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## **Report of the Working Group on the Universal Periodic Review\***

### **Romania**

#### **Addendum**

**Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review**

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\* The present document is being issued without formal editing.



1. Romania presents its response to recommendations made during the 4<sup>th</sup> cycle of the Universal Periodic Review on 2 May 2023.
2. Romania supports the following recommendations: 109.13; 109.14; 109.15; 109.16; 109.17; 109.18; 109.19; 109.20; 109.21; 109.22; 109.23; 109.24; 109.25; 109.26; 109.27; 109.28; 109.29; 109.30; 109.31; 109.32; 109.33; 109.34; 109.35; 109.36; 109.37; 109.38; 109.39; 109.40; 109.41; 109.42; 109.43; 109.44; 109.45; 109.46; 109.47; 109.48; 109.49; 109.50; 109.51; 109.52; 109.53; 109.54; 109.55; 109.56; 109.57; 109.58; 109.59; 109.60; 109.61; 109.62; 109.63; 109.64; 109.65; 109.66; 109.67; 109.68; 109.69; 109.70; 109.71; 109.72; 109.73; 109.74; 109.75; 109.76; 109.77; 109.78; 109.79; 109.80; 109.81; 109.82; 109.83; 109.84; 109.85; 109.86; 109.87; 109.88; 109.89; 109.90; 109.91; 109.92; 109.93; 109.94; 109.95; 109.96; 109.97; 109.98; 109.99; 109.100; 109.101; 109.102; 109.103; 109.104; 109.105; 109.109; 109.110; 109.112; 109.113; 109.114; 109.116; 109.117; 109.118; 109.119; 109.120; 109.121; 109.123; 109.124; 109.125; 109.126; 109.127; 109.128; 109.129; 109.130; 109.131; 109.132; 109.133; 109.138; 109.139; 109.140; 109.142; 109.145; 109.146; 109.147; 109.148; 109.149; 109.150; 109.151; 109.152; 109.153; 109.154; 109.155; 109.157; 109.158; 109.159; 109.160; 109.161; 109.162; 109.163; 109.164; 109.165; 109.166; 109.167; 109.168; 109.169; 109.170; 109.171; 109.172; 109.173; 109.174; 109.175; 109.176; 109.177; 109.178; 109.179; 109.180; 109.181; 109.182; 109.183; 109.184; 109.185; 109.186; 109.187; 109.188; 109.189; 109.190; 109.191; 109.192; 109.193; 109.194; 109.195; 109.196; 109.197; 109.198; 109.199; 109.200; 109.201; 109.202; 109.203; 109.204; 109.205; 109.206; 109.207; 109.208; 109.209; 109.210; 109.211; 109.213; 109.214; 109.215; 109.216; 109.217; 109.218; 109.219; 109.220; 109.221; 109.223; 109.224; 109.225; 109.226; 109.227; 109.228; 109.229; 109.232; 109.238; 109.239; 109.242; 109.249; 109.250; 109.251.
3. Romania notes the following recommendations: 109.1, 109.2, 109.3, 109.4; 109.7; 109.8; 109.9; 109.10; 109.11; 109.12; 109.122; 109.134; 109.135; 109.141; 109.156; 109.222; 109.230; 109.231; 109.233; 109.234; 109.235; 109.236; 109.237; 109.240; 109.243; 109.244; 109.246; 109.247; 109.248.
4. The following recommendations are partially supported, as follows:
  - (a) 109.5 and 109.6 – Supported as far as the progress towards the ratification of the International Convention for the Protection of All Persons from Enforced Disappearances is concerned and noted for the part on the ratification of the International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families.
  - (b) 109.106, 109.107, 109.108, 109.111, 109.115, 109.136, 109.137 – Noted for the part on providing (comprehensive) sexuality/sexual education, as the legal framework does not provide for this concept. The issues pertaining to sexual and reproductive health education will be approached within the compulsory topic of Health education.
  - (c) 109.143 – Supported for the part related to combating inequalities between rural and urban population in access to education.
  - (d) 109.144 – Supported as far as addressing school dropout, implementing targeted measures to improve the quality and performance of schools in rural areas are concerned and noted for the part on ensuring an equal distribution of education outcomes across the country.
  - (e) 109.212 – Supported as far as tackling discrimination and inequality faced by foreigners and minorities, especially the Roma minority is concerned and noted for the part on adopting a national strategy on equality, inclusion, and diversity.
  - (f) 109.241 – Noted only for the part on strengthening the legislative measures, as a careful analysis performed by the National Council for Combatting Discrimination indicated that a revision of the anti-discrimination law is not necessary.
  - (g) 109.245 – Noted as far as de-pathologisation is concerned, which will be possible only after the implementation of ICD-11 coding; supported for the part on ensuring that essential trans-specific health-care services are part of National Health Insurance schemes, as the persons insured in the health system benefit from prescriptions of specific hormonal products covered by 90%, on the basis of a medical prescription.

5. Romania deems necessary to provide below additional comments or clarifications on its position concerning certain recommendations.

(a) Regarding *recommendations* 109.1, 109.2, 109.3, 109.4, 109.5, on ratifying the International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families, Romania states that the basic principles expressed in the text find their correspondence in Romanian legislation (the Constitution, Labour Code, the Government Emergency Ordinance on the regime of foreigners in Romania, and the Law on asylum in Romania, among others). The normative acts mentioned above transpose into the national legislation the regulations of the European Union in this field, represented by the rights enjoyed by migrant workers on the territory of the member States of the European Union, respectively on the territory of Romania, covering the following areas:

- equal treatment with Romanian nationals, in terms of employment and working conditions, affiliation to trade unions and the benefit of the advantages offered by collective agreements and social integration;
- equal treatment with Romanian nationals, in terms of taxes, fees and labour contributions;
- non-discriminatory treatment in employment relationships;
- services provided by employment agencies;
- access to social, health and education services;
- facilitating the reunification of the family of the migrant worker, authorized to settle on the Romanian territory;
- informing migrant workers about access to employment;
- no differences between refugees and subsidiary protection beneficiaries in relation to access to employment access to employment of the beneficiaries of a form of international protection.
- Romania remains fully committed to the protection of rights of members of all vulnerable groups, including migrants.

(b) Recommendation 109.7 is noted, as the Government could not prejudge on the position the legislator will take in the process of ratification. However, on the merits, the recommendations 109.5, 109.6 and 109.7 on ratifying the International Convention for the Protection of All Persons from Enforced Disappearance are supported, as the Ministry of Foreign Affairs has initiated the internal procedure for the ratification. The draft law for the ratification of the Convention was posted for public consultation on the website of the Ministry of Foreign Affairs (<https://www.mae.ro/node/2011>) and sent for consultation to the Ministry of Justice, the Ministry of Internal Affairs and the Ministry of National Defence, in accordance with the internal procedure. After being endorsed by the abovementioned institutions, the draft law for the ratification of the Convention will be submitted to the Government for approval and to the Parliament for adoption.

(c) The same reasoning applies for recommendations 109.8, 109.9, 109.10, 109.11 and 109.12, as the Government could not prejudge on the position the legislator will take in the process of ratification.

On the merits, the Romanian party is still in the process of evaluating the changes the ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights would imply, from the domestic remedies perspectives and given the complex character of the obligations entailed by the Convention and Covenant respectively.

(d) 109.10 – The internal consultations on the ratification of the Kampala Amendments to the Rome Statute of the International Criminal Court on the crime of aggression will be resumed with a view to initiating the draft law for the ratification.

(e) 109.11 – The Ministry of Labour and Social Solidarity has initiated the ratification procedure of ILO Convention No. 190 on the Elimination of Violence and

Harassment. Currently, the draft law for the ratification of the Convention is in the legislative procedure of inter-ministerial endorsement, and will be subsequently adopted by the Government and submitted to the Parliament.

(f) 109.18 – The Ministry of Education collects data regarding participation in education for persons belonging to national minorities; to combat school dropout, the Ministry implements the National Program for the Reduction of School Dropout, and the measures provided include the identification and registration of at-risk students in the Ministry's database, as well as the identification and registration of children and youth out of school. The program currently targets lower secondary school students, where the school dropout phenomenon is most acute, and will be expanded to include primary education as well.

Moreover, the new 2023 Law on Undergraduate Education provides for increased measures to tackle this phenomenon, by establishing the National Integrated Program for the Reduction of School Dropout. Pupils identified as at-risk of school dropout participate in national support programs with priority, such as the "School after School" Program, the "Remedial Learning" Program and benefit from additional support measures and facilities.

(g) 109.37, 109.225 – Through an executive Order of 9 April 2019, the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice streamlined the criminal investigations in cases in which State agents are investigated for acts of ill-treatment committed in connection with the performance of their duties. As such, the cases in which criminal prosecution is carried out in cases involving the offences of abusive investigation, ill-treatment, torture and misconduct committed by police officers, civil servants with special status in the penitentiary system and/or gendarmes, are instrumented by higher prosecutorial units. The public prosecutors' offices attached to the courts of appeal and country courts also keep track of these cases and analyse the way in which the cases are dealt with – length of procedure, effectiveness and independence of the investigations, the quality of reasoning in prosecutor's decisions.

(h) 109.42 – The Prosecutor's Office attached to the High Court of Cassation and Justice investigated, during 2018-2022, 149 cases on criminal activities of groups specialised in trafficking of vulnerable persons; 1885 accused were indicted, 1392 victims were identified, of which 631 minors.

(i) 109.52 – In its last Cooperation and Verification Mechanism (CVM) Report, from November 2022, the European Commission considered that the progress made by Romania under the CVM mechanism is sufficient to meet its commitments at the time of its accession to the European Union. The same report places Romania, along all other EU Member States, only within the General Mechanism on the Rule of Law.

(j) 109.60 – The Romanian legal framework recognises and respects the rights of religious organisations, within which the religious denominations are the most representative. All religious denominations are equal before the law and treated equally by State entities. As for the individual right to freedom of thought, religion and conscience, it is fully guaranteed and respected.

(k) 109.106 – The newly adopted Law of undergraduate education foresees the introduction of Health education as a compulsory topic within the national curriculum. It is under this major generic topic that issues pertaining to sexual and reproductive health education will be approached. However, the legal framework does not provide for the concept of sexual education/comprehensive sexual education. The Ministry of Education, in collaboration with the Ministry of Health, the Ministry of Family, Youth and the Equality of Chances, local public authorities, recognised denominations and non-governmental organizations, will promote programmes for the prevention of unwanted pregnancies and early maternity among pupils. The programmes will be adapted to the age and developmental level of the pupils.

(l) 109.122 – On-request abortion is regulated by the Law on the reform in the health field as an on-request medical assistance/medical services; this type of medical care are not covered by the Single National Fund of Social Health Insurance.

(m) 109.123 – The legal framework is already guaranteeing the access to education to all without discrimination and in an equitable manner. Moreover, in the case of persons belonging to national minorities, their cultural identity is guaranteed, as well as their rights to preserve, develop and express their ethnical, cultural, linguistic and religious identity.

(n) 109.134, 109.135 – In Romania, the legal framework does not provide for the concept of sexual education/comprehensive sexual education. However, the issues pertaining to sexual and reproductive health education will be approached within the compulsory topic of Health education.

(o) 109.141 and 109.143 – In Romania, participation in education is open to all, without discrimination, the same education process being provided for boys and girls and carried out in accordance with national quality standards.

(p) 109.144 – Given the vagueness of the reference to “equal distribution of education outcomes across the country”, Romania notes this leg of the recommendation, as no measures can guarantee the strict equal distribution of educational outcomes across one country.

(q) 109.156 – The restrictive measures imposed by UN or autonomously by the EU comply with international law, including with the obligations stemming from international human rights law, international humanitarian law, and international refugee law. The sanctions are not punitive or retaliatory in nature, but designed to bring about a change in policy or activity by the target country, entities or individuals. Therefore, measures are always targeted at such policies or activities, the means to conduct them and those responsible for them. Furthermore, they are reversible and proportionate to the objectives they seek to achieve.

(r) 109.168 and 109.169 – The Romanian Criminal Code defines the rape as the sexual intercourse, oral or anal intercourse with a person, committed by constraint, by rendering the person in question unable to defend themselves or to express their will or by taking advantage of such state; the lack of the victim’s valid consent is thus implied.

(s) 109.212, 109.243 – On the (part of the) recommendation suggesting the adoption of a national strategy on equality, inclusion, and diversity, the Romanian authorities took a different stance and favoured sectorial strategies, focusing on categories of beneficiaries, for more effective and targeted results.

(t) 109.219, 109.226 – The recommendations are already implemented within the domestic legal framework, through the transposition of the EU Audio-visual Media Services Directive, with subsequent amendments, the latest transposition acts dating from July 2022.

(u) 109.222 – The recommendation is noted exclusively because of the wording, as Romania and its institutions do not plan, initiate or execute any racially motivated attacks.

(v) 109.230, 109.231, 109.233, 109.234, 109.235, 109.236, 109.237, 109.240, 109.243, 109.244, 109.246, 109.247 and 109.248 are noted, with the explanation that there is a need to examine in detail the domestic legal framework in relation to the complaints filed by the applicants. In addition, there is a need to thoroughly examine the legal avenues to execute the judgement of the European Court of Human Rights.

(w) 109.231, 109. 244, 109.246 – Romania upholds its position that a revision of the anti-discrimination law is not necessary, after careful assessment by the National Council for Combatting Discrimination. Under the European Convention on Human Rights and European Union law, in light of the case-law at European and domestic level, acts of discrimination based on gender identity and sexual orientation fall within the scope of the protection of the national anti-discrimination law.

(x) 109.245 – In Romania, the ICD-10 coding of medical conditions is in force, the de-pathologisation will be possible only after the implementation of ICD-11 coding. After reaching a conclusion of gender or sexual identity disorder, the patients benefit from psychotherapy, the prescription of treatment with specific hormonal products and later from surgical interventions for the medical component, if they desire to complement the transition.

6. Regarding the treatment with specific hormonal products – DCI TESTOSTERONUM and DCI ESTRADIOLUM – the persons insured in the health system benefit from prescriptions covered by 90%, on the basis of a medical prescription, according to the List containing the international common names corresponding to the medicines that the insured benefit from, with or without personal contribution, in the social health insurance system.

7. The Romanian Government take notice that the domestic authorities, in close consultation and depending on their competencies, supported in full **208** recommendations, while **14** are partially supported, with only **29** recommendations noted. The Government will follow up on these recommendations by preparing and submitting a mid-term at the appropriate time.

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