

ROMANIAN INSTITUTE FOR HUMAN RIGHTS

REPORT

**on the development of human rights
protection and promotion in Romania
in the year 1997**

Bucharest, 1998

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Naturally, most normative acts issued last year referred to the economic and the social fields, and such words as: reform, economic reorganization, social re-insertion, economic optimization and reinvigoration, are to be met everywhere.

Despite the fact that the preoccupations in the last 12 months were primarily directed to the economic, normative acts in the field of human rights or tangling human rights were not scarce.

Human rights issues – so vast and delicate – were present, therefore, on the Government's and Parliament's agendas. Thus, in the year 1997, a number of important normative acts were adopted or issued, in the form of laws or Government Ordinances.

The following is a presentation of the main fields where normative acts were adopted with a view to provide a more effective framework for the safeguard and protection of the fundamental rights in Romania.

I. Legal provisions referring to the activity of certain institutions tangling human rights issues. Organization of liberal professions in Romania

The following normative acts are worth mentioning in this field of creating the legal framework for the protection and promotion of human rights, be it at the institutional level or by the recognition of certain liberal professions:

- **The Organization and Functioning of the Advocate of the People Act – Law no. 35/1997**, adopted in the common session of the Chamber of Deputies and the Senate, on February 21 1997, and published in Romania's Official Gazette issue no. 48 of March 20 1997.

While implementing the constitutional provisions of art. 55–57, the Act is particularly important for, on the one hand, it introduces a new institution in the field of human rights protection in Romania, and, on the other

hand, it creates the concrete – organizational and institutional – framework for the relationship between citizens and the public authorities.

The Act includes provisions referring to the appointment and the term of office cessation for the Advocate of the People and his/her deputies, their powers and responsibilities, as well as the organization of the Advocate of the People institution.

According to art. 56 in the Constitution, the Advocate of the People shall exercise his powers ex officio or upon request by persons aggrieved in their rights and freedoms, within limits established by law.

The Organization and Functioning of the Advocate of the People Act provides that, in his/her activity, the Advocate of the people shall be independent in relation to any public authority and shall not be subject to any imperative or representative mandate. Nobody shall be entitled to compel the Advocate of the People to obey his/her orders or commands.

The activity performed by the Advocate of the People, by his/her deputies and by the employees working under his/her authority shall be public.

According to art. 13 in the Act, the Advocate of the People shall receive and assign the applications made by persons aggrieved by the public authorities in their rights and freedoms, and shall make decisions concerning these applications. At the same time, he/she shall monitor the legal resolution of these applications and demand the respective public servants to put an end to the violation of the citizens' rights and freedoms, reinstate the petitioner and redress the damages.

Applications addressed to the Advocate of the People shall be in written form and indicate the name and the address of the person aggrieved in his/her rights, as well as the respective administrative authority or public servant. The petitioner shall provide evidence as to the delay or refusal by the public administration to legally solve the application.

Applications may be addressed by any natural person, irrespective of citizenship, age, sex, political affiliation or religious adherence.

According to art. 56 in the Constitution, it is binding upon the public authorities to give the Advocate of the People the necessary support in the exercise of his powers. At the same time, according to art. 21 in the Act, the Advocate of the People shall be entitled to make investigations of his/her own, to request the authorities of public administration any information or documents deemed to be necessary for the investigation, to analyze, and to interview the heads of public authorities and any public servant who may provide the information needed for the resolution of the application. Should the Advocate of the People find, as a result of his/her investigations, that the complaint of the aggrieved person is grounded, he/she shall

demand, in written form, the authority of public administration that violated the petitioner's rights to reform or revoke the administrative act and redress the damages, as well as reinstate the aggrieved person to his/her previous situation, within 30 days since the date of the application. In case the demand is not fulfilled, the Advocate of the People shall address the next higher rank authorities of public administration; the latter are bound to inform him/her, within 45 days, about the measures they took.

The Advocate of the People shall also be entitled to inform the Government about any illegal act or action by the central public administration and the prefects.

According to art. 24 paragraph (2) in the Act, the Government's denial to adopt, within 20 days at the latest, the adequate measures regarding the illegal nature of the denounced administrative actions shall entitle the Advocate of the People to address Parliament.

According to art. 1 in the Act, in the exercise of his/her powers, the Advocate of the People shall issue recommendations that cannot be subject to parliamentary control, or to judicial control.

The Advocate of the People shall present reports in the common session of the two Chambers of Parliament, annually or on request by the latter (art. 5 in the Act). The reports shall include information about the activity of the Advocate of the People institution. They may include recommendations regarding the modification of the legislation or other measures to be taken for the protection of the citizens' rights and freedoms.

• **Law no. 138/1997 on the modification and supplementation of Law no. 47 on the organization and functioning of the Constitutional Court**, published in Romania's Official Gazette no. 170 of July 25 1997, includes a number of modifying provisions, procedural in nature, in the field of the control on the constitutionality of laws, as well as some organizational aspects meant to improve the Court's activity. Thus, Law no. 138/1997 modifies the general provisions under art. 2 and 3 in Law no. 47/1992, on the way the Court exercises its control. At the same time, Law no. 138/1997 has modified certain provisions related to the control on the constitutionality of laws prior to promulgation, to the resolution of pleas of unconstitutionality, to the conformity with the procedure related to the election of the President of Romania.

The modifying provisions under Law no. 138/1997 abrogated those provisions under art. 25 in Law no. 47/1992 according to which the decision by the Constitutional Court, made to solve a plea of unconstitutionality, could only be attacked by recourse, within 10 days since notification. The elimination of the recourse way of attack will speed up the solution of the trial, serving the interest of both parties.

At the same time, art. 36 was also accordingly modified, as compared to the initial provisions under Law no. 73/1993; thus, according to the modified procedure for the initiation of the legislative procedure concerning the modification of the Constitution, the draft of law or the legislative proposal shall be submitted to the Court, together with an endorsement by the Legislative Council.

• **Law no. 109/1997 on the organization and functioning of the Economic and Social Council**, published in Romania's Official Gazette no. 141 of July 7 1997.

Based on the provisions under this law and with a view to achieve a social dialogue involving the Government, the unions and the employers, as well as climate of social peace, the Economic and Social Council shall be established as a tripartite, independent body of public interest.

Highly important to the human rights protecting legislation, the Economic and Social Council has a consultative role in the elaboration of the economic and social policy, as well as with the mediation of conflicts that may appear between the social partners, prior to the initiation of the legal procedures regulating the resolution of collective labour conflicts.

At the same time, according to art. 2 in the Law, the Economic and Social Council has a number of concrete powers regarding the restructuring and development of the national economy, as well as the wage policy, social protection and health caring, education and research.

• **Law no. 81/1997 on the exercise of the pharmacist's profession, the establishment, the organization and the functioning of the Romanian Pharmacists' Association**, published in Romania's Official Gazette, issue no. 89 of May 14 1997, falls in the line of normative acts that create the legislative framework for the exercise of freelance professions.

According to art. 1 in the Law, the exercise of the pharmacist's profession is the right of any natural person who is a Romanian citizen, and possesses a pharmacist diploma issued by an accredited pharmaceutical college, in Romania or from abroad, and is acknowledged as provided under the law.

The exercise of the pharmacist's profession shall be endorsed by the Romanian Pharmacists' Association and authorized by the Ministry of Health.

Worth mentioning are the provisions under art. 2 in the Law, providing that "the pharmacist's profession has the purpose of ensuring public health, by researching, producing, distributing and selling medicines in compliance with the quality standards provided for by the Romanian Pharmacopoeia and other official standards in Romania and from abroad,

endorsed by the Ministry of Health”.

In the exercise of his profession, a pharmacist shall manifest devotion, uprightness, willingness and respect for the person addressing him for the acquisition of the necessary medicines.

The law defines the new profile of the pharmacist’s profession under such conditions as the rule of law and the market economy, with its own organization and functioning.

Relevant to the new significance of the pharmacist’s profession are the legal provisions referring to the Romanian Pharmacists’ Association – a professional, nongovernmental organization, with legal personality, apolitical and without patrimonial purposes, with institutional independence – representing the interests of the pharmacist’s profession, while ensuring the advancement of this profession and defending the prestige it has at the social life level.

Also important to the achievement of an institutional and organizational framework for the protection and promotion of human rights are the provisions under Law no. 56/1997 regarding the application of the provisions under the Convention on the Prohibition on the Development, Storing and Use of Chemical Weapons and the Discarding Thereof (Romania’s Official Gazette issue no. 67 of April 17 1997), which set forth the circumstances under which import and export operations are allowed, including provisions referring to the control system, and the way international controls shall be performed.

II. Amendment of certain legal provisions in such fields as the civil, the civil procedural, the administrative, and the adoption

Subject to a continuous adaptation, the Romanian legislation has undergone an improvement process in this period, in the spirit of the European principles in the field.

- **Law no. 142/1997 on the amendment of Law no. 92/1992 on the judicial organization**, published in Romania’s Official Gazette issue no. 170 of July 25 1997.

Highly important to the field of human rights, Law no. 142/1997 amends a number of provisions under Law no. 92/1992 on the judicial organization, referring to:

a) the notions of judicial authority and judicial power

In compliance with the constitutional provisions and the power separation principle, art. 1 in Law no. 142/1997 provides that the judicial authority consists of the courts of law, the Public Ministry, and the Superior Council of the Magistrature, each one with its own powers provided for under the Constitution.

Also, according to art. 125 paragraph 1 as well as art. 8 paragraph 2 in the Constitution, art. 1 paragraph 2 in the Law provides that the judicial power shall be separated from the other powers of the State, having its own powers exercised through the courts of law.

b) the principle of free access to justice and defence of human rights. In this respect, art. 2 paragraph 2 provides that “courts of law shall achieve justice with a view to defend the citizens’ rights and fundamental freedoms, as well as the other rights and legitimate interests subject to judgement”, while paragraph 4 provides that the Public Ministry shall represent, in the judicial activity, the general interests of society and shall defend the rule of law, as well as the citizens’ rights and freedoms;

c) the structure and functioning of the courts of law;

d) the organization and the powers of the Public ministry. Thus, according to art. 26 in Law no. 92/1997, the Public Ministry shall exercise its powers through prosecutors organized in Parquets, with each court of law, under the authority of the Minister of Justice. The activity of the Public Ministry shall be organized in compliance with the principles of legality, impartiality, and hierarchic control. The Public Ministry shall be independent in relation to the other public authorities and shall exercise its powers only in compliance with the law and for the observance thereof.

e) the body of magistrates – their appointment and promotion in office; in relation to these provisions, Law no. 142/1997 introduces a number of provisions referring to admittance to the magistrature and the conditions to be met for this purpose; an exemption to the Labour Code was also established in relation to the magistrates’ rights for the period when they are delegated or suspended from office as well as the special conditions referring to the magistrates’ appointment and promotion in office.

f) special provisions referring to the National Institute of Magistrates – as a public institution that shall achieve the specific training of future magistrates, as well as the professional training of magistrates who are in office.

• **Law no. 146/1997 on the judicial taxation**, published in Romania’s Official Gazette issue no. 173 of 29 July 1997, including a coherent, brief and tidy set of provisions in the field of judicial taxation.

• **Law no. 178/1997 on the authorization and payment of the interpreters used by criminal investigation bodies, courts of law, public notary bureaus, lawyers, and the Ministry of Justice**, published in Romania's Official Gazette issue no. 305 of November 10 1997.

• **Law no. 17/1997 on the amendment of article 330¹ in the Civil Procedure Code**, Romania's Official Gazette issue no. 26 of February 18 1997, includes provisions referring to the time interval within which a repeal recourse may be declared.

The issue of the repeal recourse – an institution considered either obsolete, an emblem of a past regime, or extremely important – is a topic for ample discussions.

Law no. 17/1997, which many consider to be a palliative, provides that, for the reason provided under art. 330 paragraph 1 (when the court outruns the limits of the judicial power), the repeal recourse can be declared within 6 months since the date when the Court's decision becomes irrevocable, while for the reason provided for under art. 330 paragraph 2 (when the judges themselves committed infringements in relation to the pronounced decision), the repeal recourse can be declared within 6 months since the date when the conviction decision becomes irrevocable.

The four above mentioned laws: Law no. 142/1997 on amending Law 92/1992, Law no. 146/1997 on judicial taxation, Law no. 178/1997, as well as Law no. 17/1997 on amending certain provisions of the Civil Procedure Code – taken as a whole, represent an adequate and visibly improved framework for the achievement of justice in Romania. These provisions create the legislative framework that is necessary for the protection and promotion of human rights in Romania.

• **Law no. 79/1997 on amending Law no. 85/1992 on the selling of dwellings and buildings with other destinations built on State funds and the funds of State-owned economic units or budgetary units**, published in Romania's Official Gazette, issue no. 87 of May 12 1997, extends the sphere of Law no. 85/1992.

Thus, according to Law no. 79/1997, the owners of the leases can buy garages built on State funds, on funds of State-owned economic units or budgetary units, or garages that belonged to private institutions or companies, as well as the dwellings which, prior to March 6 1945, belonged to self-managed public companies, State-owned, mixed, or private capital institutions and companies that ceased to exist after that date or, as the case may be, became State-owned economic or budgetary units, through reorganization.

- **Government Speedy Ordinance no. 22/1997 on amending the Local Public Administration Act no. 69/1991**, published in Romania's Official Gazette issue no. 105 of May 29 1997, includes a number of amending provisions related to the powers and the functioning of the Local Councils, the local secretary and public services, the public assets and public utilities, the prefect's powers, all these with a view to increase the autonomy of the Local Councils.

Thus, according to the provisions under this speedy ordinance, the central public administration authorities shall not intervene in the fields that do not fall within their exclusive competence, provided that, and to the extent, the objectives of the action cannot be achieved by the local public administration authorities because of their magnitude and the effects they may produce.

Also, according to the provisions under the new normative act, Local and county Councils shall be entitled to make decisions about the establishment of collaboration, co-operation, association and fraternity relationships between their administrative-territorial unit and similar administrative-territorial units or associations from abroad, with the aim of promoting certain common interests, provided that the legislation is observed. At the same time, Local Councils shall be entitled to make decisions about adherence to international associations joining together local public administration authorities. For the achievement of certain projects of public interest, Local and County Councils shall be entitled to make decisions about the establishment of collaboration and association relationships with national or foreign trade agents.

- **Speedy Ordinance no. 25/1997 on the adoption**, published in Romania's Official Gazette issue no. 120 of June 12 1997, enshrines a modern regulation, in compliance with the European law, in the field of adoption.

According to art. 1, adoption is a special protective measure of human rights, establishing the relationship between the adopter and the child, as well as kinship between the child and the adopter's relatives.

As expectably, the circumstances, the ways, and the situations in which adoption may be accomplished are established.

Alongside the provisions under Government Speedy Ordinance no. 26/1997 on the protection of the child in distress, this normative act represents the legal bases for the resolution of the very serious problems the Romanian society is facing in this field.

- **Law no. 141/1997 on the Customs Code of Romania**, published in Romania's Official Gazette issue no. 180 of August 1 1997. The provisions

of this Code shall apply to all assets introduced into or taken out of the country by natural or legal persons. The new Customs Code of Romania includes provisions related to:

- ◆ the institutional system of the customs authority;
- ◆ the steps of the customs operation;
- ◆ the final and the temporary customs regimes;
- ◆ the customs liability;
- ◆ the resolution of customs complaints and petitions, sanctions in the field of customs.

The law also includes provisions related to the powers of the customs authority that exercises, as part of the State's customs policy, the powers conferred by customs regulations in order to collect duties for the goods introduced into or taken out of the country. The law also provides for the way corporal customs control shall be done, in exceptional cases, only if there is good reason to suspect an attempt of infringement upon the customs regulations.

III. Legal aspects of the economic reform and the right to property

1. As far as the economic reform is concerned, the following are worth mentioning:

• **Government Speedy Ordinance no. 88/1997 on the privatization of trading companies**, published in Romania's Official Gazette issue no. 381 of December 29 1997, establishes the legal framework for the selling of shares issued by trading companies and possessed by the State or by a local public administration authority, as well as the selling of the stock belonging to trading companies where the State or a local public administration authority is a shareholder.

In compliance with the European regulation, Speedy Ordinance no. 88/1997 includes provisions having the value of general principles, on which the privatization process is based:

- ◆ transparency of the transactions should be achieved;
- ◆ selling prices should be established on the basis of the demand-offer ratio;
- ◆ equality of treatment among buyers should be achieved.

Beside the Statute and the powers of the Ministry of Privatization

and the State-owned Property Fund, Speedy Ordinance no. 88/1997 also regulates for:

- a) the selling of shares;
- b) the selling of the stock belonging to trading companies where the State or a local public administration authority is a shareholder, which may be achieved either on full pay or on installment;
- c) minimally accepted environment objectives; thus, the State-owned Property Fund is bound to include minimally accepted environment objectives in the sales offer, in case the transfer of the right to property impose an obligation of compliance with the environment protection requirements on the buyer;
- d) special rules related to the privatization of national societies; thus, with the strategic branches of the national economy, the Government may decide either to keep a nominative control share, or to sell the majoritary package to ministry investors; this nominative control share may be transformed into a common share under a decision by the Government.

• **Government Speedy Ordinance no. 92/1997 on the stimulation of direct investments**, published in Romania's Official Gazette, issue no. 386 of December 30 1997, establishes the general legal regime in relation to the guarantees and advantageous conditions investors and direct investments in Romania benefit from.

According to art. 4 in the Ordinance, and in compliance with the constitutional provisions, an investment in Romania, as well as the possession, usage, or decision power upon a property shall be guaranteed and may be subject to no discriminatory measure. The administration, maintenance, turning to account, extension, or liquidation of an investment shall not be subject to discrimination as well.

Investors in Romania mainly enjoy:

- ◆ the possibility to make investments in any field and any juridical forms provided for under the law;
- ◆ equality of treatment – fair and equitable – for Romanian and foreign investors, residing in Romania or not;
- ◆ guarantees against nationalization, expropriation or other measures with a similar effect;
- ◆ the possibility to employ foreign citizens, in compliance with the legal provisions.

This synthetic presentation leads to the conclusion that the new regulation in the field – Government Speedy Ordinance no. 92/1997 replacing Law no. 35/1991 on the investments regime in Romania – attempts to create a general equal framework for the investors, be they Romanians or foreigners, resident or non-resident of Romania.

The important aspect in the light of this new regulation is the equality of legal treatment among investors, as well as the provision of a system of guarantees and advantageous conditions, particularly related to the customs and taxes.

- **Law no. 83/1997 on the privatization of bank trading companies where the State is a shareholder**, Romania's Official Gazette issue no. 98 of May 23 1997, the provisions under which privatization is going to be done, as well as the circumstances and ways proper to achieve the privatization of this special type of trading companies.

- **Government Speedy Ordinance no. 30/1997 on the reorganization of self-managed public companies (endorsed under Law no. 207/1997)**, published in Romania's Official Gazette issue no. 125 of June 19 1997, is a highly important normative act for the accomplishment of the reform and the restructuring of the Romanian economy.

According to this Ordinance, the ministries and the other local public administration authorities under whose authority self-managed public companies are organized and functioning, are bound to finalize the reorganization program for the self-managed public companies; based upon the this program, individual administrative acts shall be issued, including measures of reorganization or dissolution through stock selling, as the case may be. Those that will not be subject to dissolution and liquidation shall be reorganized as trading companies, and, out of these, those performing activities of national public interest shall be called national companies, or, as the case may be, national associations and shall be subject to the privatization process.

- **Government Speedy Ordinance no. 32/1997 on amending Law no. 31/1990 on trading companies (endorsed under Law no. 195/1997)** – Romania's Official Gazette issue no. 133 of June 27 1997.

A framework normative act for the organization and functioning of trading companies, Law no. 31/1990 was amended several times.

Speedy Ordinance no. 32/1997 brought along important amendments in relation to the registration of trading companies, as well as the procedural provisions referring to the latter. There are also amendments in relation to the Constitutive Act – and the circumstances under which it may be modified, the circumstances under which the social capital may be increased, the dissolution of trading companies, their merging, dividing, and liquidation.

At the same time, the dispositions under Law no. 31/1990 were correlated to those under the Environment Protection Act, in relation to the obtaining of the environment authorization by trading companies.

Transportation is an important field for the accomplishment of the economic reform, and therefore it is the topic of an entire package of normative acts. Thus, based on Law no. 134/1997, several ordinances were issued in this field, of which the following are to be mentioned:

- **Government Ordinance no. 29/1997 – the Air Code** – published in Romania’s Official Gazette issue no. 208 of August 26 1997;

- **Government Ordinance no. 41/1997 on the endorsement of the Railway Transportation Regulations in Romania**, published in Romania’s Official Gazette issue no. 220 of August 29 1997;

- **Government Ordinance no. 42/1997 on civil water transportation** published in Romania’s Official Gazette issue no. 221 of August 29 1997;

- **Government Ordinance 43/1997 on the legal regime of the roads**, published in Romania’s Official Gazette issue no. 221 of August 29 1997;

- **Government Ordinance no. 44/1997 on driveway transportation**, published in Romania’s Official Gazette issue no. 222 of August 29 1997;

2. As far as the protection of the right to property is concerned, the following are worth mentioning:

- **Law no. 169/1997 on the amendment of the Land Fund Act no. 18/1991**, published in Romania’s Official Gazette issue no. 299 of November 4 1997.

The Law includes a number of important provisions referring to:

- ◆ the limit of the land surface for which one may apply for the restoration of the right to property and the procedure to be followed;
- ◆ new provisions regarding the restoration of the right to property for the representative bodies of cult units, acknowledged by the law or other cult units and the procedure to be followed;
- ◆ the possibility, for both the Romanian citizens residing abroad and the Romanian citizens who recovered their Romanian citizenship, no matter whether they are residents of Romania or not, to apply for the restoration of their right to property over agricultural land surfaces or lands with an agricultural destination, within the limits provided for under the law and with the observance of the conditions provided for under art. 2 in the Law;

- ◆ a number of procedural provisions for the implementation of the amending provisions;
 - ◆ new sanctions for various crimes in the field.
- **Law no. 196/1997 on the endorsement of Government Speedy Ordinance no. 40/1997 on the amending of the Dwelling Act no. 114/1996**, published in Romania's Official Gazette issue no. 331 of November 26 1997 (endorsed through Law no. 196/1997) includes a number of provisions referring to:
 - ◆ the initiation of stimulating measures, through exemptions from the profit tax, in the respective fiscal year, for the Romanian natural or legal persons investing in dwellings, in the consolidation of dwellings affected by earthquakes, or in materials produced for dwellings;
 - ◆ the ways and conditions for the granting of credits taken to build or buy dwellings.

IV. Adoption of regulations in the field of education

- **Speedy Ordinance no. 36/1997 on the amendment of the Education Act no. 84/1995**, published in Romania's Official Gazette issue no. 152 of July 14 1997. is meant to introduce and accelerate reform in the field of education and the educational system. Thus, it includes new provisions that harmonize the organization, functioning and financing of the professional training, achieved through educational units such as vocational units, high schools, special schools, post-high-school units, and through continuous education, under the specific circumstances of the market economy and the democratic society. In this respect, this act provides for the establishment of the National Fund for Professional Training as well as the establishment of the National Council for the Organization, Functioning and Financing of Professional Training, to be added to the already existing advisory bodies; the purpose is to create the legislative framework for social partnership and the motivation of investments in the professional training.

In the context of the increasing demand for training, the Ordinance proposes a continuous training through training and professional conversion courses.

V. Legal provisions on the social protection of certain categories of persons

I. Measures related to social protection

A number of normative acts referring to various aspects of social protection have been adopted. Of these, the following are to be mentioned:

- **Law no. 20/1997**, published in Romania's Official Gazette issue no. 42 of March 14 1997, **on the endorsement of Government Speedy Ordinance no. 1/1996 on the rights of the personnel whose activity was interrupted as a result of the temporary cut-off of the electric power supply**, in the period February 9–26 1996;

- **Law no. 46/1997**, Romania's Official Gazette issue no. 58 of April 8 1997, **on the endorsement of Government Speedy Ordinance no. 8/1996 on some social protection measures addressing the personnel in the national defence industry**;

- **Law no. 73/1997**, Romania's Official Gazette issue no. 87 of May 12 1997, **on granting a pecuniary compensation to cover bread price rises in the period April-September 1997**;

- **Law no. 98/1997**, published in Romania's Official Gazette issue no. 130 of June 25 1997, **on the endorsement of Government Ordinance no. 7/1997 on the regulation of the payment to the personnel employed under civil conventions for the collecting of budgetary debts**;

- **Government Ordinance no. 16/1997 on the assistance for the acquisition of medical equipment created to correct and recover organic or functional deficiencies or to correct physical deficiencies**, published in Romania's Official Gazette issue no. 198 of August 19 1997;

- **Government Ordinance no. 48/1997 on social protection measures for employees in case of transfer of the right to property over the stock or social shares of trading companies**, published in Romania's Official Gazette issue no. 224 of August 30 1997;

- **Law no. 119/1997 on the additional allowance for families with children**, published in Romania's Official Gazette issue no. 149 of July 11 1997, according to which families caring for at least two children are entitled to an additional allowance, whose quota shall depend on the number of children.

For the achievement of these rights, the family book shall be instituted, to reflect family membership, children's parents, and their legal status in relation to their legal representatives.

At the same time, it includes provisions referring to the procedure to be followed for the concession of these allowances, as well as the way possible challenges can be solved.

• **Law no. 120/1997 on the paid leave for looking after children below the age of 2**, published in Romania's Official Gazette issue no. 149 of July 11 1997.

This Law extends the paid leave for looking after children from 1 to 2 years, while women enjoy an allowance representing 85% of their pecuniary rights throughout this leave.

According to art. 6 in the Law, any of the child's parents may enjoy these rights, on their choice. Conceptually, this legal provision is a new perspective to the Romanian law-maker and represents a modern, European solution in the field.

• **Law no. 143/1997 on the amendment of Law no. 130/1996 on the collective labour contract**, published in Romania's Official Gazette issue no. 172 of July 28 1997, which mainly refers to:

- ◆ the circumstances under which the collective negotiation takes place;
- ◆ some terminological clarifications;
- ◆ situations when the collective labour contract may cease;
- ◆ conditions to be met by trade union organizations when negotiating the collective labour contract at national, branch or unit level.

The Health Social Insurance Act no. 145/1997, published in Romania's Official Gazette issue no. 178 of July 31 1997.

According to art. 1 in the Law, health social insurance represent the main system for the protection of the population's health. Health social insurance shall be compulsory and function decentralized, on the principles of solidarity and subsidiarity in the collecting of the fund, as well as the right of the insured to freely choose their physician, the sanitary unit, and the health insurance company. Other forms of health insurance may be instituted as well, to cover individual risks under various social circumstances. Private health insurance companies may also be organized, but these shall not be compulsory.

Law no. 145/1997 includes provisions referring to:

- ◆ the insured and their rights;

- ◆ the relationship between health insurance companies and the suppliers of medical services, equipment, and medicines;
- ◆ the financing of medical services;
- ◆ the organization of health insurance companies and the control upon the financial administration of the National Health Insurance Company.

• **Law no. 208/1997 on the social assistance canteens**, published in Romania's Official Gazette, issue no. 363 of December 17 1997.

According to art. 1 in the Law, social assistance canteens are public units of social assistance, subordinated to the Local Councils. They offer social services, free of charge or payable, to persons in special economic, social or medical situations.

2. Measures for the protection of certain social categories

The normative acts referring measures for the protection of certain social categories include:

• **Government Speedy Ordinance no. 9/1997 on protective measures for persons whose individual labour contracts are denounced as a result of collective dismissals through the implementation of the restructuring, privatization or liquidation programs**, endorsed under Law no. 108/1997 and published in Romania's Official Gazette no. 64 of April 15 1997.

The ordinance includes active measures for the protection of persons whose individual labour contract was denounced as a result of collective dismissals, as well as the conditions and ways for the application of compensatory payments. It is also provided that the amounts allotted as compensatory payment shall be increased if the respective person lives in a geographical area where the unemployment rate is at least 12%, or lives in a geographical area where there is a limited number of professional activities, or when the respective person has a job, a profession or an occupation of strict specialization.

• **Government Ordinance no. 10/1997 on granting certain rights to the students and pupils attending State-owned educational units, regular courses, in the year 1997**, published in Romania's Official Gazette issue no. 185 of August 5 1997;

• **Government ordinance no. 39/1997 on the reduction of the retirement age for women working in the mining industry**, published in Romania's Official Gazette no. 219 of August 29 1997;

- **Law no. 65/1997 for the amendment of Law no. 1/1991 on the social protection of the unemployed and their professional reintegration, republished**, includes provisions referring to the possibility of advantageous credits for the establishment or development of small and middle-sized enterprises or cooperative units, with maximum 200 employees, to the end of creating new jobs, particularly for the unemployed;

- **Law no. 49/1997 for the amendment of Law no. 3/1997 on the State social insurance and social assistance pensions**, published in Romania's Official Gazette no. 58 of April 8 1997 and

- **Law no. 86/1997 for the amendment of Law no. 3/1997 on the State social insurance and social assistance pensions**, published in Romania's Official Gazette no. 107 of May 30 1997.

The two normative acts establish, on the one hand, the categories of invalidity pensioners that shall not be subject to medical revision, and, on the other hand, the ways to pay the pensions, the additional pensions and the other rights of the pensioners who reside on the territory of a foreign country.

- **Law no. 96/1997 for the endorsement of Government Ordinance no. 27/1996 on certain advantages granted to persons living or working in localities in the Apuseni Mountains and the "Danube Delta" Biosphere Reservation**, republished in Romania's Official Gazette issue no. 118 of June 10 1997, includes provisions related to the granting of certain isolation bonuses to persons working in such areas, consisting of amounts of money and wooden construction material.

- **Government Speedy Ordinance no. 26/1997 on the protection of children in distress**, Romania's Official Gazette no. 120 of June 12 1997, includes provisions referring to ways and circumstances for entrusting or placing children in distress, either to a family or to an authorized private body, or in view of adoption.

The Ordinance also includes provisions referring to the private bodies activating in the field of child protection, as well as the norms related to the financing of protection of children in distress.

According to art. 2, a child in distress shall enjoy protection and assistance for the full achievement and appropriate exercise of his rights, while the meaning of child in distress is a person below the age of 18 who does not possess full exercise capacity, whose development, security and physical or moral integrity is endangered.

The responsibility to provide a child in distress protection and assistance in the achievement and exercise of his rights primarily lies with the

local collectivity to which the child belongs, while the State shall assist the latter to fulfill the obligations assigned to it by the law.

- **Law no. 162/1997 for the endorsement of Government Speedy Ordinance no. 35/1997 on encouraging natural and legal persons to employ graduates of educational units**, Romania's Official Gazette issue no. 288 of October 24 1997;

- **Law no. 203/1997 on the integration of the social insurance system of the Mosaic Cult in Romania with the State social insurance system**, published in Romania's Official Gazette issue no. 350 of December 10 1997;

- **Law no. 209/1997 on the endorsement of Speedy Ordinance no. 42/1997 on the improvement of the social protection for persons who totally or partially lost their labour capacity and for the descendants of those who deceased, as a result of their participation in the struggle for the victory of the Anticommunist Revolution of 1989 or because of the revolutionary events of December 1989**, Romania's Official Gazette issue no. 361 of December 16 1997;

- **Law no. 215/1997 on the Constructors' Social House**, published in Romania's Official Gazette issue no. 372 of December 22 1997, whose object is to ensure protection of the employees working on constructions and the manufacturing of construction materials during the period when they disrupt their activity owing to adverse meteorological conditions;

- **Law no. 216/1997 for the endorsement of Government Ordinance no. 22/1997 on certain protective measures granted to the personnel in the mining industry or involved in geological prospecting and exploration activities**, Romania's Official Gazette issue no. 372 of December 22 1997;

- **Law no. 219/1997 for the endorsement of Government Ordinance no. 17/1997 on certain protective measures for persons whose individual labour contracts were denounced as a result of collective dismissals through the implementation of the restructuring, privatization or liquidation programs**, Romania's Official Gazette issue no. 375 of December 24 1997;

- **Law no. 220/1997 for the endorsement of Government Ordinance no. 18/1997 on the establishment of the amounts of compensatory payments for persons whose individual labour contracts are to be denounced as a result of collective dismissals**, Romania's Official Gazette issue no. 375 of December 24 1997.

VI. Romania's ratification of or adherence to international conventions

Romania became a Party to a number of international conventions, important to the field of human rights. Thus, mention should be made of:

- **Law no. 14/1997 for the ratification of the Energy Charter Treaty and the Energy Charter Protocol on energetic efficiency and environmental issues, concluded in Lisbon on December 17 1994, Romania's Official Gazette issue no. 26 of February 18 1997;**

- **Law no. 19/1997 on the ratification of the European Convention on the Reprimand of Terrorism, Romania's Official Gazette issue no. 34 of March 4 1997;**

- **Law no. 32/1997 on the endorsement of Government Ordinance no. 32/1996 for the ratification of the Agreement between the Government of Romania and the European License Organization regarding cooperation in the field of licenses, signed in Bucharest on September 9 1994, Romania's Official Gazette issue no. 43 of March 14 1997;**

- **Law no. 21/1997 on Romania's adherence to the Agreement between the Austrian Republic, the Bulgarian Republic, the Hungarian Republic, the Polish Republic, the Slovak Republic and the Slovenian Republic for cooperation in the field of education and training as part of the Exchange Program for Academic Studies in Central Europe, signed in Budapest on December 8 1993, Romania's Official Gazette issue no. 45 of March 17 1997;**

- **Law no. 80/1997 for the ratification of the European Convention on Extradition, concluded in Paris on December 15 1957 and its additional Protocols, concluded in Strasbourg on October 15 1975 and on March 17 1978, Romania's Official Gazette issue no. 89 of May 14 1997;**

- **Law no. 90/1997 for the ratification of the Agreement under which Romania adhered to the Central European Free Trade Agreement (CEFTA), Cracow, December 21 1992, signed in Bucharest on April 12 1997, Romania's Official Gazette issue no. 108 of May 30 1997;**

- **Law no. 116/1997 for the ratification of the European Convention on the control of the acquisition and possession of fire arms by private persons, signed in Strasbourg on June 28 1978, Romania's Official Gazette issue no. 143 of July 8 1997;**

- **Law no. 149/1997 for the ratification of the UNIDROIT Convention on cultural assets robbed or exported illegally, adopted in Rome on June 24 1995, Romania's Official Gazette issue no. 176 of July 30 1997;**

- **Law no. 150/1997 for the ratification of the Convention on the protection of the archeological patrimony (revised), adopted in La Valetta on January 16 1992, Romania's Official Gazette issue no. 175 of July 29 1997;**

- **Law no. 157/1997 on the ratification of the Convention on the protection of Europe's architectural patrimony, adopted in Granada on October 3 1985, Romania's Official Gazette issue no. 274 of October 13 1997;**

- **Law no. 199/1997 for the ratification of the European Charter of Local Autonomy, adopted in Strasbourg on October 15 1985, Romania's Official Gazette issue no. 331 of November 26 1997.**

Of the bilateral agreements in the field, concluded in this period, mention should be made of:

- **Law no. 45/1997 for the ratification of the Agreement between Romania and Spain on readmission of the persons having an illegal status, signed in Bucharest on April 29 1996, Romania's Official Gazette issue no. 58 of April 8 1997;**

- **Law no. 63/1997 on the ratification of the Agreement between the Government of Romania and the Government of the Hellenic Republic for the final regulation of the compensation for social insurance contributions made by the Greek political refugees repatriated from Romania, signed in Athens on February 23 1996, Romania's Official Gazette issue no. 73 of April 23 1997;**

- **Law no. 117/1997 for the ratification of the Agreement between the Government of Romania and the Government of the Hungarian Republic on the mutual protection of the exchange of top secret military information, signed in Debrecen on February 17 1997, Romania's Official Gazette issue no. 143 of July 8 1997;**

- **Law no. 129/1997 for the ratification of the Treaty on Good Neighbourly Relations and Cooperation between Romania and Ukraine, signed in Constanca on June 2 1997, Romania's Official Gazette issue no. 157 of July 16 1997;**

- **Law no. 148/1997 for the ratification of the Memorandum on the Agreement between the Government of Romania and the**

Government of the united Kingdom of Great Britain and Northern Ireland in combating organized crime and illegal traffic of narcotics and psychotropic substances, signed in Bucharest on November 14 1995, Romania's Official Gazette issue no. 175 of July 29 1997

• **Law no. 173/1997 for the ratification of the Agreement between Romania and the Italian republic on readmission of the persons having an illegal status, signed in Bucharest on March 4 1997, Romania's Official Gazette issue no. 304 of November 7 1997;**

• **Law no. 177/1997 for the ratification of the Treaty between Romania and the Moldova Republic on legal assistance in civil and criminal matters, signed in Chișiău on July 6 1996, published in Romania's Official Gazette issue no. 310 of November 13 1997.**

The facts presented in this Report show that, in 1997, Romania continued to take interest in such issues as the protection and promotion of human rights and fundamental freedoms.

The great majority of the normative acts adopted during this period are characterized by amendments, such as to comply with the realities of the Romanian society and the international tendencies in law as well.

Particular attention should be given to the harmonization of the social and economic legislation with the provisions of the documents adopted by the Council of Europe and, in view of the European integration, with those of the European Union; it is worth mentioning in this respect the expectations of the civil society regarding the finalization of the legal framework for the activity of nongovernmental organizations, the adoption of a special regulation related to equality of chances, the legislation of the status of public servants and ministerial liability.

At the same time, the Civil Code and the Civil Procedure Code should be amended such as to reflect a new outlook, better tuned to the principles of the Constitution; these should also be accompanied by consonant provisions applying to criminal matters.

Another field that needs legal solutions, in consonance with both the domestic realities and the international norms, is that of public and private property, with deep implications on human rights.

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