



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [Human Rights Reports](#) » [2009 Country Reports on Human Rights Practices](#) » [Europe and Eurasia](#) » [Romania](#)

## 2009 Human Rights Report: Romania

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2009 Country Reports on Human Rights Practices

March 11, 2010

Romania is a constitutional democracy with a multiparty, parliamentary system and a population of approximately 21.4 million. The bicameral parliament (Parlament) consists of the Senate (Senat) and the Chamber of Deputies (Camera Deputatilor); both are elected by popular vote. The June European parliamentary (EP) elections and November-December presidential elections were judged generally free and fair. Civilian authorities generally maintained effective control of the security forces.

There were reports that police and gendarmes mistreated and harassed detainees and Roma. Prison conditions remained poor. The judiciary lacked impartiality and was sometimes subject to political influence. A restrictive religion law continued to limit freedom of religion. Property restitution remained extremely slow, and the government failed to take effective action to return Greek Catholic churches confiscated by the former communist government in 1948. Government corruption remained a widespread problem. There were continued reports of violence and discrimination against women as well as child abuse. Persons were trafficked for labor, sexual exploitation, and forced begging. Neglect of and inadequate assistance for persons with disabilities was also reported. Extensive discrimination and occasional violence against Roma continued to be a problem. Gay, lesbian, bisexual and transgender persons continued to suffer societal discrimination. Discrimination against persons with HIV/AIDS, particularly children, remained a problem.

### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, there were reports that police officers shot and killed two men.

On August 2, a police officer shot a 28-year-old man, Ciprian Musat, in the village of Oancea, Galati County, reportedly because the latter was listening to loud music. According to witnesses, after the officer warned him that he was disturbing public order, the victim answered with offensive language. The officer went home, returned 10 minutes later, and shot the man, who died a day later. The police officer was arrested.

On September 26, a police officer of the Bucharest police shot a 31-year-old man, Sorin Parvu, in Braila, having mistaken him for an individual who had committed a murder. Parvu died following day. The police officer was under investigation.

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There were no developments in the May 2008 case of Vasile Manole, who was shot and killed by a transportation police agent while he was allegedly stealing railroad copper parts in Cernavoda.

The Association for the Defense of Human Rights in Romania- Helsinki Committee (APADOR-CH) asserted in previous years that police made excessive use of firearms in cases of minor crimes. The Romani Center for Social Intervention and Surveys (Romani CRISS) criticized the disproportionate use of force in Roma neighborhoods, including the use of firearms. There were no reports during the year of deaths or injuries in Roma neighborhoods from police use of firearms.

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices; however, there were numerous nongovernmental organizations (NGOs) and media reports of police mistreatment and abuse of detainees and Roma, primarily through excessive force and beatings by police. There were also reports of mistreatment of abandoned children with physical disabilities in state institutions and of prolonged incarceration for misbehavior within state orphanages.

Pretrial detainees complained to human rights NGOs of police beatings during pretrial investigations.

Romani CRISS and other NGOs continued to claim that police used excessive force against Roma and subjected them to maltreatment and harassment. Romani CRISS also criticized the police raids in Roma communities, which involved large numbers of policemen, often accompanied by special intervention police.

In some instances of police violence against Roma, police claimed they used force in self-defense, responding to alleged hostility by Romani communities during police raids in search of criminal offenders.

APADOR-CH reported that an individual, Emil Baboi, alleged that during the night of January 5, he was taken to Bucharest precinct 9, where the police officers on duty handcuffed and beat him for several hours and then released him in the morning. Some days later, one of the police officers declared that Baboi had been beaten by somebody else before being brought to the police headquarters. Baboi filed a complaint in the court of Bucharest Sector 2.

Romani CRISS reported that, on July 26, police raided a Roma neighborhood in Piatra Neamt, injuring six Roma. In addition, 20 Romani persons, most of them children, women, and elderly, were affected by the tear gas used by the police during the raid. Romani CRISS contacted a lawyer to represent the victims in court.

NGOs, including Amnesty International, stated that laws on police use of firearms had not been brought into line with international standards.

There were no developments in the following 2008 cases of alleged police beatings: an individual in Campulung Muscel in April; a group of Roma in Satu Mare in May and July; and an individual in Bucharest in August. There also were no developments reported pertaining to violence during police raids on Romani communities in Liesti, Galati County, and in Ciurea, Iasi County, in 2007.

There were no developments in the 2007 case of three police officers who allegedly assaulted a university lecturer, Serban Marinescu.

There was no further development in the 2007 case of a police officer from Bucharest police precinct 22 who allegedly beat two persons.

ACCEPT, an NGO fostering rights for lesbian, gay, bisexual, and transgender (LGBT) persons, complained that police singled out LGBT community members for violence and harassment (see section 6).

In 2008 the European Court on Human Rights (ECHR) issued judgments that found seven violations by the country of the prohibition of inhuman or degrading treatment under the European Convention on Human Rights.

#### Prison and Detention Center Conditions

Prison conditions remained harsh and generally did not meet international standards. The government permitted monitoring visits by independent human rights observers and such visits occurred during the year. During the year authorities improved conditions in some prisons.

At the end of December, according to the Ministry of Justice, National Administration of Penitentiaries, there were 26,750 persons, including 470 minors, in prison or juvenile detention facilities in a system with a stated capacity of 33,951. Although overcrowding did not represent a serious problem overall, there were prisons where the standard of 43 square feet per prisoner, recommended by the Council of Europe's Committee for the Prevention of Torture (CPT), was not observed. APADOR-CH called for the adoption of legislation to make this recommendation mandatory.

During the year APADOR-CH visited several prisons, including some it had visited in previous years, and noted that, despite some improvements, in many cases conditions continued to be poor. Sanitation and hygiene in prisons did not meet international standards. Medical facilities were not sufficient to care for all prisoners and detainees, and access to health care was limited by a lack of doctors. Heating and hot water were not available in several facilities, mattresses were old and rotten, and lighting was poor. In many penitentiaries prisoners complained about the insufficient availability of medications and medical treatment.

APADOR-CH reported that prison meals did not provide the minimum necessary calories, water at some prisons was unsuitable for drinking and in many facilities the kitchens were infested with mold. APADOR-CH also stated that daily activities, work opportunities, and educational programs continued to be insufficient. The government continued efforts, including partnerships with NGOs, to alleviate harsh conditions, improve the condition of detention rooms, provide more daily activities, training courses, and educational programs available to prisoners, and deter the spread of HIV and tuberculosis. However, programs to prevent the spread of HIV, sexually-transmitted and infectious diseases were scarce. In September the representative for Romania of the World Health Organization (WHO) declared that the tuberculosis control program was successfully implemented in penitentiaries, and the percentage of prisoners suffering from tuberculosis decreased to 2 percent. Most of the prisons visited by APADOR-CH had improved the conditions of confidentiality of discussions between prisoners and their lawyers.

Media and human rights organizations reported that the abuse of prisoners by authorities and other prisoners continued to be a problem. According to media and NGO reports, prisoners frequently assaulted and abused their fellow inmates, and prison authorities tried to cover up such incidents. During the year media reported such cases in the penitentiaries in Codlea, where fights among prisoners took place and a prisoner was killed by his cellmate in May, and Poarta Alba, where a prisoner was killed by another prisoner in April. There were media reports that two prison guards stole meat from the prisoners' rations in Jilava prison.

There were no developments reported regarding a June 2008 visit by APADOR-CH and the Center for Legal Resources (CRJ) representatives and a 2007 visit by the justice minister to the Aiud penitentiary, which revealed low food quality, poor hygiene in detention areas, inadequate medical assistance, and inmates who were not aware of the educational programs available to them in prison.

There were no developments in the 2007 death of a prisoner in the Rahova prison hospital in which APADOR-CH asserted that medical negligence may have played a role.

APADOR-CH continued to call for the establishment of a joint medical commission of the Ministries of Justice and Health to investigate the causes of deaths in prisons.

According to APADOR-CH, the practice of labeling certain prisoners as "dangerous" remained a problem in the absence of clear standards for such classification. Prisoners labeled dangerous were subjected to a variety of restrictions beyond those experienced by the general prison population and had no right to appeal that determination. NGOs also criticized the practice of subjecting prisoners to multiple punishments for a single act of misbehavior.

APADOR-CH continued to criticize the conditions in police detention facilities, noting poor sanitation conditions, surveillance equipment in detention rooms, lack of natural light, and the absence of activities for those detained.

Many police detention facilities and some prisons did not provide for the confidentiality of discussions between prisoners or detainees and their lawyers in person or via telephone.

The government permitted prison visits by human rights observers, foreign government officials, and media representatives, and such visits took place during the year.

Regulations for religious assistance in prisons allow unrestricted access of all religious groups to prisoners. Orthodox priests no longer attended meetings between representatives of other faiths and prisoners.

#### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally respected these prohibitions.

#### Role of the Police and Security Apparatus

The Ministry of the Interior and Administration is responsible for the national police, the gendarmerie, and the border police; the Office for Immigration; the General Directorate of Information and Internal Protection, which oversees the collection of intelligence on organized crime and corruption; and the General Anticorruption Directorate. The national police agency is the Inspectorate General of Police, which is divided into specialized directorates and has 42 regional directorates for counties and the city of Bucharest. The internal intelligence service also collects information on major organized crime, major economic crimes, and corruption. As of March the Special Protection and Intervention Group is subordinated to the Gendarmerie.

While police generally followed the law and internal procedures, police corruption remained a significant reason for citizens' lack of respect for the police and led to a corresponding disregard for police authority. Low salaries and the absence of incentives and bonuses led to personnel shortages and contributed to the susceptibility of individual law enforcement officials to bribes. Instances of high-level corruption were referred to the National Anticorruption Directorate, which continued to publicize its anticorruption telephone hot line to generate prosecutorial leads for corruption within the police.

Police impunity remained a problem. Complaints of police misconduct were handled by the internal disciplinary councils of the units where the reported officers worked.

During the first 11 months of year, there were 131 complaints against the police for human rights violations, of which 80 were submitted to the prosecutor's office and 51 to the police. Of the latter, 29 cases were submitted to the prosecutor's office for further investigation, 14 were closed for lack of evidence, and eight cases were under investigation for misconduct. During the same period, 167 police officers were under investigation for human rights violations: 83 for abuse in the line of duty; 69 for abusive behavior; 13 for illegal arrest and abusive investigation, two for causing fatal injuries. During the same period, there were 13 complaints of human rights violations against the gendarmerie: nine were under criminal investigation, two cases were closed and the gendarmes were cleared of criminal charges, and in two cases the gendarmes were cleared of criminal charges but received administrative fines.

Police reform continued during the year. The police increased hiring of women and minorities. According to police statistics, 10.5 percent of the 59,195 total police force were female police officers and 1.1 percent represented members of ethnic minorities as of January. Police also used Romani mediators to facilitate communication between Roma and the authorities and assist in crisis situations.

#### Arrest Procedures and Treatment While in Detention

The law provides that only judges may issue detention and search warrants, and the government generally respected this provision in practice. The law requires authorities to inform detainees at the time of arrest of the charges against them and their legal rights. Police must notify detainees of their rights in a language they understand before obtaining a statement. Detainees must be brought before a court within 24 hours of arrest. The law provides for pretrial release at the discretion of the court. A bail system also exists; however, it was seldom used in practice. Detainees have a right to counsel and generally had prompt access to counsel and to their families. Indigent detainees were provided legal counsel at public expense.

The law allows police to take any person who endangers the public, other persons, or the social order to a police station. There were allegations that police often used this provision to detain persons for up to 24 hours. APADOR-CH repeatedly criticized this provision, stating that it leaves room for abuse. Human rights NGOs complained that the authorities were frequently able to listen to discussions between detainees and their attorneys in police detention facilities

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

In 2008 the ECHR issued judgments that found 17 violations by the country of the right to liberty and security as provided by the European Convention on Human Rights.

#### Amnesty

During the year President Basescu issued pardons to six mothers (each with four to nine children) and to four persons for medical or age-related reasons.

#### e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice. However, the judiciary lacked the public's trust that judges were accountable and did not serve political or financial interests. There was a widespread public perception that the judiciary was corrupt, slow, and often unfair.

The law establishes a four-tier legal system composed of lower courts (judecatorie), intermediate courts (tribunals), appellate courts, and the High Court of Cassation and Justice. There is a separate Constitutional Court composed of nine members who are limited to a single nine-year term. The **president**, the **Senate**, and the **Chamber of Deputies** appoint three members each. The Constitutional Court validates electoral results and makes decisions regarding the constitutionality of laws, treaties, ordinances, and internal rules of the parliament. A prosecutor's office is associated with each court. The court having original jurisdiction over a case is determined by the nature of the offense and by the position a defendant may hold in public service. According to a European Commission report released in July, judicial reforms "have not yet taken firmly root and shortcomings persist." The commission also criticized the fact that "the jurisprudence of the Romanian judiciary is contradictory, generating undue delays."

NGOs and public officials frequently criticized the judicial system during the year. One cause was the failure of the judiciary's oversight body, the Superior Council of Magistrates (CSM), to create procedures for addressing potential conflicts of interest among its members. The CSM's practice of delegating magistrates to nonjudicial positions within the judiciary and appointing them to various government agencies also contributed to depleting the already understaffed courts and prosecutors' offices. The European Commission report mentioned the adoption of a new human resource strategy for the judiciary and that "some steps have been taken as regards the staffing situation in courts and prosecutors' offices at local level," stressing, however, that "further improvements" were necessary. The general prosecutor criticized the High Court of Cassation and Justice for frequently returning case files to prosecutors for additional investigation rather than ruling on the case as presented. Such requests contributed to frequent delays in court procedures, increasing the chances of political interference. Observers also expressed concern over a lack of judicial impartiality, since some members of parliament continued to practice as defense attorneys, both personally and through their law firm associates.

In 2008 the ECHR issued judgments that found 77 violations by the country of the right to a fair trial, 25 violations by the country involving length of proceedings, and two violations of the right to an effective remedy as provided by the European Convention on Human Rights.

#### Trial Procedures

Trials are open to the public. The law does not provide for trial by jury. The law provides for the right to counsel and a presumption of innocence until a final judgment by a court. The law requires that the government provide an attorney to juveniles in criminal cases; in practice, local bar associations provided attorneys to indigents and were compensated by the Ministry of Justice. Defendants have the right to be present at trial, to consult with an attorney in a timely manner, to confront or question witnesses against them, to have a court-appointed interpreter, and to present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Both prosecutors and defendants have a right of appeal.

The law provides for the investigation by civilian prosecutors of crimes by the national police and prison employees. Military prosecutors continued to try cases that involved "state security" involving military personnel. Other cases involving "state security" but not military personnel were tried by civilian prosecutors; military courts do not try civilians according to the law. Crimes by the gendarmerie continued to fall under military jurisdiction. In previous years, local and international human rights groups criticized the handling of cases by military courts, claiming that military prosecutors' investigations were unnecessarily lengthy, biased, and often inconclusive. Some lawyers claimed that these investigations only served to discredit the reputations of their clients rather than hold them accountable for any actual wrongdoing. The law extends the rights to a fair trial to all citizens.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

### Civil Judicial Procedures and Remedies

Civil courts functioned in every jurisdiction. Civil courts do not use a jury and function in a similar fashion as the criminal courts. Crime victims can assert civil remedies in either civil courts or criminal courts if they choose, which could result in a combined civil/criminal trial to resolve all issues arising from the criminal case. The Ministry of Justice administers civil courts and the CSM oversees the magistrates. Civil courts operated with the same degree of judicial independence as criminal courts.

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

Administrative and judicial remedies were available for violations of civil rights by government agencies.

### Property Restitution

The law allows for property restitution and establishes fines for officials who hinder the process. The law provides for a Property Fund of approximately 14 billion lei (\$4.8 billion) to compensate owners of properties that cannot be returned in kind. Because of this delay, the Fund was not yet listed on the stock exchange, meaning shares were not traded on the stock exchange, but on the gray market at artificially low prices. A government ordinance provides for cash payments in lieu of restitution of up to about 500,000 lei (\$173,000), paid over a two-year period. Claims in excess of this amount are to be paid with shares in the property fund. The restitution process continued to be very slow during the year, and the large majority of restitution cases remained unresolved.

Former owners' organizations continued to assert that inertia hindered property restitution at the local level. In some cases local government officials continued to delay or refuse to provide necessary documents to former owners filing claims. They also refused to return properties in which county or municipal governments had an interest.

In February a law came into effect that amended the nationalized houses law so as to bar the restitution of houses that were bought by tenants in good faith.

The ECHR ruled in favor of the former owners in a large number of restitution cases, which represented the majority of applications to the ECHR from the country. In 2008 the ECHR issued judgments that found 129 violations by the country involving the protection of property under the European Convention on Human Rights. In April the Council of Europe released a report which noted that the country does not observe the three-month deadline for paying compensation ordered by the ECHR. According to the report, in 2008 only 5 percent of ECHR-ordered compensation was paid within the three-month time period provided in the court's final judgments.

Of the 201,750 claims filed between 2001 and 2003 for restitution of buildings, by the end of the year 117,442 were resolved: 43,047 were rejected; 7,898 claims qualified for combined measures (i.e., restitution in kind plus compensation in stock from the property fund or in other assets or services); 49,637 claims qualified for restitution in equivalent; and 16,860 claims were resolved by return of the properties in kind.

There were numerous disputes over many churches that the Orthodox Church did not return to the Greek Catholic Church despite court orders to do so.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice. Nevertheless, there was a widespread perception that illegal surveillance still existed.

The law permits the use of electronic interception both in criminal cases and for national security purposes. A judge has to issue a warrant upon request from the prosecutor investigating the case. In exceptional circumstances, when delays in getting the warrant would seriously affect the criminal investigation, prosecutors may begin interception without a judicial warrant. Following this, however, a request for authorization must be submitted within 48 hours. Some human rights NGOs have noted that, under the national security law, a prosecutor may authorize the issuance of a warrant for an initial period of six months, which can be extended indefinitely in three-month increments without judicial approval. There were media reports of electronic interception used outside of these legal parameters.

The lawsuit filed by businessman Dinu Patriciu against the Romanian Intelligence Service (SRI) for illegally tapping his telephones continued. In 2007 the Bucharest Tribunal ordered the SRI to pay Patriciu 50,000 lei (\$17,300) in compensation, and the ruling was upheld on appeal. The SRI appealed the ruling to the High Court of Cassation and Justice and a decision was pending at the year's end.

According to Romani CRISS and media reports, evictions of members of the Romani community continued to occur in Bucharest, Cluj, and other localities during the year.

On June 25, 13 Romani families were evicted by gendarmes from a building in Cluj that was restituted to the rightful owner.

On August 26, the mayor's office of Bucharest Sector 2 evicted 42 Romani who were illegally living in a building in the sector.

In 2008 the ECHR issued judgments that found seven violations by the country of the right to respect for family and private life as provided by the European Convention on Human Rights.

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

##### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Journalists and private citizens could criticize government authorities, including those at senior levels. There were isolated cases of authorities intimidating or censoring the press or attacking journalists.

Laws restricting freedom of speech continued to cause concern among the media and NGOs. Insulting state insignia (the coat of arms, national flag, or national anthem) is also an offense punishable by imprisonment; however, there were no reports of prosecutions or convictions under these provisions during the year. The religion law includes a provision that forbids acts of "religious defamation" and "public offense to religious symbols"; there were no reports of prosecutions or convictions under this law's provisions during the year.

The law prohibits denial of the Holocaust in public; however, there were no prosecutions under this statute during the year.

In 2008 the ECHR issued judgments that found two violations by the country of freedom of expression as provided under the European Convention on Human Rights.

The independent media was active and expressed a wide variety of views without restriction. However, politicians and others with close ties to various politicians and political groups either owned or indirectly controlled numerous media outlets outside of the capital, and the news and editorial tone of these outlets frequently reflected the views of the owners. The tendency towards the concentration of national news outlets in the hands of a few wealthy individuals continued.

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

Starting April 6, the press distribution company owned by the mayor of Constanta, Radu Mazare, and the local president of the County Council, Nicusor Constantinescu, blocked the distribution of *Ziua de Constanta* newspaper, which had criticized local authorities.

On June 6, Madalina Radulescu, news director of the state-owned public television channel, TVR 1, threatened producer Doina Georgescu and editor Adriana Gulea with salary cuts and dismissal for refusing to sign off on a news bulletin featuring an election-related interview with a vice president of the Social Democratic Party (PSD). The interview was aired right before the European Parliament elections, in violation of regulations against campaigning the day before elections. TVR's ethics committee found that Radulescu made an incorrect editorial decision and had improperly pressured the two journalists. TVR 1's president—a former PSD secretary general—did not pursue disciplinary action against Radulescu.

On July 28, Tourism Minister Elena Udrea used a threatening tone when she told the editor in chief of the sports daily *Gazeta Sporturilor* that she would "personally take care of him." The editor had disclosed controversial expenses made by the former youth and sports minister who was a member of the same political party as Udrea.

In February the ECHR ruled that the country should pay Petre Mihai Bacanu, the honorary director of the newspaper *Romania Libera*, 8,000 euros (\$11,000) because his rights to freedom of speech and to a fair trial were violated. Domestic courts had ordered in 2003 that Bacanu and *Romania Libera* pay compensation to a former prime minister following *Romania Libera's* publication of several articles critical of a contract he negotiated with a controversial businessman to set up the Romanian Investment Bank.

#### Internet Freedom

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

The Internet was widely available in the country, and costs decreased due to competition. Internet cafes were widely available nationwide. According to International Telecommunication Union statistics for 2008, approximately 29 percent of the country's inhabitants used the Internet.

#### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events; however there were reports that a few local officials interfered with these activities.

In August the mayor of Onesti, Emil Lemnaru, stopped a conference launching a book called *Biometric Dictatorship*, which claimed that the data storage on chips was dangerous for humankind. Human rights NGOs protested, stating that the move violated freedom of expression.

In August a local counselor in Oradea canceled a concert by the rock band God Dethroned, citing citizens' complaints that it would be a Satanic concert.

#### b. Freedom of Peaceful Assembly and Association

##### Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice. The law provides that unarmed citizens can assemble peacefully but states that meetings must not interfere with other economic or social activities and may not be held near locations such as hospitals, airports, or military installations. Organizers of public assemblies must request permits three days in advance, in writing, from the mayor's office of the locality where the gathering would occur.

#### Freedom of Association

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

#### c. Freedom of Religion

The constitution and the law provide for freedom of religion, and the government generally respected this right in practice; however, there were some restrictions, and several minority religious groups continued to claim credibly that government officials and Orthodox clergy impeded their proselytizing and interfered with other religious activities.

Under the religion law, the government implemented a discriminatory three-tiered system of recognition: "grupari religioase" (religious groups that are not legal entities), religious associations, and religions. Grupurile religioase are groups of individuals who share the same faith but do not receive any support from the state or tax exemptions. Religious associations are legal entities that do not receive government funding, have to be registered as such in a religious association registry, and are exempted from taxes only for places of worship. Religious associations must have 300 members from the country and are required to submit members' personal data to register, in contrast to nonreligious associations that can register with only three members. To receive religion status, a religious association must demonstrate 12 years of continuous religious activity and meet a membership threshold of 0.1 percent of the total population (approximately 22,000 members).

The law does not prohibit or punish assembly for peaceful religious activities and, unlike in previous years, minority religious groups did not complain that local authorities or Orthodox priests prevented religious activities from taking place.

Some minority religious groups continued to allege that local authorities in some cases delayed or opposed granting construction permits for unjustified reasons. A Greek Catholic community in Pesteana, established in 2005, continued to claim that it faced discrimination and harassment. Tensions also continued over a lawsuit between the Orthodox and the Greek Catholic Churches regarding the latter's access to the local cemetery. At the end of February, the Appellate Court in Pitesti ruled that the Greek Catholic priest could celebrate religious services in the cemetery only for those who die as Greek Catholic believers and not for any of their relatives who died as members of the Orthodox faith. The Greek Catholic community expressed dissatisfaction with the ruling.

In contrast with previous years, minority religious groups did not report difficulties in obtaining approval to use public halls for religious activities. Minority religious groups reported a reduced number of instances of Orthodox clergy harassing members of other faiths. Several minority religious groups made credible complaints that local police and administrative authorities in some instances appeared to tacitly support societal campaigns against proselytizing. Members of various minority religions continued to report that their charitable programs in children's homes and shelters were perceived as proselytizing directed at adherents of the Orthodox Church.

A Roman Catholic Csango community, an ethnic group that speaks a Hungarian dialect, continued to complain that its members were unable to hold regular religious services in their mother tongue because of the opposition of the Roman Catholic Bishopric of Iasi. On October 17, however, there was progress in addressing these complaints when a mass in the village of Vladnic, Bacau County, was held in three languages (Romanian, Hungarian, and Latin).

Although the religion law entitles religious denominations to bury their believers in other denominations' cemeteries if they lack their own cemetery or a communal (public) cemetery, in numerous communities Orthodox priests reportedly continued to deny permission to the Greek Catholic Church, the Baptist Church, and the Adventist Church to bury their members in either confessional or even some communal cemeteries.

Several religious groups reported that the access of religious groups to detention facilities continued to improve. Regulations for religious activity in prisons provide for unrestricted access of recognized religions and religious associations to any place of detention, even if their assistance is not specifically requested. There were no reports by religious groups of problems with access to detention facilities during the reporting period.

Only the 18 recognized religious groups have the right to teach religion in public schools. To opt out of religion classes, students must submit a request in writing. Some minority recognized religions continued to complain that public schools sometimes refused to offer classes in their religious beliefs and that there were cases of children who were pressured to attend Orthodox religion classes.

A 2006 National Council for Combating Discrimination (CNCD) decision to ask the Ministry of Education to remove religious symbols from school classrooms except where religious classes were taught was not enforced because of several ongoing lawsuits. The Ministry of Education, the Orthodox Church, and several NGOs challenged the CNCD decision. On June 11, the High Court of Cassation ruled in favor of their challenge.

The restitution law permits religious denominations to reclaim previously nationalized properties that housed schools, hospitals, or cultural institutions; however, implementation of the law was slow during the year. Of the 14,716 claims for restitution of religious property since its establishment in 2003, the National Authority for Property Restitution (ANRP) returned 1,417 properties by the end of the year; another 407 cases were approved to receive compensation; 403 claims were rejected.

Property restitution was particularly important for the Greek Catholic Church, whose properties, including churches, were confiscated during the Communist regime. Greek Catholic churches were given to the Orthodox Church after their forced merger in 1948, and many other Greek Catholic Church properties were taken over by the government. Since 2003 the government returned 128 out of 6,723 total properties claimed by the Greek Catholic Church.

The Orthodox Church continued to resist the return of churches it acquired from the Greek Catholic Church. While the law permits the Greek Catholic Church to take court action whenever its dialogue with the Orthodox Church over church restitution fails, lawsuits were lengthy because of delayed hearings and repeated appeals. However, as in recent years, the number of rulings during the year in favor of the Greek Catholic Church reportedly increased.

By year's end the Orthodox Church had returned fewer than 200 of approximately 2,600 churches and monasteries claimed by the Greek Catholic Church. The Orthodox metropolitan of Banat and bishops of Caransebes and Oradea continued to maintain positive relations with the Greek Catholic Church on restitution issues; however, most other Orthodox Church representatives refused to return properties, even when ordered to do so by a court, generating tension in many localities. Because of the failure to get back its churches, the Greek Catholic Church continued in some localities to hold religious services in the open, for example, in Sisesti, Maramures County, where a lawsuit over the former Greek Catholic church has been underway for 16 years.

In April in Sapanta, Maramures County, the Orthodox Church demolished the steeple of a formerly Greek Catholic church now in Orthodox hands. The Orthodox Church announced it was rebuilding the steeple as part of a renovation project partially funded by the Ministry of Culture. A lower court injunction to suspend the demolition and construction works was issued in April and then rejected by the Maramures County tribunal in July.

On October 3, an Orthodox priest set fire to an historic formerly Greek Catholic wooden church built in 1777, in Soconzel, Satu Mare County, allegedly by accidentally throwing a cigarette butt in the dry grass in the church yard.

In Zalau, Salaj County, the Orthodox Bishopric of Salaj refused to hold alternate services with the Greek Catholic Church in the chapel of a hospital. Eventually, the hospital manager offered a separate room to the Greek Catholic Church.

The Orthodox Church continued to demolish Greek Catholic churches under various pretexts and also used other methods to shield churches from restitution. In May 2008 in Ungheni, Mures County, the Orthodox Church began to demolish an 18th-century Greek Catholic church after constructing a new Orthodox structure around the old church. A court injunction obtained by the Greek Catholic Church stopped the demolition, but construction work around the old church continued.

Similar demolition cases occurred in Badon, Salaj County, in 2007.

In September the Orthodox Church resumed pressure for the adoption of legislation that would resolve patrimonial disputes between the Orthodox and Greek Catholic churches in line with the "confessional reality in the country," i.e., by distributing the former Greek Catholic properties based on the percentage of Orthodox versus Greek believers in the particular locality in question. The Greek Catholic Church complained in a communiqué, released on October 5, about the Orthodox Church's hostile attitude over the past 20 years, arguing that the so-called "confessional reality in the country," is the result of over 40 years of communist persecutions and of 20 years of attempts to eliminate the Greek Catholic Church from the religious life. It also accused the Orthodox Church of harassment and misinforming public opinion.

The Greek Catholic Church complained that in Cluj County the authorities delayed the restitution of its land in the localities of Feleacu and Morlaca. Other places where local authorities did not restore former Greek Catholic land include Chiheru de Jos, Maramures County, Rozavlea, Maramures County, Sapanta, Maramures County, Ungheni, Maramures County, Valcau de Sus and Valcau de Jos, Salaj County, Rozavlea, Maramures County, Haieiu, Bihor County, Moisei, Maramures County, Tasnad, Satu-Mare County, Nadar, Bihor County, Salistea de Sus, Maramures County and Borsa, Maramures county. According to members of the Greek Catholic Church, in Budesti, Maramures County, local authorities refused to return farm and forest land to the Greek Catholic Church and proposed instead to give the church land that had belonged to Jewish victims of the Holocaust. The Greek Catholic Church rejected the proposal.

The historical Hungarian churches, including the Hungarian Roman Catholic and the Hungarian Protestant Reformed, Evangelical, and Unitarian churches, received a small number of their confiscated properties from the government. By the end of the year, Hungarian churches had received 870 of the approximately 2,700 properties they claimed under the law on return of religious property. During the year the Hungarian Churches received 64 properties.

In December responsibility for oversight of the Religious Affairs Department was shifted from the Ministry of Culture to the prime minister. Media alleged that the move was the result of the Orthodox Patriarch's direct intervention, following the appointment of an ethnic Hungarian with a different religious affiliation at the helm of the culture ministry. The Orthodox Church denied these assertions.

According to Roman Catholic authorities and media reports, the issue of the 19-story building to be constructed within the protection zone around the Roman Catholic Saint Joseph Cathedral in Bucharest, a designated historical monument,

remained unresolved. The church asserted that construction of the building could damage the cathedral's foundation. In 2007 a court in Dolj County suspended this construction. On June 25, a court of appeal in Ploiesti overturned the ruling, thereby allowing the construction to continue. The decision of the appeals court generated widespread protests by the Roman Catholic Church, which urged authorities to find a solution. In July, the church filed a request at the High Court of Cassation and Justice (ICCJ) to review the case, and the ICCJ sent it to the Ploiesti Court of Appeal. In October the Mayor-General of Bucharest urged the developer to stop construction work and filed a complaint with the Bucharest court, challenging the legality of the concession contracts for the land on which the 19-story building was erected.

#### Societal Abuses and Discrimination

According to the 2002 census, the Jewish population numbered 5,785. Acts of anti-Semitism, including vandalism against Jewish sites, continued during the year. In most cases the Federation of Jewish Communities notified authorities, but perpetrators were often not identified.

The NGO Center for Monitoring Anti-Semitism in Romania (MCA Romania) noted that authorities tended to play down anti-Semitic vandalism, usually attributing the acts to children, drunks, or persons with mental disorders. MCA Romania noted that Jewish establishments appeared to be targets of choice for vandals and asserted that investigations of such acts were not thorough. MCA Romania also criticized the lack of prosecutions as failing to deter future acts.

Between April 12 and 14, 20 tombstones were destroyed in a Jewish cemetery in Botosani. Police named as suspects four students between the ages of 14 and 16, who reportedly acted under the influence of alcohol. The students were still under investigation for desecration of graves at the end of the year.

Unidentified perpetrators painted swastikas and anti-Semitic graffiti on the walls of a building in Bucharest in May and on the fence of a Jewish cemetery in Bucharest in June.

On July 18, at a fashion show at the beach resort of Mamaia, the mayor of Constanta, Radu Mazare, marched on a public stage dressed as a Nazi officer, accompanied by his 15-year-old son dressed as a Nazi soldier. The Federation of Jewish Communities in Romania, the Simon Wiesenthal Center, MCA Romania, the National Antidiscrimination Council (CNCD), and others protested the action. On July 20, MCA Romania filed a complaint with the Prosecutor General's Office against Mazare, since the public display of Nazi symbols is illegal. On July 22, Mazare apologized for his gesture. The Prosecutor General's Office answered a September 24 inquiry by the MCA by saying that the case was in the Prosecutor's Office in Constanta and investigation was in a preliminary stage. On December 3, the MCA requested again an update on the development of the investigation. As of year's end, Mazare was not charged.

There were no reported developments in the October 2008 desecration of 131 gravestones at a Jewish cemetery in Bucharest, in which the police named as suspects four students between the ages of 13 and 15.

In December MCA warned that anti-Semitic, racist, xenophobic, and nationalistic views continued to be distributed via the Internet.

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

Authorities occasionally investigated and prosecuted offenders, but all court cases resulted in acquittals.

During the year publications of the extreme nationalist Greater Romania Party (PRM), headed by Corneliu Vadim Tudor, continued to carry statements and articles containing strong anti-Semitic attacks.

The law prohibits denial of the Holocaust in public; however there were no prosecutions under this statute during the year.

During the year anti-Semitic views and attitudes were expressed on the talk shows of private television stations, which failed to respond to complaints filed by Jewish organizations regarding such views. Extremists continued to publicly deny that the Holocaust occurred in the country or that the country's leader during World War II, Marshal Ion Antonescu, participated in Holocaust atrocities in territory administered by the country.

On January 17, the country's Consulate General in New York City sponsored a seminar at which a well-known Holocaust denier distributed articles he had written denying the Holocaust and containing anti-Semitic statements.

The Elie Wiesel Institute for the Study of the Holocaust in Romania complained to the city council of Bucharest about anti-Semitic events taking place in Bucharest in institutions that fall under the purview of the council. For example, in January the Bucharest History Museum hosted two book launches and a conference at which anti-Semitic and Holocaust denying views were aired. In March a cultural center hosted the launching of a book presenting the views of the Legionnaires, an anti-Semitic group that carried out pogroms against Romanian Jews in the interwar period. The Bucharest city government responded to complaints by stating that the museum merely rented the premises to the sponsors of the events.

The government continued to make progress in its effort to expand education on the history of the Holocaust in the country and included the Holocaust in history courses covering World War II in the seventh through 12th grades.

On various occasions throughout the year, high-level officials continued to make public statements against extremism, anti-Semitism, and xenophobia and criticized Holocaust denial. In January government officials and members of parliament attended and addressed the commemoration of the 1941 pogrom in Bucharest. On October 8, the country commemorated National Holocaust Day with events in several cities, including the president's dedication of a Holocaust memorial in Bucharest.

The law to combat anti-Semitism and prohibit fascist, racist, and xenophobic organizations includes persecution of Roma as well as Jews in its definition of the Holocaust. Approximately 14,000 Roma were killed in the country during that period.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf](http://www.state.gov/g/drl/rls/irf).

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

The law provides for freedom of movement within the country, foreign travel and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons in need of international protection.

The law prohibits forced exile, and the government did not employ it.

#### Protection of Refugees, and Stateless Persons

The country is a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The law on asylum, based on EU legislation, prohibits the expulsion, extradition, or forced return of any asylum seeker at the country's border or from within the country's territory but extends

the application of the exclusion clauses to aliens and stateless persons who planned, facilitated, or participated in terrorist activities as defined by international instruments to which the country is a party.

The law provides for the concept of safe countries of origin, and aliens coming from such countries have their asylum applications processed in an accelerated procedure. Safe countries of origin are considered EU member states as well as other countries that fulfill certain conditions.

In 2008 the government opened an Emergency Transit Center in the city of Timisoara. This is the second facility of its type in the world for the interim receipt of refugees pending processing and final transit to a receiving country. According to the UNHCR, conditions are acceptable.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group or political opinion; however, the UNHCR considered the time limits provided by the law for submitting appeal applications and court procedures to be too short. In 2008 the UNHCR started a program "Quality Initiative," which continued during the year and aimed at improving the quality of decision-making during the asylum procedure. A report, released by the UNHCR in July, revealed that asylum seekers were faced with difficulties in the access to specialized health care, partially because of the lack of interpreters, that social assistance in reception centers, including spare time activities, was insufficient, and that asylum seekers felt they did not receive enough information and legal assistance.

Under the law, refugees and those granted subsidiary protection enjoy equal access to employment, basic services, education, police and courts with citizens. According to an amendment to the citizenship law, those receiving subsidiary protection have to wait for a longer period of time than refugees to acquire citizenship, a provision viewed as discriminatory by the former. The government also has a voluntary repatriation program for refugees and rejected asylum seekers.

According to the Immigration Office, there were 835 applications for asylum and an additional 160 repeat asylum applications during the year. There were no cases of temporary protection to individuals who may not qualify as refugees. However, the government granted a form of protection (refugee status or subsidiary protection) to 94 persons, and "tolerated person" status to 161 persons. (A tolerated person is an alien who no longer has the right to stay in the country, but cannot leave it for objective reasons; tolerated persons have no social-economic rights.) According to the UNHCR, the country hosted 1,596 refugees and 303 asylum seekers at the end of 2008.

#### Stateless Persons

Citizenship is derived at birth by those who have at least one Romanian parent. The law provides for birth registration as a basic right; however, some children were not registered at birth and were rendered de facto stateless by their lack of and inability to obtain identity documents. According to the country's Immigration Office, there were 306 stateless persons of foreign and national origin at the year's end. According to UNHCR statistics, there were 253 persons recognized as stateless in the country at the end of 2008. However, the country has a substantial Romani population, and according to a survey released by the government in August 2008, 1.5 percent of respondents identifying themselves as Roma lacked birth certificates, while other surveys indicated between 1.9 and 6 percent of Roma--lacked identity cards. While some of these stateless persons were born in the country, limited information was available on the nature of this problem.

#### Section 3 Respect for Political Rights: the Right of Citizens to Change Their Government

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

## Elections and Political Participation

On November 22 and December 6, the country held national elections for president. Despite some irregularities, including numerous allegations of vote buying and of multiple voting, the elections were generally judged free and fair. In the second round on December 6, incumbent Traian Basescu defeated challenger Mircea Geoana by 50.33 percent to 49.66 percent of votes cast.

On June 7, the country held elections for the European Parliament that were considered free and fair. Again, there were numerous allegations of irregularities such as vote buying, and analysts lamented that only 27.67 percent of eligible voters cast ballots.

Elections to the Romanian parliament, last held in November 2008, are based on a uninominal voting system. Media, NGOs, and government officials criticized the voting system, which assigns parliamentary seats to party members based on a complex formula, for being too difficult for most voters to understand and for awarding seats to party members who finished second or third in their district.

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

Organizations of ethnic minorities can also field candidates in elections if they meet requirements similar to those for political parties. The law defines "national minorities" as only those ethnic groups represented in the Council of National Minorities. The law requires that the organizations that are not represented in the parliament meet requirements that are more stringent than those of minority groups already represented in parliament. Such organizations must provide the Central Electoral Bureau a list of members equal to at least 15 percent of the total number of persons belonging to that ethnic group according to the most recent census. If 15 percent represents more than 20,000 persons, then at least 20,000 names from at least 15 counties plus the city of Bucharest, with no fewer than 300 persons from each county, must be submitted.

While the law does not restrict women's participation in government or politics, societal attitudes presented a significant barrier. There were 38 women in the 334-seat Chamber of Deputies and eight women in the 137-seat Senate. At year's end there was only one woman in the 17-member cabinet and no women among the prefects (governors) of the 42 counties.

According to the constitution, each recognized ethnic minority is entitled to have one representative in the Chamber of Deputies if the minority's organization cannot obtain the 5 percent of the votes needed to elect deputies outright, but only if the organization in question gets 10 percent of the average number of votes nationwide necessary for a deputy to be elected. Organizations representing 18 minority groups received deputies under this provision. There were 49 members of minorities in the 471 seat parliament, nine in the upper house and 40 in the lower house. At the end of the year, there were four members of minorities (all ethnic Hungarians) in the 17-member cabinet. Ethnicity data was not available for members of the Supreme Court.

Ethnic Hungarians, represented by the Democratic Union of Hungarians in Romania (UDMR) party, were the only ethnic minority to gain parliamentary representation by passing the 5 percent threshold. Only one Romani organization, the Roma Party-Pro Europe, was represented in parliament. Low Romani voter turnout due to lack of awareness, means, or identity cards further exacerbated the situation.

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity.

Authorities' ineffective response to corruption remained a focus of intense public criticism, political debate, and media scrutiny throughout the year. Transparency International noted in its 2009 Corruption Perceptions Index that EU membership had reduced pressure on the government to deal with corruption. NGOs and the media continued to note that no major case of high-level corruption had yet resulted in judgments involving prison sentences. While there were some convictions of lower-level officials for corruption, there were five preliminary rulings and one final ruling, an acquittal, in cases of high-level corruption. The European Commission, in its latest progress report on justice sector reform in July, stated that "the handling of high-level corruption trials by the courts, and in particular the celerity [swiftness] of court proceedings remain problematic." In addition the report stated "the Romanian parliament's procedure of requesting to initiate investigations of former ministers appears to be neither uniform nor swift."

The National Anticorruption Directorate (DNA) was responsible for investigating and prosecuting high-level corruption, including cases involving members of parliament and government officials. Both the head of the DNA and general prosecutor (attorney general) were considered effective. The DNA head was appointed to a second term in February. The general prosecutor was appointed to a second term in October.

The DNA continued its coordination with antifraud units set up within various ministries. The Interior Ministry's Anticorruption General Directorate, which investigates alleged corruption within the ministry, maintained an anticorruption telephone hot line to receive tips regarding corrupt officers from the general public. The Antifraud Department attached to the prime minister's office continued to investigate cases involving the misuse of EU funds. The Ministry of Defense also maintained its own antifraud section. According to the European Commission, the system for allowing individuals to report suspected cases of corruption was neither accessible nor comprehensive, and implementation of rules to protect the confidentiality of whistle blowers was deficient.

There was little progress made in 30 cases filed by the DNA involving former government ministers, deputy ministers, and members of Parliament, some due to the decision of the former parliament to block the investigation and to the dismissal of cases by the High Court of Cassation and Justice, and to the difficult judicial process. Of these, one case was initiated in 2005, nine in 2006, six in 2007, nine in 2008, and five in 2009.

In 2007 the Constitutional Court declared that an ordinance permitting the DNA to initiate criminal investigations against former ministers without presidential or parliamentary authorization was unconstitutional. Such authorization was previously required only prior to investigations against current government members.

In March 2008 the Constitutional Court resolved the dispute between the General Prosecutor's Office and parliament over the specific authorizations that were required for criminal investigations against former and current ministers. The court ruled that parliament must approve investigations against ministers who are sitting members of parliament, while the president would have to approve investigations of ministers who are not serving in parliament. In October 2008 the Constitutional Court lowered the number of votes needed from members of parliament to authorize criminal investigations against cabinet ministers.

The law empowers the National Integrity Agency (ANI) to audit officials' declarations of assets, incompatibilities, and conflicts of interest. The law stipulates that the ANI can identify "unjustified" wealth, meaning that proof of illegal activity is required before an investigation may be initiated. The government amended the ANI law by emergency ordinance the same month it was created, lowering the standard of investigation to proof of unjustified wealth, defined as a change in

assets that cannot be justified based on an official's legitimate sources of income. The ANI is authorized to examine annual asset declarations, but not bank accounts or other assets of individuals without their permission. Anonymous tips of an official's "unjustified" accumulation of assets cannot be used as grounds to initiate investigations, absent a decision by the head of the agency to initiate an ex-officio investigation. Some observers criticized vesting such discretionary authority in a single individual. There were reports that journalists and politicians attempted to influence the ANI president in relation to the conduct of investigations.

The law provides for public access to government information related to official decision making; however, human rights NGOs and the media reported that the law was poorly and unevenly applied. Procedures for releasing information were arduous and varied greatly by public institution. On numerous occasions, NGOs and journalists took cases to court to obtain information.

Although the government ordered the intelligence services to release the files of the Communist-era Securitate intelligence service, the powers of the National College for the Study of Securitate Archives (CNSAS) remained limited because of amendments attached to the CNSAS law in November 2008, which no longer entitled this body to issue verdicts that identify individuals as Securitate collaborators.

There were reports that local authorities occasionally impeded journalists, NGOs, and the general public from accessing public information that could have proved detrimental to select political interests.

#### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. However, there were some problems. After two NGOs, CRJ and Terra Millennium III Foundation, won a joint lawsuit against the Bucharest City government in April 2008 over the legality of a city construction project, the Bucharest mayor's office requested a court in July 2008 to dissolve the NGOs. In October the court ruled in favor of the NGOs.

A 2008 law forbids NGOs to have names that could falsely associate them with authorities or public institutions of national or local interest. Some NGOs, such as the Romanian Academic Society (SAR), claimed that the law was aimed at harassing NGOs unpopular with government officials.

The government cooperated during the year with international governmental organizations and permitted visits by UN representatives and other organizations. During the year there were visits by the UN Special Rapporteur on Human Rights of Migrants (his findings will be included in a report to be released in 2010) and the EU Commission representatives to assess the situation of the judiciary. The latter released two reports (see section 1.e)

The ombudsman's office to protect citizens' constitutional rights had limited power and no authority in cases requiring judicial action. The office handled 6,439 complaints during the first nine months of the year.

The CNCD is an independent governmental agency that is under parliamentary control. By the year's end, the CNCD received 528 public complaints of discrimination and in 14 other cases the CNCD started an investigation ex officio. The CNCD resolved 340 of these complaints by the year's end. Of these cases, 95 involved alleged discrimination on the basis of nationality and ethnicity and eight involved discrimination on religious grounds. The CNCD received 62 complaints regarding discrimination against Roma and started investigation ex officio in four other cases.

The antidiscrimination law provides fines for discriminatory attitudes ranging from 400 to 4,000 lei (\$156-\$1,560) for discrimination against individuals and approximately 600 to 8,000 lei (\$140-\$1,400) for discrimination against groups of persons or communities.

The Ombudsman's Office and CNCD generally operated with the government's cooperation and without government or party interference. However, the CNCD's activity in the last four months of the year was blocked when the Parliament, because of political turmoil, failed to appoint members to CNCD's board. In addition neither agency received adequate resources. In general, the agencies enjoyed public trust. CNCD was generally regarded as effective, while most observers regarded the ombudsman's office as much less effective. Both CNCD and the Ombudsman's Office issue yearly activity reports.

Both chambers of parliament have a human rights committee; since these committees were comprised of political party representatives, their recommendations often reflected parties' views.

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

The law forbids discrimination based on race, gender, disability, ethnicity, language, or social status, among other categories. However, the government did not enforce these prohibitions effectively in some circumstances, and women, Roma, and other minorities were often subject to discrimination and violence.

##### Women

Rape, including spousal rape, is illegal. The prosecution of rape cases was difficult because it required a medical certificate and a witness, and a rapist could avoid punishment if the victim withdrew the complaint. The successful prosecution of spousal rape cases was more difficult because the law requires the victim to personally file a criminal complaint against the abusive spouse and does not permit other parties, such as relatives or support organizations, to file a complaint on the victim's behalf. The law provides for three to 10 years' imprisonment for rape; the sentence increases to five to 18 years if there are aggravated circumstances. According to police statistics, 766 rapes were reported during the first nine months of the year.

Violence against women, including spousal abuse, continued to be a serious problem, and the government did not effectively address it. The law prohibits domestic violence and allows police intervention in such cases; however, the law on domestic violence was difficult to apply because it contradicts the criminal procedures code and does not include provisions for the issuance of restraining orders. NGOs reported that domestic violence was common. According to the National Agency for Family Protection (ANPF), during the first nine months of the year, there were 9,868 reported domestic violence cases: 5,358 cases involved women; 2,191 involved men; the gender was not specified for the rest of the cases. During the same period, there were 77 cases of death as a result of domestic violence. According to a nationwide survey, conducted by the Center for Urban and Rural Sociology (CURS) in 2008, 21.5 percent of women reported being subjected to domestic violence at least once in their life, and 11.1 percent reported domestic violence during the year prior to the survey.

While the criminal code imposes aggravated sanctions for violent offenses committed against family members, the courts prosecuted very few cases of domestic abuse. Many cases were resolved before or during trial when victims dropped their charges or reconciled with the accused abuser. In cases with strong evidence of physical abuse, the court can prohibit the abusive spouse from returning home. The law also permits police to fine the abusive spouse for disturbing public order.

A total of 50 government- and privately-run shelters for victims of abuse provided free accommodation and food for periods of between seven days and three months, and 27 centers provided legal and psychological counseling. There were also two rehabilitation centers, two centers to inform and sensitize the population, and six counseling centers for

perpetrators. However, the centers were insufficient and unevenly distributed, and some parts of the country lacked any kind of assistance.

The ANPF worked in partnership with the Orthodox Diaconia Association to develop a project to counter violence against children, youth and women, as well as to protect victims, and vulnerable groups. The ANPF also concluded a protocol of cooperation with the Adventist ADRA Association to develop joint activities to prevent and stop domestic violence.

Prostitution is illegal but was prevalent. Police generally limited their intervention to fining prostitutes for loitering or disturbing the peace. According to local media, there were anecdotal reports that sex tourism existed in Bucharest and other major cities. The law does not provide punishment for clients of prostitutes unless the prostitute was a minor and the client admitted knowing that fact before the act.

The law prohibits any act of gender discrimination, including sexual harassment; however, public awareness of the problem continued to be low. No effective programs existed to educate the public about sexual harassment.

The law guarantees the right to information, education, and services for reproductive health without any discrimination, as well as the right to access modern family planning methods. Under the law, HIV-infected persons have the right to confidentiality and to access adequate treatment. A 2007 National Health Program includes subprograms regarding increased access to reproductive health services. The same report noted that Roma women had a difficult time accessing reproductive health services. The Ministry of Health provides free-of-charge contraceptives to rural people, students, unemployed, and women who had an abortion in a public hospital. NGOs noted the absence of a national strategy regarding reproductive rights and the lack of sexual education in schools, and also noted the country witnessed a high number of teen pregnancies.

The law grants women and men equal rights, including under family law, property law, and in the judicial system. In practice, the government did not enforce these provisions, and authorities did not pay significant attention or devote resources to women's issues. Women had a higher rate of unemployment than men and occupied few influential positions in the private sector. According to a 2007 Partnership for Equality Center survey, differences between the salaries of women and men continued to exist in most sectors of the economy. The survey indicated the most significant difference in industry, where the salary of men is over 60 percent higher than that of women. Generally, women had lower levels of education and worked in lower-paid jobs.

NGO observers noted Romani women faced both gender and ethnic discrimination. Romani women often lacked the training, marketable skills, or relevant work experience to participate in the formal economy. According to a 2006 Open Society Institute (OSI) report, only 26 percent of Romani women interviewed were part of the workforce. The average monthly income of Romani women surveyed was 106 lei (\$37.)

The Roma Center for Health Policies SASTIPEN reported three cases of Roma women who were denied access to medical services by the same gynecologist at the hospital in Targu Neamt, Neamt County in May, July, and September. The cases were under investigation. Following the submission of complaints by SASTIPEN in September, an investigative commission and the Ethics Council of the Targu Neamt hospital, as well as the Doctors' Council of Neamt County investigated these cases. The investigative commission and the Ethics Council concluded in October that the doctor in question could not be accused of discriminatory acts and that the accusations against him were ungrounded and not backed by evidence. According to SASTIPEN, the two bodies considered only one of the cases and took the statement of the Romani woman while she was hospitalized to give birth, in the presence of three nurses subordinated to the doctor in question. The Romani woman declared in her statement that she was professionally treated by the doctor. Based on this statement, the Doctors' Council decided in October not to investigate the case. SASTIPEN challenged this decision and also filed complaints with the CNCD.

In November SASTIPEN launched, jointly with the Bucharest-based Institute for Public Health, a one-year project to assess the access of Roma to public health care.

The National Agency for Family Protection (ANPF) is responsible for advancing women's concerns and family policies. During the year the ANPF spent 5.963 million leu (\$1.95 million ) for programs to prevent and counter domestic violence for victims and perpetrators.

The law provides female employees reentering the workforce after maternity leave the right to return to the previous or similar position. Government grants helped support mothers, with 24 months of paid leave at 85 percent of the average wage and a monthly allowance for children. A report released in September by the Society of Contraception and Sexual Education (SECS) indicated, however, that on the labor market, pregnant women may suffer unacknowledged discrimination.

#### Children

Citizenship is derived by birth from at least one Romanian parent present in the country or abroad. Birth registration was not universal, and some children were denied public services as a result. The most common reason that some children were not registered at birth was that parents did not declare the child's birth to authorities. This was sometimes because parents lacked identity documents or residence papers or because the birth took place abroad in countries where parents were illegally present. Most such children have access to schools, and authorities assisted in obtaining birth documents for unregistered children. However, the education of such children depended on the decision of school authorities. Undocumented children also faced difficulties in getting access to health care.

Conditions within the schools were often not conducive to learning. Observers noted no differences in the treatment or attendance of boys and girls at the primary, secondary, or post-secondary levels of education.

Boys and girls enjoyed equal access to medical care.

Child abuse and neglect continued to be serious problems, and public awareness of them remained poor. The media reported several severe cases of abuse or neglect in family homes, foster care, and child welfare institutions. According to the National Authority for the Protection of Children's Rights (ANPDC), during the first nine months of the year, child welfare services identified 9,195 cases of child abuse, neglect, and exploitation, resulting in providing rehabilitation services to 5,200 cases, medical services to 371 cases, educational services to 248 cases, and legal assistance to 3,831 cases. Of the 2,395 children who were abused during this period, 293 were separated from the abusive families. However, community-based social services remained unevenly distributed, raising serious concern that children and families lacked access to basic social services. There were also reports of mistreatment and neglect of physically disabled abandoned children in state institutions and of prolonged incarceration for misbehavior within state orphanages.

On June 8, due to the negligence of the employees of a state institution for children in Jucu, Cluj County, in supervising a 12-year-old physically disabled girl, the latter took out the eyes of an 18-year-old paralyzed girl.

In December the government merged the National Authority for the Protection of Children's Rights (ANPDC) with the National Agency for Family Protection (ANPF). The resulting body, the National Authority for the Protection of Family and Children's Rights (ANPFDC), covers both areas.

Trafficking in girls for the purpose of sexual exploitation was a problem, representing 11 percent of females trafficked in the first half of the year. There also were isolated cases of children who prostituted themselves for survival without third-party involvement.

The Criminal Code stipulates three to 10-year jail sentences for sexual acts with minors under the age of 15. The age for consensual sex is 15 years. The display, selling, dissemination, renting, distribution and production of child pornography is punishable by five to 10 years in jail and, if coercion is used, by 15 to 20 years in jail.

While the law protects children from abuse and neglect, the government has not established a mechanism to identify and treat abused and neglected children and their families. The abandonment of children in maternity hospitals remained a problem, with 1,077 left in hospitals by their parents in the first nine months of the year, according to official statistics. According to the ANPCD, about 1,700 children were abandoned each year.

NGOs claimed the official statistics did not accurately account for many abandoned children and that many children living in state institutions were never officially recognized as abandoned.

In May the country adopted the common European telephone number 116-000 for reporting missing children, implementing a 2007 European Commission decision.

The legal age of marriage is 18, but girls as young as 15 may marry in certain circumstances. Illegal child marriage was common within certain social groups, particularly the Roma. There was no estimate regarding the extent of the practice, and information about individual cases surfaced only from time to time in the media.

According to ANPCD, at the end of September there were 916 homeless children nationwide. NGOs working with homeless children believed there were two or three times that number. NGOs noted that the number decreased only because the children have grown up, but that the individuals remained on the streets.

#### Trafficking in Persons

The law prohibits all forms of trafficking; however, trafficking in persons continued to be a serious problem. The law defines trafficking as the use of coercion, including fraud or misrepresentation, to recruit, transport, harbor, or receive persons for exploitation, including slavery, forced labor, prostitution, being a subject in pornography, organ theft, or other conditions that violate human rights. For minors under the age of 18, it is not necessary to prove coercion.

The country was a point of both origin and transit for trafficking in persons. While the majority of trafficking cases involved international trafficking between the country and Western Europe, particularly Italy and Spain, cases of domestic trafficking were also reported. Victims were trafficked for labor, sexual exploitation, and forced begging. In the first six months of the year, the government identified 343 victims of trafficking, a smaller number than in the same period of 2008 (1,211), of whom 164 were female, 179 were male. There were 63 minors who were victims of trafficking. For all of 2008 the government reported 1,211 victims of trafficking.

Women between the ages of 16 and 25 were most at risk of becoming victims of trafficking for sexual purposes. Children were more likely to become victims of trafficking if they came from orphanages or single-parent homes or lived in a dysfunctional family environment (e.g., families with financial difficulties, abuse, or alcoholism). During the first half of the year there was an increase of 2 percent in the number of persons trafficked for sexual exploitation and a similar decrease in those trafficked for labor, though overall the number of male victims was higher than that of female victims. Fifty-one percent of the victims, most of them male, came from rural areas and were trafficked mainly for forced labor or begging.

Government officials reported that small groups of citizens were the most common operators of trafficking rings; several domestic prostitution rings were also known to be active in trafficking victims into, through, and from the country. In recent years the number of women and minors involved in trafficking as recruiters has increased; however, the overall number of

trafficking victims has decreased, a trend that continued during the year according to the National Agency against Trafficking in Human Beings (ANITP).

Following the country's entry into the EU in 2007, the vast majority of trafficking victims left the country through legal means, eliminating the need for traffickers to rely on bribing officials to get trafficked persons out of the country. Traffickers used employment agencies and travel companies as fronts for their activities. It was not difficult for traffickers to obtain legal work papers for the victims they intended to traffic. Most women trafficked for sexual exploitation were recruited either by persons they knew or by responding to newspaper advertisements.

The sentencing guideline for convicted traffickers is three to 12 years in prison. The law increases this sentence to five to 15 years for trafficking in minors, for multiple victims, if a victim suffers serious bodily harm or health problems, or if the trafficking is done by a public servant during his or her official duties. A sentence of 15 to 25 years is mandated for trafficking that leads to the death or suicide of the victim. These penalties are increased by two to three years if the trafficker belongs to an organized crime group and by five years if coercion is applied against minors.

ANITP, which has 15 regional centers, was reorganized under the jurisdiction of the National Police, a move heavily criticized by NGOs out of concern the agency would lose its independence. The agency is responsible for collecting all information related to trafficking in persons and coordinating government efforts to combat trafficking and treat trafficking victims. Regional centers coordinated victim/witness cooperation with law enforcement and helped victims access social services. Foreign donors supported training programs on victim/witness coordination offered during the year. Such programs helped victims better negotiate the cumbersome judicial system and led to more frequent convictions of traffickers. However, victims continued to face discrimination from the society at large, especially in small villages, due to cultural biases against women who are victims of trafficking.

During the year the ANITP further developed its national trafficking database to expedite identification of victims and improve victim assistance by implementing new statistics-gathering procedures.

The law requires the government to protect trafficking victims, but implementation of the law remained weak and uneven. Reports of law enforcement officials losing contact with identified victims were common. Some identified victims reportedly chose not to press charges to avoid cumbersome judicial procedures. Although the government trained border police to encourage victims to identify themselves, few victims were willing to do so.

A technical secretariat, established by ANDPC and charged with implementing a national action plan to fight child trafficking and exploitation, carried out activities related to repatriation, protection, and social reintegration of unaccompanied children in difficulty in other countries, regardless of whether such children were victims or offenders. During the year, the country's diplomatic missions reported that 367 unaccompanied children were identified in 20 European countries and the United States, a slight decrease over 2008, when 385 such children were identified. Most of these children were found in Italy and Spain. According to the ANPDC, by the end of the year, 115 of these children had been repatriated. Most of the other children were receiving child welfare services in the countries where they were found.

During the year the government worked with domestic and international NGOs to build public awareness of trafficking risks and to improve the services offered to victims, developing three national awareness campaigns. Officials made public statements during the year about the trafficking problem.

The State Department's annual *Trafficking in Persons Report* can be found at [www.state.gov/q/tip](http://www.state.gov/q/tip).

Persons with Disabilities

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

The law mandates accessibility for persons with disabilities to buildings and public transportation. In practice, the country had few facilities specifically designed for persons with disabilities; however, their number increased during the year.

According to reports by human rights NGOs, the placement, living conditions, and treatment of patients in many psychiatric wards and hospitals did not meet international human rights standards and were below professional norms.

During the year the Center for Legal Resources (CRJ) visited twice (March-April and August-September) 16 state institutions for mentally disabled (psychiatric wards and hospitals) in order to assess the situation of the observance of human rights. As compared to the previous years, the visits revealed a more open and cooperative attitude of the Ministry of Public Health, the public health departments, and the management of the state institutions for mentally disabled, allowing the CRJ's visits and implementing to a varying extent its recommendations. However, the management of some such institutions allowed the visits only with difficulty and failed to implement any of the CRJ's recommendations. The CRJ's findings in most such institutions included: overcrowding; insufficient qualification of institution staff; staff unawareness of the legal provisions regarding such institutions; shortage of staff, shortage of medication; insufficient food; violation of patient privacy; lack of activities; patient neglect; failure to observe patients' human dignity; failure to implement the procedures to resolve the patient complaints; failure to implement the regulations regarding involuntary institutionalizing and informed consent; patient unawareness of rights; ignoring the legal regulations regarding the use of detention and isolation for institutionalized people (e.g., patients were tied to their beds for long periods of time); excessive sedation of patients; poor hygiene conditions, lack of recreational programs.

In September media reported that a patient of the psychiatric ward in Poiana Mare died, allegedly following the ingestion of a disinfectant. The hospital is known for its particularly poor conditions and the death of over 150 patients between 2002 and 2004. Despite repeated criticism and the government's intention to close the ward, the situation in this institution remained more or less the same, according to the CRJ. In December the CRJ filed a complaint with the ECHR regarding the death of five patients in 2004.

In December the BBC broadcast a documentary secretly filmed in several state institutions for the disabled, including a Recovery and Rehabilitation Center in Carpinis, a Social Medical Unit in Ganesti, and an institution in the village of Bolintin, which revealed extremely low living conditions (dirty rooms and beds, severe cold, insufficient food rations and poor food quality), overcrowding, bed-bound sedated patients, shortage of medical staff, social assistants, care-takers, and medical treatment. In response, the government stated that the conditions found by the BBC team were not representative of the care system for people with disabilities and that two of the institutions visited by the BBC would be closed in the next three years.

In a 2007 report, the CRJ documented violations of basic human rights in institutions for children and youth with mental disabilities, including the lack of adequate services, limitations of individual freedom, and placement of children under two years of age without mental disabilities in such institutions.

While the government adopted an action plan regarding persons with mental disabilities in 2005, NGOs asserted that it failed to improve conditions in psychiatric institutions and had not implemented most aspects of the plan. The provision of community based mental health care services remained inadequate.

The CRJ criticized the government for its treatment of children with mental and physical disabilities. Children reportedly were being detained in adult facilities. Some children were kept in permanent restraints, and abuse and neglect were commonplace throughout the country's mental institutions and health-care facilities.

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

#### National/Racial/Ethnic Minorities

Discrimination against Roma continued to be a major concern. Romani groups complained that police brutality, including beatings and harassment, was routine and that societal discrimination was pervasive.

On March 2, the daily *Jurnalul National* initiated a campaign to collect signatures for a legislative proposal to use the pejorative word "gypsy" instead of "Roma" in order to avoid confusing this ethnic group with Romanians. The campaign died out after collecting an insufficient number of signatures to qualify as a legislative proposal.

On April 15, the fans of Dinamo soccer team shouted anti-Roma slogans and displayed anti-Roma banners during a game between Dinamo and Rapid teams. Romani CRISS filed a criminal complaint with the prosecutor's office.

On May 31, in Sanmartin, Harghita County, approximately 400 ethnic-Hungarian residents destroyed houses and cars in the local Roma community. The incident started after Roma beat two Hungarians who found Roma-owned horses grazing on their land. The Roma took refuge in the woods and, three days later, local residents set a Roma house on fire. According to media reports and NGOs, groups of residents continued to threaten Roma for several weeks after the initial incident. During this period, many Roma expressed fear about returning to the village and slept in the woods. Authorities tried to mediate the conflict and drafted a set of rules for future interethnic relations in the locality, but the rules were criticized by human rights and Roma NGOs for including obligations only for the Roma. Authorities also provided no help to the Roma who lived with their children in the woods for several weeks. At the year's end, according to Romani CRISS, the situation of the Roma in Sanmartin remained dismal; most had to sell their horses (their only source of income) as part of the agreement to be allowed to return to their homes. Furthermore, most of the community's Romani children did not attend kindergarten or school.

On July 9, ethnic-Hungarian residents set fire to several stables belonging to the Roma community in Sanraieni, Harghita County, after the police freed a Romani man who had stabbed an ethnic Hungarian. Local authorities also drafted a protocol, to be signed by them and the Roma, which actually represented a set of 11 conditions for the Roma. Romani CRISS protested the manner in which this protocol was imposed on the Roma community.

In July Iulian Urban, the vice president of the Senate's Legal Committee, drafted a similar protocol, including seven conditions for the Roma in Balotesti, Ilfov County, who allegedly had committed many crimes. A series of NGOs issued a letter of protest against the protocol. The CNCD is also investigating a complaint against Urban for posting anti-Roma messages on his blog.

NGOs reported that Roma were denied access to, or refused service in, many public places. On May 23, Romani CRISS organized a test in Craiova, Dolj County, regarding the access of Roma to public places. A group of young Roma was denied access to five of the six bars/clubs they tried to enter.

There were no developments in the investigation of the violent conflict between ethnic Hungarians and Roma in Apata village, Brasov County in 2007, where a group of ethnic Hungarians attacked a Romani neighborhood after having encountered Roma stealing crops from a farm.

In May the government submitted a declaration to the ECHR admitting a series of violations of the European Convention on Human Rights and pledging to grant compensation amounting to approximately 565,000 euros (\$393,800) to 24 Roma affected by mob violence in 1991 at Bolintin Deal. At this locale, a mob burned Roma houses and drove Roma out of the village after a Romani man stabbed and killed a villager.

Media and NGOs criticized the government's implementation of a community development program in Hadareni. The government was to rebuild the houses of Roma destroyed in 1993 when, following a killing committed by a Romani man, a mob killed four Roma and burned 14 homes. NGOs criticized the program's lack of financial transparency and poor management.

The Romani population was estimated at between 1.8 and 2.5 million, although the most recent official census in 2002 reported 535,000 Roma, or 3 percent of the country's population. An August 2008 government survey estimated that the Romani population represented 5.7 percent of the total population, or approximately 1.2 million persons. According to NGOs, prior government figures were low because many Roma either did not reveal their ethnicity or lacked any form of identification.

Roma faced persistent poverty and had poor access to government services, few employment opportunities, high rates of school attrition, inadequate health care, and pervasive discrimination.

According to the 2007 Roma Inclusion Barometer, 23 percent of Roma were illiterate and 95 percent did not complete high school. NGOs and the media reported that discrimination by teachers and other students against Romani students served as an additional disincentive for Romani children to complete their studies. As in prior years, there were reports of Romani children being placed in the back of classrooms, of teachers ignoring Romani students, and of unimpeded bullying of Romani students by other schoolchildren. In some communities, authorities placed Romani students in separate classrooms from other students or in separate schools. During the year Romani CRISS continued to monitor the implementation of a 2007 Ministry of Education order forbidding segregation of Romani students and identified school segregation cases in Albeni, Corabia, Cugir, and Polovraci. The NGO also filed complaints with the CNCD in a case in Magheru, identified in the previous year, where a kindergarten teacher refused to enroll the twins of a Romani woman for several years. In December Romani CRISS launched the project "We don't want monocultural education anymore," which will include 90 schools where students, parents, and the teaching staff will participate in inter-cultural activities. The NGO Ovidiu Rom worked to assist and encourage Romani children with the school enrollment process. The NGO also continued its national public awareness campaign "scoala te face mare" ("school makes you great") to promote the importance of school enrollment to families and children.

With regard to access to health care, Romani CRISS filed a complaint against a family doctor in the village of Vartop. The doctor allegedly refused repeatedly to treat Roma patients, or treated them superficially.

Romani CRISS mentioned that in the maternity wards in Cluj and Galati there were instances when the hospital employees wrote "gypsy" in the children's birth certificate under the rubric "nationality of the mother," even though these individuals were Romanian citizens. Romani CRISS filed complaints with the CNCD.

According to a 2007 Open Society Institute (OSI) report, ethnic Roma were five times as likely as members of the majority population to live below the poverty line. The OSI also estimated that approximately 60 percent of Roma lived segregated from the majority population in communities with substandard housing and without basic governmental services, such as schools, adequate health care, running water, electricity, and waste disposal.

Romani communities were largely excluded from the administrative and legal system. According to OSI research conducted in 2007, 4.9 percent of Roma lacked a birth certificate. Among non-Roma citizens, fewer than 1 percent lacked a birth certificate. Similarly, surveys in 2007 and 2008 indicated that between 1.9 and 6 percent of Roma lacked identity cards, compared to 1.5 percent of non-Roma. The lack of identity documents excluded Roma from participating in elections, receiving social benefits, accessing health insurance, securing property documents, and participating in the labor market. Roma were also disproportionately unemployed or underemployed.

Stereotypes and use of discriminatory language against Roma were widespread; journalists and even high ranking officials frequently made discriminatory statements.

On November 8, National Liberal Party (PNL) first vice president Ludovic Orban publicly referred to Roma using the pejorative stereotype "gypsies," implying inferior people. The PNL president disassociated himself from Orban's statement. Several Romani and Human Rights NGOs filed a complaint with the CNCD.

The government program to identify Roma without birth certificates or identification documents and help them obtain such documents ended because of lack of funding. Romani CRISS continued to offer limited support to such cases. Some NGOs criticized the government for inadequate and ineffective government assistance to the Roma.

The government considered ethnic Hungarians to be the largest ethnic minority, constituting 1.4 million persons according to the 2002 census. In the Moldavia region, where the Roman Catholic Hungarian-speaking Csango minority resided, the community continued to operate government-funded Hungarian language school groups; 962 students in 14 localities received Hungarian-language classes during the 2009-10 academic year. Representatives of this ethnic group complained that the School Inspectorate of Bacau County rejected requests for Hungarian language classes in two other localities.

In January the Association of Magyar Csangos from Moldavia withdrew the discrimination complaint it filed in May 2008 against the local priests in the village of Cleja, stating that the issue had been amicably settled.

The Ukrainian minority, which resides in the northern part of the country and represents 0.3 percent of the population, complained about the danger of being assimilated because of the insufficient number of school classes in the Ukrainian language. They attributed the lack of language instruction to the shortage of funding and of specialized teaching staff. Some school directors opposed the establishment of such school departments.

A 2007 study by the Institute of Public Policies and Romani CRISS identified the potential danger of online discrimination and hate speech, directed mainly against Roma and homosexuals, in discussion forums of four national dailies. On-line discrimination and hate speech continued to exist in discussion forums during the year.

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

The law prohibits discrimination based on sexual orientation; however, NGOs reported that police abuse and societal discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons was common and that open hostility prevented the reporting of some harassment and discrimination. Members of the gay and lesbian community continued to voice concerns about discrimination in public education and the health care system. The government in its May 2008 statement before the Universal Periodic Review at the UN Human Rights Council stated that LGBT persons faced prejudice and discrimination. ACCEPT, an NGO supporting gay and lesbian rights, reported that the number of complaints by members of their community about harassment of gay men by authorities increased during the year. Several members reported that police and gendarmerie raids took place in public places known as meeting areas for gay men, and that police behavior was abusive. These raids mostly occurred in public parks, with police or gendarmes asking all men to

show their identification, questioning them about the reason for their presence, making offensive comments regarding homosexuality, and threatening to arrest them. In most cases, the police officers or gendarmes fined those they encountered at these locations for allegedly committing obscene acts.

On February 26, unidentified people beat and cut the hair of a transgender person in Bucharest. On March 17, taxi drivers reportedly verbally abused the same person.

There were two officially-registered LGBT organizations, ACCEPT and LGBTeam. Other LGBT groups lacked legal status; these groups generally kept a low public profile. There were no reports of impediments to LGBT groups' activities.

On May 23, approximately 300 persons participated in the annual "march of diversity" gay pride parade in Bucharest. Local authorities mobilized hundreds of police to protect the participants, and the parade ended without violent incidents. There were some claims that individuals who wanted to participate in or watch the parade were discouraged from doing so because of the police barricades. Meanwhile, the "New Right," a neofascist group opposed to homosexuality and claiming Christian orientation, sponsored a "march for normalcy" antigay rally on the same day as the march for diversity, but at a different time and location, and chanted virulent antigay slogans. On the previous day, a number of NGOs organized a "march for the family," ostensibly to oppose the gay pride march.

There were no developments in the investigation of the violent incidents that took place at gay parades in previous years.

A number of young men in police detention reported that police failed to protect them effectively from violence and harassment from other inmates who perceived them as being homosexual.

In 2007 a Bucharest court ruled in favor of a person who accused a company of discrimination in access to services on grounds of sexual orientation. The person withdrew a prior complaint he filed with the CNCD.

#### Other Societal Violence or Discrimination

Discrimination against persons with HIV/AIDS impeded access to routine medical and dental care, and authorities rarely enforced laws prohibiting this form of discrimination. Breaches of confidentiality involving individuals' HIV status were common and rarely punished.

Observers noted widespread discrimination faced by children with HIV/AIDS and authorities' failure to protect them from discrimination, abuse, and neglect. Doctors reportedly often refused to treat children and youths with HIV/AIDS. Medical personnel, school officials, and government employees did not maintain confidentiality of information about the children, which caused the children and families to be denied services such as schooling. In some situations children and their parents were threatened by parents of other children to keep them out of school. There were also reports that children without any mental disability were placed in centers for children with mental disabilities because they were HIV-positive.

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

APADOR-CH criticized the National Administration of Penitentiaries for transferring all prisoners with HIV/AIDS, including those who are HIV-positive and did not require specific treatment, to the penitentiary hospital of Jilava and labeled this measure discriminatory and against EU standards.

In September an NGO filed a complaint with the Doctors' Council in Iasi against a doctor who refused to issue a document required to assign a place in a student hostel to an HIV-positive student, arguing the risk of contamination.

## Section 7 Worker Rights

### a. The Right of Association

All workers, except certain public employees, have the constitutional right to associate freely and to form and join independent labor unions without prior authorization, and they freely exercised this right. However, employees of the Ministry of National Defense, most employees of the Ministry of Interior and Administration, most employees of the Ministry of Justice, prison personnel, and intelligence personnel were not allowed to unionize. The majority of workers belonged to one of the five main national trade union confederations. Approximately 40 to 50 percent of the workforce was unionized; however, that number continued to decline.

The right to form unions was generally respected in practice, and many employers created enterprise-friendly unions. Union officials stated that union registration requirements stipulated by law were complicated but generally reasonable. However, unions objected to the requirement that they submit lists of prospective union members with their registration application. Since employers also had access to this list, union officials feared that this could lead to reprisals against individual employees, hindering the formation of new unions.

The law allows unions to conduct their activities without interference, and the government protected this right in practice. Unlike in previous years, there were no reports of government interference in labor negotiations, trade union activities, collective bargaining, or strikes.

While the law permits strikes by all workers except judges, prosecutors, some justice ministry staff, and employees of the intelligence service and the Ministries of National Defense and Internal Affairs, lengthy and cumbersome requirements made it difficult to hold strikes legally. Unions may strike only if all arbitration efforts have failed and if employers have been given 48 hours' notice. Unions complained that they must submit their grievances to government-sponsored arbitration before initiating a strike and that the courts had a propensity to declare strikes illegal. Companies may claim damages from strike organizers if a court deems a strike illegal.

### b. The Right to Organize and Bargain Collectively

The law provides workers the right to bargain collectively, but government control of many industrial enterprises and the absence of independent management representatives at these entities hindered collective bargaining. Only enterprises employing more than 21 persons can negotiate collective agreements. Approximately 80 percent of the workforce was covered by collective labor contracts at the branch and unit levels. The main employers' associations, trade unions, and the government concluded a national collective labor contract for 2007–2010. However, contracts resulting from collective bargaining were not consistently enforced. National collective labor contracts are negotiated every four years. The wages of public employees were guided by a minimum wage stipulated by law and a pay scale specific to each ministry that was based on that ministry's annual budget.

The law has specific provisions against antiunion discrimination, which were generally respected. However, the International Trade Union Council (ITUC) reported that some companies, including foreign companies, employed tactics such as spreading antiunion propaganda, intimidating trade union members, and making employment conditional on a workers' agreement not to join a union.

There are no exemptions from regular labor laws in the country's six free-trade zones and 31 disadvantaged zones.

### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Persons, primarily women and children from Romania, Moldova, Colombia, and France, were trafficked within and to the country for forced prostitution, begging, and petty theft.

#### d. Prohibition of Child Labor and Minimum Age for Employment

There are laws to protect children from exploitation in the workplace; however, the government did not consistently enforce them in practice. Child labor and child trafficking remained problems.

The minimum age for employment is 16 years, but children may work with the consent of parents or guardians at age 15. Minors are prohibited from working in hazardous conditions. On July 29, a law on the prohibition of hazardous child labor was approved. The law provides a basis for the elimination of hazardous work for children and includes a list of dangerous work and sanctions for offenders. Parents whose children carry out hazardous activities are required to attend parental education programs or counseling and can be fined between 100 and 1,000 lei (\$34 to \$340) for failure to do so. Persons who employ children for hazardous tasks can be fined between 500 and 1,500 lei (\$172 to \$517). Minors over the age of 15 who are enrolled in school are also prohibited from performing activities included on a list approved in 2007 pursuant to an EU directive. Children under the age of 16 who work have the right to continue their education, and the law obliges employers to assist in this regard. Children aged 15 to 18 may work no more than six hours per day and no more than 30 hours per week, provided that their school attendance is not affected. In practice, however, reports indicated that many children did not attend school while working. Minors cannot work overtime or during the night, and they have the right to an additional three days of annual leave.

Child labor, including begging, selling trinkets on the street, and washing windshields, remained widespread in Romani communities, especially in urban areas. Children engaged in such activities were as young as five.

The National Authority for the Protection of Children's Rights (ANPCD), under the Ministry of Labor, Family, and Equal Opportunities, has the lead role in monitoring and coordinating all programs for the prevention and elimination of the worst forms of child labor. There were 925 confirmed cases of child labor reported in 2008, 544 of these were in urban areas and 381 in rural areas; 417 were girls and 508 were boys; 65.3% of the victims were under 14 years of age and 34.7 % between 15 and 18. The confirmed cases involved bonded labor (42 cases) begging (559), victims of domestic trafficking (28), victims of external trafficking (43), work without a labor contract (68), forced labor (32), prostitution (42), pornography (3) and other illicit activities (67). At the end of the first quarter of 2009, there were 415 confirmed cases of child labor, 257 in urban areas and 158 in rural areas. The cases involved 174 girls and 241 boys; 312 were under 14 and 103 were between the ages of 15 and 18.

The ANPCD can impose fines and close factories for child labor exploitation. Enforcement tended to be lax except in extreme cases, despite what appeared to be clear cases of child labor, and there were no reports of anyone being charged or convicted during the year under the child labor laws. Employers who violated child labor laws were generally fined; in practice, judges did not consider violations of the child labor law to be crimes.

The law requires schools to immediately notify social services of children missing classes to work. Social services are authorized to work with schools to reintegrate such children into the educational system. The government conducted information campaigns to raise awareness among children, potential employers, and the general public. The government also made considerable progress in establishing mechanisms to gather information and monitor child labor trends.

#### e. Acceptable Conditions of Work

Beginning in January, the gross minimum wage was 600 lei (\$207) for a full-time schedule of 170 hours per month, or approximately 3.75 lei (\$1.29) per hour. The minimum wage for skilled workers was 20 percent higher. The minimum wage is negotiated by unions, the Government of Romania (Ministry of Labor, Family, and Equal Opportunities), and employers' associations every year. The minimum monthly wage did not provide a decent standard of living for a worker and family.

Criteria for calculating the minimum wage are based on the average salary rather than in relation to the minimum basket of consumption.

Minimum wage rates were generally observed and enforced by the Ministry of Labor, Family, and Equal Opportunities. In practice, many employers paid supplemental salaries under the table to reduce both the employee's and employer's tax burdens. However, this practice negatively affected employees' future pensions and their ability to obtain commercial credit.

The law provides for a standard workweek of 40 hours or five days. Overtime is to be paid for weekend or holiday work, or work in excess of 40 hours, which may not exceed 48 hours per week averaged over one month. The law requires a 24-hour rest period in the workweek, although most workers received two days off per week. The Ministry of Labor, Family, and Equal Opportunities effectively enforced these standards. Union leaders complained that overtime violations were the main problem facing their members, as employees were often required to work more than the legal maximum number of hours and overtime compensation required by law was not always paid. This was especially prevalent in the textile, banking and finance, and construction sectors. Union officials alleged that a majority of on the job accidents occurred during such compulsory, uncompensated overtime.

The law provides penalties for work performed without a labor contract in both the formal and informal sectors of the economy. Employers who use illegal labor may be jailed or fined up to 100,000 lei (\$34,500).

The Ministry of Labor, Family, and Equal Opportunities is responsible for establishing and enforcing safety standards for most industries but lacked trained personnel to do so effectively. Employers often ignored the ministry's recommendations, which were usually only applied after an accident occurred. Workers had the right to refuse dangerous work but seldom invoked it in practice.