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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Report submitted by the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health, Paul Hunt

Addendum

MISSION TO ROMANIA* **

* The summary of this document is being circulated in all languages. The report which is annexed to the summary, is being circulated in the language of submission and in French only.

** The present report is submitted late so as to include as much up-to-date information as possible.

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Summary

During his visit to Romania from 23 to 27 August 2004, the Special Rapporteur held meetings with government representatives, civil society organizations, health professionals, and bilateral and multilateral agencies. He visited medical facilities - and communities - in Bucharest and in rural areas.

The Special Rapporteur recognizes Romania's contemporary context of transition and pending accession to the European Union, which has created - and will continue to generate - opportunities for development, as well as challenges.

While data show a significant improvement in some health indicators in recent years, they also reveal persisting inequalities between groups in Romania. In the context of Central and Eastern Europe, some health indicators are weak.

Recently, the Government has adopted important health-related laws and policies. However, key challenges remain, including: effective implementation; low budgetary allocations in health; corruption; weak participation of civil society in health-related decision-making processes; and accountability.

Section I of this report outlines the context of transition in Romania and section II signals the relevant national and international legal frameworks. Section III gives attention to participation, access to information, accountability and health professionals - all play an important role in empowering the population to enjoy their right to health. Section IV focuses on financing of health care, including budgetary allocations and personal contributions - including unofficial fees that are often expected of health system users. Section V gives attention to some specific issues: sexual and reproductive health; HIV/AIDS; tuberculosis; mental health care; environmental health; and Roma.

The Special Rapporteur makes numerous recommendations throughout the report.

Annex

REPORT OF THE SPECIAL RAPPORTEUR ON THE RIGHT OF EVERYONE TO THE HIGHEST ATTAINABLE STANDARD OF PHYSICAL AND MENTAL HEALTH, PAUL HUNT, ON HIS MISSION TO ROMANIA (23-27 August 2004)

CONTENTS

Introduction

1. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health ("the right to health") visited Romania from 23 to 27 August 2004 in order to understand how Romania endeavours to implement the right to health, the measures taken for its successful realization and the obstacles encountered, both at the national and international level. The objective of the mission was to assist the Government - and other actors - in their efforts to address the challenges and obstacles to the realization of the right to health. The agenda for the Special Rapporteur's visit was coordinated by the Ministry of Health, in close cooperation with the United Nations Country Team, in particular the Inter-Agency Support Unit, the United Nations Development Programme and the World Health Organization liaison office in Romania. The Special Rapporteur is grateful for the excellent cooperation and assistance he received at every stage.

2. During the mission, the Special Rapporteur met with officials from the Ministry of Health, including the Minister of Health, Dr. Ovidiu Brinzan, the directors of the national health insurance programme and the national drug agency, the national AIDS adviser and the Roma adviser to the Minister of Health. He also met with officials from the Ministries of Justice; Finance; Foreign Affairs; Labour; Social Protection and Family; Development and Prognosis; Environment and Water Management; Economics; Foreign Trade; Administration and Interior. He also met with the National House of Pensions and Other Social Security Rights; the National Authority for Child Protection; and the National Authority for Disabled Persons. He met with advisers to the Prime Minister on health, social inclusion and the Roma community. The Special Rapporteur travelled to the Constanza and Dolj counties, and held meetings with local authorities in both regions. He also met with the Ombudsman's office, the Romanian Bar Association, the National Institute of Magistrates, the General Directorate of Penitentiaries and the Office of the Prosecutor.

3. The Special Rapporteur also met with a number of international organizations and United Nations agencies working in Romania, including WHO, UNDP, the United Nations Children's Fund, Office of the United Nations High Commissioner for Refugees, UNAIDS and the United Nations Population Fund. He met with members of the donor community, including USAID, the Swiss Agency for Development and Cooperation and the World Bank. He held meetings with a number of associations of health professionals, including the Federate Chamber of Physicians. The Special Rapporteur held a round-table discussion with several non-governmental organizations, including associations of people living with HIV/AIDS, mental health advocacy groups, a legal resource centre, associations for the human rights of women, networks for people with disabilities, and groups working to promote the human rights of the Roma. He visited several medical facilities, such as the mental health facilities at Poiana Mare and Vedea, and the Victor Babes hospital and Professor Alexandru Obreja Psychiatry Hospital in Bucharest. He also met with people living in rural areas and Roma communities.

4. This report highlights some of the positive and negative features of Romania's profile in relation to the right to health. There are impressive policies and programmes, which make indispensable contributions to the delivery of the right to health in Romania and provide a foundation for future development.

5. Over the course of his mission, the Special Rapporteur received information about a wide range of health problems and their root causes. The permitted length of this report (10,700 words) does not allow a detailed human rights analysis of all of these problems. Instead, the Special Rapporteur focuses on a few issues of particular concern, as well as some of the promising responses by the Government and other actors. He makes a number of recommendations throughout the report, with a view to helping the Government make improvements where they are necessary.

I. HEALTH IN ROMANIA: THE CONTEXT OF TRANSITION

6. Social, economic and political transformation has taken place in recent years, as Romania adapts from communism to democracy and the market economy, and as it prepares for EU accession in 2007. These changes are having a significant impact on the right to health.

7. Transition has brought with it renewed commitment by the Government to improve health, which is reflected in a dynamic climate of reform in the health, and other health-related, sectors. The Government has adopted numerous new health-related laws[1] and policies, including the National Strategy for Health Services and the National Action Plan for the Reform of the Health Sector (2004), the National Anti-Poverty and Social Inclusion Plan (2002), as well as other policies referred to throughout this report.

8. However, transition has also engendered new health-related challenges in Romania. The Special Rapporteur received information about a range of health problems, many of which have their roots in the period prior to transition. For example, Romania has among the highest prevalence rates of HIV/AIDS and tuberculosis rates in Europe. Corruption and inadequate budgetary allocations to the health sector continue to have a negative impact, as do low levels of participation of the population in health policy making. Of particular concern is poverty, which increased during the 1990s. While poverty levels are now falling, an estimated 29 per cent of the population was living in poverty in 2002.[2] Groups that are disproportionately represented amongst the poor, including: female-headed households, Roma, rural populations, and people with disabilities often face particular difficulties. In view of the impact of poverty on health, the Special Rapporteur welcomes the National Anti-Poverty and Social Inclusion Plan, including its focus on health care, and vulnerable groups in the context of health care.

II. THE RIGHT TO HEALTH: NORMS AND OBLIGATIONS

9. The contours and content of the right to health are set out in some detail in previous reports of the Special Rapporteur.[3] For present purposes, he underscores that the right to health is a fundamental human right recognized in a number of international and regional human rights treaties. It is an inclusive right, containing freedoms, such as freedom from non-consensual medical treatment, and entitlements, such as the rights to health care and to the underlying determinants of health. The right to health should be widely known and well understood and, together with other human rights, should shape Romania's law and policy, as well as their implementation.

10. Many of the most pressing rights to health problems in Romania are inextricably linked to the problems of poverty and discrimination. In this context, the Special Rapporteur emphasizes that international human rights law proscribes any discrimination in access to health

care and the underlying determinants of health, as well as to means and entitlements for their procurement, on grounds including race, sex, disability and health status (including HIV/AIDS), which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to health. Under international human rights law, States also have an obligation to take special measures to remove obstacles to, and promote, the enjoyment of the right to health for vulnerable groups.[4]

A. International legal framework

11. The Government of Romania has ratified a range of international human rights treaties recognizing the right to health and other health-related rights, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of the Child. It has also ratified regional human rights treaties including the European Convention on Human Rights and Fundamental Freedoms and its Protocols, the European Social Charter (revised), and the European Framework Convention for the Protection of National Minorities. The ratification of international human rights treaties gives rise to obligations, which are binding under international law, to give effect to the provisions therein.

12. Many of the international human rights treaties require States parties to submit periodic reports on the steps they are taking to implement them. For example, ICESCR requires States parties to submit periodic reports to the Committee on Economic, Social and Cultural Rights, outlining the legislative, judicial, policy and other measures which they have taken to ensure the enjoyment of the rights contained in the Covenant, including the right to health. States parties are also requested to provide detailed data on the degree to which the rights are implemented and areas where they have encountered particular difficulties. Thus, ratification of ICESCR provides a form of international accountability in relation to the right to health. **The Special Rapporteur notes that Romania's third and fourth periodic reports to the Committee, which were due on 30 June 1994 and 30 June 1999 respectively, have not yet been submitted. He encourages the Government to submit its reports to the Committee as soon as possible.**

13. Important issues related to the right to health are addressed in Romania's recent reports to other international human rights treaty bodies.[5] In January 2003, for example, the Committee on the Rights of the Child considered Romania's second periodic report (CRC/C/65/Add.19), which contained information relevant to the period from 1993 to 1998, including on access to health for children. In its concluding observations (CRC/C/15/Add.199), the Committee welcomed the enactment of legislation and the adoption of the national health programme for the child and the family, and the national strategy for combating HIV/AIDS. It noted the deterioration in primary health care, however, and expressed a number of concerns in relation to discrimination against children living with HIV/AIDS and children with disabilities, as well as the high rates of abortion, sexually transmitted diseases and HIV/AIDS, particularly among minorities. The Committee recommended that efforts to implement the National Strategy for the health sector be strengthened and that measures be adopted to address discrimination against vulnerable groups. At regional level, the European Committee of Social Rights recently reviewed Romania's record in relation to the European Social Charter and made a number of observations in relation to the protection of health, in particular regarding maternal mortality.[6]

14. **The Special Rapporteur urges the Government to continue its efforts towards implementing the recommendations made by international and regional human rights bodies. He further urges the Government to continue working towards achieving commitments related to the right to health in recent international conferences, including the Millennium Summit of the General Assembly.**

B. Domestic legal framework

15. Article 34 of Romania's Constitution guarantees the right to the protection of health.[7] The Constitution gives precedence to the provisions of international human rights instruments, including those which recognize the right to health, in the event of a discrepancy with domestic legislation (art. 20).

16. Beginning in 1995, Romania adopted a series of laws concerning the structure and organization of the health-care system. These laws established a framework for the shift from an integrated, centralized, State-owned and controlled tax-based system to a more decentralized and pluralistic social health insurance system, with contractual relationships between health insurance funds as financiers and health-care providers.[8] Other health-related legislation addresses issues such as smoking and tobacco, occupational health, mental health, HIV/AIDS-related discrimination, and patients' rights.[9]

17. Given the complexity and rapidly evolving nature of health-related legislation, a major challenge is to develop coherent and consistent health policies that are in conformity with Romania's national laws and health-related international human rights obligations.

18. The right to health is the responsibility of the Government of Romania, not solely the Ministry of Health. If the right to health is to be realized, a number of ministries have an important role to play - including the Ministries of Justice, Environment and Finance, as well as the Ministry of Health. Other institutions also have important responsibilities. The Special Rapporteur was encouraged by the efforts of the National Institute of Magistracy to address human rights obligations in the context of training activities for the judiciary. Such training, however, is important for all key decision makers and programme planners in the public sector. **Thus, the Special Rapporteur recommends that human rights training, including on the right to health, be provided for all public officials with responsibilities bearing upon the human rights of individuals and communities. The Special Rapporteur also recommends greater inter-departmental cooperation in relation to health policy. The Government should establish mechanisms in Government that ensure that Romania's binding right to health obligations are taken into account across all relevant policy-making processes.**

III. PARTICIPATION, ACCESS TO INFORMATION, ACCOUNTABILITY AND HEALTH PROFESSIONALS

A. Participation

19. Participation of the population in health-related decision-making at the community, national and international levels, is vital to the fulfilment of the right to health.[10] It is also linked closely with the human right to take part in the conduct of public affairs, and other human rights.[11] A human rights approach to health requires active and informed community

participation, including in the formulation, implementation and monitoring of health strategies, policies and programmes. Participatory policy-making better reflects the needs of local communities and vulnerable groups, including the Roma and other minorities, and helps create conditions conducive for good health.

20. The Government has taken some steps towards involving local communities in the planning, management and evaluation of health services.[12] However, data show that the health status of Roma populations is among the worst in developed countries (see paragraphs 74-81 below). This unacceptable situation cannot be addressed without engaging the participation of the Roma and other disadvantaged groups in health policy-making. Similarly, people living with HIV must be involved in the development and implementation of policies which affect them. The establishment in 2002 of a National AIDS Commission is a good practice example in this regard, since it includes representation by people living with HIV/AIDS as well as government ministries, NGOs, the private sector, United Nations agencies and donors. In April 2004, the National Council for Disabled People also was established with a view to facilitating interaction between people with disabilities and public administrations.

21. **The Special Rapporteur urges the Government to extend its efforts to engage communities more actively in planning, monitoring, assessment, management and execution of health programmes and services. In particular, he stresses the importance of ensuring the participation of marginalized and other groups such as women, children, the elderly, and people with mental disabilities.**

22. NGOs and other civil society organizations can help to generate the active and informed participation of civil society in the health sector. Community support can also increase health literacy, and help reduce stigmatization of conditions such as mental disorders. Enhancing participation may also help to reduce corruption in the health sector since, as a recent study concludes, participation of the poor in the decisions that influence the allocation of public resources would mitigate corruption possibilities.[13] Many NGOs are already undertaking important work on the right to health. **The Special Rapporteur encourages more of them to work on the right to health and, in particular, to use a human rights framework. The Government should be encouraged to actively seek the engagement of civil society, including NGOs, in the health sector**.

B. Access to health information and health education

23. An important component of the right to health is the right to seek, receive, and impart information and ideas concerning health issues. Communities and individuals must have access to information to support preventive and health-promoting behaviour, as well as information on available health services. Programmes and policies should be put in place to enable widespread provision of health information that is effective for its designated audience, including through the mass media. While measures must be taken to ensure that health information reaches the public at large, particular efforts should be made to ensure that such information reaches vulnerable or marginalized groups. The Government should encourage educational institutions, employers, trade unions, health professionals and others to include health-related information - including on the right to health and related human rights - in their policies and curricula.

24. The Government of Romania, United Nations agencies and NGOs have launched some impressive initiatives on health information and education.[14] The Government established a network for health promotion and education in 1992, the National Centre for Health Promotion and Education for Health. The Centre is responsible for training staff involved in health promotion, providing technical assistance on district programmes, and studying and evaluating health promotion and health education activities. National programmes have been developed to address HIV/AIDS, sexual and reproductive health, tuberculosis, immunization, prevention and control of cancer, cardiovascular disease and diabetes mellitus, domestic violence, disabilities, and reduction of infant mortality. Training is provided through courses in Romania and fellowships in other countries with experience in health promotion and health education. Romania also participates in the European Network of Health Promoting Schools and in several United Nations programmes.

25. **However, much more needs to be done. Rigorous efforts should be made to ensure that health information and education reach every sector of the population in Romania. Posters, leaflets, radio campaigns, street-theatre - whatever works to get life-saving information to men, women and children - should be used. For example, creative education, training and media programmes should be explicitly designed to change attitudes that foster discrimination against people living with HIV/AIDS or persons with mental disabilities. This is crucial to raising awareness and understanding among individuals and communities that discrimination against these and other individuals and groups is unacceptable and a violation of human rights. Increased efforts also must be made to ensure that people know that domestic violence is a breach of criminal law. Innovative ways must be devised to ensure that individuals and communities have information regarding the benefits available under the health insurance system, the availability of contraceptive and other reproductive health services, including cervical cancer screening, and so on. The Special Rapporteur was frequently advised that Romania does not yet enjoy a well-established participatory culture in which individuals enquire about what they are entitled to receive by way of health services. In these circumstances, the Government has a heavy responsibility to take the initiative and actively encourage greater participation and enhance public information and education in relation to health.**

C. Accountability

26. Enhanced health information and participation leads to another vital human rights principle: accountability. The Office of the People's Advocate in Romania is one important accountability mechanism for addressing health-related human rights.[15] During his mission, the Special Rapporteur received information on various other important institutions with mandates to address health-related human rights. The Romanian Institute for Human Rights, for example, carries out research, makes recommendations to the Government and conducts information campaigns on human rights. The National Council for Combating Discrimination monitors various forms of discrimination, in particular in relation to minorities. All of these have roles to play in relation to the promotion and protection of the right to health.

27. **However, the Special Rapporteur strongly recommends that the Government significantly strengthen national accountability mechanisms in relation to the right to health. The Government should begin by reviewing the existing accountability devices that bear upon the right to health and then consider all options for strengthening**

accountability. One option is to keep the existing institutions, with the same mandates and powers, but to provide them with more resources. A second option is to keep the existing institutions, but to widen mandates and powers, as well as providing more resources. A third option is to establish a new human rights institution, specifically charged with promoting and protecting the right to health, and empowered to conduct public inquiries and to receive complaints. This third option could be pursued either by a new institution that focuses only on the right to health, for example a Health Ombudsman or, preferably, by a national human rights institution with a wide mandate and powers in conformity with the Paris Principles. After consultations, the Government should decide how best to proceed. However, the Special Rapporteur has no doubt that some measures are necessary to enhance accountability in relation to the right to health because the current arrangements, including the courts and professional associations, are not providing adequate accountability in relation to patients' concerns, as well as the right to health generally. On the issue of mental health, see paragraphs 59 to 68 below.

D. Health professionals

28. As providers of health care, health professionals have an indispensable role to play in the realization of the right to health. They have a responsibility to ensure that their work contributes to the promotion and protection of the right to health, and in no way interferes with the enjoyment of this human right, through, for example, breaches in medical confidentiality discriminating against particular population groups, or complicity in cruel, inhumane and degrading treatment. The Romanian Board of Physicians was established in July 1995, which, in addition to representing the interests of the medical profession, is responsible for interpreting and implementing the Code of Medical Ethics and supervising, investigating and ruling on the professional behaviour of physicians.[16]

29. A range of issues concerning health professionals was raised during the mission of the Special Rapporteur. These included their poor terms and condition of work, which have led to strikes in recent months; the need for human rights training for health professionals; and the importance of enhancing accountability within the health system. A further issue was the incentives provided to health professionals to work in rural areas, with a view to ensuring equitable distribution of health care. **The Special Rapporteur recommends that medical schools integrate human rights training for health professionals into their curricula. All health professionals should receive regular education and training on the human rights of patients, including their rights to health and non-discrimination; the health-related human rights of vulnerable groups, such as women, children and people with disabilities; and their own human rights relating to their professional practice. In addition, the Special Rapporteur urges the Government to enhance the terms and conditions of all health professionals, including providing adequate incentives to encourage health professionals to work in rural or other underserved areas.**

IV. FINANCING FOR HEALTH IN ROMANIA

30. Expenditure on health care has increased significantly in recent years, from 2.6 per cent in 1997 to 4.5 per cent in 2003.[17] While the Special Rapporteur welcomes this development, he is concerned that this rate remains below the Eastern European average. He is also concerned by allegations that a significant proportion of the health insurance fund for the State

health budget is diverted from the health sector and channelled elsewhere in the State budget. Under ICESCR, the Government has an obligation to devote maximum available resources towards the realization of the right to health. A State that does not use the maximum of its available resources for the realization of the right to health is in violation of its obligations under articles 2 and 12 of ICESCR. In addition to making financial resources available, resources must be budgeted in a way that supports the equitable distribution of health-care services throughout a State.

31. The health insurance fund is intended to cover the whole population. Free health insurance cover is provided to some groups, including those who do not have income. However, the Special Rapporteur was informed that some needy individuals are not provided with insurance cover. Individuals without identity cards and documentation, including some Roma, find it difficult to obtain insurance, and a lack of insurance can present a serious obstacle to accessing health care. The Special Rapporteur was also informed that some medicines are unaffordable for low-income groups, including the elderly.

32. **Expenditure on health care should be increased so that, as a minimum, it is in line with the East European average. The health insurance fund must be used only for its proper purposes. Given their crucial importance in accessing health services, the Government should make further efforts to ensure all individuals obtain identity documents. Finally, the Government must, in practice, ensure the equitable distribution of health-care services throughout the State, and ensure that essential medicines are within the financial means of all population groups.**

Corruption

33. Corruption, which is reported to be widespread at many levels of the health system, is another serious financing issue that was raised by many individuals during the Special Rapporteur's mission. Corruption in this sector is part of a broader problem of corruption and a climate of impunity. In 2004, Romania ranked 87th out of 147 countries on Transparency International's Corruption Perception Index - only three other European countries were perceived to be more corrupt. According to one study that is based on citizens' experiences, while corruption also affects other sectors, the health service is the most corrupt institution in Romania.[18]

34. Corruption reportedly affects the right to health in various ways. Some funds intended to support health services or particular institutions, are reportedly taken for private use. Illicit payments are reportedly often made by, or requested of, health system users. Some individuals (not public officials) the Special Rapporteur met argued that this practice did not amount to corruption, or that it was grounded in cultural norms, or that it was acceptable since health professionals do not receive adequate remuneration. However, evidence suggests that widespread corruption encountered in accessing health services deters the poor from seeking care.[19] As such, it is an obstacle to the realization of their right to health, and inconsistent with the principles of non-discrimination and equality.

35. The Government has taken some important measures to combat corruption, including by adopting the National Programme for the Prevention of Corruption, the National Action Plan

against Corruption and the Act on the Prevention, Detection and Prosecution of Corruption Offences (2000), which established a number of corruption-related criminal offences. There are also a number of accountability mechanisms authorized to deal with corruption.[20]

36. The Special Rapporteur recognizes that the Government has made much progress in developing frameworks and mechanisms to address corruption. However, he is concerned by the many accounts he received of corruption continuing to occur systematically, and with impunity, in the health sector. **The Special Rapporteur urges the Government to take vigorous action in the health sector to root out corruption by ensuring implementation of its anti-corruption policies and laws. Transparent accounting and rigorous and independent monitoring of the national and regional budgets, as well as the budgets of all health institutions, must be ensured. Given the impact of illicit payments on accessing health care, the Government must ensure that health system users are: not expected to make illicit payments; receive information about their right to health care on the basis of equality and non-discrimination; and have access to independent, accessible and effective complaints mechanisms. The Government must ensure that the Act on the Prevention, Detection and Prosecution of Corruption Offences and other criminal law protections against corruption are applied in practice to the health sector, and that corruption offences are prosecuted.**

37. **The Special Rapporteur recommends that the Ombudsman launches an investigation into corruption in the health service and its impact on the enjoyment of the right to health.**

V. OTHER ISSUES OF PARTICULAR CONCERN

38. A very wide range of health problems that afflicts different population groups in Romania were brought to the Special Rapporteur's attention. In the scope of this report, it is not possible to devote adequate attention to all of these important health problems. Attention is paid instead to some of the most pressing rights to health issues in Romania, including sexual and reproductive health; HIV/AIDS and tuberculosis; environmental health; mental health; and the bearing of ethnicity and minority status on health. These are linked by two overarching issues, namely the need for increased participation in health-related decisions, and the need for sustainable financing for health in Romania. Addressing these issues is vital to achieving the health-related Millennium Development Goals.

A. Sexual and reproductive health

39. Romania continues to face the consequences of decades of a "pro-natalist" policy under former President Nicolae Ceaucescu, which restricted women's access to contraception and abortion, and offered financial support to mothers of large families. Many women resorted to unsafe and illegal abortions. This contributed to an extremely high maternal death rate in Romania and led to an alarming number of children being placed in institutions when families were unable to provide care and support.

40. In recent years, the Government has taken important steps to improve sexual and reproductive health, including through a national reproductive health strategy adopted in 2003. The new strategy aims to increase access to family planning services through training of family

doctors and nurses, as well as raising public awareness of available services, and reproductive health more generally. Most services are free of charge in family planning and reproductive health centres. As more health-care workers are trained in this field, access to services is increasing. However, as with many aspects of health care in Romania, the limited availability of funds is a significant constraint on the effective implementation of the national strategy. Important challenges remain in reaching the most vulnerable women and expanding the types and quality of services provided.

Access to services and information

41. Expanding the provision of reproductive health services requires both resources for programme development and awareness campaigns to ensure that people are aware of what services are available in the community, and how to access them. This includes the development and implementation throughout the country of a full range of relevant programmes and services, including cervical cancer screening, and their promotion through widespread information, education and awareness campaigns. Barriers to accessing reproductive health services for vulnerable or marginalized groups, such as rural women or Roma, must be addressed. In this regard, measures should be taken to ensure that reproductive health services are culturally appropriate, available and accessible, and are promoted through information and education campaigns in rural areas. **The Government is urged to increase its collaboration with civil society groups to develop reproductive health programmes and to raise awareness at community level of the rights to sexual and reproductive health**.

42. Ensuring non-discrimination in the provision of health-care services is an essential component of the right to health. Marginalized populations face particular obstacles when seeking to access reproductive health services. The stigma associated with commercial sex work and injecting drug use, for example, affects how people engaged in these activities are often treated by health-care workers, especially when requesting services such as tests for sexually transmitted infections. At a health systems level, there are many reports of people without proper identification being denied access to tests and other services. **The Government is urged to take a broad approach to combating discrimination in all of its manifestations by providing diversity training to health-care workers and ensuring that procedural barriers do not become a denial of access to care**.

Maternal health

43. According to UNICEF, 98 per cent of births in Romania have a skilled attendant at delivery, although many women do not have check-ups during the course of their pregnancy. The Ministry of Health reportedly has introduced a new policy which allows for pre-delivery consultations free of charge. During his mission, however, the Special Rapporteur was informed that the Ministry has recently decided that consultations with a physician during pregnancy will be compulsory and those without a “health pregnancy card” will be responsible for covering their own health-care expenses related to the delivery. **While pleased that the Government considers maternal health a priority, the Special Rapporteur is concerned about the possible negative effects of such a policy, especially for women who face discrimination and other barriers to care. He urges the Government to ensure that all consultations and treatment are made available on a voluntary basis**.

Family planning and access to contraception

44. UNICEF figures covering 1995 to 2002 show that 64 per cent of women aged 25-45 were using contraceptives, and abortion rates have decreased significantly.[21] In 1994, for example, there were 2,149 abortions per 1,000 babies born alive, whereas in 1998 this figure had decreased to 1,144 abortions. Maternal mortality rates have also been falling, from 60.4 deaths per 100,000 live births in 1994 to 40.46 in 1998. This is due in large part to decreased mortality due to abortions, which fell from 38.1 in 1994 to 18.12 in 1998. According to one source, the maternal mortality rate in 2003 was 30.56. **While progress in this area is encouraging, the Special Rapporteur notes with concern that the abortion rate remains high, suggesting that some may be approaching abortion as though it were a form of contraception**.

45. The Government of Romania, together with United Nations agencies and civil society partners, has been working to develop new programmes to make contraceptives more readily available and accessible to the public. A Family Planning and Sexual Education Unit has been established within the Department for Maternal and Child Health of the Ministry of Health, and several reference centres for reproductive health have been established to provide information and technical assistance, family planning, abortion, and cancer screening services.

46. **However, there is still significant work to be done with regard to sexual and reproductive health in Romania. Recent surveys suggest that while people know about contraception, their attitudes about its use have not changed significantly. The Government is encouraged to work with civil society partners to generate a public dialogue on this issue and address the cultural aspects of sexual health. This includes the development of education curricula on sexual and reproductive health that are built upon a human rights approach, as well as information campaigns that are designed to meet the needs of specific vulnerable populations. The Government is urged to disaggregate the data it collects so that it can better understand the sexual and reproductive health needs of certain vulnerable populations and develop programmatic responses accordingly.**

B. HIV/AIDS

47. Romania has one of the highest prevalence rates of HIV and AIDS in Central Europe. According to national statistics, in December 2003 there were 14,353 registered cumulative cases of HIV/AIDS in Romania and 10,259 people living with HIV/AIDS. The use of unscreened blood and blood products, as well as the use of contaminated needles between 1987 and 1991 reportedly led to the spread of HIV among thousands of newborn and young children. Since the early 1990s there has also been a steady increase in HIV rates among young adults due to sexual transmission and injection drug use.[22]

48. The profile of HIV/AIDS is particular in Romania in that it has predominantly affected children: currently Romania has the largest number of children living with HIV in Europe.[23] The majority of people living with HIV/AIDS today in Romania were infected during the late 1980s and early 1990s. It has been widely observed that the conditions for the explosion in the epidemic amongst children had their roots in the “four child per family” policy of the Ceausescu Government, which led to very high rates of institutionalized children. The failure to

use adequate infection control within medical facilities coupled with the practice of giving blood transfusions to malnourished children and frequent injections of medications and vitamins drove the nosocomial transmission of HIV.

49. In recent years, the Government of Romania has led a dynamic campaign to provide treatment and care for people living with HIV and AIDS. Together with United Nations agencies, development partners, people living with HIV and civil society groups, the Government has established legal, policy and programme frameworks for HIV/AIDS treatment and care, including universal coverage for antiretroviral (ARV) treatment. As reported by UNAIDS, currently "all those determined to be 'in need' according to international guidelines have access to HIV treatment in Romania" - in total, 5,700 patients, including 4,350 children.[24] In many respects, Romania's approach to HIV/AIDS treatment and care is a model.

50. **However, during the course of the Special Rapporteur's mission, many people expressed concerns regarding the urgent need to address HIV prevention. Given the high percentage of people aged 15-19 living with HIV/AIDS, rates of heterosexual transmission and vertical mother-to-child transmission may be set to soar without urgent and large-scale prevention efforts. An open public discussion regarding the importance of prevention - including condom use and prevention of mother-to-child transmission programmes - will be essential to the distribution and prevalence of the disease in years to come. Prevention programmes should be adapted to suit the needs and values at community level, including information and education in local languages aimed at reducing risk-taking behaviour and encouraging responsible sexual behaviour; expanded access to essential commodities, including male and female condoms and sterile injecting equipment; harm reduction efforts related to drug use; expanded access to voluntary and confidential counselling and testing; and early and effective treatment of sexually transmittable infections.[25] Youth-specific HIV education and services should be made available and accessible to young men and women. Pregnant women accessing antenatal care should have information, counselling and other HIV-prevention services available to them.**

51. In June 2004, the Ministry of Health announced that 61 projects addressing HIV/AIDS would take place over the course of two years, carried out through partnerships between public institutions and NGOs and representing US$ 21.8 million in expenditures, with support from the Global Fund to Fight AIDS, Tuberculosis and Malaria. Particular attention will be paid to engaging the public and delivering prevention messages to groups that are particularly vulnerable to infection.[26] While the contributions of donors are important, many have expressed concerns over the long-term sustainability of programmes. This will require further dialogue between Government, civil society groups and the donor community, as well as global financial institutions and representatives of industry. All organs of society have a responsibility for the realization of human rights, including the right to health, and an active commitment must be made to finding sustainable approaches to delivering the right to health.

52. While there has been much success surrounding HIV/AIDS treatment and care in Romania, significant barriers persist. HIV/AIDS is still a significant barrier for some to receiving other forms of health care, due to fears about transmission of the disease, and in some cases, very real concerns about the possibility of transmission where health systems do not possess sufficient resources to ensure adequate infection control. In these latter cases, poor financing at a system level drives the denial of care.

53. Stigma associated with HIV and AIDS continues to be a major obstacle to the realization of the right to health for people living with HIV/AIDS in Romania. It lies at the root of various forms of discrimination, including in education, health care and employment, and acts as a barrier to effective prevention, care, treatment and support initiatives by excluding those in need of such services. **The Special Rapporteur urges the implementation of policies that explicitly address gender inequalities, stigma and discrimination; provide comprehensive sexual and reproductive health information, education and services to young people; and ensure access to voluntary testing, counselling and treatment for sexually transmitted infections, including HIV/AIDS. He further urges that legislation, regulations and other measures to eliminate all forms of discrimination against people living with HIV/AIDS and members of vulnerable groups be implemented.**

54. Health-care workers at the primary health service level in rural areas and small towns lack information about the rights of patients, particularly in the context of HIV/AIDS. Patients also lack this information and are unable to demand the services they are entitled to receive. One notable example is the policy that pregnant women are entitled to receive an HIV test in the first trimester of pregnancy. Many family doctors reportedly are unaware of this policy. Where they are aware of the test, they are often unable to adequately counsel on treatment options for the patient or provide information on risks and benefits that is necessary for obtaining legally valid informed consent. **The Special Rapporteur urges the development of pre-service and in-service training on patient rights for health-care workers, recognizing that patient contact with the health-care system also represents an opportunity for patient education and development of health literacy that is part of the realization of the right to health.**

C. Tuberculosis

55. WHO statistics reveal that Romania has one of the highest rates of tuberculosis in Europe, at 136.51 per 100,000 in 2002. Despite this high prevalence rate, tuberculosis seems to be frequently overlooked by NGOs working in Romania and in reports on Romania's health. Tuberculosis is receiving attention from the Government, but efforts are often in second place behind HIV/AIDS initiatives, with the capacity to treat relying significantly on investments made in the HIV/AIDS context.

56. The National Programme of Tuberculosis Control has been in place since 1997, with technical support coming from WHO. Visible efforts to scale up prevention, treatment and care programmes for tuberculosis mark a dramatic shift from the pre-revolution days when tuberculosis was not addressed effectively in Romania. During this period, tuberculosis cases apparently were underreported and some claimed that the disease had been eradicated, prompting tuberculosis hospitals and clinics to be closed. Medical schools failed to adequately address tuberculosis in their curriculum.

57. The Global Fund to Fight AIDS, Tuberculosis and Malaria has approved US$ 16.9 million in funding, to be disbursed over two years, for a five-year tuberculosis programme. The project aims to integrate tuberculosis care into general facilities, enhance the ability to treat multiple drug resistant tuberculosis, and improve the quality of laboratories. It will also support the development of guidelines and training for health-care workers in the management of tuberculosis in children. Tuberculosis control programmes for Roma and other population groups with high risk will be expanded. Working together with the Ministry of

Justice, programmes will be developed to address tuberculosis in prison populations. In order to address barriers such as the lack of financial resources for patients who need to travel for the purposes of tuberculosis treatment, new programmes are being developed to include, for example, support in the form of transportation tickets. Such initiatives are a particularly important means for promoting adherence to treatment, and therefore better treatment outcomes.

58. **The Special Rapporteur commends the development of programmes to address tuberculosis, especially for vulnerable and marginal populations, and urges that barriers to access be addressed in their implementation. Prevention, treatment and care should be available and accessible to all, well-publicized and evaluated on the basis of accessibility and treatment outcomes.**

D. Mental health[27]

59. The right to health, including the right to health care, of persons with mental disabilities is enshrined, inter alia, in article 12 of ICESCR; article 50 of the Romanian Constitution, which affords special protection to persons with disabilities, and the Law on Mental Health and Protection of People with Psychological Disorders.[28]

60. For many years, the right to mental health care was neglected in Romania. To its credit, the Government has recently begun to address this issue. In 2002, it adopted a mental health law and the National Strategy for the Special Protection and Social Integration of Persons with Handicap. In 2004, the Government announced that it would inspect all psychiatric wards and hospitals in the country with a view to improving treatment and care. The Ministry of Health elaborated a memorandum regarding measures for rehabilitation of the mental health-care system in Romania. Under a PHARE-supported project, the Government aims to restructure services for persons with mental disabilities, closing down large psychiatric institutions and strengthening social support services.

61. Nonetheless, during his mission the Special Rapporteur formed the view that, despite the legal and policy commitments of the Government, the enjoyment of the right to mental health care remains more of an aspiration rather than a reality for many people with mental disabilities in Romania.

Poiana Mare Psychiatric Hospital

62. In February 2004, the Special Rapporteur received alarming reports alleging that since the beginning of the year, 17 persons at the Poiana Mare Psychiatric Hospital, in Dolj county had died from causes including malnutrition and hypothermia. The information also drew attention to poor conditions at the hospital, including inadequate nutrition and heating, the poor state of repair of wards, and a lack of funds to secure adequate treatment. Together with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on the right to food, the Special Rapporteur on the right to health wrote to the Government of Romania on 3 March 2004, expressing concern about these allegations and requesting clarification. Promptly, on 11 March 2004, the special rapporteurs received a response from the Government on detailed measures it had taken, including: improvements in living conditions in the hospital; the replacement of its director by an interim director pending the appointment of a new director; the discharge of Secretaries of State for the Ministries for

Health and National Authority for Handicapped Persons, the Director of the Public Health Department, Dolj county, and the Director of the Romanian Railways Hospital in the city of Craiova; and the intention of the Ministry of Health to closely monitor the situation at Poiana Mare. The Government also initiated criminal investigations into the deaths.

63. During his mission, the Special Rapporteur had the opportunity to visit Poiana Mare and to discuss developments which had taken place since February 2004 and the appointment of a new director of the hospital. The director informed the Special Rapporteur that funding (5.7 billion lei) had been received from the Government to make improvements. Food allocations had been increased, the heating system had been repaired, and wards and other buildings at the hospital were being refurbished. **While the Special Rapporteur welcomes these improvements and commends all those responsible, he urges the Government to ensure that it provides adequate resources to support the implementation of these changes on a sustainable basis. The Government should also support other needed measures including: making appropriate medication available, providing adequate rehabilitation for patients, ensuring that patients are able to access effective complaint mechanisms, and the provision of human rights training for hospital staff. The Special Rapporteur understands that criminal investigations into the deaths are still ongoing. He will continue to closely monitor all developments at Poiana Mare. The Special Rapporteur takes this opportunity to acknowledge the important role that the media and NGOs have played in relation to Poiana Mare.**

The rights to, and in, mental health care in Romania

64. As well as learning about developments at Poiana Mare, the Special Rapporteur was keen to learn about the implementation of the right to mental health care elsewhere in Romania. The Special Rapporteur was concerned by information provided to him alleging that the Government had not yet taken the necessary steps to implement new legislation and policies, including the Mental Health Act and the Memorandum, and that while the Government had made some improvements in some facilities, such as Poiana Mare, important improvements were not being rolled out across the country.[29] With only a few hours' notice, the Special Rapporteur visited Vedea psychiatric hospital to learn about mental health care in another institution. At Vedea, the commitment of the hospital's director and other staff to their patients was impressive. Clearly, recent efforts had been made - and with some success - to improve the patients' living conditions. However, the conditions were strikingly uneven. Some large wards were seriously overcrowded and some facilities were in very poor condition. The Special Rapporteur was informed that the hospital was not receiving sufficient financial support to improve conditions throughout the institution.

65. A primary concern of the Special Rapporteur is the continuing widespread provision of mental health care in large psychiatric institutions, with inadequate rehabilitation services, and the insufficient number of community-based mental health-care and support services. The centralized and institutionalized model of care denies those with mental disabilities the rights to be, as far as possible, treated and cared for in the community in which they live, and to live and work in the community.[30] The Special Rapporteur emphasizes that the right to health gives rise to an entitlement to health care, including mental health care, which is geographically accessible, designed to improve the health status of patients, and scientifically and medically appropriate.

66. Of further concern to the Special Rapporteur were allegations that users of psychiatric care remain vulnerable to the abuse of their human rights in many institutions, including on account of: overcrowded and insanitary living conditions; the lack of continuously available medication; inappropriate seclusion and restraint practices; the absence of systematic monitoring of conditions in institutions; the lack of accessible and effective complaints mechanisms for mental health-care users; institutionalization of persons who do not require psychiatric treatment, including persons with intellectual disabilities; the lack of rehabilitation and therapy available to patients; and a lack of support for psychiatric patients with physical disabilities. The Special Rapporteur was also concerned about reports of inadequate numbers of appropriately trained staff and poor working conditions for staff.[31]

67. **The Special Rapporteur recommends that the Government of Romania take further steps towards ensuring the human right to mental health care for persons with mental disabilities, including: (a) improving and extending community-based mental health care and other community-based services to support persons with mental disabilities; (b) fully implementing the mental health law, the National Strategy and the Memorandum; (c) taking measures to ensure the protection of human rights of persons with mental disabilities within mental health-care services and facilities. Human rights training should be provided to all professionals that regularly interact with the mental health system. Patients should be provided with accessible, transparent and effective complaints mechanisms.**

68. **In view of the reported widespread problems, the Special Rapporteur strongly recommends that an independent mental health commissioner be established and appointed as a matter of urgent priority. The commissioner should be mandated to receive information from users of mental health-care services, their families, and civil society organizations. He or she should be mandated to investigate allegations of human rights violations, including, if necessary, travel at short notice to mental health-care facilities, and to have full access to these facilities, including the opportunity to hold private meetings with patients, staff and others. The commissioner should provide independent advice to the Ministry of Health, hospital directors and others, thereby helping them to respect the right to health and other human rights of all those for whom they are responsible. The commissioner should report to Parliament. Because of the clear urgent need for a mechanism of this sort, the Special Rapporteur recommends that it does not wait for the review of right to health accountability mechanisms recommended in section III C.**

E. Environmental health

69. Environmental health problems arise from, inter alia, limited access to safe drinking water, inadequate sanitation, air pollution and the contamination of water by industrial effluents. These factors directly affect the health of communities across Romania, in particular rural communities, and children. Because of space constraints, this chapter gives attention to just one environmental health issue, access to safe water and adequate sanitation, which is an underlying determinant of the right to health, and reflected in Millennium Development Goal 7.

70. The Government of Romania has made progress in improving access to safe water by connecting homes to the water supply system. In 1992, 85 per cent of the urban population and 16 per cent of the rural population had their houses connected to water supply

systems (47 per cent of Romania's population lives in rural areas).[32] By 2002, 92 per cent of inhabitants in urban areas and 34 per cent in rural areas were connected. The Government's target is to connect 99 per cent of the urban population and 85 per cent of the rural population to local water supply networks by 2020.

71. Even in view of progress to date, a significant proportion of Romania's population remains without access to the water supply system. Many households continue to draw water from wells or rely on piped surface water, both of which are especially susceptible to bacterial imbalance and contamination, including from pesticides. Some reports even suggest worsening water quality. Poor sewerage coverage in rural areas creates a further risk of contamination of drinking water - in 2001, the homes of 85 per cent of urban residents but just 11 per cent of rural residents were connected to sewers. Incidence of some water-borne or sanitation-related diseases is high. Rates of viral hepatitis A, which declined in the 1990s, are still double those in other Central and Eastern European countries, while rates of diarrhoea are also high.

72. The Government informed the Special Rapporteur that systems are in place to monitor water quality and that information and advice about which sources of water are safe is available to individuals, families and communities. The Government reported that in spite of these measures, people continue to draw water from unsafe sources.

73. The right to health gives rise to an entitlement to geographically accessible safe drinking water and adequate sanitation.[33] For example, in article 24, paragraph 2 (c), the Convention on the Rights of the Child places an obligation on States parties to combat disease, including through the provision of clean drinking water. **The Special Rapporteur welcomes progress to date, but urges the Government to take all necessary measures to ensure it fulfils these human rights obligations and achieves the targets it has established. He also encourages the Government to continue and to deepen its policies and programmes to monitor water quality and to continue its efforts to raise awareness among communities about where they can obtain safe water, as well as the health consequences of drinking contaminated water.**

F. Roma

74. The Roma population, one of several minority ethnic groups in Romania, is estimated to number around 1,500,000.[34] Homelessness and vulnerability to forced evictions, overcrowded living conditions and a lack of access to safe water and adequate sanitation are problems disproportionately affecting the health of Roma. Other obstacles to their right to health include low levels of education, poor nutrition, poor communication between health professionals and Roma health system users, and lack of access to information on health issues. Besides, many Roma do not have identity cards and documentation, which precludes access to health insurance. A survey in 2000 estimated that only 34 per cent of Roma had cover from the health insurance fund compared to the national average of 75 per cent. The lack of identity cards or other documentation denies some Roma the opportunity to benefit from the health insurance fund.[35] Life expectancy and infant mortality rates are respectively 10 years shorter, and 40 per cent higher among Roma than among the general population.[36]

75. Poverty, stigma and discrimination are root causes underlying many of these, and other, obstacles to the enjoyment by Roma of the right to health. In 2002, the Roma population was almost five times more exposed to severe poverty, and almost 50 per cent of Roma were affected

by poverty. Some doctors reportedly refuse to treat Roma, while stigmatizing attitudes or a lack of cultural sensitivity to Roma within health services may deter Roma from seeking treatment in the first place - this particularly affects women since they tend to seek health care more often than men. The enjoyment of the right to health of Roma women is also affected by cultural and economic factors which limit their access to health education and information, including on sexual and reproductive health.

76. The Government of Romania has adopted some important measures towards tackling stigma and discrimination against Roma and promoting their health. Ordinance 137/2000 on Preventing and Punishing All Forms of Discrimination prohibits discrimination, including in relation to the right to health, medical assistance and social security. The Government has also adopted a National Strategy for Improving the Condition of the Roma and a Country-level Action Plan in the Decade of Roma Inclusion 2005-2015. Since 2000, the Minister of Health has worked with a personal adviser on Roma related issues, and since 2001 there has been a Ministerial Committee for Roma in the Ministry of Health, including a representative of Roma organizations. Roma advisers have also been appointed in some local councils.

77. During his mission, the Special Rapporteur also learnt of the Roma community health mediators scheme. The mediators are recruited from local Roma populations and given training in health-care promotion, and then work with local communities to encourage healthy behaviours and raise awareness about, and encourage use of, available health-care services. During his visit to Dolj county, the Special Rapporteur also learnt of local initiatives undertaken by the County Directorate for Child Rights Protection, including programmes to help Roma obtain identity documents, and their support of programmes developed with the Association of Roma Young People and Students, including on sanitation and sexual and reproductive health.

78. However, Roma continue to face particular obstacles to their enjoyment of the right to health. **The Special Rapporteur recommends that the right to health of Roma, including Roma women, as well as their right to non-discrimination and equality, are given the most careful attention in all health legislation, policies and programmes, and that the Government take special measures to remove obstacles to, and promote, their right to health. He recommends that all efforts be made to implement the goals and targets of the Romania Country-level Action Plan in the Decade of Roma Inclusion 2005-2015.**

79. **The Special Rapporteur endorses: (a) the recommendation made by the Committee on the Rights of the Child to the Government that it initiate campaigns among health professionals aimed at redressing negative attitudes towards Roma (CRC/C/15/Add.199, para. 65 (a)); (b) the recommendation made by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination to the Government that it should make additional efforts to facilitate Roma obtaining proper identity documents. This might include assurances, backed up by references to relevant legislation and good practices, that no disadvantage shall arise on the grounds of ethnicity (E/CN.4/2003/5/Add.2, para. 43).**

80. **The Special Rapporteur recommends that the Government extend the participation of Roma, including Roma women and children, in the development, implementation and**

monitoring of health policies and programmes affecting them. He encourages the Government to extend the Roma community health mediator scheme, and to develop schemes to encourage Roma to train and qualify as health professionals.

81. **The Special Rapporteur urges the Government to ensure that Roma, including Roma women and children, benefit from access to culturally sensitive health information and education, including on sexual and reproductive health, and to involve Roma in developing and distributing this information.**

VI. CONCLUSIONS AND RECOMMENDATIONS

82. **The Special Rapporteur's specific conclusions and recommendations in relation to the right to health in Romania are reflected throughout the present report. Here, he confines himself to a few general concluding observations.**

83. **In recent years, the Government of Romania has adopted an impressive array of policies, programmes and legislation concerning the right to health. The Special Rapporteur welcomes this commitment, and urges the Government to take all necessary measures, including administrative and budgetary measures, to ensure implementation. Particular attention must be given to ensuring operationalization of the right to health of marginalized groups, such as rural populations and Roma.**

84. **Particular attention must be given to ensuring accountability and access to remedies in relation to abuses of the right to health, or abuses of other human rights in health-care settings. Some progress has been made in this respect in recent years through the adoption of new legislation in fields including patients' rights, corruption and mental health. The Special Rapporteur recommends that the Government take measures to enhance awareness among Romania's population of these legislative frameworks and their right to health, and ensure institutional arrangements and remedies are available to those who have suffered right to health violations.**

85. **Participation of the population in health decision-making is a central element of the right to health. Increased opportunities should be provided to the population to engage in the development, implementation and monitoring of policies, programmes and legislation related to the right to health.**

Notes

[1] See, for example, those discussed in section II B.

[2] World Bank, Romania Poverty Assessment, 2003, p. i.

[3] See for example the preliminary report of the Special Rapporteur to the Commission on Human Rights, E/CN.4/2003/58.

[4] See general comment No. 14 (2000), of the Committee on Economic, Social and Cultural Rights, paras. 18-27.

[5] CCPR/C/79/Add.111; A/55/38; CERD/C/304/Add.85.

[6] European Committee of Social Rights, Conclusions (Romania) 2003, in particular p. 391.

[7] Constitutia Romaniei [Constitution of Romania], adopted 21 November 1991, amended and completed by Law No. 429/2003, approved by national referendum and came into force on 29 October 2003, art. 34. See also articles 35 (right to a healthy environment) and 47 (right to a decent standard of living).

[8] See for example, Laws 306/2004 on the regulation of the medical profession; 150/2002 on the health insurance system; and 212/2004 on private health insurance.

[9] Law No. 46/2003.

[10] See general comment No. 14 (2000), para. 11; CEDAW, article 7; and CRC, article 12.

[11] ICCPR, article 25; article 7 of the International Convention on the Elimination of All Forms of Discrimination against Women.

[12] For example, Law 270/2003 and Ordinance 70/2002 on the administration of public health units, were enacted to better address community level interests.

[13] Gupta, Davoodi and Tiongson, "Corruption and the Provision of Health Care and Education Services", in Abed and Gupta (eds.) *Governance, Corruption, and Economic Performance*, 2002, p. 272.

[14] European Observatory on Health Care Systems, *Report on Health Care Systems in Transition: Romania*, 2000, p. 43.

[15] Office of the People's Advocate (2003), *Annual Report, 2002*.

[16] Law Concerning the Exercise of the Profession of Physician, the Creation, Organization and Functioning of the Romanian Board of Physicians, No. 74/1995.

[17] Information provided to the Special Rapporteur by the Ministry of Health.

[18] Open Society Institute, *Monitoring the EU Accession Process: Corruption and Anti-Corruption Policy*, 2002.

[19] Open Society Institute, 2002; World Bank, *Diagnostic Surveys of Corruption in Romani*a, *2000*.

[20] In 2002 the People's Advocate issued a special report on widespread problems related to access to medication under the national health insurance system.

[21] http://www.unicef.org/infobycountry/romania_statistics.html.

[22] UNAIDS Report on the Global AIDS Epidemic 2004.

[23] Ibid., p. 117.

[24] Ibid., p. 117.

[25] See in particular the United Nations General Assembly Declaration of Commitment on HIV/AIDS, para. 52.

[26] With donor support, the National Administration of Penitentiaries has developed programmes for the prevention and treatment of HIV/AIDS, tuberculosis and other health issues in prisons.

[27] See references to mental health in the annual report of the Special Rapporteur, E/CN.4/2005/51 and E/CN.4/2005/51/Add.1.

[28] Act 487/2002.

[29] E.g. Amnesty International, *Romania: Protection of basic rights of people with mental disabilities placed in psychiatric establishments: an imperative for the Romanian state*, 2004.

[30] In accordance, respectively, with principles 7 and 3 of the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care.

[31] Amnesty International, *Romania: Memorandum to the Government concerning inpatient psychiatric treatment,* 2004.

[32] UNECE, *Environmental Performance Review of Romania,* 2001.

[33] General comment No. 14, para. 11.

[34] Zamfir and Preda (eds.), *The Roma in Romania,* 2002.

[35] E.g. UNDP and Center for Health Policy and Services, *Roma and HIV/AIDS in Central East Europe,* 2003-2004.

[36] Ibid.
