THEME 5: Child protection system in Romania and state of play of the elaboration of a new legislative package

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The child protection system was promoted in Romania by Law no. 3/1970 legislating a centralised system, based on a residential, non-personalised care of children. Subsequent to 1990 measures were taken so as to improve the quality of care for institutionalised children.

The elaboration of an ampler strategy on child protection was initiated through the adoption, in October 1995, of the Government Decision no.972/1995, approving the National Plan of Action in favour of the Child (PNA). The plan was meant to ensure a coherent, efficient and complementary strategy concerning the manner of application in Romania of the UNO Convention concerning the Rights of the Child. It was to focus on 10 issues, namely: the rights of children; their health; the upbringing and development of children; the education and family of children; tackling the issue of children in difficulty; children in conflict with the law; the role of women in society; children’s living conditions; the judicial and administrative framework in the field. Examples of concrete lines of action underlined by PNA were the following: the professional training of the staff working with children; additional efforts for the
decentralisation of decision-making bodies involved in the child protection; improvement of the legislation on adoption; a decrease in the child and mother mortality by improving the services of family planning; encouraging natural feeding of new-born babies and pregnant women.

The decisions concerning the policy, legislation, programs and reform in the field were inspired, besides the National Plan of Action, directly by the principles and provisions of the UN Convention on the Rights of the Child.

The Department for the child protection (DCP) was established in January 1997. In March 1997, the Romanian Government initiated, by emergency ordinance, the principles of the reform in this field:

- Any measure of child protection must pursue, first of all, the child’s best interest;
- Promotion of a non-discriminatory policy that allows every child to develop its own potential;
- Decentralisation of the decision-making power in the field of child protection and delegating the responsibility to the local community;
- Promotion child protection in a family environment first, as an alternative to the protection in institutions.

The amendments brought to the legislation observe these principles, comprising the decentralisation of the decision making bodies involved in the child protection and the concepts defined in the UN Convention on the Rights of the Child and in the 1286 Recommendation of the Parliamentary Assembly of the Council of Europe. The changes mentioned above were materialised in the adoption of normative regulations facilitating the process of decentralisation and ensuring the set up framework - at the level of counties and districts of the Bucharest Municipality - of the committees on child protection (CPC) and the public services specialised on child protection (SPSPC).

The National Agency for the Protection of the Rights of the Child was established by Government Emergency Ordinance no.192/1999 so as to obtain a unique central institution managing the protection of the rights of the child in general and the child in difficulty in particular.

In April 2000, subsequent to the pursuit of the decentralisation policy in the field, the institutions for children’s protection under the authority of the State Secretariat for the Persons with Disabilities, the Ministry of National Education and the Ministry of Health were transferred under the authority of the county/district councils, by Government Decision no. 261/2000.

The period between 2001-2004 can be characterised by a constant interest and a sustained concern of the Romanian authorities for the protection of the rights of all the children.
As for the child in difficulty, the general guidelines mentioned by the national strategy in this field are:

- Prevention of institutionalisation, abandon, and the de-institutionalisation of children in the residential care system;
- Strengthening institutional capacity at local level for ensuring unitary implementation of the legislative framework in force;
- Ensuring quality services for child protection, by introducing a mechanism for adjusting the functioning of the child care system;
- Evaluation of the stage of implementation of the reform measures at the level of each county as well as in the districts in Bucharest;
- Extension of the intervention area from the protection of the child in difficulty to the protection of the rights of the child.

1. Prevention of the institutionalisation and abandon and respectively the desinstitutionalisation of the children within the care residential system

Child desinstitutionalisation represented a continuous process, which started getting in Romania the highest attention in 2001. As a first outcome at national level, the number of children in institutions decreased by 34% from January 2001 to December 2003.

The number of large institutions (accommodating more than 100 children) decreased from 205 institutions in early 2001, to 85 institutions by the end of December 2003.

At the same time, the percentage of children looked after in a family type environment raised from 20% in 1997 to 55.29% at the end of December 2003. This outcome was achieved mainly by means of support provided to relatives (30.78%) so these could undertake the responsibility related to child care and education but is also the result of the introducing and promoting of a new family type alternative – the professional foster parent (16.17%).

The closure of old style institutions represented the major challenge for the child welfare system. At the end of December 2003, a number of 153 old style institutions were already closed down (36 former residential facilities of special schools, 8 former hospital homes, 7 institutions transferred from the Ministry of Health and 102 placement centres).

The financial resources needed for closing down these institutions were allocated from the budgets of local authorities and non-governmental organisations, as well as from the state budget by means of programs of national interest The most important source was nevertheless represented by the externally funded program (The Reform Program

Between 2001-2003 the maternal assistance network underwent a significant development; an increase of the number of professional foster caregivers was noticed from 3,228 to 10,888.

This process was supported by state budget money (through 2 programs of national interest developed in 2001), by the 1999 and 2001 Phare programs, as well as by the Childnet Program.

The development and the diversity of the maternal assistance were possible due not only to the funds allotted, but also as a consequence of the improvement of the legislative framework in 2003.

By the end of December 2003, within the structure of the Department for Child Welfare a number of 537 alternative services has been developed meant to prevent the separation of the child from the family, as well as for the support of child reintegration within the natural or enlarged family (maternal centre, day care centres, parental advising and support centre etc.).

In addition, by the end of December 2003, 889 family type alternative services were developed for the care of children separated from their family (573 centres of family type and 316 apartments; mention should be made that 324 centres belonged to the structure of authorised private bodies).

The above mentioned system of services cannot function without an appropriate family allocation system aiming at supporting parents to assume and perform their duties towards their own children.

Thus, in order to support the families in difficulty, and as a means to prevent abandon or risky situations for the children, starting January 2004 a system of additional allocations has been introduced, as well as allocations aimed at supporting mono-parental families.

2. Strengthening the institutional capacity on a local level in order to ensure a unitary application of the present legislative framework

In order to meet this target, within the mentioned period, training sessions have been organised on the following topics:

- Phare project management;
The new tasks of the members of the Committee on Child protection and Complex Evaluation Service within the Departments for Child Welfare;
- Performance Management.

Between September - November 2004, within the 2001 Phare Program, 3 training sessions (139 participants) were organised for the representatives of the Divisions for Child Welfare; their projects were approved to be financed by means of grant scheme, with a total budget of MEUR 10.57.

Until October 2001, the child issue had been treated fragmentarily on a county/local level. The need for a unitary approach led to the merging of the three Committees (The Committee on Child Protection, the Committee on Complex Evaluation for special education, The Committee on medical expertise for disabled children) in one, namely – The Committee for Child Protection.

A partnership agreement was concluded in 2002 among ANPCA (the National Authority for Child Protection and Adoption), UNICEF, World Learning, RENINCO (Romanian national network for the integration into the community of children with special needs) and CRIPS (Centre for resources and information for the social jobs). The following activities were carried out under this agreement:

- evaluation of the training needs for the members of the Committee on Child Protection in 6 counties (Buzău, Dâmboviţa, Dolj, Hunedoara, Neamţ, Timiș) and for the staff of the departments for complex evaluation;
- drawing up the framework for professional training in the field of child protection and its testing in a training programme for the above mentioned counties.

The programme was continued with a training course ‘Train the trainers’ (40 participants; June 9-12, 2003), followed by a new training project for the members of all the committees for child protection in the country.

The project started in September 2003; so far 5 training series have been carried out in 15 counties for 156 members of the Committee on Child Protection.

The improvement of the personal training of management staff (directors, deputy directors, heads of divisions) and a better coordination of the activities in the field of child protection at the level of DPDCs (Divisions for Protecting Children’s Rights) aimed at achieving the established targets within the county/local strategies have triggered the necessity to implement a new management performance system.

In the framework of a technical assistance program allotted to ANPCA by the Government of the United Kingdom of Great Britain and Northern Ireland through DFID, in 2003 was implemented a pilot project as part of the component of the Performance Management. The pilot project was developed for a period of 6 months (April – October 2003) in 7 counties (Arad, Bacău, Braşov, Caraş-Severin, Galaţi,
Mehedinți, Teleorman) and in the 4th district of the Bucharest Municipality. Starting October 2003, this system for performance management started being implemented at the level of ANPCA.

On 16 February 2004, the Performance Management Framework was launched at national level for all DPDC’s² in Romania. Between March and May 2004, in order to support this process, 6 working regional workshops will be organised, with the participation of some representatives of the Pilot DPDS’s which will share their experience and provide guidance to the participants.

3. Ensuring quality services for child protection, through the introduction of an adjustment mechanism for the functioning of the child protection system

This objective aimed at:

- drafting minimum standards for child protection services;
- creating a certification and inspection system for services providers;

Minimum standards for various types of services will include minimum compulsory requirements for any services provider, either public or private, to be met in order to enable the functioning of the service.

For the efficient co-ordination of all projects aimed at drafting standards for child protection services, a ‘co-ordination group’ led by ANPCA and consisting of representatives of the Delegation of the European Commission, PLS Ramboll (technical assistance contractor within 1999 and 2001 Phare Programs), USAID, World Learning, UNICEF, and DFID was established.

The first standards were approved in May 2003 – standards for child protection in maternal assistance (ChildNet Program), December 2003 – compulsory minimum standards for child hotline, counselling centre for abused, neglected and exploited children and community resources centre for the prevention of abuse, neglect and exploitation (ChildNet Program) and March 2004 – minimum standards for residential services for child protection.

All the other standards are under finalisation. Minimum standards regarding residential services for the protection of children with disabilities, minimum standards regarding day care services for child protection, as well as minimum standards for day care services for the protection of children with disabilities have already been approved and will be published in the Official Gazette.

* DPDC = Division for Protecting Children’s Rights
The establishment of a new system is intended to allow for the organisation and functioning of child protection services on the basis of the same principles and criteria that are included in the above mentioned minimum standards. This will be ensured through the initial certification of all services and subsequently through regular inspections. For this purpose, it is necessary to develop a system defining structures, procedures, and certification and inspection criteria.

In 2003, a pilot project targeting eight Child Protection Departments (Cluj, Valcea, the 2nd district of the municipality of Bucharest, Suceava, Prahova, Timiș, Covasna, and Constanța) was initiated within DFID Programme. Until now, the first four inspections were mainly focused on maternal assistance and residential care services.

In order to prepare the implementation of the legislative package but mainly to increase the ability of the personnel involved in the child protection system to provide quality assistance to children and their families, a first round of conferences was organised starting with January 2004. They focused on the provisions of the UN Convention on the Rights of the Child and the European Convention on Human Rights, the effects of long term substitute care and child abuse. Until now, five of the planned six regional conferences took place: the first round of conferences will end by the end of this month. The second round of conferences will be mainly focused on aspects relating to the implementation of child protection services standards.

4. Evaluating the implementation of reform measures at the level of each county and each district of the municipality of Bucharest

There was significant progress in the reform process. This assertion reflects the situation at the national level. However, there are discrepancies and gaps between counties – some of them managed to close down old establishments and to develop services that meet the needs of children, while other closed only one or two establishments. There is a combination of factors leading to this (county management or the strict management of the child protection system at county level; the number of children included in the protection system; the economic situation of the county; projects of non-governmental organisations; county size).

The implementation of reform measures will be evaluated through a project within the Co-operation Programme with UNICEF. The project is underway on the basis of a contract concluded with IMAS (Institute of Marketing and Public Opinion Polls) in November 2003.

At the end of April 2004, we envisage to have the final results of this comprehensive research on the basis of which we can draft a practical measures plan for reducing the existing discrepancies between counties.
5. Extending the intervention area from the protection of children in difficulty to the protection of child rights

This objective aimed at:

- Approaching new issues: abuse, neglect and exploitation of children; child trafficking; repatriation of children found unaccompanied on the territory of other states;
- Introducing a child monitoring and surveillance system (CMTIS)
- Drafting a legislative package in the field.

Abuse, neglect and exploitation of children, child trafficking, stopping emigration in risk situations for Romanian children in EU countries have become important concerns for the Romanian Government starting with 2001. In order to meet these concerns, a set of legal acts were issued between 2001 and 2003, regulating actions in these fields by drafting national action plans for the prevention and the fight against child abuse and neglect, for the elimination of child labour and the sexual exploitation of children for commercial purposes. To the same end, a series of agreements were concluded with France and Italy, and inter-ministerial groups were established to prevent and fight such phenomena.

Activities regarding the Prevention of child emigration, the protection and repatriation of children were organised on the basis of the following co-operation agreements and protocols:

- Agreement between the Government of Romania and the Government of the French Republic on co-operation for protecting Romanian minors in difficulty on the French territory and fighting against exploitation networks, of October 2002, approved by Government Decision No 1295/2002. ANPCA is represented within the Romanian-French Liaison Operational Group, established in virtue of the above mentioned Agreement.
- Co-operation Protocol between the Government of Romania and the Local Council of the 3rd district of the municipality of Bucharest, on one side, and the Turin Prefecture and Town Hall, on the other side, for the repatriation of Romanian minors victims of abuses, signed in July 2003 and approved by Government Decision No 1179/October 2003.

At the same time, the first steps were taken to conclude an international agreement with the Kingdom of Spain for co-operation in favour of unaccompanied Romanian minors which are identified on the territory of this state.
By February 2004, ANPCA was seized with a number of 215 complaints regarding Romanian children in difficulty in France. 31 children returned, while procedures are underway to prepare the return of the others.

As regards the other EU countries and the South Eastern European countries, in 2003, ANPCA was seized with about 300 complaints, out of which 135 came from Italy.

In Satu Mare and Maramureș counties, which are considered maximum risk areas for child emigration, steps were taken in 2003 to assess the phenomenon (by an inter-ministerial team of Romanian experts in July 2003 and also by the Swiss Foundation ‘Terre des Hommes’, its survey being finalised in November 2003), on the basis of which streamlined actions will be initiated in both counties.

Within this context, two seminars were organised during the reporting period – one in Satu Mare county, organised by the Romanian and French Ministries of Justice, between 18 and 20 November 2003, focusing on social surveys, in relation with the orientation of protection measures for Romanian children isolated in France, and the other in Iași county, organised by the French Embassy and ANPCA, between 10 and 12 February 2004, as a bilateral inter-professional exchange on the general aspects of the Agreement. The seminar was attended by Romanian authorities and experts from three counties situated on the North-Eastern border of the country (Iași, Suceava and Botoșani), members of the Bilateral Operational Group and experts of equivalent French institutions.

As to the phenomenon of child labour, a Government Decision draft to set up the national board committee to prevent and fight child labour is due to be presented to the Government next week.

CMTIS (a system designed to monitor and track the children’s situation) is a database system, designed by a Romanian software company, and financed by the US Department of Health and Human Services.

In order for the CMTIS to properly operate, within the framework of the “Reform Programme of the child protection system” financed by IBRD and ECDB, each Child Protection Department in the 41 counties and the 6 districts of the Bucharest municipality, was equipped with 4 computers and network connectivity, forming a mini-network to operate the CMTIS system. At the level of the National Authority for the Child Protection and Adoption a server was installed where information coming from all counties/districts is to be found, thus making possible to generate reports on the child protection in the whole country.

During 27 October and 28 November 2003, two users from each Child Protection Department were trained, and the first operational version of CMTIS was
implemented. CMTIS is now determining the specifications need to build up to two new modules on the staff involved and the costs related to the child protection activity.

As to the drafting of the legal norms, efforts to integrate all the proposals coming from the European Commission’s experts, the ministries as well as from other foreign and domestic institutions and organisations have continued.

The third meeting between the Romanian and the European Commission’s experts took place in January 2004. Following this meeting, the efforts to complete the legal norms were intensified. On his most recent visit to Brussels, Prime Minister Adrian Năstase requested technical assistance from the European Commission’s group of experts for drafting secondary legislation also.

At the Government meeting of 11 March 2004, the legal norms were approved and presented to the Parliament, to be debated and approved.

The legal norms will lay the basis of a modern European system for the protection of all children’s rights, fully harmonised with the international treaties to which Romania is part, especially the European Convention on the Human Rights and the UN Convention on the Rights of the Child. By adopting the legal norms, the focus will be transferred from the child in difficulty to the child in the context of all his rights, which means first of all the context of his family, thus trying to rise awareness of the primary importance of the parents’ responsibility towards their own children. For this not to remain at the level of theory, support will be needed either in form of benefits or in the form of services.

The Law on protecting the rights of the Child:

General remarks:

• It brings more than a mere improvement of a legislative framework - it will represent the basis of a European, modern system of protecting the rights of all children. It will be fully harmonised with the international treaties ratified by Romania, in particular the European Convention on human rights and respectively, the UN Convention on the rights of the child.
• It tables a system that is primarily designed to take care of all children in Romania, switching from a focus on children in difficulty to the approach of the child in the context of all his rights, mainly in the context of his family.

New elements:

• For the first time it is explicitly mentioned that parents are the main responsible for the bringing up and the good care of the child's development;
• For the first time in the domestic legislation it is explicitly mentioned that the responsibility of local communities is subsidiary and that the state intervenes in a complementary manner; thus, the deeply rooted mentality (not only among the population but also amongst the public services) that the state can substitute however and whenever to the parents, taking over the responsibilities they have towards their children;

• The exercise of the rights of the child becomes operative and effective through a permanent reference to the obligations incumbent to the parents, public authorities or the society in general; the child's right to identity for instance, mentioned by the draft law is achieved through specific competencies and terms set for the sanitary units, the police or the mayors, so that all children be able to bear a name ever since their birth;

• New working instruments are being introduced: an individualised plan for services and the individualised plan of protection with a view to meeting in an appropriate manner the concrete needs of every child;

• The new regulations exclude breaches or limitations of the exercise of the parental rights through administrative acts; a series of competencies are transferred from the administrative area to the judicial instance. Thus, taking the baby from his family against his parents' will not be done by an administrative decision but by a judicial instance. There is however, the possibility of an emergency intervention (in case of abuse or severe negligence) coming from the administrative structure, but under the request of confirming the respective measure by the judicial instance within 48 hours since its adoption;

• The county structures are redefined - the public service specialised in the protection of the child and the committees for the protection of the child – to be in accordance with the establishment of public services for social assistance in counties and local councils, respectively, the instances for minors and family;

• Three new structures are set up at central level with a view to co-ordinating the activity of protecting the rights of the child: - the National Authority for the Protection of the Rights of the Child - managing the issue of adoptions - The Romanian Office for Adoptions- and promoting the child's condition - The Child's Advocate.

• It is envisaged to re-evaluate, case by case, the situation of children in the system so as to make sure that their presence is well-justified. The abandon law was abrogated by the new draft law, in the case of the child separated from his family, thus having the certainty that the reasons for separating the child from his family were justified and they still exist; also there will exist the guarantee that the public services tried to do their best for the family reintegration of these children and there will be no other instances in which the children can remain < suspended > in the system, with an uncertain status – abandoned in fact but for whom an adoptive family is not appropriate or is impossible to find.

The law on the judicial regime of the adoption:
General elements:

- The rationale at the basis of the regulations of the entire adoption procedure was ensured by the primary importance of the child care – children temporarily or entirely deprived of parental care - within the enlarged family, promoting national adoptions, identification of the most suitable person or adopting family for the child and introducing the mandatory request of organising at a national level, a database of children that can be adopted, of adopting families as well as of approved adoptions;

New elements:

- The adoption is treated as an institution of law and not as a measure of protection (as it appears in the legislation in force);
- The cases as well as the procedure through which a child can be adopted are specifically regulated;
- The opening of the procedure for national adoptions is done only by the judicial instance and only after a rigorous control over the undertaken measures with a view to reintegrating the child in the natural or extended family;
- The instances when national adoptions are explicitly favoured, are stipulated here;
- The instances where the international adoption can be taken into consideration are clearly established – when one or both adopting persons are the grandparents of the child to be adopted and there is no request of adoption coming from a relative from Romania – next to the applicable procedures.

Actions planned to be held in 2004

The adoption of a new legislation in the field of child rights - which should observe the provisions of the international Conventions where Romania participates (UN Convention regarding child rights, the European Convention for human rights) is the fundamental condition for the accomplishment of the reform measures in the field, starting 2004.

After the approval by the Parliament of the legislative package, the necessary measures will be undertaken in order to put it into practice:
- the establishment of new institutions for child care and adoption, the reform of the justice system with a view to create a new juridical system for child care;
- The establishment of a new National Register for Adoptions, the drawing up of the methodological norms of application of the Adoption Law;
- The drawing up of a National Adoption Plan with a view to diminish the present gaps regarding the implementation of the reform programme;
- The drawing up of the draft normative document for the amendment of the calculation method of the budgetary allocations for the child care system.
The specific objectives in this field will continue to be promoted by the **drawing up and the implementation of appropriate programmes**. Therefore:

- Training programmes are to be initiated for the staff at the central and county level, both in the public field as well as in the private one, implied in the judicial or administrative procedures of adoption;
- Local action plans are to be implemented with a view to eliminate children exploitation through work;
- The action plan is to be generalised in order to increase the capacity of the public services specialised in child protection to fight against the most serious child work forms;
- The implementation of all contracts signed within the 2002 Phare Programme;
- New projects are to be initiated and implemented within the loan agreement contracted in 1998 with the European Council Development Bank (BDCE) and which is still underway;
- A new loan agreement is going to be signed with BDCE for the development of alternative services with a view to the social integration of street children;
- Child Monitoring and Tracking Information System (CMTIS) is to be implemented (the pursuing and monitoring system of child condition) on a national level by signing co-operation conventions with DPC;
- The project entitled: „The drawing up of an action plan for the implementation of the provisions of the legislative package in the field of child welfare”.

**The development of the role of the social services** meant to support families to raise and take care of their own children will be realised through the integration of the child welfare policy within the general ensemble of the social policy.

With a view to **preventing the abandon and child institutionalisation**, actions will be taken so as to:

- diversify the means of support given to the families in risky situations, including the corresponding medical services;
- An increase in the quality of alternative services of child protection;
- Elaborating standards of quality for all types of alternative services of child protection, in parallel with establishing an accreditation system to all services suppliers, having as beneficiaries the children in difficulty and their families;
- The elaboration of a methodological Guide for ensuring the implementation of quality standards for placement centres for the child with severe disabilities;
- Starting the implementation of minimal mandatory standards for placement centres;
- Starting the training of personnel with a view to the proper implementation of minimal mandatory standards;
- Starting the implementation of minimal mandatory standards for the day care centre as well as the placement centre for the child with disabilities;
- Elaborating and approving the secondary legislation with a view to creating a system of accreditation and inspection of child protection services.

All activities are envisaged in the perspective of a systematic approach of the child, the child protection being considered as part of the general framework of social, family, education and healthy policies, aiming at increasing the family welfare and respectively of their children.