط خارجية من المجتمع الدولي، وبخاصة الاتحاد الأوروبي. وفي الآن ذاته، فإن الحاجة إلى تلبية الأولويات الملحة في مجال حماية الطفل، التي حددها المجتمع الدولي، أدّى إلى تركيز معظم الجهود والموارد في مجالات مؤسسات الرعاية وإجراءات تبني الأطفال على الصعيد الدولي والاتجار في البشر عبر الحدود، محولاً الانتباه عن المشاكل الأخرى التي تمسّ الأطفال والتي لا تتمّ معالجتها بالشكل المناسب، خصوصاً أنشطة الاتجار في الأطفال وبغاء الأطفال داخل رومانيا، والتي تفضي بدورها إلى الاتجار عبر الحدود.

ولا يزال الاتجار عبر الحدود مشكلة كبرى. فتضارب البيانات، وتحول بلدان الوجهة من البلقان إلى أوروبا الغربية، وتغير طرائق الاتجار مع تنويع مظهرها القسري، كل ذلك يحول دون تأكيد ما إذا كان الوضع في تحسن أم تدهور.

وثمة "رغبة قوية في الهجرة" إلى بلدان الاتحاد الأوروبي، خصوصاً بين الأطفال والمراهقين. ولكن الهجرة إذا كانت تفتح أبواب الفرص عادةً أمام الأفراد ويتعذر وقفها، فإن من خصائصها أيضاً انتقال عدد كبير من الأفراد، من بينهم أطفال، في أوضاع بائسة، مما يجعلهم لقمة سائغة للمتجرين.

فالفقر والتهميش الاجتماعي والتمييز والوصم جميعها متغيرات كلية وجزئية تجتمع وتتفاعل كعوامل مساهمة وأسباب جذرية للضعف أمام الاتجار والاستغلال الجنسي. وتتمثل أكثر الفئات تعرضاً للخطر في: أطفال الشوارع، وأطفال جماعات الروما، وضحايا الاستغلال الجنسي والعنف المتري، والأطفال المودعين في مؤسسات الرعاية أو الذين غادروها للتو، والأطفال المنحدرين من أسر مفككة وفقيرة ذات مستوى تعليمي متدن، وآخرين لا تتسع لهم القائمة. ويقترح المقرر الخاص استهداف هذه الفئات بشكل خاص بواسطة تشكيلة محددة من التدابير، من قبيل البرامج الموجهة لأطفال الشوارع والمراهقين الذين يتمّ استغلالهم في البغاء، والتغييرات الهيكلية مثل إصلاح المدارس بغية ضمان نهج قائم على حقوق الإنسان في نظام التعليم. ويعتبر تطوير برامج تعالج بغاء الأطفال مسألة ملحة بشكل خاص.

ويشير المقرر الخاص إلى الحاجة لإجراء تقييم شامل لبرامج إعادة تأهيل ضحايا الاتجار، بغية تحسين أساليب التدخل في مثل هذا المجال الشائك. ويقترح أيضاً التفكير في مبادرات لتبادل الخبرات والدروس المكتسبة والممارسات السليمة في هذا المجال على الصعيدين الوطني والإقليمي.

وإذا كانت عملية تحويل مؤسسات الرعاية من النمط القديم يمكن اعتبارها إنجازاً، فإن المقرر الخاص يدعو الحكومة إلى عدم نسيان الأطفال الذين ما زالوا يعيشون في هذه المؤسسات، ويستحثها لتحسين نوعية الرعاية الموفرة لهم. كما يعرب المقرر الخاص عن قلقه حيال معدلات التخلي عن الأطفال التي لم تنزل مرتفعة، ويدعو الحكومة إلى تصميم سياسات وبرامج لمعالجة أسباب هذه المشكلة استناداً إلى استنتاجات البحث الجاري في هذا المجال.

ويمثل الفساد مشكلة على جميع مستويات الإدارة العامة، ويقوض جهود إنفاذ القانون وتوفير الخدمات الاجتماعية وقدرة الدولة إجمالاً على منع انتهاكات حقوق الإنسان والانتصاف لضحاياها. ويشجع المقرر الخاص الحكومة على التصدي بحزم لهذه المشكلة.

وثمة حاجة إلى تحسين التعاون بين الدولة والمجتمع المدني. فالمنظمات غير الحكومية تفتقر إلى التمويل من الدولة والانخفاض المطرد للمساعدات الأجنبية يهدد فرصها في البقاء. لذا لا بد من استحداث آليات جديدة لتعزيز التعاون بين المنظمات غير الحكومية وقطاع الأعمال. ويدعو المقرر الخاص المنظمات غير الحكومية إلى عدم حصر أنشطتها في نطاق توفير الخدمات الاجتماعية بل الاضطلاع بدور أبرز في الدعوة إلى الإصلاحات.

ويقترح المقرر الخاص بعض المجالات التي يمكن لفريق الأمم المتحدة القطري تقديم المساعدة من خلالها في تنفيذ توصيات هذا التقرير. وتشمل هذه المجالات: تصميم سياسات لمعالجة أسباب التخلي عن الأطفال؛ وتقييم برامج إعادة تأهيل ضحايا الاتجار؛ وتسهيل تبادل الدروس المكتسبة والممارسات السليمة المتعلقة ببرامج مكافحة الاتجار؛ وتصميم وتنفيذ برامج لمعالجة مشكلة بغاء الأطفال؛ والاستفادة من خبرات المشروع الجاري المعني بالوقاية من فيروس نقص المناعة البشرية/الايدز في بوخارست؛ وتنمية قدرات المنظمات غير الحكومية والنقابات العمالية ومنظمات المجتمع المدني لتعزيز دورها في مناصرة حقوق الأطفال؛ ووضع خطة لإصلاح نظام التعليم لضمان اعتماده نهجاً قائماً على حقوق الإنسان. كما يدعو المقرر الخاص مجموعة المانحين إلى الاستثمار في مجال تعزيز حقوق الإنسان، وخصوصاً في المجالات التي خصّها بالذكر.

ويؤيد المقرر الخاص مقترح المنسق المقيم، معرباً عن أمله في إدراج أنشطة متابعة زيارات المقرر الخاصين إلى رومانيا ضمن خطة عمل فريق الأمم المتحدة القطري.

Annex

**REPORT SUBMITTED BY THE SPECIAL RAPPOREUR ON THE
SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD
PORNOGRAPHY, JUAN MIGUEL PETIT, ON HIS MISSION TO
ROMANIA (1-10 SEPTEMBER 2004)**

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 4	5
I. BACKGROUND	5 - 11	5
II. MAJOR CONCERNS	12 - 62	6
A. Residential institutions	14 - 19	7
B. Intercountry adoptions	20 - 25	8
C. Abandonment and children deprived of parental care	26 - 27	8
D. Trafficking	28 - 42	9
1. Victims' profile and vulnerability factors	33 - 39	9
2. Recruitment and exploitation	40 - 42	10
E. Internal trafficking and child prostitution	43 - 48	10
F. Street children	49 - 52	11
G. Roma children	53 - 55	12
H. Sexual abuse	56 - 59	13
I. Corruption	60 - 62	13
III. LEGISLATION	63 - 73	14
IV. LAW ENFORCEMENT	74 - 76	15
V. INSTITUTIONAL FRAMEWORK AND POLICIES	77 - 84	16
VI. PROGRAMMES	85 - 96	17
VII. CONCLUSIONS	97 - 104	19
VIII. RECOMMENDATIONS	105 - 117	20

Introduction

1. The Special Rapporteur conducted a country mission to Romania from 1 to 10 September 2004. He would like to thank the Government of Romania for allowing him to undertake a fruitful visit. The Special Rapporteur expresses his deep gratitude to the United Nations Children's Fund (UNICEF) for its commendable assistance in the organization of the agenda, and highly values the involvement of UNICEF in the visit and considers it the best way to ensure impact and follow-up to the recommendations of this report. He also thanks the Resident Coordinator and the agencies of the United Nations Country Team for their interest in his visit.

2. The mission visited Bucharest, Piatra Neamt, Iasi, Cluj-Napoca and Pitesti. The Special Rapporteur had over 50 meetings and direct contact with more than 200 persons. He met representatives of the government authorities and the judiciary. In particular, he was honoured to meet with the Secretaries of State of the National Authority for Child Protection and Adoption, the Ministry of Interior and Administration, the Ministry of Justice, the Ministry of Health, and the Ministry of Foreign Affairs; the mayors of Bucharest, Cluj-Napoca and Iasi; the Deputy General Prosecutor. He also had meetings with donors, including the European Union, journalists, academics and students.

3. The Special Rapporteur would like to express his appreciation to the many non-governmental organizations (NGOs) he was able to meet. He would like to thank Terre des Hommes and World Vision for their active role in the preparation of his visit.

4. In addition to meetings with public authorities and civil society, the Special Rapporteur visited several shelters for children in difficult situations, an old-type institution, and a shelter for young girls victims of trafficking. He went to the Roma community of Pata Rat and could witness the living conditions of children in Bucharest and Cluj-Napoca, particularly those living on the Cluj Cetatuie Hill. A more detailed programme of meetings will be made available on the Special Rapporteur's web site (www.ohchr.org/english/issues/children/rapporteur).

I. BACKGROUND

5. Romania is living a historical moment of transformation and challenges. Fifteen years after the revolution and the overthrow of the dictator Nicolae Ceausescu, many achievements are to be acknowledged and much remains to be done in building and sustaining a democratic and equitable society. The accession of Romania to the European Union (EU), envisaged in 2007, has been a strong engine for change and triggers expectations in society. At the same time, transition was accompanied by an explosive increase in poverty. In 1989, an estimated 7 per cent of the population was poor. By 1999, the poverty rate reached 42 per cent, declining to 23 per cent in 2002. Income inequalities continued to rise. The incomes of the top 5 per cent of households on average exceed those of the poorest by a factor of more than 15.¹

6. Migration to Western Europe "to make money easily" became a mirage for most, and a solution for few. Since January 2002 Romanian citizens have the possibility to obtain Schengen visas, and the migration desire to EU countries became a possible dream.

7. In 2002, 80 per cent of 5,000 students stated that they wanted to work abroad.² “Kids are vulnerable to success stories”, said a representative of Alternative Sociale, an NGO working on the prevention of trafficking in human beings, and “parents do not know how to cope with these changes. They seem to lack basic abilities to teach their kids how to go about this new world”.

8. For decades, the totalitarian regime provided all the responses, including the placement of unwanted children for long or indefinite terms in residential institutions, many of which were very large, located far away from public awareness, and isolated from the community.³ “With the regime, everybody was intelligent but nobody cared for your soul” said a representative of the Romanian Foundation for Child, Community and Family, an NGO working on the improvement of the quality of care provided in residential institutions.

9. The Special Rapporteur deemed this climate of hopes, profound changes and contradictions favourable for his visit, and his findings and recommendations will hopefully contribute to further fertilize the humus of democratic reform.

10. Romania extended a standing invitation to thematic special procedures. This facilitated the visit of several special rapporteurs in recent years. The Special Rapporteur shares the concerns expressed by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination on the dramatic situation of street children in his report on his mission to Romania (E/CN.4/2003/5/Add.2, paras. 46-48). Most recently, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health visited Romania (see E/CN.4/2005/51/Add.4). The Special Rapporteur believes that cross references between both reports will strengthen the consistency of findings and will result in a comprehensive set of recommendations that should be followed up, taking into account their interdependence.

11. The concerns and recommendations expressed by the Committee on the Rights of the Child in its concluding observations on the second periodic report of Romania (CRC/C/15/Add.19) informed the terms of reference of the visit.

II. MAJOR CONCERNS

12. Over the last decade, the major problems affecting Romanian children have been identified in three areas: the situation of children in large old-style institutions, heritage of the totalitarian regime; the phenomenon of massive intercountry adoptions without adequate control; and trafficking in human beings, including children. Romania was associated with images of children sheltered in obsolete and sometimes primitive physical and educational environments. At the beginning of the 1990s, Romania became almost synonymous of intercountry adoptions, with a flow of thousands of children taken out of the country to be adopted in Western Europe and North America, some of which in suspicious circumstances. In the same period, Romanian children started to appear in the urban scene of EU countries, mainly in Italy, Spain and France, as street beggars. Romanian girls and women as young as 15, caught in the trafficking net, are forced into prostitution.

13. The international community, mainly through the EU, brought up these problems and called upon the Romanian authorities to address them firmly. The external pressure exerted and the support provided prompted a profound reform of the child protection system. This resulted in a number of achievements in these areas, although much still remains to be done. At the same time, the urge of responding to the pressing priorities indicated by the international community with tangible achievements has concentrated most of the efforts and resources in these areas, and diverted the attention from other problems affecting children that are not being adequately addressed.

A. Residential institutions

14. There are approximately 5 million children in Romania, 2.2 per cent of whom are under the supervision of the Specialized Public Services for Child Protection. According to statistics of the National Authority for Child Protection and Adoption, 48,485 children were residing with substitute families in June 2004 and 34,262 were placed in institutions. Most children in institutions still have links with their families. Almost half of them (42.4 per cent) come from their families, 38.8 per cent come from another placement centre, and 16.6 per cent from medical institutions.⁴

15. After 1990, a profound process of transformation of old-style institutions started. Many large-scale institutions closed down, others were transformed into family-type institutions. Some 85 large institutions remain, most of which are providers of residential special education.⁵

16. The Special Rapporteur visited a large institution in Cluj-Napoca. While it is to be acknowledged that general material conditions were appropriate, the Special Rapporteur was deeply moved by the 22 infants who are living in the institution. This was explained by the lack of budget to provide these babies with foster families, even though candidate foster families were available. All efforts should be made to ensure that these children live with their biological families. Alternatively, an automatic credit system should be established by law to automatically allocate the budget needed to cover the cost for as many foster families as needed to provide alternative care for children from birth to age 3. A law entered into force on 1 January 2005, providing that children of that age are not to stay in institutions.

17. The Special Rapporteur is also concerned at the signs of neglect of affection expressed by the few children he could see in the institution. Children jumping at unknown adults seeking physical contact express a clear need for care and affection, which is not met.

18. Children are not sufficiently involved in everyday activities of their institutions. Many children do not know their personal history, they do not know how long they have been in the institution and why. They grow up lacking basic abilities to be autonomous. This exposes them to the risk of being exploited later in life, once out of the institutions. Many girls and boys sexually exploited live or used to live in institutions.

19. NGOs like the Romanian Foundation for Child, Community and Family and Save the Children work in institutions and organize activities to provide children with life skills. They organize leisure activities, they provide pocket money, they celebrate birthdays, etc.

B. Intercountry adoptions

20. Prior to 1989, intercountry adoption was relatively unusual in Romania and authorization for it had to come from the president. It was believed that Nicolae Ceausescu himself signed for the approval of intercountry adoptions. This background is significant because there was a lack of professional experience and a system capable of dealing with what happened after the overthrow of Ceausescu in 1989.

21. In this context, Law 11/1990 liberalized international adoptions. A massive influx of foreigners who sought to adopt one or more children started. Although many of those who travelled to Romania to look for a child for adoption were drawn there by the images of children in institutions, it soon became apparent that the vast majority of the children were not available for adoption. For a start, most of them were not actually “orphans”, but had been placed in institutions by their families as a way of coping with economic hardship. It soon began to happen that foreigners started to look outside institutions for children to adopt. Corruption started to spread rapidly. It is estimated that between January 1990 and July 1991, more than 10,000 children were taken from Romania to be adopted in other countries.⁶

22. In 1997, the Government of Romania, under the strong pressure of the EU Commission and Parliament, restructured the entire legislative and administrative organization of the child protection system and of the adoption system in particular. The reformed child protection system started functioning in 2000.

23. In June 2001, after repeated efforts to analyse and identify the problem, the Government and the Prime Minister in person made a public commitment to revise the system of protection of children’s rights and imposed a moratorium on intercountry adoptions.⁷

24. The law on the legal regime of adoption approved in June 2004 restricted the possibility of intercountry adoption to very exceptional cases. Children can be adopted internationally only by one of their grandparents residing abroad. According to the Independent Panel of Family Law Experts of EU member States, the objective of the new legislation is that Romania becomes like other member States. Intercountry adoption leads to a vicious cycle: with too many intercountry adoptions, Romania does not see the need for proper child protection. At the same time, as long as the child protection system is not at European level, Romania would risk to continue to use intercountry adoptions without fully using the great potential for domestic adoptions.⁸

25. Following the spirit of the Convention on the Rights of the Child that considers intercountry adoption as an alternative means of childcare, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child’s country of origin, the Special Rapporteur welcomes the new legislation on intercountry adoption as a firm reaction to past irregularities and distortions and as a conducive measure to develop intracountry alternatives in the best interest of children.

C. Abandonment and children deprived of parental care

26. Romania can definitely register major achievements in transformation of old-type institutions and in banning intercountry adoptions. Nevertheless, the number of children in the child protection system remains approximately the same - approximately 2.2 per cent of children according to the National Authority for Child Protection and Adoption. This indicates a worrying high rate of abandonment. Too many children still need the support of the State and public

services. Efforts were and are being made to correct the distortions of the responses, residential institutions and intercountry adoptions, but some of the problems remain, such as abandonment and the high number of children deprived of parental care. Most children in public care are not abandoned. They have links with their families, but are deprived of parental care. According to the Romanian law, a child must be declared abandoned by the court and then becomes eligible for adoption. According to the statistics of the Romanian Committee for Adoptions, at the end of August 2004, there were 6,427 abandoned children eligible for adoption. From January to August 2004, 854 children were adopted by Romanian families and 1,104 applications for adoption from Romanian families were submitted to the Committee. Domestic adoptions are a reality with a potential that needs to be tapped.

27. UNICEF is coordinating a study to better understand the phenomenon and causes of abandonment. The Special Rapporteur wishes that the findings of this study will inform the design of policies that address not only the emerging problems and systemic distortions, but also the root causes of the high number of children in the child protection system.

D. Trafficking

28. Since January 2002, Romanian citizens can travel without any restrictions to the majority of EU countries. This contributed to changing migration patterns from Romania. Reaching Western countries is easier and more people started to travel to the EU with valid documents.⁹

29. Until 2002, the Balkans represented the area where Romanians were mostly trafficked to. Since 2003, the main destinations are Spain, Italy, France, the Netherlands, Austria and Greece.

30. Data on trafficking are not consistent. Different institutions provide different data depending on the target group they focus on. The International Organization for Migration (IOM) provides data on voluntary repatriations, the Ministry of Administration and Interior on unaccompanied children repatriated through bilateral agreements with different Governments, and NGOs have data on the cases they assist. The same victim can be counted several times by statistics of different institutions. Some others, still in the hands of traffickers abroad, or who have escaped and are residing outside Romania or as tourists, are never captured by statistics.

31. In this jungle of data, quantitative trends on trafficking are unreliable.

32. During 2003, 1,034 unaccompanied children were repatriated from 25 European countries, mostly from Italy (296), France (96), Belgium (77), Germany (76), and Austria (68). Four hundred and two of them were interviewed and 93 stated they were victims of trafficking.¹⁰

1. Victims' profile and vulnerability factors

33. Most of the trafficked children are between 15 and 17 years old and most of them are girls. Most children come from Moldova, a poor province in the north. Their level of education is usually low, and family relationships are weak.

34. Girls are mainly trafficked for sexual exploitation, boys for labour exploitation.

35. A combination of risk factors related to the family and community situation and the broader social context acts like a spiral, dragging children into trafficking.

36. The International Labour Organization (ILO) calls the attention to two major groups at risk: street children and Roma children.¹¹

37. IOM details the portrait of the typical young woman vulnerable to trafficking. Vulnerability to trafficking is primarily shaped by a strong desire to seek a job abroad and by a propensity to breaking official rules. Vulnerable girls do not deem education as the means to achieve success. Conversely, they value their ability to work hard and are particularly receptive to successful migrants from the circle of their acquaintances. The family environment is abusive, children are abused or neglected, girls lack parental guidance and are weakly integrated in social circles.¹²

38. In addition to these groups, Save the Children Romania highlights the vulnerable situation of children in institutions and those who recently left institutions.¹³

39. The NGO Terre des Hommes documented the risks faced by unaccompanied children from Oas county, mostly boys, who go to France. They are in danger because they tend to commit offences and live in very precarious conditions, marked by fear, hunger and abandonment.¹⁴

2. Recruitment and exploitation

40. The most common means of recruitment is the false promise of work abroad by acquaintances, relatives or friends. In most cases, the first approach is made by a woman between 35 and 45. She typically shows a picture of a girl, stating that this is her daughter and that she is successful in her job in Western Europe. If the recruiter is a man, he is between 25 and 35, with the trappings of high social status. He uses his charm to attract the girls to gain their trust.

41. Even parents can be involved in their children's trafficking by giving their written consent for the child to leave the country. In cases of trafficking for labour exploitation, children often leave the country with their parents or relatives.

42. Usually, children leave the country with legal documents. Once abroad, the traffickers take the child's documents and the victim enters into "debt bondage". Girls are usually raped by traffickers and then sold from trafficker to trafficker, the price increasing at each transaction, starting from 100 euros, and going as high as 2,500 euros, the price paid for a girl sold 22 times in The former Yugoslav Republic of Macedonia.¹⁵

E. Internal trafficking and child prostitution

43. Growing information and attention is being paid to internal trafficking, triggered by the growing visibility of prostitution and the conditions of sex work, especially in Bucharest. Sex services are widely advertised.¹⁶ Newspapers, Internet sites, city nightlife guides and many of the city's 10,000 taxi drivers show places where sex services are offered (mainly hotels and

particular areas of towns, normally around the train station). “Prostitution is a booming phenomenon in Bucharest”, said the Mayor of Bucharest, “this includes also girls under 18 in the hands of mafia rings. Part of the police is corrupted and protects the rings of pimps.”

44. Pimps move women and girls from place to place to diversify the prostitution scene under their control. Women and girls are then sold from pimp to pimp. An emblematic case was the purchase of a girl by a journalist, who bought Diana for US\$ 400 in 2003. “We talked to pimps, and almost every one had girls for sale. A trafficker in the main Bucharest railway station wanted to sell us a girl for 1,000 dollars.” Diana is mentally handicapped and never went to school. While showing the wounds from the chain with which she was beaten, she reported that the pimp and his wife cut her with a knife and sometimes kept her in the dog kennel. Diana was sheltered in the shelter of the NGO Reaching Out in Pitesti.¹⁷

45. The next step for many of these girls and young women is international trafficking. They are forced into prostitution in Romania for one or two years and, once they believe they are not worthy human beings and prostitution is their only option, they are considered “ready” for being trafficked abroad.

46. Paradoxically, these very same girls and women are considered by the Romanian law as victims if they are rescued from international trafficking, and as criminals if they are prostitutes in their own country. Prostitution is illegal according to Romanian law. If it is proven that women or girls live from their earnings as prostitutes, they can be sentenced. It is not frequent but it happens; the Special Rapporteur was told of several cases of girls under 18 who were sentenced and detained for prostitution. This does not comply with international human rights standards that consider children in prostitution victims and not criminals.¹⁸ It also exposes children to all sorts of exploitation and abuse deriving from the illegality of their situation.

47. In addition to the growing concern about internal trafficking for prostitution, there is scanty information on cases of trafficking for child labour in agriculture. Child labour in agriculture is considered as part of the tradition in rural areas. This coupled with situations of acute poverty and lack of or limited access to public services including health and education, can lead to cases of parents who reportedly sell or “rent” their children for the season. A case largely covered by the media was the trafficking of children from Iasi to Giurgiu in southern Romania. Most children were Roma.

48. The Special Rapporteur expresses his concern on the situation of acute poverty in some parts of the rural areas. Education provided in primary schools is said to be of poor quality and the infrastructure is inadequate. High schools are often too distant for many adolescents living in the rural areas. The cost of transport is often an obstacle that prevents boys and girls from continuing their studies. This exposes these teenagers to higher risks of exploitation, including trafficking.

F. Street children

49. The Special Rapporteur was deeply impressed by the living conditions of the street children he met in Cluj-Napoca and Bucharest.

50. In a cave hidden in the park of Cetatuie Hill in Cluj, the Special Rapporteur witnessed the degrading and dangerous living conditions of street children who use it as their shelter. The same happened in Bucharest, where the Special Rapporteur talked with Giovanni and Ana. They loiter, sniffing glue and drinking pure alcohol. Every day they experience stories of violence and abuse, starting with their peers. An educator reported several cases of sexual abuse perpetrated by the police. For these children, violence and sexual abuse are internalized behavioural codes. Girls are constantly exposed to sexual abuse.

51. Access to health care is a major problem. Living in extremely precarious conditions, street children have serious health problems, especially venereal diseases. Although the Romanian law provides for access to health care for all children, de facto health care is denied in most cases. In order to receive medical treatment, an identity paper and a primary health insurance are required. In most cases, street children do not have documents and are therefore denied medical treatment.

52. If the decrease in the number of street children over the last years is to be considered a positive development,¹⁹ the situation of children living in the streets is nevertheless a matter of extreme concern and requires urgent measures.

G. Roma children

53. Social indicators show the systemic exclusion suffered by Roma communities. In statistics on poverty, unemployment, child mortality and other social indicators the Roma communities are overrepresented.²⁰ Roma children accumulate a series of exclusions and discrimination that result, among other consequences, in their overrepresentation among street children, victims of trafficking and children living in institutions.

54. The Special Rapporteur visited the Roma community of Pata Rat, in the municipality of Cluj-Napoca, where some 900 people live in wooden huts with no water. Most of their earnings come from the recycling of garbage. Children work side by side with their parents in rag-picking and recyclable waste collecting at the waste sites of Cluj-Napoca.²¹ Most people living in the community of Pata Rat do not have access to health care because most of them do not have the primary health insurance, which costs around US\$ 100 per year.

55. In July 2003, the Child Protection Directorate of the county set up a day centre for Roma children in pre-school age. Some 20 to 30 children are taken to the day centre every day. They take a shower and are provided with clean clothes they can keep. They participate in a series of educational activities. The purpose is to stimulate these children so that when they start school, they will not be already disadvantaged vis-à-vis their peers, who live their first years in environments more conducive to the development of the child's personality. The Special

Rapporteur visited the day centre and appreciated its prevention value. Investing in small children reverberates positively on their parents and families, and ultimately on the whole community. Similarly, NGOs run several kindergartens for Roma children in pre-school age.

H. Sexual abuse

56. Children who experience the trauma of sexual abuse are exposed to high risk of exploitation in its worst forms, such as prostitution or trafficking. When they escape from the abuse suffered at home, their vulnerable condition makes them likely to end up in situations of violence and exploitation.

57. Quantifying the incidence of sexual abuse is always problematic. Statistics tend to identify the tip of the iceberg, as the phenomenon is largely underreported. A survey carried out in 2001 indicated that 9.1 per cent of the children questioned stated that they had been subject to some form of sexual abuse. Families in which parents are alcoholics and/or drug addicts, poor families with a precarious socio-economic situation and families where parents have a low level of education offer environments that favour the incidence of abuse. It is nevertheless perceived that the prevalence of child abuse is much larger than that reported by children in interviews.²²

58. Underreporting is mainly due to the social taboo associated with sexual abuse within the family and the re-victimization suffered by victims who enter the justice system. The Special Rapporteur highlights some of the elements that contribute to the re-victimization of victims: (a) in some cases the police do not even register cases of sexual abuse and domestic violence reported by victims; (b) there is no specialized police for women and children victims of abuse; (c) Romanian law basically requires an act in flagrante for the abuser to be convicted, an evidence that is very hard to produce; (d) the victim has to pay the cost of the forensic examination needed to prove the abuse.

59. These and other factors discourage victims to report cases of abuse, which generates the sense of impunity that nurtures the perpetuation of these crimes. This vicious cycle can be broken. Where there is a support system that provides assistance and counselling, a protective and friendly environment, victims feel encouraged to report. The Special Rapporteur could witness an example with the work carried out by the NGO Artemis in Cluj-Napoca.

I. Corruption

60. Corruption emerged as a pervasive phenomenon in public administration. Cases of parents who have to pay their children's teacher to ensure a positive result in examinations were reported to the Special Rapporteur. Similarly, in the health sector, giving some money to the doctor to "advance" in the waiting list for an appointment or to ensure that the doctor visits the patient at home in due course is a common practice, which is not even perceived as corruption but as a "voluntary payment", as a secretary of state of the Ministry of Health reported to the Special Rapporteur.

61. The Mayor of Cluj-Napoca told the Special Rapporteur that corruption is a problem at all levels and includes the police as well, and that the heavy bureaucracy and the low level of salaries are major contributing factors.

62. Even if corruption is not a direct concern of the Special Rapporteur, it is clear that it undermines the enforcement of the law, the delivery of social services and the overall capacity of the State to prevent and redress human rights violations.

III. LEGISLATION

63. Romania ratified the major international human rights instruments, including those more closely related to child trafficking, child prostitution and child pornography.

64. The Romanian Government has also signed a number of cooperation protocols for combating cross-border crime, including trafficking in human beings, with most of the countries of origin and destination.²³

65. In 2002, Romania signed an agreement with France on the protection of Romanian unaccompanied minors in difficult situations in France. The agreement aims at identifying and protecting minors in difficult situations and adopting protection and reintegration measures, including those related to repatriation. The exchange of information enables the Government of Romania to track children who left the country and may be in difficult situations abroad. Without this agreement, the Government would only have information on repatriated children and not on the situation of those that left the country. This is why it is important to sign this kind of bilateral agreement with other destination countries, as it is foreseen with Italy and Spain.

66. The protection of children and youth is enshrined in the 1991 Constitution, article 45 of which states that children and young people shall enjoy special protection and assistance in the pursuit of their rights and prohibits the exploitation of minors.

67. In June 2004, a new package of four laws on children was adopted - on the protection and promotion of the rights of the child, on the legal regime of the adoption, on the creation of the National Authority for the Protection of the Child, and on the creation of the National Office for Adoption.

68. The law on the protection and promotion of the rights of the child (272/2004) is a framework law on children's rights that mirrors the Convention on the Rights of the Child by giving primary consideration to the best interest of the child and detailing the rights of the child. It also sets up the institutional framework in charge of promoting and ensuring the implementation of the rights and principles established by the law.

69. The abolition of the law on abandonment is a positive development to limit and prevent child abandonment. Earlier on, when a child did not receive family visits for more than six months, she/he was considered abandoned, hence adoptable, even though family links still existed.

70. Romania has one of the most comprehensive anti-trafficking laws.²⁴ Law 678/2001 on preventing and combating trafficking in human beings defines the concepts of trafficking in human beings, trafficking in minors and exploitation. The range of activities that constitute this crime is large enough to include illegal activities that could not be incriminated as distinct crimes but that facilitate trafficking in persons. The law also sets up repatriation procedures and a range of social services and rights that victims are entitled to.

71. Article 20 of this law contains a clause on impunity, by which the person who was trafficked and committed prostitution is not punished for this infringement. As pointed out above, paradoxically, the law considers persons trafficked abroad and forced into prostitution as victims and as criminals if prostitution takes place in the country.

72. Another weak point of the legislation in this area is the regulation of immigration. The 2002 Emergency Ordinance No. 112 does not protect the victims of trafficking from being prosecuted for illegal border crossing. In cases of trafficking, when a Romanian victim of trafficking has illegally crossed the borders of a country of transit or of destination, she/he will be prosecuted in Romania for this crime once voluntarily or involuntarily returned or repatriated.²⁵

73. Child pornography is defined and sanctioned by Law 196/2003 on preventing and combating pornography and by Law 678/2001 on preventing and combating trafficking in human beings.

IV. LAW ENFORCEMENT

74. The Special Rapporteur gathered mixed evidence on the performance of the police. On the one hand, the police is said to be heavily involved in the protection of procurement networks, as was openly reported by the Mayor of Bucharest. On the other hand, NGOs working in the area of trafficking and child abuse reported positive experiences of collaboration with the police: “They embrace change” said a representative of Alternative Sociale. Similarly, the shelter for girls and young women victims of trafficking Reaching Out in Pitesti commented positively on the ability of specialized anti-trafficking police units to deal with victims of trafficking. This indicates that specialized and trained police can make a difference in dealing with victims in a respectful manner.

75. A weak point in the enforcement of anti-trafficking legislation is witness protection. Although the new law stipulates that the witness should be provided with physical protection upon request, this has not happened yet. Witnesses and maybe their families need protection not only during the legal process but also afterwards. It often happens that witnesses in trafficking cases change their testimonies in court because they are afraid of the traffickers, or because they have been paid by the traffickers to drop incriminating testimony. Law 678/2001 stipulates that the evidence of the witnesses has to be taken in a different location from where the victim or witness lives, for her/his protection. The witnesses have to cover their transportation expenses. In addition, trafficking trials are usually very long, implying repeated travelling of the victims, which is practically impossible for many of them.²⁶

76. In the county of Iasi, a specialized court for minors functions as a pilot experience of juvenile justice. The General Prosecutor of the court reported that Iasi has the highest rate of convictions for trafficking. Now that Romania is about to set up a system of juvenile justice at the national level, the experience of Iasi can serve as a model to draw lessons on how to go about this major change in the justice system.

V. INSTITUTIONAL FRAMEWORK AND POLICIES

77. Established in 2001, the National Authority for the Protection of the Child and Adoption within the Ministry of Labour is the Government's specialized body providing methodological coordination for child protection activities. It drafts, coordinates and monitors policies in this area, has a coordination role for the child protection system, which was decentralized in 1997, when Child Protection Directorates were created at the county level.

78. The institutional framework is structured in three levels, local (municipal), county and national. At the municipal level, the mayor has the obligation to ensure the respect of children's rights children in the community. Within the local council, a specific unit or service can deal with children's issues with the ultimate responsibility remaining with the mayor.

79. At the county level, the Child Protection Directorate within the County Council implements policies and programmes on child protection, under the overall coordination of the National Authority, which is at the top of the institutional structure. As of January 2005, the Child Protection Directorate will merge with the Social Welfare Directorate. If on the one hand, the merge can facilitate the coordination of policies and programmes in related areas, on the other hand problems related to budget allocation and competing priorities among the different social areas may arise.

80. The policy framework on children is the Government Strategy Concerning the Protection of the Child in Difficulty (2001-2004), which states that child protection is a national priority of the Government. A central pillar of the strategy is to consolidate the principle of decentralization and to make the community accountable for its children.

81. A National Plan of Action for Combating Trafficking in Human Beings was adopted in 2001. It focuses on a number of activities, including: information and awareness-raising on the risks involved by trafficking in human beings; improving the socio-economic situation of the persons at high risk of becoming victims of trafficking; elaborating a communication strategy for combating trafficking in human beings; assisting the return and social reintegration of the victims; international and regional cooperation in the fight against trafficking.

82. In the framework of the implementation of the National Plan of Action, an inter-ministerial working group on trafficking in human beings was established to coordinate and evaluate activities in this area. Its main role is to improve legislation, law enforcement procedures and victim assistance. The working group is made up of representatives of the Government, international organizations and donors.

83. In May 2004, the National Plan of Action for Preventing and Combating Trafficking in Children and for Social Reintegration of Victims (2004-2007) was adopted. The plan has different components: research and analysis; prevention; protection, rehabilitation and social reintegration of victims; international cooperation; improvement of the legislation; and institutional capacity-building. Among the many actions foreseen by the plan, there is the establishment of a national network of 10 centres for protection and emergency assistance, health care, psychological and legal assistance for child victims or for children at risk of becoming victims. It also foresees the adoption of the package of the four laws on children mentioned above. The task was accomplished in June 2004.

84. In Piatra Neamt, the Special Rapporteur had the opportunity to meet with the multidisciplinary team on child labour. It is an interesting experience of institutional coordination around a thematic issue. The multidisciplinary team is composed of representatives, among others, of the County Council, the Child Protection Directorate, the County Police, the Public Health Directorate, the Labour Inspectorate, and NGOs. The team highlighted the benefits of institutional coordination and team work in addressing social issues such as child labour.

VI. PROGRAMMES

85. Several anti-trafficking programmes are under way, addressing trafficking from different angles - prevention, assistance and reintegration.

86. In the area of prevention, several awareness-raising campaigns are being implemented. Save the Children started a campaign in schools at the end of 2003 and launched a media campaign in 2004. In 2003, the Partnership Equality Centre organized a campaign targeting children in institutions. The campaign of the NGO Alternative Sociale covers eight counties in the Moldova region. The posters of the campaign portray a girl ready to leave with her suitcase: "Your dreams are important, reality might be different, inform yourself before accepting to work abroad". The hotline established in the framework of the campaign receives many calls from people who think the hotline advertises employment opportunities abroad, as it is so frequent in Romanian newspapers. This is the target group that the campaign aims reaching: young people ready to go abroad running after a deceitful offer of employment.

87. Several NGOs offer shelter to victims of trafficking. There are two shelters in Bucharest, four in Timisoara, one in Pitesti, one in Bistrita, one in Mehedinti and one in Iasi. There are no shelters exclusively devoted to children victims of trafficking.

88. IOM plays an important role in the repatriation process by referring victims of trafficking to competent NGOs for assistance and reintegration. The shelter in Iasi and one of the two shelters in Bucharest are coordinated by IOM in coordination with partner NGOs. Victims can stay at the shelter for six months. Then they can go to a safe apartment run by a partner NGO, which provides assistance for a longer time, the longest duration reported to the Special Rapporteur being of two and a half years.

89. Since 1998, the NGO Reaching Out runs a shelter in Pitesti. Reaching Out shelters girl victims of trafficking aged between 15 and 24. The duration of the rehabilitation programme is of one year but it can be extended when girls are not yet in a position to start a new life independently. The overall philosophy of the programme is to empower women and girls to restore respect and esteem for themselves through a personalized approach. Each girl has an individual plan and sets her own goal. In most cases, it is going back to school. The shelter offers vocational training and has a sewing workshop. Young women leave the programme when they have jobs and some savings. Before leaving, they have to present a budget for the next three months. Everyone is encouraged to keep in touch with the staff of the shelter. All of them do so - "I can tell you where all the 122 girls assisted so far are and what they do", said the responsible of the shelter to the Special Rapporteur.

90. Stigmatization by the community is a major problem. The neighbourhood around shelters normally is not aware that the girls and women living in the shelter are victims of trafficking. The staff of the shelters tend to say it is a vocational training centre for girls coming from dysfunctional families. This is to protect the young women from stigmatization by the community. The same caution has to be taken in enrolling girls in school or when they get a job.

91. Reintegration programmes are under way in Romania since a few years. It is important to start assessing the impact of the assistance provided. What happens to victims of trafficking when they leave a rehabilitation programme? What do they do after one, two, five years? IOM started a very preliminary evaluation of its assistance in this area. The approximate results suggest that further efforts are needed in evaluating programmes and developing performance indicators.²⁷ In a context in which anti-trafficking policies rightly call for more assistance for victims of trafficking, it is imperative to have an informed notion of what works and what does not work in this area. The traumas and violence suffered by victims of trafficking are so serious and dramatic that restoring their ability to build an independent life is a major challenge for any rehabilitation programme. A 100 per cent success rate is an unrealistic goal, but performance indicators and evaluations of programmes are needed to refine methodologies.

92. Social programmes dealing with prostitution, including commercial sexual exploitation of children, are virtually absent with the only exception of a project on HIV/AIDS prevention among sex workers in Bucharest carried out by UNAIDS, UNICEF and the NGO ARAS. The programme started three years ago and had to overcome problems in operating due to the illegality of prostitution. Dialogue and awareness-raising with the police helped to build a constructive relationship between the police and the staff of the programme, who can now operate in a less hostile environment. The same had to be done with the pimps. At first, the programme directly approached prostitutes, who then suffered retaliation by pimps who perceived the programme as a disruptive element for their business. The approach was then changed and information on HIV/AIDS prevention is channelled to prostitutes through their pimps. Seventy per cent of prostitutes reached by the programme are girls between 16 and 18. This shows the prevalence of child prostitution and the need for programmes in this area.

93. The Special Rapporteur visited several shelters for children in difficult situations - two shelters for street children in Iasi and Bucharest, and two for emergency situations in Iasi and Cluj-Napoca. He also visited the maternal centre for the prevention of abandonment in Cluj-Napoca, where women in difficult situations can stay up to six months with their babies.

94. The Gravroche House in Bucharest, a centre for street children, has been selected to be the first national centre for repatriated unaccompanied children. It will function as transit place where children will be sheltered up to three months before being referred to the competent services in their county of origin. The Gravroche House was selected to pioneer this experience because it is considered a successful model in dealing with children in difficult situations. Nevertheless, concerns arise about the adequacy of the referral system. The gradual transformation of the centre might also be problematic. Mixing different populations (street children of Bucharest with repatriated children, including victims of trafficking) might cause unmanageable tensions in relational dynamics. Close monitoring of this pilot experience is fundamental.

95. The community nurse is an interesting social initiative reported to the Special Rapporteur. The community nurse functions as a bridge between health care and social assistance. She or he goes from house to house and facilitates access to health and social services. It is a positive initiative to bring the State closer to the community in the provision of social services.

96. The flow of foreign aid provided a favourable ground for NGOs to develop, especially in the area of social services, however far less so in advocacy. Now that foreign aid started to decline, the survival of many NGOs is at risk. Their access to public funds is still quite limited, and so is the collaboration between public authorities and civil society on social matters. The cultural heritage of a State that used to be the only actor in all spheres is still present and affects a fully fruitful relationship between public authorities and civil society. This is also valid for the

business sector, whose involvement in social initiatives is still very limited. Trade unions can be another actor with potential to be a vocal advocate for children's rights.

VII. CONCLUSIONS

97. Romania can register changes and many good news in child protection in the last years: the transformation of old-type residential institutions; a new package of laws on children's rights; the decentralization of the child protection system; a number of national action plans, which represent road maps for the implementation of policies on children's rights; a new generation of dedicated professionals working in the area of child protection. Many of these achievements were prompted by the external pressure exerted by the international community, especially the EU. At the same time, the urge of responding to the pressing priorities indicated by the international community concentrated most efforts and resources in the areas of residential institutions, intercountry adoptions, and transnational trafficking of human beings, and diverted the attention from other problems affecting children that are not being adequately addressed, notably internal trafficking and child prostitution.

98. Internal trafficking is largely overshadowed by its international "bigger brother", which so far attracted most attention of authorities, media, the donors' community and organizations with expertise in this area. Nevertheless, it is clear that internal trafficking opens doors to international trafficking and no anti-trafficking strategy can work if it does not address the problem internally, with adequate prevention policies and rehabilitation programmes for victims of internal trafficking that at present do not exist. The illegality of prostitution makes prostitutes, especially adolescents, more vulnerable to exploitation and abuses. They are treated as criminals and not as victims, as they are.

99. Transnational trafficking is still a major problem. The inconsistency of data, the shift of destination countries from the Balkans to Western Europe, the change in the modalities of trafficking with a less evident coercion element do not allow the State to assess whether the situation is improving or getting worse.

100. Social exclusion, discrimination and stigmatization combine together as macro and microvariables that act as contributing factors and root causes of vulnerability to trafficking and sexual exploitation. The following groups are exposed to higher risks: street children, Roma children, victims of sexual abuse and domestic violence, children in institutions or who recently left institutions, children with dysfunctional and poor families with a low level of education; but this list is not exhaustive.

101. Rural areas are particularly affected by poverty and social exclusion, with lack of or limited access to primary social services, such as health and education. Being so poor, rural areas constitute a reservoir of potential victims of trafficking and other forms of exploitation.

102. If on the one hand, progress has to be acknowledged in the transformation of old-type residential institutions, on the other the Special Rapporteur is concerned at the high number of children in the child protection system. This indicates the persistence of the problem of child abandonment.

103. The collaboration between civil society and the State in social matters is not strong yet. NGOs have limited access to public funding and the progressive decline of foreign aid endangers their survival. The involvement of the business sector in social initiatives is rather limited.

104. Widespread corruption in the public administration undermines the enforcement of the law, the delivery of social services and the overall capacity of the State to prevent and redress human rights violations.

VIII. RECOMMENDATIONS

105. On the legislation, the Special Rapporteur recommends:

(1) (a) To decriminalize prostitution;

(b) To amend the 2002 Emergency Ordinance No. 112 to protect the victims of trafficking from being prosecuted for illegal border crossing;

(c) To continue with the adoption of bilateral agreements on anti-trafficking measures with destination countries.

106. To facilitate the enforcement of the law, the Special Rapporteur recommends:

(a) To train the police on how to deal with victims of trafficking, domestic violence and sexual abuse;

(b) To implement a system of witness protection in cases of trafficking. Witnesses must be given not only protection but also incentives to testify. Present dissuasive factors, such as the cost of transportation to be covered by witnesses, should be removed or bypassed with appropriate incentives;

(c) To draw lessons from the pilot experience of the court of minors in Iasi in setting up the new system on juvenile justice.

107. Migration often opens opportunities for people and cannot be stopped. However, migration also involves a significant number of people, including children, moving in precarious conditions, and lacking information and means to face difficult and dangerous situations. These are the people to target with adequate prevention programmes - not to stop their will to migrate, but to better equip them to go through the migration process in a positive way.

108. To be effective, policies and programmes to fight trafficking and child sexual exploitation must address the root causes of the phenomenon. Social exclusion and discrimination are major root causes. In order to address these large, overarching and ultimately rather vague concepts, the Special Rapporteur suggests targeting groups affected in different ways and to different extents by social exclusion, discrimination and stigmatization. These include street children, Roma children, victims of sexual abuse and domestic violence, children in institutions or who recently left institutions, children with dysfunctional and poor families with a low level of education. A combination of targeted measures such as street programmes for street children and adolescents in prostitution and structural changes such as the reform of the school should be sought. In particular, the development of programmes to address child prostitution is urgent. It is like running a race: social programmes have to run fast enough to offer alternatives to children before pimps reach them first.

109. On the anti-trafficking programmes, the Special Rapporteur recommends:

(a) To undertake a comprehensive evaluation process of rehabilitation programmes to establish performance indicators and refine methodologies;

(b) To envisage initiatives to exchange experiences in this area, identify lessons learned and promote cross-fertilization of good practices at the national and regional levels.

110. On residential institutions, while acknowledging the remarkable progress made, the Special Rapporteur insists not to forget those children who are still in institutions and find themselves in vulnerable and disadvantaged situations. He recommends:

(a) To continue the process of transformation of old-type institutions by establishing targets for the next years;

(b) To establish a mechanism to automatically allocate a budget for foster families in all the cases they are needed to take care of children between birth and the age of three who by law should not stay in institutions. Reintegration with the biological family should be the first priority and should be sought even before the foster family option;

(c) To intensify programmes aimed at improving the quality of care in institutions and encourage voluntary work in this area;

(d) To create the profession of specialized educator to work in institutions.

111. The Special Rapporteur suggests using the findings of the study on the causes of abandonment to design policies to prevent child abandonment.

112. The Special Rapporteur encourages the Government to firmly address the problem of corruption. Public institutions must be defended, as they represent the backbone of democracy. At the same time, institutions must be clean to function properly.

113. The collaboration between the State and civil society needs improvement. New mechanisms should be developed to enhance collaboration with NGOs and the business sector. The State should outsource to NGOs those services that would be delivered more efficiently by more flexible organizations such as NGOs than by the public administration. The Special Rapporteur invites NGOs not to limit their activities to the delivery of social services but to be more vocal in their advocacy role.

114. The Government is encouraged to seek the assistance of the United Nations Country Team in implementing the recommendations of this report. In particular, the United Nations Country Team can provide assistance in the design of policies to address the causes of child abandonment; in carrying out evaluations of rehabilitation programmes for victims of trafficking; in facilitating the exchange of lessons learned and good practices on anti-trafficking programmes; in the design and implementation of programmes to address child prostitution, drawing on the experience of the ongoing project on HIV/AIDS prevention in Bucharest; in providing capacity-building to strengthen the advocacy role of NGOs and trade unions in the promotion of children's rights; and in the design of a desirable reform of the education system. The education reform should ensure a rights-based approach to education, which encompasses not only the integration of human rights into the curriculum, but also in the educational process and teaching methods and in the overall environment in which education takes place. The draft plan of action for the first phase (2005-2007) of the World Programme for Human Rights Education considered by the General Assembly in December 2004 can be a reference document in this exercise (A/59/525).

115. The Special Rapporteur takes up the suggestion of the Resident Coordinator and wishes that the follow-up of visits of special rapporteurs to Romania becomes an activity of the work plan of the United Nations Country Team.

116. The Special Rapporteur recommends to donors to invest in the promotion of children's rights, particularly in the areas indicated in the above recommendations. The rehabilitation and reintegration of victims of trafficking and sexual exploitation is a long-term process. It is therefore important to ensure some continuity in funding programmes in this area. The Special Rapporteur is aware that donors tend to prefer to invest in projects where results can be measured quickly and easily. Nevertheless, he recalls that policies and programmes cannot be effective if they do not address the root causes of problems. This requires a strong investment in prevention programmes. The evaluation of rehabilitation programmes of victims of trafficking is another area that should be considered, being aware that a 100 per cent success rate is an unrealistic goal in such a difficult domain.

117. The Special Rapporteur wishes to end his report with a message of optimism and encouragement. He believes that the magnitude of the problems highlighted in this report is manageable, and addressing them effectively is a possible mission if there is political will and adequate measures are taken. He hopes that this report can contribute to this effort.

NOTES

¹ UNDP, *National Human Development Report Romania 2001-2002*, p. 8.

² Survey conducted by the NGO Alternative Sociale.

³ Second periodic report of Romania (CRC/C/65/Add.19).

⁴ E. Stativa, *Child Abuse in Residential Care Institutions in Romania*, Bucharest, 2002, pp. 10 and 13.

⁵ Commission of the European Communities, 2004 Regular Report on Romania's progress towards accession (SEC/2004) 1200, p. 28.

⁶ J. Dickens, The paradox of intercountry adoption: analysing Romania's experience as a sending country, in *International Journal of Social Welfare*, 2002, pp. 76-83.

⁷ Independent Group for International Adoption Analysis (IGIAA), *Reorganizing the international adoption and child protection system*, 2002, p. 30.

⁸ The Independent Panel was set up by the European Commission in December 2002 and consists of experts on family law and children's rights from member States. Fourth report to the European Commission of the Independent Expert Panel reviewing the Romanian Government's proposals for new legislation on the Rights of the Child and Adoption, Brussels, May 2004.

⁹ B. Limanowska, *Trafficking in human beings in South-Eastern Europe*, 2003, p. 91.

¹⁰ Save the Children, *Report on child trafficking - Romania*, March 2004, pp. 15-18.

¹¹ ILO/IPEC, *Trafficking in children for labour and sexual exploitation in Romania. Results of a rapid assessment survey*, Bucharest, 2004, p. 26.

¹² S. Lazaroiu and M. Alexandru (IOM), *Who is the next victim? Vulnerability of young Romanian women to trafficking of human beings*, Bucharest, August 2003, pp. 5-7.

¹³ Save the Children, op. cit., p. 19.

¹⁴ The aim of this study on the situation in France of unaccompanied children from Oas, carried out by Terre des Hommes, is to propose relevant interventions when these children are in danger to avoid any stigmatization that may caricature in a counterproductive way the situations of these children and their region.

¹⁵ Save the Children, op. cit., pp. 17-20.

¹⁶ B. Limanowska, op. cit., p. 92.

¹⁷ P.C. Radu, *Freedom at midnight: human trafficking in Romania*, Institute for War and Peace Reporting, January 2003, www.iwpr.net.

¹⁸ In particular, article 8 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

¹⁹ The number of street children, estimated at 1,800, is about one fourth of what it used to be in 2000. Data provided by the National Authority for Child Protection and Adoption.

²⁰ For instance, around 20 per cent of Roma children do not go to school (*Source*: Save the Children Romania). The infant mortality rate of children is 27.1 for Romanians and 72.8 among the Roma (*Source*: UNICEF Romania).

²¹ *Roma working children and their families, Socio-cultural characteristics and living conditions, Romania, 2002*, p. 4.

²² National Authority for Child Protection, UNICEF, *Salvati Copii, Sexual abuse and exploitation of children*, Bucharest, 2001, pp. 22-25.

²³ Romania signed cooperation agreements with the following countries: Albania, Armenia, Bulgaria, Croatia, Cyprus, Czech Republic, Greece, Poland, Republic of Moldova and Ukraine.

²⁴ ILO, *Trafficking of migrant workers from Romania: issues of labour and sexual exploitation*, (October 2004), p. xii.

²⁵ B. Limanowska, op. cit., p. 95.

²⁶ Ibid., p. 99; Save the Children, op. cit., p. 13.

²⁷ The Special Rapporteur is aware that the assessment exercise carried out by IOM in 2004 was not intended to be a scientific evaluation and it carries all the limits in that sense. On the other hand, some data clearly show how difficult it is to evaluate an assistance programme when only part of the victims could be traced or when the information gathered from those interviewed is so limited that in 18 per cent of cases information on the employment situation is not available.
