



Comments on the 20th National
Report on the Implementation of the
European Social Charter submitted
by Romania

Institutul Român pentru Drepturile Omului

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1. Introduction

According to the law in force¹, the mandate of the Romanian Institute for Human Rights (hereinafter RIHR) allows the institution to inform the public opinion abroad, the international bodies, about the practical ways in which human rights are achieved and observed in Romania. Moreover, the same law provides that the RIHR may provide, on request or periodically, information on the governmental and non-governmental efforts in Romania for the promotion and protection of human rights and Romania's international commitments and the way they are fulfilled.

RIHR is established as an independent body, having the status of legal person and it is the first national human rights institution created in Romania after 1989.

RIHR is a non-accredited associate member of the European Network of National Human Rights Institutions (ENNHRI). It had been previously accredited with C status, which is no longer a valid accreditation status. The Romanian Institute has a strong promotional mandate and has been addressing a wide range of human rights in Romania.

The institute focuses on an array of areas of interest in the field of promoting and respecting human rights: the rights of the child; combating any form of discrimination based on sex, race, ethnicity or social origin, language, religion or belief, and political or any other opinion, membership of a national minority, socio-economic status, disability, age or sexual orientation; combating racism, xenophobia and intolerance; rights of asylum seekers; respect for privacy and protection of personal data; access to justice; any other civil, political, economic, social and cultural rights.

Romanian Institute for Human Rights has conducted a variety of activities and programmes in the field of research, education and training of trainers, of information and writing publications and scientific works in the field. These activities aim to deepen and disseminate knowledge on human rights in accordance with international norms and standards in the field; to promote existing international, regional and national human rights regulations and mechanisms; to develop educational strategies and actions in the field of human rights by establishing partnerships with public institutions and non-governmental organizations; to promote ways of approaching human rights issues in direct connection with the different real situations and challenges of social, economic, cultural and political nature.

In the past years, RIHR has provided several training sessions on the Prevention of Torture and Inhuman Treatment, targeting staff working in Detention and Preventive Detention Centres throughout the country. Moreover, based on an extended collaboration between structures of the Ministry of Internal Affairs, namely the Anti-Corruption General Directorate, the General Inspectorate for Immigration and the General Inspectorate of the Border Police, RIHR was invited in 2019 to hold three training courses on migrants' rights and combating illegal migration. The Institute has also provided training for members of the Bucharest Bar.

¹ Law no. 9/1991 on the establishment of the Romanian Institute for Human Rights, available in English here: <http://www.irdo.ro/english/legea9.php>

2. Comments on the national report

Article 3 – Right to safe and healthy working conditions

RIHR considers that the decrease in occupational diseases is an improvement in safety and security at work. Although the decrease in occupational diseases is variable and relatively small (544 cases in 2019, compared to 627 in 2016)², there is nevertheless an increase in occupational diseases caused by overuse of the musculoskeletal system (335 cases in 2019 compared to 273 in 2018). Given that the number of occupational health and safety inspectors has decreased³, it is necessary that inspections in this area are carried out efficiently and according to the legal provisions in force. At the same time, it is noted that the number of fatal accidents in 2019, i.e. 182⁴, is lower than in 106 (i.e. 225⁵). A useful indicator in the analysis of workplace accidents that should be presented would be the number of accidents that could have been avoided. Efforts to raise awareness in this area should also be continued.

Article 11, paragraph 1 – Removal of the causes of ill-death

In the Committee's conclusions on the Romanian report from 2016 it was noted that the most important causes of premature death were cardiovascular diseases, cancer, digestive diseases, respiratory diseases, accidents, injuries and poisoning.

According to an assessment on cancer made by the National Institute on Public Health (NIPH) in 2020⁶, the average survival rates at 5 years after receiving treatment for various forms of cancer, such as breast, prostate and cervix cancer are lower than the EU average based on 2014 data. The report states that this is also valid especially for types of cancer that can be prevented by reducing the risk factors, such as pulmonary cancer, stomach and hepatic. During 2016-2020 the government implemented the National Multi-Year Integrated Cancer Control Plan in order to improve cancer diagnosis and treatment for most cancer types.

The aforementioned report of the NIPH mentions that the screening process of cervical cancer in 2014 was only 25% of women aged 20-69 years old have undergone screening. However, we note with concern that according to the Activity Report of the Health Ministry of 2020⁷, in 2019 5,638,536 women were eligible for participating in the Sub-programme on active early detection of cervical cancer by performing the Babes-Papanicolaou test in the eligible female population under the

² <https://cnrmc.insp.gov.ro/images/rapoarte/BoliProfesionale2019.pdf>, please refer to table on page 1

³ See The 20th National Report on Applying the Revised European Social Charter, page 11.

⁴ https://www.inspectiamuncii.ro/statistici-accidente-de-munca/-/asset_publisher/FpOPIUxxmReZ/content/situatii-accidente-de-munca-2019?inheritRedirect=false&redirect=https%3A%2F%2Fwww.inspectiamuncii.ro%2Fstatistici-accidente-de-munca%3Fp_id%3D101_INSTANCE_FpOPIUxxmReZ%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_count%3D1

⁵ https://www.inspectiamuncii.ro/statistici-accidente-de-munca/-/asset_publisher/FpOPIUxxmReZ/content/situatii-accidente-de-munca-2015?inheritRedirect=false&redirect=https%3A%2F%2Fwww.inspectiamuncii.ro%2Fstatistici-accidente-de-munca%3Fp_id%3D101_INSTANCE_FpOPIUxxmReZ%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_count%3D1

⁶ Situation Assessment, <https://insp.gov.ro/sites/cnepss/wp-content/uploads/2021/05/Analiza-situatie-cancer-2021.pdf>, page 8.

⁷ <http://www.ms.ro/wp-content/uploads/2020/12/Raport-de-activitate-pentru-anul-2019-1.pdf>

population screening scheme, and only 50,049 tests were done (0.89% of the eligible population). The Ministry of Health mentions that “The optimal percentage coverage of the eligible population for the programme to be effective is 14% per year for a programme duration of 5 years. The number of Pap tests to be carried out in one year of the programme would be should be approximately 780,000”⁸. In this regard, the effectiveness of the programme could be improved if Government conducts community targeted awareness campaigns regarding the high levels of cancer and that screening is the solution for an early detection.

Regarding mental health, the same report of the Ministry of Health noted that following inspections at the level of psychiatric hospitals or psychiatric wards in general hospitals there were a series of non-conformities such as: isolation rooms in high security hospitals are not arranged and equipped in accordance with the legislation in force; hygiene in the wards is inadequate; the number of sanitary units is lower than provided by regulations; sanitary facilities are not properly sanitised. Law 487/2002 on mental health provides at Article 35 that *the care of persons admitted to psychiatric units or to rehabilitation centres shall be carried out in conditions that ensure respect for human dignity*. Thus, although there are rules provided by the existing law they are not always effectively implemented. Special measures and sanctions should be implemented in order to effectively apply the law. Besides health issues, from a human rights point of view, such situations affect the dignity of the person.

According to the State of Health in the EU report of 2019⁹, “measles is also a persistent public health issue in Romania, with one of the highest notification rates in the EU (102.1 per million in 2018, compared with 26.2 in the EU as a whole). This trend is linked to low immunisation coverage”. An analysis from the NIPH¹⁰ shows that vaccination rates have decreased as in 2018: 89,6% (first jab) and 80,9% (second jab). Moreover, the total number of confirmed measles cases in Romania reported from 2016 to 28.08.2020 was 20,204, including 64 deaths.

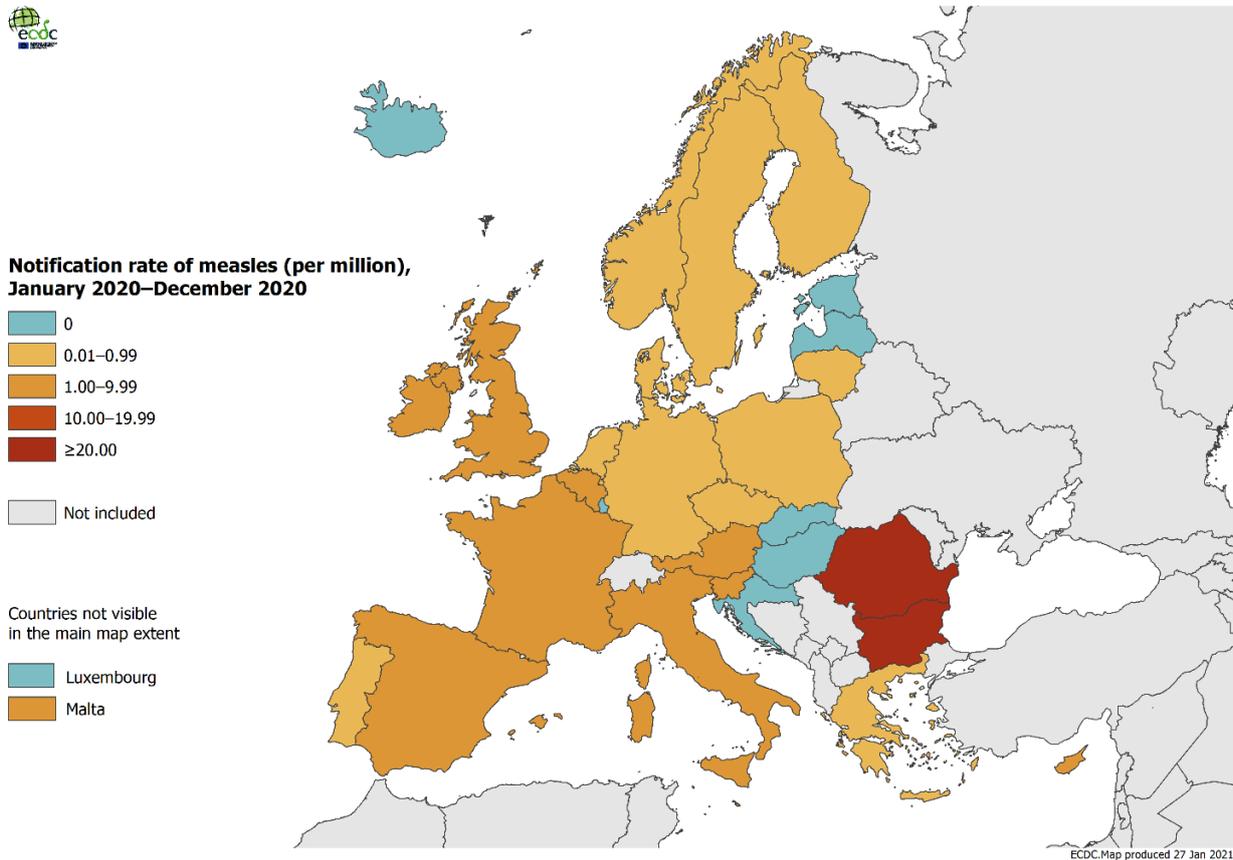
In 2020, according to European Centre for Disease Prevention and Control remained high in Romania, as seen below.

⁸ Romanian Government – Ministry of Health, Annual report for the year 2019, <http://www.ms.ro/wp-content/uploads/2020/12/Raport-de-activitate-pentru-anul-2019-1.pdf>, page 225

⁹ State of Health in the EU, Romania, Country Health Profile 2019, available at:

https://ec.europa.eu/health/sites/default/files/state/docs/2019_chp_romania_english.pdf, page 6

¹⁰ National Centre for Health Status Evaluation and Health promotion, National Institute of Public Health, Regional Centre for Public Health Timisoara, Situation Assessment, available at: <https://insp.gov.ro/sites/cnepss/wp-content/uploads/2021/04/Analiza-Vaccinare-2021.pdf>, page 3



Source: ECDC, Measles notification rate per million population by country, January 2020 - December 2020

In 2017, Romanian Government proposed a bill, which provides that all children to be vaccinated against measles before they enter the community, with few exceptions (in the sense of the law community is defined as: *group of children who, as the case may be, attend a state, private or denominational educational institution in Romania, including those of a special education institution, as well as any social welfare institution/unit where social services with accommodation are provided, for a fixed or indefinite period, or in social services without accommodation for children and families with children*). The bill is still under debate at the Chamber of Deputies¹¹ (as final decision making chamber) and several amendments were proposed in 2020. At the time of this report, the government proposal is still in the legislative process, as the Committee for health and family of the Chamber of Deputies was asked to provide a supplementary report in 2021.

Such a law would increase the vaccination rate at national level and would improve prevention for certain diseases.

Since vaccination has become a matter of essential interest during the COVID times it is worth mentioning that as of 17 August, at national level, a number of 5.011.577 persons are fully vaccinated¹². Recent findings, following a report at the Central and Est European Region¹³, show that, Romanians rank as the greatest COVID-19 sceptics, with 30% believing that COVID-19 is a

¹¹ Please see: http://www.cdep.ro/pls/proiecte/upl_pck2015.proiect?idp=16586

¹² <https://vaccinare-covid.gov.ro/actualizare-zilnica-17-08-evidenta-persoanelor-vaccinate-impotriva-covid-19/>

¹³ Globsec Trends, Central & Eastern Europe one year into the pandemic, June 2021, available at: https://www.globsec.org/wp-content/uploads/2021/06/GLOBSEC-Trends-2021_final.pdf

fake and 47% inclined to think that authorities are overreporting COVID-19 case numbers. The survey findings also indicate low levels of vaccine interest in the country and muted trust of scientific authorities (40%) and pharmaceutical companies.

At the same time, steps have been taken to improve the digitalisation of healthcare system. For example, Law no. 45/2019 on amending and supplementing Law No. 95/2006 on health care reform introduces the electronic patient health record. The legislative amendment aims to increase the quality and efficiency of medical care through immediate access to medical data and information, as well as the provision of data and statistical information necessary for health policies, with the involvement of the patient as an active factor in the protection and promotion of his own health. Patients can fill-in information on personal, physiological and pathological history, lifestyle, as well as directly consult their own medical data in their medical record.

Electronic records could simplify procedures for patients, as they often have to submit records with tests and medical letters or recommendations every time they need to see a specialist doctor, or in other situations. The electronic file could facilitate interaction with doctors and provide as comprehensive a picture as possible of existing or possible conditions. However, attention should be drawn to the fact that in Romania the level of digitisation of the population is relatively low, so that certain categories of the population will still have to rely on paper records or other people to help them with the completion of the digital record.

According to Eurostat data¹⁴, in 2019, less than 40% of Romanians aged 16-74 had basic digital skills or above. In this respect, digitisation programmes targeting the above-mentioned groups are needed, given the importance of digitisation today.

Article 11 – Paragraph 2 Consultation and education services

Health education – including sexual and reproductive health education

In terms of education, especially sexual and reproductive health education, more awareness-raising campaigns are needed. According to NIHP¹⁵ data in 2019 Romania was in first place in terms of the number of births to adolescents aged between 10 and 14 years, namely 383 births. At the same time, according to the same report in Romania there were 12641 births in the 15-19 age group (placing Romania in 2nd place in the EU after the UK). According to an analysis by Save the Children (Romania, 2018), five out of ten mothers under the age of 18 have never been to a gynaecological check-up, leading to a fourfold increase in the rate of premature births¹⁶. In a report published in 2021¹⁷, UNICEF states that "health education policy in schools is currently optional and has shortcomings in terms of providing information to ensure safe sexual behaviour and prevention of teenage pregnancy." In the context of gender equality, the same report points out that "in most cases the responsibility for contraception and prevention of teenage pregnancy is attributed exclusively to

¹⁴ Please see <https://ec.europa.eu/eurostat/statistics-explained/images/6/60/QOL20-Edu-Map2.png>

¹⁵ <https://insp.gov.ro/sites/cnepss/wp-content/uploads/2016/01/Analiza-de-situatie-ZMC-2019.pdf>, page 19.

¹⁶ <https://www.salvaticopiii.ro/sci-ro/files/02/02709a67-83ca-4828-a0fa-f9ce8f1d8cb8.pdf>, page 1.

¹⁷ <https://www.unicef.org/romania/media/4086/file/Raport%20Sarcina%20la%20Adolacente%20in%20Romania.pdf> / <https://www.unicef.org/romania/media/4081/file/Adolescent%20Pregnancy%20in%20Romania%20Report.pdf>

girls." ¹⁸ In this context, it should be borne in mind that legislation is needed on the subject and that the materials and language used should be age-appropriate.

According to a study¹⁹, between 2010-2020, 39.500²⁰ have left foster and residential centres nationwide. 70 persons have participated in the research. Regarding sexual orientation they provided the following answers: 69% - heterosexual, 13% - don't know or don't answer, 10% bisexual and 9% homosexual. Of the 19% who declared their sexual orientation 10% claimed that their sexual orientation was a result of sexual abuse experienced in foster/residential care from a very young age, 9 - 10 years old, while 9% of those who declared their sexual orientation as bisexual or homosexual said that this is how they identified themselves from a young age. Several participants also stated that they did not receive psychological therapy/counselling during their institutionalisation as a result of their sexual experiences in residential care. At the same time, out of the total number of respondents to the survey, only 18 young people stated that they had taken part in sex education programmes/workshops.

In December 2020, 13,961²¹ children were under special protection measure in residential and foster centres nationwide, of which 8,414 young people aged over 14 but not more than 26. Of the total number of young people over 14, more than 1187 are disabled²².

With regard to the programmes/workshops on sexual education present/ carried out in the foster/residential centres at national level for young people under special protection measure, these are quite limited. Out of 627 young people - respondents to the research, under special protection measure, 255 declared that they had not participated/ benefited from programmes/ workshops on sexual education.

Article 11, Paragraph 3 – Prevention of diseases and accidents

A healthy environment

As the 2019²³ report of the National Institute of Public Health (NIPH) and the National Community Risk Monitoring Centre (NCERMC) shows, Romania is often on the list of countries subject to infringement procedures as an EU Member State for exceeding limit values for air pollutants. The report shows that „there are localities where ambient air quality can be affected by specific pollutants, which can have a negative impact on the health of the population.”

In 2019, in IQAIR's “World Air Quality Report Region & City PM2.5” air quality report²⁴, which focuses on fine particles represented by PM2.5 (a pollutant widely regarded as the most harmful to human health), in Romania the average/year value of PM2.5 was 18.3µg/m³, placing it 11th in the

¹⁸ <https://www.unicef.org/romania/media/4086/file/Raport%20Sarcina%20la%20Adolescente%20in%20Romania.pdf> page 65.

¹⁹ Study carried out by Vişinel Bălan, within the project: Transition out of care of young people who are and have been in state care in the last 10 years.

²⁰ According to information provided by National Authority for the Protection of the Rights of the Child and Adoption on the number of persons who left care in the past 10 years.

²¹ According to data provided by National Authority for the Protection of the Rights of the Child and Adoption on the number of children in residential/foster homes at national level, December 2020, available at <http://andpdca.gov.ro/w/date-statistice-copii-si-adoptii/>

²² According to data provided by 32 General Directorates of Social Assistance and Child Protection at national

²³ <https://cnmrmc.insp.gov.ro/images/rapoarte/RAPORT%20Sanatate%20&%20Mediu%202019.pdf>, page 44.

²⁴ <https://www.greenpeace.org/static/planet4-thailand-stateless/2020/02/91ab34b8-2019-world-air-report.pdf>

European countries ranking. In 2020, an average value/year of 15.8% was recorded²⁵, a decrease that may be influenced by the decrease in human and economic activities due to the COVID-19 pandemic. At the same time, according to the report of INSP and NCERMC in Romania, exceedances of the annual limit value for human health (40µg/m³) of the pollutant NO₂ were recorded at 6 stations²⁶.

The level of pollution remains high in Romania, and national authorities should inform the population on the risks of pollution on health and adopt measures, especially considering that cancer rates remain higher than the EU average. Better regulations and implementation is needed in this regard.

Article 13 – Right to social and medical assistance

Medical assistance

According to the National Institute of Statistics, in the report on social trends in 2019, inequalities in terms of access to health services between residence environments (rural and urban), as well as inequalities between different development regions, have been maintained²⁷.

In a report made for ENNHRI²⁸, the Romanian Institute for Human Rights mentioned that under Romanian legislation, the right to the protection of health is guaranteed and individuals are entitled to medical care of the highest quality that society can provide, in conformity with its human, financial and material resources. Older persons living in residential care should have access to medical services and therapies and should be either enrolled with a General Practitioner (GP) or have access to one facilitated by the direction of the care home. Given that a relatively small proportion of staff in care homes in Romania tend to have qualifications, access to GPs is particularly important. However, within Romania, there is a shortage of GPs and medical specialists, particularly in rural areas. As a result, many care homes monitored had difficulties ensuring that their residents had access to the medical care necessary to attain the highest standard of health.

In this regard, we consider that Law No 73/2019 amending and supplementing Article 75 of Law No 95/2006 on health care reform establishes measures to make medical services provided by family medicine practices accessible is a useful initiative, which helps to provide medical services in rural areas. Thus, according to the new provisions, family medicine practices may open a maximum of two secondary offices in another administrative-territorial unit, where there is no other medical practice in the specialty of family medicine, if the applicant (doctor) provides a split schedule of at least 10 hours per week in their basic schedule or above their basic schedule. The law also stipulates that if there are several applications, priority is given to the doctor with the lowest number of patients on the list.

Also in 2019, a new law was adopted, No. 186/2019, amending Law No. 95/2006 on health care reform and supplementing Law No. 46/2003 on patients' rights, which states that no patient shall be denied the right to medical care due to failure to register his/her birth in the civil status records. Given

²⁵ <https://www.iqair.com/world-most-polluted-countries>

²⁶ <https://cnrmc.insp.gov.ro/images/rapoarte/RAPORT%20Sanatate%20&%20Mediu%202019.pdf>, page 45.

²⁷ https://insse.ro/cms/sites/default/files/field/publicatii/tendinte_sociale.pdf, page 51.

²⁸ ENNHRI, Applying a Human Rights Based Approach to Long-term Care for Older Persons: A Toolkit for Care Providers, <http://ennhri.org/wp-content/uploads/2020/01/Applying-a-HRBA-to-Long-Term-Care-for-Older-Persons-A-Toolkit-for-Care-Providers.pdf>, page 33.

that Romania is facing a phenomenon of unregistered births, particularly among vulnerable groups, this law can facilitate access to health care for anyone.

Other amendments to Law no. 95/2006 on health care reform can be found in Law no. 18/2019 (on the approval of Government Emergency Ordinance no. 88/2017) which states that the new regulation amends the existing regulatory framework at national level for several purposes. Thus, according to the new provisions persons who are insured under the social health insurance system could be able to provide proof of their insured status if national health insurance cards have not been issued and/or if they are not listed as insured in the integrated information system. Moreover, the new provisions stipulate that in order to prevent the use of the national health insurance card in a manner other than that prescribed by law by the providers of medical services, medicines or medical devices, it is necessary to urgently regulate the fact that it is a personal and non-transferable document. Thus the withholding at the level of the providers of medical services, medicines and medical devices of the national cards and/or their use without right for the purpose of reporting and validating medical services/medicines/medical devices constitutes a crime and shall be punished in accordance with the provisions of the Criminal Code.

Social assistance

Regarding the social protection of youth who left foster/residential care, the law²⁹ provides that *those who have acquired full legal capacity and have benefited from a special protection measure, but who do not continue their studies and have no possibility of returning to their families, as they are at risk of social exclusion, are entitled, on request, to special protection for a period of up to 2 years, in order to facilitate their social integration. This right is lost if it is proved that the young person has been offered a job and/or accommodation at least twice and has refused or lost them for reasons for which he is responsible.* The General Directorates of Social Assistance and Child Protection in Romania claim that Law 272/2004 only provides measures for care, protection, organisation and institutionalisation regime and less measures for post-institutionalisation monitoring or transit programmes for young people who have reached the legal age for leaving the care system.

At the same time, the Social Assistance Act provides in Art. 59, para. (2) that in order to prevent and combat the risk of young people leaving the child protection system becoming homeless and to promote their social integration, *local authorities may set up multi-purpose centres that provide housing and household conditions for a fixed period.* In a survey on the perception of young people in residential centres, it was found that "out of a total of 627 respondents, 65% (N=407) answered that they did not know what preparation for leaving the centre for good consists of"³⁰. The same study shows that "90% of the respondents know that they receive a subsidy from the state when they leave care, and almost two thirds of these 61% do not know how much they should receive when they leave care"³¹. It can be seen that there is a lack of clear preparation about leaving a care home, which may present a problem as not enough information is known.

²⁹ Art. 55 (3) of Law no. 272/2004 on the protection and promotion of the rights of the child.

³⁰ Vișinel Costel Bălan, "Analiza percepției cu privire la planurile tranzitorii la tinereții din centrele de plasament și rezidențiale la nivel național", in *Drepturile Omului*, 1/2021, IRDO, page 9, http://revista.irdo.ro/pdf/2021/revista_1_2021/05_Articol_Balan.pdf,

³¹ *Idem* page 12.

Conclusions

In general, the legislative framework in Romania with regard to thematic group 2 of the European Social Charter (revised) is favourable to ensuring human rights. However, effective implementation of legal provisions or strategies targeting vulnerable groups needs to be ensured. Moreover, considering the impacts of COVID-19 on the society as a whole (economy, mental health, healthcare) new measures should be proposed in order to ensure a better life quality at the level of all population.

The development of specific indicators should be considered for a better overview of human rights compliance. At the same time, greater emphasis should be placed by Romanian state institutions on the use of disaggregated data in order to have a comprehensive understanding of the situation at national level.