ROMANIAN INSTITUTE FOR HUMAN RIGHTS

REPORT

on the Development of Human Rights Protection and Promotion in Romania in the Period 1992-1995

Bucharest, January 1996

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In the period 1992-1995, Parliament of Romania had an intensive legislative activity, adopting a large number of laws which gave substance to the contents and exercise of certain human rights. The following is intended as an attempt for a systematic presentation of the main fields where the effective legislation was enriched, such as to develop a more efficient framework guaranteeing and protecting the fundamental rights.

I. MODIFICATION AND SUPPLEMENTATION OF SOME PROVISIONS OF THE CRIMINAL, CRIMINAL PROCEDURE, AND CIVIL LEGISLATION, AS WELL AS THE FAMILY CODE AND THE ADMINISTRATIVE DISPUTED MATTERS

Keeping up with the permanent adaptation to the new rule-of-law principles, the Romanian legislation has undergone, throughout this period, a process of enrichment and improvement, in the spirit of the democratic principles promoted at legislative level by the European States.

— **Law no. 88 of July 22, 1992,** for the modification and supplementation to some provisions in the Criminal Code and Criminal Procedure Code has entered a series of provisions incriminating the import of discarded material or residues of any kind. According to the modifications, import of goods dangerous for the population's health and for the environment, as well as any introduction or transport thereof on the territory of Romania without observance of the legal provisions shall be sanctioned. The punishment shall be more severe in case infringements such as the above mentioned ones have endangered the health or physical integrity of a large number of persons, caused serious physical injuries to persons or important material damages.

The same law provides for the modification of the Criminal Procedure Code, stipulating compulsory criminal pursuit by the Prosecutor in case of crimes involving a high degree of danger, such as homicide, the inducing or

supporting of suicide, illegal deprivation of liberty, slavery, piracy, robbery causing the victim's death, offense against certain heraldry, bribe-taking, bribe-offering, traffic of influence, illegal arrest, offenses against rail-traffic security, forgery of coin or other values, etc.

– **Law no. 104 of September 22, 1992,** on the modification and supplementation of the Criminal Code, Criminal Procedure Code and other Acts, as well as abrogation of Law no. 59/1968 and Decree no. 218/1977, also provides for some important modifications to the legislation in effect.

Out of the modifications introduced by this normative act, mentioned should be made especially of the suspension of punishment execution under surveillance, a measure that may be ordered by the Court in case of imprisonment punishments shorter than 4 years, unless the offender has been previously convicted to punishments longer than one year and it is deemed, taking into account the convicted person, his behaviour after having committed the offense, that pronouncement of the sentence should be a sufficient warning for the offender, even without execution of the punishment. It is provided that the test-term in case of suspension of punishment execution under surveillance shall be calculated in terms of the amount of imprisonment punishment applied, that is to be added a period of time evaluated by the Court between 2 and 5 years. Throughout the test-term, the convicted is bound to meet, on the specified dates, the judge assigned to watch him, to announce any change of residence, employer, or to provide any information that may contribute to the checking of his means to make a living. The Court may order the convicted to perform a certain activity or attend a certain training or qualification course, it may order him not to change his residence or not to attend certain places, not to contact certain persons, not to drive a motor vehicle or certain motor vehicles or to obey control, treatment or health caring measures, mainly meant for disintoxication.

Unless the convicted fulfills the surveillance measures provided for by the law, or the obligations established by the Court, the latter may revoke him the suspension of punishment execution, ordering full execution of the punishment or extension of the test-term. In case the convicted has not committed a new offense within the test-term and the suspension of punishment execution has not been revoked, the former shall be considered rehabilitated *ex officio*.

The same normative act has introduced a series of provisions referring to punishment execution at the place of employment. These are meant to give the Court the competence to order punishment execution at the very place where the convicted is employed or at another unit, provided the latter issues a written approval, for those cases when the Court deems that the aim of having the offender re-educated could be attained without deprivation of liberty. Such a measure shall be applied only with those instances when the imprisonment punishment is of maximum 5 years, and the offender has not been previously convicted to prison for a period longer than one year or in case the conviction was pronounced for offenses committed out of guilt, for offenses committed during juvenility, for amnestied offenses or acts that are no longer incriminated by the criminal legislation.

Throughout punishment execution, the convicted is bound to fulfill all his duties, while the total amount of his earnings, except for the extras given for activities performed under harmful or dangerous conditions, shall be diminished by 15-40% which shall be deposited to the State Budget.

Mention should also be made that throughout punishment execution, according to the legal provisions, the convicted may not be promoted or hold management positions, the performed activity shall not be calculated for seniority, and the labour contract shall be suspended.

In case of further offenses, the Court shall revoke punishment execution at the place of employment, while the offender shall be bound to bear the regime of penitentiary. The Court may, however, maintain the regime of punishment execution at the place of employment, in case the later offense was committed out of guilt. If the convicted is not able to perform the activity any longer, owing to total loss of labour capability, the Court may revoke punishment execution at the place of employment and, taking into account all circumstances, order suspension of punishment execution, even though not all the conditions provided under the law are met.

Out of the other new provisions introduced by this law, mention may be made of those referring to administrative sanctions, restrictions on punishments applied to juveniles, etc.

It is also worth mentioning a series of modifications to the Criminal Procedure Code related to the obligations of the Court in case of conviction with suspension of punishment execution or punishment execution at the

place of employment, the substitution of criminal responsibility, the revocation or annulment of punishment execution at the place of employment, the records of interruptions of punishment execution.

Law no. 104/1992 has brought along important modifications to the labour legislation, as it stipulates that litigations between the employed persons and their employers, related to the conclusion, execution and ceasing of the labour contract, shall be regarded as labour litigations and solved by Courts or other bodies provided for under the law. It is provided that all labour litigations that are not assigned the competence of other bodies under an express ordinance shall fall under the competence of Courts. Thus, the above mentioned normative act has abrogated Law no. 59/1968 referring to the commissions of judgement and Decree no. 218/1977 on re-education through labour of persons who committed acts incriminated by the criminal legislation.

An important transitory provision is the one stipulating that "in case the imprisonment punishment for which compelling to correctional labour was ordered was not executed or could not be executed for reasons not to be blamed on the offender, before the date the present law becomes effective, the Court that pronounced the sentence shall order, *ex officio*, either the conditioned suspension of imprisonment punishment or the substitution of the fine punishment for the imprisonment punishment, making the decision in terms of the length of the punishment pronounced, the offense committed, and the offender's records".

— **Law no. 45 of July 1, 1993**, on the modification and supplementation of the Criminal Procedure Code introduces important modifications related to competence of the Courts, ordinary ways of attack, and extraordinary ways of attack.

In relation to the aim of these modifications, it is worth mentioning the idea stated in the form of a self-standing paragraph in art. 1 of the Criminal Procedure Code to the effect that "The criminal trial shall contribute to the defence of the rule of law, the defence of persons, of their rights and freedoms, the prevention of crimes, as well as the education of citizens in the spirit of observance of the legislation".

We should mention, among other new provisions introduced by these regulations, that the appeal is included among ordinary ways of attack, while it is distinguished

from the recourse, as well as the provisions related to the repeal recourse and those related to the recourse in the interest of the law.

Among the cases when the repeal recourse may be promoted, the Law mentions the situations when the constituent elements of the crime are not met, when the pronouncement was made for other acts than those for which the convicted had been prosecuted, when the defendant was convicted for acts not provided for under the criminal law, when the applied punishment went beyond the legal limits, when the convicted had been previously prosecuted for the same act, when there was reason for the annulment of criminal responsibility, or when the act was pardoned. There are a series of circumstances when the recourse can only be declared in favour of the convicted, such as those circumstances when the sitting of judgement was not public, except for the cases when the law provides so, when judgement took place without the participation of the prosecutor, when there was no social inquiry, etc. In contradistinction with the repeal recourse, aiming – in other words – to remedy possible judicial errors, the recourse in the interest of the law is meant to provide a unitary interpretation and application of the criminal and criminal procedure laws throughout the territory of the country.

– **Law no. 59 of July 23, 1993,** on the modification of the Civil Procedure Code, the Family Code, the Administrative Disputed Matters Act no. 29/1990, and Law no. 94/1992 on the organization and operation of the Court of Audit, also brings along a series of new elements regarding human rights.

Thus, the modifications to the Criminal Procedure Code refer to establishing competence of the judges, Tribunals and Courts of Appeal in terms of specialization, details the forms, the ways ordinary ways of attack may be exercised, and the arbitrage procedure. The modifications to the Administrative Disputed Matters Act refer to the correlation between this law and the new judicial organization. The modifications to the Court of Audit Act provides that the decisions pronounced by the Court of Audit's resorts may not be subject to appeal, while recourse may be declared against the decisions pronounced in the first resort, the former not being restricted to the cassation motives provided for under art. 305 in the Civil Procedure Code, the resort having the competence to examine the case entirely, in all its aspects.

The modifications to the Family Code introduce the institution of the divorce on consent by both spouses, in case one year at least has elapsed since the date of the marriage and unless there are juvenile offsprings of the marriage.

— **Law no. 65 of October 5, 1993**, on supplementing Law no. 59/1993 on the modification of the Civil Procedure Code, the Family Code, the Administrative Disputed Matters Act no. 29/1990, and Law no. 94/1992 on the organization and operation of the Court of Audit stipulates, in a unique article, that the provisions under article V in the law mentioned therein, referring to the cases under judgement by the merits resorts, the extraordinary recourses, the applications for revision and the repeal disputes, etc. shall also be applicable to final pronouncement in the period 1 July 1993 – 26 July 1993, the date when Law no. 59/1993 becomes effective.

Speaking about the supplementation and improvement of the legislation, it is also worth mentioning Law no. 65 of July 8, 1992 on the modification and supplementation of the Criminal Code, in relation to some corruption offenses. The law incriminates undeserved advantages be received directly or indirectly by an official – after having performed services by virtue of his job, that are compulsory by the very nature of the job –, influence trade, as well as similar acts committed by the employees of organizations, including self-administrated companies and trade companies with full or most of the capital owned by the State.

— **Law no. 83 of July 21, 1992** on the speedy procedure for prosecuting and judging certain crimes of corruption states that a series of crimes provided for under the Criminal Code, such as bribery-taking, bribery-offering, acceptance of undeserved advantages, and trade of influence, in case they are flagrant, shall be prosecuted and judged in conformity with the speedy procedure. If the respective crimes are not flagrant, prosecution shall be triggered no later than 10 days since the date the prosecuting body was intimated. Extensions of these periods may only be decided by the General Attorney's Office, while each extension cannot exceed 15 days. For the administration of the evidence, the Court may establish deadlines which, all in all, may not exceed 15 days.

II. INSTITUTIONAL PROVISIONS REGARDING THE ACTIVITY OF STATE BODIES WHOSE ACTIVITY INVOLVES HUMAN RIGHTS ISSUES

— **Law no. 14 of February 24, 1992** on the organization and operation of the Romanian Information Service.

The above mentioned law defines the objectives, nature, and powers of the new information body. It is worth mentioning that, according to the law, "The Romanian Information Service is the State body specialized in the field of information related to Romania's national security, a constituent part of the national defence system, its activity being organized and managed by the country's Supreme Council of National Defence" (art. 1). The law stipulates that the activity of the Romanian Information Service shall be controlled by Parliament. Annually, or whenever Parliament decides so, the Director of the Romanian Information Service is bound to submit the former reports referring to the fulfillment of the tasks incumbent on the Romanian Information Service.

According to its nature, the Romanian Information Service shall take action in order to discover and annihilate acts of initiation, organization or creation on Romania's territory of informative structures that may affect national security, of acts of adherence or any support thereto, or illegal manufacturing, holding or use of communication tapping means, as well as gathering and transmission of information having a secret or confidential nature.

An important provision is the one under art. 9 of the law, reading as follows: "In order to establish the real nature of threatening against national security, officials especially assigned by the Romanian Information Service may do checking, while observing the legal provisions, through: request and requisition of objects, written evidence or official information from public institutions; consultations with specialists and experts; reception of complaints or notifications, immortalization of certain operative moments through photographs, moving pictures or any other technical means; personal findings, technical operations included."

It is also worth mentioning, however, the idea expressly pointed out under art. 10 in Law no. 14/1992, i.e. that in the circumstances representing threatening against Romania's national security, the Romanian Information Service, through purposely assigned officials, shall request the Prosecutor to issue the warrant provided for under art. 13 in the Act on Romania's National Security such as to act

in conformity with the authorization thereof. At the same time, art. 10 in Law no. 14/1992 provides that "The activities listed under art. 9 and 10 shall be filed as fact-finding acts which, provided that the provisions of the Criminal Procedure Code were observed, may constitute pieces of evidence."

Another important provision that has to be insisted upon is that under art. 12, stipulating that, in case a flagrant crime against the regime of national security established under the law, an attempt or terrorist act or tentative or preparatory acts for such crime are found, if they are sanctioned under the law, the staff of the Romanian Information Service may arrest the offender, and bring him immediately before the competent judicial bodies alongside the fact-finding act and the exhibits.

It is noteworthy, therefore, that the Romanian Information Service is not authorized to make inquiries, but merely to gather evidence that is to be used by the specialized competent bodies in order to make a decision about the existence of crimes against national security.

As regards the observance of human rights, the stipulations referring to the role of the prosecutor, of justice, and to the application of the provisions under the Criminal Procedure Code are sufficient guarantees that the persons because of whom the R.I.S. performs certain activities shall not be denied their legal rights to defend themselves.

Speaking about Law no. 14/February 24, 1992, it is also worth mentioning the provisions under paragraph 2 of art. 27, stipulating that "The Romanian Information Service may not employ those who, belonging to the repressive structures of the totalitarian State, committed abuses, the informers and collaborators of the 'Securitate', as well as the former activists of the communist party, guilty of acts committed against human rights and fundamental freedoms".

— Law no. 48 of May 21, 1992 — The Audio-Visual Act — also includes a series of important provisions related to the observance of human rights. Thus, for instance, the very first article of the law stipulates that free expression of ideas and opinions, as well as free communication of information through the radio and television media shall be guaranteed by the law, in the spirit of the constitutional rights and freedoms. According to the law, audio-visual media, public or private, are bound to provide correct information of the public opinion. Censorship whatsoever is prohibited. Good-faith selection of the audio-visual

information by persons in charge with the contents thereof shall not constitute censorship and may be exercised under the circumstances provided for by the law.

Important provisions related to human rights are included under art. 2 which stipulates that freedom of audio-visual expression may not prejudice a person's dignity, private life or the right to one's own image. Also prohibited under the law are any defamation of the country and of the nation, any instigation to a war of aggression, to national, racial, class or religious hatred, any incitement to discrimination, territorial separatism, or public violence. At the same time, programming and broadcasting of any obscene conduct, contrary to morality, is prohibited under the law.

As regards liability for the contents of the information broadcast through the audio-visual media, it shall be incumbent, as the case may be, on Romanian public legal persons (State-owned institutions, autonomous companies or trade companies), with fully State-owned capital.

As regards persons who consider themselves injured in one of their rights or legitimate interests, morally or financially, by an audio-visual communication, they are entitled to request due rectification, while in case the latter is denied to them, they shall be given the right to reply. Rectifications and replies shall be broadcast under the same conditions as those when their right or interest was injured.

According to the provisions of the Audio-Visual Act, the National Council of the Audio-Visual has been created, the latter having important tasks regarding the observance of the basic principles entered in this law, including establishing of the length and broadcast conditions of the programmes devoted to the electoral campaign.

– **Law no. 92 of August 4, 1992,** on the judicial organization also includes important provisions related to human rights. Thus, it provides in its very first article that the judicial power shall be separate from the other powers of the State, having its own prerogatives exercised through courts of law and the Public Ministry, in accordance with the principles and dispositions provided in the Constitution and other laws of the Country. An important provision is to be found under art. 2, reading "The courts of law shall carry out justice for the purpose of defending and achieving the fundamental rights and freedoms of the citizens as well as the other legitimate rights and interests referred to judgement.

The first chapter of the law, dealing with General Provisions, includes other important ideas as well, such as the one that judges shall be independent and they shall submit only to the law, that no one is above the law, that justice shall be achieved equally for everyone, without discrimination in terms of race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, fortune or social origin.

The law consecrates the principle of the public nature of the judgement sittings, as well as that of the use of the Romanian language during the procedure. Nevertheless, art. 6 paragraph 2 expressly states that "Citizens belonging to national minorities, as well as persons who cannot understand or speak Romanian have the right to take cognizance of all acts and files of the case, to speak before the court, and formulate conclusions through an interpreter; in criminal trials, this right shall be ensured free of charge".

The law also provides that throughout actions at law the parties have the right to be represented or assisted, as the case may be, by a counsel, while international legal assistance shall be applied for and granted under the conditions provided for under the law and the international conventions.

— **Law no. 54 of July 9, 1993** on the organization of military courts of law and parquets includes specific provisions, while referring at the same time to the general principles stated under Law no. 92/1992.

— **Law no. 56 of July 9, 1993, the Supreme Court of Justice Act**, includes adequate provisions related to the operation of the Supreme Court of Justice. According to the provisions of art. 1 in the law, "In Romania, justice shall be carried out through the Supreme Court of Justice and the other courts of law, in conformity with the principles and provisions stipulated by the Constitution and the country's laws. The Supreme Court of Justice pursues correct and unitary application of the laws by all courts of justice. There is a unique Supreme Court of Justice in Romania, based in the capital of the country".

The Supreme Court of Justice has competence on the merits, with certain cases provided for under the law, while it is at the same time competent to judge recourses in the interest of the law and repeal recourses declared against judicial decisions and acts.

— **Law no. 73 of October 3, 1993,** on the creation, organization and operation of the Legislative Council,

provides for the prerogatives of the new consultative specialized body of Parliament which endorses drafts of normative acts, while it has also the task to ensure systematization, unification and coordination of the entire legislation, as well as the records of the latter.

The endorsements by the Legislative Council shall ensure, among other things, compliance of the proposed regulations with the Constitution, eliminate possible contradictions or disagreements, while it shall also present the implications of the new regulations upon the legislation in effect. The Legislative Council has competence to examine compliance of the legislation with the provisions and principles in the Constitution, and intimate Parliament Chambers' Standing Bureaus and, as the case may be, the Government, about the unconstitutional cases it has found. An important prerogative of the Legislative Council is to submit, within no longer than 12 months since its establishment, propositions for the harmonization of the legislation prior to the Constitution with the latter's provisions and principles.

— **Law no. 26 of May 12, 1994,** on the organization and operation of the Romanian Police also includes a series of important provisions related to human rights. Especially worthy of mentioning are the general provisions regarding the nature of this institution stated under the first article in the law, which stipulates that "The Romanian Police belongs with the Ministry of Internal Affairs and is the State's specialized institution exercising within the territory of the country the prerogatives related to the defence of the persons' fundamental rights and freedoms, of the private and public assets, as well as the prevention and discovery of crimes, the observance of public order and peace, under the conditions provided for by the law".

It is also noteworthy that the activity by the Romanian Police shall be exclusively carried out on the basis and in the application of the law, while the police may not belong to political parties or groups. In fulfilling its tasks, the Romanian Police shall collaborate with the other State institutions having prerogatives regarding the rule of law and shall in this respect co-operate with the citizens, within the limits imposed by the law.

As regards the prerogatives of the Romanian Police, mention should be made that the first one, provided for under art. 15 letter a is "to defend the life, physical integrity and liberty of persons, the private and public

assets, the other rights and legitimate interests of the citizens and the State".

In respect to the rights and obligations of the Police bodies, it is noteworthy that, according to art. 16 letter g, police bodies are entitled to enter the domicile of natural persons, on request or written consent by the latter, or based on the magistrate's authorization, under the conditions provided for under the law, while the above mentioned consent or authorization are not necessary in the case of flagrant crimes.

In respect to the prerogatives of the police bodies, it should be pointed out that, according to art. 18, in order to prevent and neutralize the aggressive actions by persons who severely infringe on public order and peace, actions that could not be prevented or annihilated through other legal means, the policeman may use the protection shield, sight helmets, rubber sticks, electrostatically charged sticks, devices with irritant tear gases, water jets, rubber-bullet guns, specially trained dogs, as well as other means of immobilization that, likewise, do not endanger life nor do they cause serious physical injuries.

According to the provisions of the law, however, the use of these means against the participants in aggressive actions shall be made gradually, after previous, repeated warning about the use of such means, and a necessary period for stopping the actions and leaving the area. The means that are made use of shall not exceed the real needs for the prevention or neutralization of the aggressive actions.

As provided under art. 19, in case of absolute need and when the use of other means of prevention or compulsion is not possible, the police may use the force of white weapons or fire guns, under the strict conditions provided for by the law in relation to their own defence or the defence of other persons against attacks endangering their life and health, and for the liberation of hostages as well. They may also use such means to reprimand the attacks directed against the headquarters or other assets of the police or against the order forces, when the latter's lives are in imminent danger; to defend the sights, the area or the persons they are responsible for; to arrest offenders caught in the flagrant who try to escape and do not obey the warning to remain at the spot of their crime; to arrest an offender who fought back using white weapons or fire guns or those escaped from the places of detention or who run away to escape the escort.

An important provision is the one to be found under art. 20 in the Law which prohibits the use of the means provided for under art. 18 and 19 against conspicuously pregnant women, obviously invalid persons or children, except for the cases when such persons participate in an armed or group attack that endangers people's lives or physical integrity. Article 21 deals with cases when weapons are used, while detailing the legal warning, the latter's stages, also providing that the use of weapons shall be made such as to immobilize those whom weapons are used against, avoiding to cause their death. The use of weapons may be made without warning in case of a surprising attack against the policeman or another person, as well as to arrest offenders who fought back by using white weapons or fire guns, if there is not enough time for the warning.

According to the provisions under art. 22 in the Law, the police shall intervene in force to prevent or neutralize manifestations troubling public order and peace, those endangering the lives and physical integrity of persons and order forces or threaten to devastate or destroy buildings and assets of public and private interest. Such intervention in force by the police and the other order forces shall be decided upon, however, in each individual case, by the prefect, the mayor or their deputies in the locality where such events take place, on request by the chief of the local Police or his deputy.

Under such circumstances too, the use of the technical means the order forces are equipped with shall be made after previous warning and challenge, through amplifiers, of the participants in the disorder, on the obligation to observe the law and the public order. The Law provides for the stages of the challenge and the procedures to be followed in such cases. The use of the prevention and compulsion means shall cease as soon as public order has been restored.

The text in the final paragraph of art. 22 provides that "Approval of the intervention shall not be necessary in case violence is exercised against the order forces or the latter are in imminent danger".

The Law regulates for the ways to communicate a situation when weapons have been made use of (it shall be urgently reported hierarchically), and in case the use of arms caused death or physical wounds, the competent prosecutor shall be immediately intimated (art. 23).

An important provision is that under art. 25 in the Law, reading that "the policeman is bound to also

intervene beyond his working hours, his service tasks and the territorial competence of the unit he belongs to, as soon as he learns about a flagrant offense, as well as for the conservation of evidence in the case of other crimes that shall be investigated by the competent bodies".

Important provisions related to human rights are to be found under art. 27 and 28: "The policeman is prohibited to induce physical or psychic sufferings to a person, in order to obtain information or confession from the latter or a third person, to punish him/her for an act he/she or a third person committed or is suspected to have committed, to intimidate or put him /her or a third person under pressure (art. 27 paragraph 1).

It is also noteworthy that, under the provisions in the Romanian Police Act, the policeman is prohibited to commit acts of torture, under any circumstances, whatever they may be, be they a state of war or threatening with the war, internal political instability or any other exceptional circumstances whatsoever (art. 27 paragraph 2).

The Law also stipulates that the policeman may not invoke the order by a higher rank or other public authority to justify violation of the Law, for any of the situations provided for under paragraphs 1 and 2 of art. 27 (mentioned above). As regards the policeman's liability for acts committed by abusive fulfillment of his duties or failure to fulfill those duties, he may be made responsible under the conditions provided for under the Law (art. 28).

Also worth mentioning are the provisions of art. 30 reading that "The Police staff is bound to have a fair conduct, be correct and incorruptible and act with determination for the prevention and elimination of any acts liable to encroach upon the Institution's authority and prestige".

— **Law no. 41 of June 17, 1994,** on the organization and operation of the Romanian Radio Broadcasting Society and the Romanian Television Society includes special provisions related to the organization of these societies. Worthy of mention are, for instance, the provisions under art. 4 in the Law, reading that "The Romanian Radio Broadcasting Society and the Romanian Television Society shall be bound to objectively, impartially broadcast the reality of the internal and international social, political and economic life, to provide correct information of the citizens about public affairs, to promote, with competence and exigency, the values of the Romanian language, of the genuine cultural creation, the national and universal scientific values, those of the national minorities, as well as

the democratic, civic values, the country's independence, for the cultivation of human dignity, truth and justice.

While fulfilling their tasks, the Romanian Radio Broadcasting Society and the Romanian Television Society shall observe the principles of the constitutional order in Romania.

We also appreciate as relevant the provisions under art. 5 which stipulates that the programmes of the Romanian Radio Broadcasting Society and the Romanian Television Society shall definitely not serve as means for the defamation of the country or the nation, shall not incite to aggression war, national, racial, class or religious hatred, shall not incite to discrimination, territorial separatism or public violence, shall not propagate obscene manifestations, infringing upon good morals.

According to the provisions under paragraph 2 of art. 5 in this Law, the broadcasting of programmes shall not prejudice the measures for the protection of the young. Programmes which, by their contents, threaten the psycho-moral or physical development of children and young people shall not be broadcast between 6,00 and 23,00. Juveniles with poor behaviour or who committed violations of the law shall be presented without elements that may reveal their identity.

The two societies are bound to reserve part of their broadcasting time for the political parties represented in Parliament. The length of the time devoted to political parties shall not exceed a hundredth of the total weekly broadcasting time. The distribution of the broadcasting time among the political parties shall be made in terms of the number of representatives in Parliament, while the calculation shall include a time unit for each Member of Parliament, the representatives of the national minorities included.

The final paragraph of art. 5 in the Law stipulates that the programmes shall not prejudice a person's dignity, honour, private life nor shall it prejudice the right to one's own image.

In respect to the specialized staff working in the field of radio broadcasting and television, it is worth mentioning the provisions under art. 11 paragraph 5, which stipulates that the exercise of any form of physical or psychic compulsion, of any pressure or intimidating action against the specialized staff of the public radio and television services, meant to prevent the latter from performing their job or to affect their social and professional prestige, shall be prohibited.

III.LEGISLATIVE PROVISIONS REGARDING THE ORGANIZATION OF SOME LIBERAL PROFESSIONS

— **Law no. 51 of June 7, 1995,** on the organization and exercise of a lawyer's profession.

This Law is extremely important as it defines the new profile of a lawyer's profession under the conditions of the State governed by the rule of law and based on the market economy, where a lawyer's profession is free and independent, with autonomous organization and operation. The provisions under art. 2 in the Law, reading that "In the exercise of his profession the lawyer shall be independent and only subject to the law, the State and the rules of professional ethics. The lawyer shall promote and defend human rights and freedoms. The lawyer is entitled to assist and represent natural and legal persons before all courts of law, authorities and institutions, as well as other persons, while the latter shall be bound to permit and ensure unhindered performance of a lawyer's activity, under the conditions provided for by the law".

The Law includes detailed provisions related to the organization of a lawyer's profession. Mention should be made that, on registration with the Lawyers' Association, the future lawyer shall take, in a solemn framework, an oath reading as follows: "I swear to observe and defend the Constitution and the other laws of the country, human rights and freedoms, to exercise the lawyer's profession in dignity, independence and fairness. So help me God!".

As regards the lawyers' duty, we should mention the provisions under art. 34, stipulating that the lawyer shall be bound to thoroughly study the cases assigned to him, on hiring or *ex officio*, to be present in due time before the courts of law or the criminal lawsuit bodies or other institutions, according to the mandate assigned to him, to evince professional conscientiousness and integrity, to plead with dignity towards the judges and parties in the trial, to submit written conclusions or judgement sitting notes whenever the nature or difficult character of the case makes it necessary or the judgement resort orders so.

Also relevant for the new significance of the lawyer's profession are the provisions under art. 33 paragraph 6, which stipulates the principle that "The lawyer shall not be liable for his statements, oral or written, before the judgement resort or other bodies, if these statements are related to the defence and necessary for the case that was assigned to him".

— **Law no. 74 of July 6, 1995**, on the exercise of the medical profession, and the creation, organization and operation of the Romanian Physicians' Collegium.

A series of important provisions under this Law are noteworthy as they refer to the purpose of the medical profession, the qualities a physician shall have, readiness, fairness, commitment and respect for the human being. Art. 4 paragraph 2 includes the text of the Hippocratic Oath, which any future physician shall take on graduating the higher education institution, and which we reproduce below:

"Once admitted amongst the members of the medical profession:

I solemnly commit myself to devote my life to the service of humanity;

I will keep the respect and gratitude that my teachers deserve;

I will exercise my profession with conscientiousness and dignity;

The health of my patients shall be a sacred obligation for me;

I will keep the secrets entrusted by my patients even after their death;

I will defend by all means the honour and noble tradition of the medical profession;

My colleagues shall be my brothers;

I will not allow such considerations as nationality, race, religion, party or social status interfere between my duty and my patient;

I will keep full respect for human life from its very beginning even under threat and I will not use my medical knowledge against humanity's laws.

I take this oath solemnly, freely, upon the honour."

The organization of the Romanian Physicians' Collegium has two levels: the national level and the county level, respectively that of the Municipality of Bucharest. The prerogatives of the National Council of Physicians in Romania – a body elected by the Romanian Physicians' Collegium – also includes the elaboration of the Medical Deontology Code. There are several commissions working in the framework of the Council, also including a Deontology Commission.

Law no. 74 /1995 stipulates that the medical profession may not be exercised by persons who were definitely convicted for crimes committed against humanity or life, or under circumstances related to the exercise of the

medical profession, except for those convicted on the basis of Decree no. 770/1966 regarding the regulation of pregnancy interruption. It is also provided that the medical profession may not be exercised by persons who have been forbidden to exercise this profession for a determined period.

— **Law no. 36 of May 12, 1995 — The Public Notary and Notary Activities Act.** This law regulates for the new institution of public notaries, that has replaced the former State Notary Offices. The activity of public notaries shall be performed within the framework of Bureaus, while the constituencies of each Court of Appeal shall have a Chamber of the public notaries, with legal personality, including all public notaries operating in the constituency of the respective Court of Appeal. The notaries in Romania shall constitute the National Union of Public Notaries, a professional organization with legal personality, that shall elect a Managing Council and other bodies established under their own Statute.

In respect to the activity of public notaries, it is worth mentioning the provisions under art. 6 stipulating that "public notaries and the other institutions provided for under art. 5 which perform notary activity, shall be bound to check the acts they instrument for claims infringing upon the law and good morals, to request from and offer to the parties explanations regarding the contents of these acts to make sure they have understood their meaning and accepted their effects, in order to prevent litigations. In case the requested act is found to infringe upon the law or good morals, the public notary shall refuse to conclude it."

IV. ADOPTION OF CERTAIN REGULATIONS IN THE FIELD OF EDUCATION

— **Law no. 88 of December 17, 1993,** on the accreditation of higher education institutions and recognition of the diplomas.

This Law enshrines a series of criteria and standards of academic evaluation and accreditation, while stipulating the conditions to be met by higher education institutions established after December 22, 1989, in order to obtain temporary authorization and, further, accreditation as educational institutions.

It is noteworthy that art. 2 in the Law provides that "higher education institutions shall be based on the profit-free principle, in conformity with the academic evaluation criteria and standards provided for under this Law".

The Law provides for a series of guarantees for the students in the unaccredited institutions. In this respect, art. 11 in the Law reads as follows:

"1.Students in State-owned higher education institutions whose activity is brought to an end may continue their training with any accredited or temporarily authorized higher education institution, on consent by the receiving higher education institution, while meeting the criteria and conditions established by the latter's academic Senate.

2.Students in private higher education institutions whose activity is brought to an end may continue their training with any accredited or temporarily authorized private higher education institution, on consent by the receiving higher education institution, while meeting the conditions and criteria established by the latter's academic Senate".

— **Law no. 117 of December 9, 1994,** on the right of diploma graduates of State-owned colleges to continue their academic training with long-term higher education in the academic year 1994/1995.

This Law provides for the ways to achieve the right of diploma graduates of State-owned colleges to continue their academic training and indicates the persons who shall be entitled to these rights.

— **Law no. 71 of July 5, 1995,** on the right of graduates of private high schools, post-high school institutions and higher education institutions to stand for the final examination concluding their training with similar State-owned educational units and institutions.

The Law provides for the ways final examinations shall be organized, the classes of graduates the legal provisions refer to, the way selection examinations shall be organized, and the amount of the established taxes.

— **Law no. 84 of July 24, 1995 — The Education Act**

This Law regulates in detail for general issues related to all forms of education, the national education system with all its stages, including military education, private education, as well as the education of national minorities. At the same time, the Law includes provisions related to the contents and management of education, the evaluation, human resources, material basis, and financing of education.

It is notheworthy that, according to art. 3 in the Law, "Education pursues achievement of the educational ideals based on the humanistic traditions, the democratic values

and the aspirations of the Romanian society, while making a contribution to the preservation of the national identity. The educational ideal of the Romanian school consists in the free, full, and harmonious development of human individualities, in the shaping of independent and creative personalities".

Among other objectives of education, art. 4 paragraph 1 stipulates under letter d "education in the spirit of respect for human rights and fundamental freedoms, for dignity and tolerance, for the free exchange of opinions", while under letter e, "the cultivation of sensitivity towards human issues, the moral-civic values, of respect for nature and the environment".

Art. 5 stipulates the principle according to which the citizens of Romania shall have equal rights of access to all levels and forms of education, irrespective of their social and financial status, sex, race, nationality, political or religious affiliation. It is provided that the State shall promote the principles of a democratic education and guarantee the right to differentiated education, on the basis of educational pluralism.

Among other general provisions in the Law, it is worth mentioning the one according to which education shall not be subordinated to the aims and doctrines promoted by parties or other political groups, while the creation and activity of parties inside the educational areas shall be prohibited. Also prohibited shall be the religious proselytism, as well as any other activities infringing upon the general norms of morality, and endangering the physical or moral health of the youth.

Important provisions are dedicated to the academic autonomy. Thus, art. 89 provides that "Academic autonomy shall lie in the right of the academic community to self-management, to exercise their academic freedoms without any ideological, political or religious encroachment, to assume a set of competencies and obligations in agreement with the national strategic options and orientations for the development of higher education as provided for under the law".

Academic autonomy shall be correlated, according to the Law, to the principle of personal and public liability for the quality of the entire teaching and academic research activity performed by the respective higher education institution.

As regards private education, art. 104 stipulates that private education shall be organized as provided for under the law, provided that: a) it is organized and operates based

on the profit-free principle; b) it is organized based on non-discriminating principles, while rejecting antidemocratic, xenophobic, chauvinistic and racist ideas, currents, and attitudes; c) it observes the national standards.

The place of private education within the general educational system is however stated under art. 103, which stipulates that it constitutes an alternative to State education or complements the latter. Accredited private education units and institutions are part of the national education system and shall comply with the provisions of this Law, while they enjoy organizational and functional autonomy, in conformity with the legal provisions referring to the organization and operation of the educational system. As regards the accredited private education institutions and units, they may be supported by the State.

In respect to the education for persons belonging to the national minorities, the Law provides that persons belonging to the national minorities have the right to study and train in their mother tongue at all levels and forms of education, under the conditions provided for by the law. Depending on the local needs, groups, classes, sections, or schools teaching in the mother tongues of national minorities may be organized, on request and under the conditions provided for by the law.

According to the Law, the Romanian Language and Literature shall be taught in primary schools after curricula and textbooks specially elaborated for the respective minority. In secondary schools and high schools, the Romanian Language and Literature shall be taught after curricula and textbooks identical with those for the classes taught in Romanian.

In secondary schools and high schools, the History of the Romanians and the Geography of Romania shall be taught in Romanian, after curricula and textbooks identical with those for the classes taught in Romanian. In primary schools, these disciplines shall be taught in the mother tongue.

According to the Law, the curricula and textbooks of Universal History and the History of the Romanians shall reflect the history and traditions of the national minorities in Romania.

With secondary schools, the History and traditions of the national minorities, taught in the mother tongue, shall be introduced as a school discipline, on request. The curricula and the textbooks for that discipline shall be authorized by the Ministry of Education.

The Law also provides that the students belonging to the national minorities who attend education units with teaching in Romanian shall be provided, on request and under the conditions stipulated by the law, the mother tongue and literature, as well as the History and Traditions of the respective minority, as a school discipline.

Mention should be made that "within the State-owned higher education units, groups and sections with teaching in the mother tongue may be organized on request and under the conditions provided for in this Law, for the training of staff needed for teaching and cultural-artistic activities". According to the provisions of the Law, with all grades of education, entrance contests and graduation examinations shall be sustained in Romanian. Entrance contests and graduation examinations may be sustained in the mother tongue only with the schools, classes and specializations where teaching is performed in the respective mother tongue.

V. SOME LEGAL ASPECTS REGARDING THE ACHIEVEMENT OF THE ECONOMIC REFORM AND THE RIGHT TO PROPERTY

A. In respect to the achievement of the economic reform and the provision of the conditions to be met for its accomplishment, the following should be mentioned:

— **Law no. 57 of July 10, 1993,** on the modification and supplementation of Law no. 35/1991 on the regime of foreign investments. Of the new provisions in the modified form of this Law, we would like to mention those under art. 9 letter c, which consecrates the right of foreign investors to transfer abroad the full annual profits that are due to them, in conformity with the legal provisions referring to the regime of foreign currency in Romania, after paying the taxes, charges and other duties provided for under the Romanian legislation.

Also worthy of mention are the provisions under art. 9 letter e, which recognize the right of the same investors to transfer abroad the sums obtained as a result of selling stock, social shares, bonds or other trade effects, as well as those resulted from clearing off an investment, in conformity with the legal provisions referring to the regime of foreign currency in Romania.

Also noteworthy are the provisions under art. 10 which enshrine a norm of principle to the effect that "foreign investments made in conformity with the provisions of this Law shall enjoy the legal regime established under it for

the whole period of their existence, unless a new law includes more favourable provisions".

It is also worth mentioning the provisions under art. 13 which stipulate the exemption of customs charges for raw materials, consumable materials, spare parts, and important components, needed and exclusively used in the investor's own production process, for a two-year period, calculated since the date the unit was brought into operation or, as the case may be, since the date when activity commenced, depending on the legal form of the foreign investment.

— **Law no. 71 of July 16, 1994,** on granting additional advantages to those provided for under Law no. 35/1991, republished, provides that, in order to attract foreign investors in industry, trading companies established, according to the law, in the field of industry, with the participation of foreign capital, where the contribution of the foreign investor amounting minimum 50 million US dollars is deposited in the account of the trading company opened at a bank that is a Romanian legal person and whose achieved production is integrated in Romania by at least 60% and exports at least 50% the value of its annual production, shall enjoy the following advantages:

a)exemption from customs charges, for a 7-year period, starting with the date when the trading company was registered, for the imported machines, devices, installations, equipments necessary for the subscribed investment as an in kind or paid from self-supported sources contribution, attracted or borrowed;

b)exemption from customs charges, for a 7-year period, calculated since the date when the trading company was registered, for the raw materials, consumable materials, spare parts, and components imported for the company's own production, paid from its own sources, attracted or borrowed;

c)exemption from the profit tax for a 5-year period since the date the company starts having profit, but for no longer than 7 years since the date the productive activity commenced.

At the same time, the Law provides that, in case within 14 years calculated since the date the company was registered, the trading company reduces its social capital such as the foreign investor's participation falls down below the minimum of 50 million US dollars, or in case it voluntarily dissolves itself, it shall be bound to pay all taxes

and charges that would have been applied to it for the entire period of operation.

— **Law no. 55 of July 1995,** on the acceleration of the privatization process includes a series of provisions regarding the free-of-charge transfer of shares and the stock exchange.

The measures provided for under the Law are meant to accelerate the privatization process, while the Law stipulates a number of concrete tasks for the Government, the State Property Fund and the Private Property Funds.

— **Law no. 64 of June 22, 1995,** on the procedure for the re-organization and legal annulment includes important provisions regarding the measures to be applied in the situation of commercial agents – natural persons or trading companies – that cannot pay their commercial debts any longer. It is stipulated that the aim of the Law is to institute some organization procedures, whose purpose is the recovery of the debtor and the payment of the liabilities or the liquidation of the debtor's fortune.

B.Regulations Related to Property

— **Law no. 33 of May 27, 1994,** on expropriation for public utility reasons. Starting from the constitutional provisions, this normative act includes provisions meant to ensure both an adequate legal framework for expropriation procedures and compensation evaluation, and the defence of the right to private property.

Among other principles, the Law states the one according to which expropriation of buildings, full or in part, may be done solely for public utility reasons; it may be decided only after public utility has been declared according to the legal provisions, while those involved may negotiate both as regards the way the transfer of the right over the property shall be done and the amount and the nature of the compensation.

Law no. 33/1994 includes detailed provisions related to expropriation and the evaluation of the compensation, the transfer of the owner's right over the assets subject to expropriation, the payment of the compensations and the putting in possession of the expropriated, the right of utilization and retrocession.

— **Law no. 112 of November 26, 1995,** on the regulation of the legal status of residential buildings transferred into the ownership of the State. This Law enshrines the principle according to which the former owners – natural

persons – of residential buildings transferred into the ownership of the State, or of other legal persons, after March 6, 1945, shall be entitled to in kind restitution, by regaining the right to ownership over the apartments in which they live as lodgers or over those that are free. According to the provisions in the Law, in the case of apartments transferred into the ownership of the State for which the former owners did receive compensations, be they occupied by the former owners or free whatsoever, they shall be restored in kind. Regaining of the right to ownership is, however, conditioned by the restitution of the amount of money received as compensation, updated under the conditions provided for by the Law.

The former owners or, as the case may be, their inheritors, shall be entitled to apply for compensations for the apartments that were not restored in kind and for the annexed grounds. At the same time, if they meet the legal conditions to be restored the apartment, they may choose to be given compensations.

The Law also consecrates a series of measures related to the protection of lodgers, providing for the extension *de jure*, for a 5-year period of the renting contracts concluded on the basis of Law no. 5/1973 on the administration of the dwelling fund and the regulation of the relationship between owners and lodgers.

VI. LEGAL PROVISIONS REGARDING SOCIAL PROTECTION AND THE PROTECTION OF CERTAIN CATEGORIES OF PERSONS

1.Measures regarding social protection:

In the period 1992-1995, an important number of normative acts were adopted regarding various aspects of social protection. Of these, we should mention:

– **Law no. 46 of May 14, 1992**, on establishing certain rights in favour of certain natural persons who hold shares based on art. 36 under Law no. 18/1991;

– **Law no. 58 of June 19, 1992,** on the harmonization of wages provided for under Law no. 53/1991, Law no. 40/1991 and Law no. 52/1991 with the wage level in trading companies and autonomous companies;

– **Law no. 85 of July 22, 1992,** on the sale of residential houses and buildings with another destination built on State funds or funds of State-owned economic or budgetary units;

– **Law no. 86 of July 22, 1992,** on the modification and supplementation of Law no. 1/1991 on the social protection of the unemployed and their professional re-integration;

— **Law no. 61 of September 22, 1993,** on the State allowance for children;

— **Law no. 68 of October 11, 1993,** on the guarantees for the payment of the minimum salary;

— **Law no. 87 of December 17, 1993,** on the granting of financial aids for the heating of residential houses between November 1, 1993 — April 30, 1994;

— **Law no. 1 of January 12, 1994,** on the modification and supplementation of Law no. 80/1992 regarding the pensions and other social insurance rights of those working in agriculture;

— **Law no. 17 of April 8, 1994,** on the extension or the renewal of renting contracts regarding certain residential areas;

— **Law no. 51 of July 7, 1994,** on the further application of the measures provided for under Law no. 80/1993 regarding the social protection of the staff working in the national defence industry and the field of public order;

— **Law no. 57 of July 13, 1994,** on the modification and supplementation of Law no. 1/1991 on the social protection of the unemployed and their professional re-integration;

— **Law no. 2 of January 10, 1995,** on anticipated retirement;

— **Law no. 3 of January 10, 1995,** on further application of the measures provided for under Law no. 80/1993 regarding the social protection of the staff working in the national defence industry and in the field of public order;

— **Law no. 48 of May 30, 1995,** on updating State military pensions in terms of the rank pay;

— **Law no. 67 of June 24 ,1995,** on the social aid;

— **Law no. 83 of July 21, 1995,** on certain protection measures for the employed.

2.Protection measures for certain categories

At the same time, during the above mentioned period, important acts referring to protection measures for some special categories were adopted, of which we should mention:

— **Law no. 53 of June 1, 1992,** on the special protection for handicapped persons.

The Law provides for a series of advantages in favour of handicapped persons, among which free-of-charge acquisition of medicines and medical treatment, exemption from customs charges for protheses, from radio and TV subscriptions (for first degree invalidity), show-ticket price cuts, priority with the installation of telephone lines and exemption from payment of the installation charge, free-of-

charge public city transport (for first or second degree invalids), free-of-charge inter-city transport within a limit of 12 two-way travels, on their own choice, by second class train carriages, by buses or river or sea ships belonging to units with fully State-owned capital (for first-degree invalids).

In addition, handicapped persons are also entitled to free and equal access to educational units, home-training for the handicapped children, employment opportunities, priority for the lodging and building of residential apartments; they are also entitled to one additional room, to credits for buying or building residential apartments, priority with the acquirement of long-duty housewares, calculation of the house rents for State-owned residential buildings at the minimum tariff provided for under the law, while with blind persons these rents shall be reduced by 50%.

— **Law no. 51 of July 7, 1993,** on granting certain rights to the magistrates who were dismissed from the judicial system for political reasons between 1945-1952, provides for a monthly, tax-free pay of 6,000 lei, free-of-charge medical care and medicines in State-owned health-caring units.

— **Law no. 53 of July 7, 1993,** on the modification and supplementation of Decree–Law no. 118/1990 regarding the granting of certain rights to persons persecuted for political reasons by the dictatorship inaugurated on March 6, 1945, as well as to persons deported abroad or taken as war prisoners, provides for the payment of certain amounts of money for the detention, internment, displacement, or deportation years, as well as certain advantages in favour of the wives of those who deceased, disappeared or were exterminated during their detention, abusive internment into psychiatric hospitals, deportation or captivity.

— A further modification of Decree–Law no. 118/1990 was made by Law no. 90 of October 26, 1994, which stipulates certain procedural measures to provide achievement of the legal provisions.

— **Law no. 44 of July 1, 1994,** on veterans of war, as well as certain rights for war-invalids and war-widows, provides for a series of special protection measures in favour of those categories of persons falling under the provisions of this Law.

It is also worth mentioning a number of advantages provided for under the Law to enable achievement of the rights of these categories. Thus, in respect to war-veterans, art. 5 paragraph 4 provides that "in the cases when, for

various reasons, those entitled do not possess a military ID or they cannot be issued the necessary certificate for such reasons as lack or destruction of the archives, endorsed in written form, the capacity of a war-veteran shall be established by the reconstruction commissions, with the aid of witnesses, under the conditions provided for under the law and the methodology established for this purpose by the Ministry of National Defence".

Also worthy of mention are the provisions under art. 10, which stipulates that "The amount of time spent as war combatants, as well as the captivity, hospitalization or medical-leave periods, as a result of the wounds suffered during the war or during captivity, shall be taken into account as seniority with the calculation of the pension, whatever the combat zone where they fought".

Art. 12 paragraph 3 also stipulates that in case one and the same person belongs both to the war-veterans category and the category of former political detainee or deported, including that of war-prisoners in former USSR, taken after 1944 or, although declared before that date, was detained after the Armistice date shall be entitled to cumulate both compensations for the corresponding periods, provided that these periods be distinct".

A special compensation system is provided for those veterans who were awarded medals and distinctions.

Generally speaking, the advantages granted to war-veterans are similar to those enjoyed by persecuted persons falling under the provisions of Decree–Law no. 118/1990.

VII. RATIFICATION OR ADHERENCE BY ROMANIA WITH THE INTERNATIONAL CONVENTIONS

In the period 1992-1995, Romania became a party to a great number of international conventions in the field of human rights. Thus, we should mention:

– **Law no. 116 of December 15, 1992,** regarding the ratification of the Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, adopted by the UN General Assembly in New York, on December 10, 1962;

– **Law no. 15 of March 15, 1993,** regarding Romania's adherence to the European Convention on Child Adoption, concluded in Strasbourg, on April 24, 1967;

– **Law no. 39 of June 28, 1993,** regarding Romania's adherence to the Optional Protocol to the International Covenant on Civil and Political Rights;

— **Law no. 64 of October 4, 1993,** regarding Romania's adherence to the Council of Europe's Statute;

— **Law no. 30 of May 18, 1994,** regarding ratification of the Convention on the Defence of Human Rights and Fundamental Freedoms and the Additional Protocols to the Convention;

— **Law no. 80 of September 30, 1994,** regarding ratification of the European Convention on the Prevention of Torture and Inhuman or Degrading Punishments or Treatments, as well as Protocols nos. 1 and 2 to the Convention;

— **Law no. 84 of October 18, 1994,** regarding ratification of the Convention on the Protection of Children and Co-operation in the Field of International Child Adoption, concluded in the Hague, on May 29, 1993;

— **Law no. 27 of April 26, 1995,** regarding recognition by Romania of the competence of the International Fact-Finding Commission, in conformity with the provisions under art. 90 in the Additional Protocol no. I to the Geneva Conventions of 1949 on the Protection of International Armed Conflict Victims, ratified by Romania through Decree no. 224 of May 11, 1990;

— **Law no. 33 of April 29, 1995,** regarding ratification of the Framework Convention on the Protection of National Minorities, concluded in Strasbourg, on February 1, 1995;

— **Law no. 47 of May 30, 1995,** regarding Romania's participation in the European Commission for Democracy and Law.

Mention should be made that, in addition to these important international legal instruments to which Romania became a party, our country has also concluded an important number of bilateral legal instruments in such fields as consular representation, legal assistance, investment protection, those related to the relationships of friendship and collaboration between States, etc., which are part of the same general outlook regarding promotion of human rights through international law instruments.

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The facts presented in this Report fully reflect Romania's concern — that cannot be denied —, in the period 1992-1995, for putting responded to practice certain international commitments in the field of human rights. Such concern resulted in the adoption of some domestic normative acts meant to express the will to fairly put to

practice the principles which Romania adhered to on ratifying a series of international instruments in the field.

Although in comparison to the previous regime the results obtained in the process of observing human rights may be appreciated as remarkable, it is equally true, however, that certain shortcomings are still to be found in respect to the elaboration of the legislative framework, meant to give expression to a most effective application of the international documents. Thus, certain important institutions whose role is to provide human rights protection, such as for instance the institution of the Advocate of the People, could not be accomplished so far, while it is only in late 1995 that the issues related to the immovability of magistrates have become a concern. Although there were lots of propositions related to the improvement of the legal framework of local administration, such concerns were practically accomplished in late 1995, while the Local Administration Act, in its modified form, has not been adopted by both Parliament's Chambers so far. Even a number of laws mentioned in this Report (e.g.: The Insolvency Act, The Public Notaries Act, The Bar Act, The Environment Protection Act) were adopted relatively late if one took into account the moment when the idea of their adoption was advanced. Furthermore, some of the adopted laws do not fully satisfy all principles of law and interests of certain social categories. The very fact that with certain matters subject to the law-making process there was felt a need to repeatedly come back and operate modifications after modifications proves that there was no original clear outlook in respect to the directions and objectives the law-making activity should have pursued.

While appreciating therefore that, generally speaking, the law-making process performed in Romania between 1992-1995 corresponded, as a rule, to the objectives established by the international bodies, as well as to the requirements of a State governed by the rule of law, we cannot help pointing out that the law-making activity could in many respects be more efficient and more operative, while keeping, in a faster way, with the social requirements and the practical needs implied by the reform. A law-making process characterized by long delays or one that is not from the very beginning oriented towards the essential directions along which the action of the legal norm should be felt, faces the risk of diminished efficiency and quality. We therefore appreciate that law-making actions in the field of human rights protection and promotion could enjoy greater response in the future, to the extent that the law-making process – while becoming more operative – responded more promptly and more efficiently to the needs of life.

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