**Romania’s contribution to the call for input by the Special Rapporteur on the right to adequate housing and the Special Rapporteur on extreme poverty and human rights**

**Answers to questions nos. 1 and 3**

Criminal law does not criminalize begging, eating, sleeping or performing personal hygienic activities in public spaces. In fact, the offence of begging provided by art. 326 of the old Criminal Code has been decriminalized by entry into force of the new Criminal Code on 1 February 2014 (art. 326 - "The act of the person who, having the capacity to work, repeatedly appeals to the mercy of the public, asking for material aid, is punishable by imprisonment from one month to 3 years").

The new Criminal Code gave up the criminalization of the begging offence in the form enshrined in the old Criminal Code, but proposes two new incriminations, related to begging, meant to sanction those who take advantage of the vulnerability of the begging persons in order to obtain benefits. These are the **exploitation of begging** practiced by a minor or a disabled person (determination to practice begging or obtaining benefits from this activity) - art. 214[[1]](#footnote-1) and, respectively, **the use of a minor for the purpose of begging** by the major who has the capacity to work, in order to obtain material aid from the public - art. 215[[2]](#footnote-2).

Moreover, according to the provisions of article 182, point d) from the new Criminal Code, exploitation of a person can also take the form of compelling that person to practice begging The act of compelling a person to practice begging, knowing that he/she is a victim of human trafficking or child trafficking, constitutes the criminal offence of using the services of an exploited person, according to art. 216 of the Criminal Code, punishable by imprisonment from 6 months to 3 years or a fine, if the act does not constitute a more serious crime.

At the same time, the “repeated recourse, to the mercy of the public, by a person having the capacity to work , as well as determination of a person to commit such acts” constitutes a contravention and is sanctioned with a contraventional fine, according to art. 2 point 3) of Law no. 61/1991 on the punishment of acts of breach of some social standards, order and public safety. Also, article 2, paragraph 33 of the same Law states that it is a contravention, unless committed in such circumstances as to be considered a criminal offence according to criminal law, if the parents or the legal guardian of a child under the age of 16, or of a mentally challenged person, don’t take the necessary actions to prevent the child or the mentally challenged person form committing acts of loitering, beggary or prostitution.

Moreover, the performing of personal hygienic activities in public spaces could constitute a **contravention** under article 2 point 1) of Law no. 61/1991 on the punishment of acts of breach of some social standards, order and public safety (“Committing in public obscene acts or gestures that are likely to disturb public order and safety or to provoke the indignation of citizens or to harm their dignity and honor”).

According to the provisions of article 3, subparagraph (1), point a) from the aforementioned law, the actions described in article 2, paragraphs 3) and 33) are sanctioned with a fine ranging from 100 to 500 lei (approx. 20 – 101 EUR).

Currently, Law no. 61/1991 provides for the following main contraventional sanctions: warning, contraventional fine, performance of an activity for the benefit of the community.

The sanction of the imprisonment of contraventional nature has been repealed by Emergency Ordinance no. 108/2003 for the abolition of the imprisonment of contraventional nature.

Nevertheless, the provisions of article 9[[3]](#footnote-3), paragraph (3) of *Government’s Decision no. 2/2001 on the legal regime of contraventions* regulate a remedy concerning the particular situation where the offender does not pay the fine within the legal deadline of 30 days from the date of the final decision, and no enforcement is possible. In this respect, the specialized body of the administrative-territorial unit of the offender’s residence will notify the competent district court, in order to replace the fine with the sanction of compelling the offender to perform community service, while taking into account the already paid amount of the fine.

At present, at the level of the Ministry of Internal Affairs there is no information available on possible initiatives to revise the legal framework prohibiting begging, eating, sleeping or performing personal hygiene activities in public places.

**Answer to question no. 2**

Following the analysis of the existing statistical data available at the level of the Ministry of Internal Affairs, we are submitting below an overview of the current situation on legal sanctions imposed for non-compliance with the provisions of art. 2 point 3) and art. 2 point 33) of Law no. 61/1991, in 2020 and the first nine months of 2021.

|  |  |  |  |
| --- | --- | --- | --- |
|  | Number of legal sanctions issued by police officers within the Romanian Police for non-compliance with the provisions of art. 2 point 3) of Law no. 61/1991 | Number of legal sanctions  issued by the Romanian Gendarmerie for non-compliance with the provisions of art. 2 point 3) and point 33) of Law no. 61/1991 | |
| Sanctions imposed according to art. 2 point 3) of Law no.61/1991 | Sanctions imposed according to art. 2 point 33) of Law no.61/1991 |
| TOTAL | 35,676 | 15,258 | 406 |

**Answer to question no. 4**

In Romania, non-discrimination and respect for human dignity are principles of the social assistance system; thus, social assistance benefits and social services are provided to all categories in vulnerable situations. They benefit from social protection measures and actions without restrictions or preferences of race, nationality, ethnic origin, language, religion, social category, opinion, gender or sexual orientation, age, political affiliation, disability, chronic illness or belonging to a disadvantaged category.

Some of the benefits, such as the child raising benefit, the benefits and aids for raising the children with disabilities and the insertion incentive, are not exclusively dedicated to combat poverty, but among the beneficiaries of these rights may be included persons whose income from work is insufficient and for whom the granting of these rights is a real and necessary support.

The specific benefits granted for fighting against poverty are represented by the minim guaranteed income, family support allowance, the measures for vulnerable energy consumer which are accompanied by the other family benefits rights or special benefits for disabled persons.

**State** a**llowance for children:**

1. **Type of program:** universal benefit
2. **Eligibility conditions**: state allowance for children is a form of protection granted by the state to all children, without discrimination. Are entitled to the child allowance for children also the children of foreign citizens and stateless persons residing in Romania, if they live with their parents. The program is targeting all children of up to 18 years old and young people over 18 years old who attend classes of high school or professional school, organized according to the law, until their completion.
3. **Monthly amounts,** from the 1st of January 2021:
   * **214 lei** for children with the age between 2 years and 18 years old, and also for young people after the age of 18 until they finish the educational courses or vocational educational courses.
   * **427 lei** for children with the age up to 2 years old or up to 18 years old, in the case of children with disability.

**Parental leave and child raising benefit and monthly insertion incentive:**

* 1. **Type of program:** categorical benefit (monthly benefit for raising the child)
  2. **Eligibility conditions**: starting from July 2016 the child raising indemnity and the insertion incentive are granted to the persons who, during the last two years prior to childbirth, earned for 12 months incomes subject to taxation according to the Fiscal Code (incomes from wages, self-employed activities, copyrights and agriculture activities, including from similar periods, according to the law)**.** The child raising indemnity is a compensation, paid from the state budget, for the parents who interrupt their professional careers and take parental leave to raise children under the age of 2 years or, if a disabled child, up to 3 years.

The amount of the child raising indemnity has been established to 85% of the average professional net income earned by the parent during the last 12 months from the last two years prior to the childbirth. The minimum amount of child raising indemnity is 1.250 lei and the maximum amount of the indemnity has been established to 8.500 lei.

Persons who are entitled to receive child raising indemnity, but still work, earning professional incomes subject to income taxation, will receive a monthly incentive insertion, as follows:

- **in amount of 1.500 lei**, if the entitled persons obtain income subject to tax, at any time before the child reaches the age of 6 months, respectively 1 year in the case of the child with disabilities, granted until the child reaches the age of 2 years, respectively 3 years in the case of a child with disabilities;

- **in amount of 650 lei**, if the entitled persons obtain income subject to tax, at any time after the child reaches the age of 6 months, respectively 1 year in the case of the child with disabilities, granted until the child reaches the age of 2 years, respectively 3 years in the case of a child with a disability. If the entitled persons obtain taxable income, at any time after the child reaches the age of 2 years, respectively 3 years in the case of the child with disabilities, the incentive is granted until the child reaches the age of 3 years, respectively 4 years in the case of the child with disabilities. Also, the insertion incentive is granted in the amount of 650 lei to persons who earn income subject to tax during the period in which they are entitled to benefit from leave for the care of children with disabilities aged between 3 and 7 years.

**Any of the parents, those who adopted a child, have a child entrusted for adoption, in placement or in emergency placement (except for the foster care person)*,* and also the guardian have the right to the child raise indemnity or to the insertion incentive, optionally.** The two benefits are granted for each birth or, as the case may be, for any of the situations aforementioned.

According to Romanian Labor Code, the employee has the right to ask for the suspension of the individual labor contract in order to benefit from the parental leave. According to GEO no. 111/2010 the parental leave is approved by the employer at the request of the person who is entitled with and the employer has the obligation to establish the length of the leave in agreement with the employee.

The legislation regarding parental leave stipulates also other measures of job protection for persons who are entitled to this leave.

* 1. **Monthly amounts:** minimum 1.250 lei, maximum 8.500 lei, monthly insertion incentive 650 lei or 1.500 lei.

**Benefits and aids for raising the children with disability:**

* + 1. **Type of program:** categorical benefit (children with disability)
    2. **Eligibility conditions**: the benefits are granted to the persons/parents who take care of their children with disabilities and also to the persons with disabilities who take care of their children.
    3. **Monthly amounts**:
* **monthly benefit for raising the child with disability,** in amount of **1.250 lei,** granted to the persons who take care of children with disabilities, aged between 3 and 7 years old, who benefited from the rights established by GEO no. 111/2010 and who choose to continue with the parental leave until the age of 7 years old of the child.
* **monthly aid for raising the child with disability,** in amount of **563 lei (45% from the minimum amount of the child raising benefit - 1.250 lei)**, granted to persons with high/pronounced disabilities, who take care of children with disabilities, aged between 0 and 3 years old, who don’t earn any income besides the social assistance benefits for disabled persons.
* **monthly aid for raising the child with disability,** in amount of **438 lei (35% from the minimum amount of the child raising benefit - 1.250 lei)**, granted to persons with high/pronounced disabilities, who take care of children with disabilities, aged between 3 and 7 years old, who don’t earn any income besides the social assistance benefits for disabled persons.
* **monthly aid for raising the child with disability**, in amount of **438 lei (35% from the minimum amount of the child raising benefit - 1.250 lei)**, granted to persons who take care of children with disabilities, aged between 0 and 3 years old, who do not fulfill the conditions established by GEO no. 111/2010 for parental leave and child raise benefit.
* **monthly aid for raising the child with disability**, in amount of **188 lei (15% from the minimum amount of the child raising benefit - 1.250 lei)**, granted to persons who take care of children with disabilities, aged between 3 and 7 years old, who do not fulfill the conditions established by GEO no. 111/2010 for parental leave and child raise benefit.
* **monthly aid for raising the child**, in amount of **563 lei (45% from the minimum amount of the child raising benefit - 1.250 lei),** granted to persons with high/pronounced disabilities, who take care of children aged between 0 and 2 years old, who do not fulfill the conditions established by GEO no. 111/2010 for parental leave and child raise benefit.
* **monthly aid for raising the child**, in amount of **188 lei (15% from the minimum amount of the child raising benefit - 1.250 lei),** granted to persons with high/pronounced disabilities, who take care of children aged between 2 and 7 years old, who do not fulfill the conditions established by GEO no. 111/2010 for parental leave and child raise benefit.

**Benefits for persons with disabilities:**

**a) Type of program**: categorical benefit;

**b) Eligibility conditions**: granted to the adults with disability regardless of their income, depending on the degree of disability, and to the family or legal representative of the child with high disability; high, pronounced and medium. Granted also to the family or the legal representative of the child with disability, regardless of their income.

**c) Monthly amounts:**

* **Monthly indemnity granted to persons with disabilities:** 
  + **350 lei**, granted to the adult with high disability, regardless of their income;
  + **265 lei**, granted to the adult with pronounced disability, regardless of their income.
* **Monthly complementary budget for persons with disabilities:**
  + **150 lei for adults/300 lei for children,** granted to the adult with high disability and to the family or legal representative of the child with high disability, regardless of their income;
  + **110 lei for adults/175 lei for children**, granted to the adult with pronounced disability and to the family or legal representative of the child with pronounced disability, regardless of their income;
  + **60 lei for adults and children**, granted to the adult with medium disability and to the family or legal representative of the child with medium disability, regardless of their income.

**Family support allowance:**

1. **Type of program:** income tested benefit
2. **Eligibility conditions**: granted to families made of husband and wife who take care of their children, those being up to 18 years old, living and contributing to the household together and earning net monthly income per family member up to **530 lei**. The right to family support allowance is established by taking into account the incomes and the assets of the family referred to in the *List of assets leading to the exclusion of the right,* Annex of the GD no.50/2011. The program increases the children's education by introducing the school attendance conditionality for school children from beneficiary families; the amount of the allowance can be adjusted or diminished based on their school absences.
3. **Monthly amounts**:

|  |  |  |  |
| --- | --- | --- | --- |
| **Levels of incomes** | **Type of family** | **Number of children** | **Monthly amounts** |
| monthly net income per family member up to 200 lei | Two-parent family | with 1 child | **82** |
| with 2 children | **164** |
| with 3 children | **246** |
| with 4 children or more | **328** |
| monthly net income per family member between 200 lei and 530 lei | with 1 child | **75** |
| with 2 children | **150** |
| with 3 children | **225** |
| with 4 children or more | **300** |
| monthly net income per family member up to 200 lei | Single-parent family | with 1 child | **107** |
| with 2 children | **214** |
| with 3 children | **321** |
| with 4 children or more | **428** |
| monthly net income per family member between 200 lei and 530 lei | with 1 child | **102** |
| with 2 children | **204** |
| with 3 children | **306** |
| with 4 children or more | **408** |

**Child placement allowance:**

1. **a) Type of program**: categorical program;
2. **Eligibility conditions**: Granted from the state budget for each child or young person who benefits from the measure of placement to a person, family, guardian, foster parent or to residential care organized by an authorized private body. Thus, the families are encouraged to take in placement abandoned children, providing a family climate that is so necessary for growth and harmonious development. This allowance is paid until the age of 18 years old of the child and after 18, if the measure of placement is continued after this age.
3. **Monthly amounts**: **600 lei**; for children with disabilities this amount is increased by 50%, reaching to 900 lei.

**Social aid:**

* + 1. **a) Type of program:** income tested benefit
    2. **b) Eligibility conditions**: granted to families or single persons with low or no income, in a state of social need, in order to overcome the situation he/she is in. It is established as the difference between the monthly net income of the eligible family or single person and the monthly level of the guaranteed minimum income provided by the law. The right to social aid is established by taking into account the incomes of the family and also the assets of the family referred to in the *List of assets leading to the exclusion of the right,* Annex of the GD no.50/2011.

**c) Monthly amounts**:monthly levels of the guaranteed minimum income:

* + 1. **142 lei** for single person;
    2. **255 lei** for family with 2 persons;
    3. **357 lei**for family with 3 persons;
    4. **442 lei**for family with 4 persons;
    5. **527 lei** for family with 5 persons;
    6. **37 lei** for each additional person exceeding the number of 5 who is a family member, according to law.

Within the National Recovery and Resilience Plan (PNRR) Romania has assumed the implementation in the next period of the program on the minimum inclusion income (MII), in order to increase the coverage and adequacy of the social benefits and their correlation with labor market activation measures As a general objective, the reform proposal envisages the revision and application of the provisions of Law no. 196/2016 on the minimum income for inclusion, as well as the development of the National Integrated Social Assistance System and provision of logistical support for the implementation of VMI.

**Measures for vulnerable energy consumer :**

**Eligibility conditions**: the house heating aids are granted in order to compensate part of the costs with house heating during the cold season. These social protection measures are granted to single persons and families whose monthly net medium incomes per family member are up to a certain threshold established by law. The right to house heating aid is established by taking into account the incomes of the family and also the assets of the family referred to the *List of assets leading to the exclusion of the right,* Annex of the GD no.50/2011.

The financial measures consist of granting aids for ensuring the minimal energy needs and are the following:

1. house heating aid, focusing on the following aspects: establishing the maximum income threshold up to which a person or family can benefit from the heating aid, namely of 1.386 lei/person from the family, and for the single person of 2.053 lei; establishing the amount of aid, namely by percentage compensation applied to a reference value differentiated according to the heating system. The percentage compensation is 100% for the beneficiaries with the lowest incomes and at least 10% for those whose incomes are at the maximum limit; establishing the reference value to which the percentage compensation applies, for the four heating systems of the dwelling: centralized heating (the reference value is established monthly, within the average consumption and depending on the local price of the thermal energy billed to the population), heating with natural gas (250 lei/month), heating with electricity (500 lei/month) and heating with solid or liquid fuels (320 lei/month); the payment from the state budget, through the MMPS budget, of the aids for house heating with wood for the beneficiaries of the social aid granted based on Law no. 416/2001, this being no longer in the direct task of the local public administration authority;
2. energy consumption aid to cover part of the household's energy consumption throughout the year;
3. aids for the purchase, within a dwelling, of energy-efficient equipment necessary for lighting, cooling, heating and hot water supply in the dwelling, for the replacement of technically and morally obsolete household appliances with energy - efficient household appliances, as well as for the use of energy - intensive means of communication;
4. aid for the purchase of products and services in order to increase the energy performance of buildings, or for connection to energy sources.

**Emergency aids:**

* + - 1. **a) Type of program**: income tested benefit;

**b) Eligibility conditions**: according to the national legislation, families and people in need, as a result of natural disasters, fires, accidents or any other special situations due to health or other causes that may lead to the risk of social exclusion, can benefit from emergency aids established by Government Decision.

1. **Monthly amounts:**

Emergency aids are granted within the limits of the amounts allocated to this purpose in the budget of Ministry of Labor and Social Justice, in order to cover basic needs, especially maintaining housing and ensuring living conditions, access to medical services and/or recovery health or work capacity, tackling the causes that can lead to school dropout, as well as any other causes that can induce to the risk of social exclusion.

Currently, the Ministry of Labor and Social Protection is prioritising the adoption of the draft *National Strategy for Social Inclusion and Poverty Reduction for the period 2021-2027*. One strategic objective is lifelong social protection of vulnerable groups, through access to housing, medical services and integrated social services. The integrated approach and equal opportunities are cross-cutting objectives of the future strategy. The strategic objectives are:

* 1. a decent living for all, by combating transitional situations of monetary poverty, with an emphasis on ensuring adequate amounts (wages, pensions and social benefits) on the basic needs of the population; access to services of general public interest, including quality social services; social and economic participation of vulnerable groups, social responsibility, development of public-public and public-private partnerships;
  2. social investment to promote cohesion through education and employment,
  3. lifelong social protection through access to housing, medical services and integrated social services.
  4. improving the administrative capacity to implement policies in line with European provisions.

At the same time, MMPS implements a series of projects aimed at increasing the social inclusion of people belonging to vulnerable groups and developing social services:

* The project “*Creation and implementation of integrated community services for poverty reduction and social exclusion*” in 139 communities in rural and small urban communities with above average and severe marginalization, many of them with Roma communities.

Community integrated intervention teams aim to: (i) identify the most vulnerable people and families through information activities, (ii) understand their needs, (iii) provide personalized guidance and support (by addressing case management); (iv) supporting them to access all available benefits and services.

* The project “*Development of the social assistance system for combating poverty and social exclusion*” by strengthening the technical and administrative capacity of the public community social assistance network, by recruiting and training a minimum number of 350 social workers and implementing a vocational training and certification program at national level for specialists in the field of social assistance and training of at least 39,000 people employed in the social assistance sector.
* The project “*EVERYONE MATTERS! Assessing the needs of homeless people and the impact of existing social services on their quality of life* ” which aims to develop a system for assessing the needs of homeless people and a set of specific policies.

Moreover, Romania is working to streamline the measures to reduce poverty and social exclusion, including by developing integrated actions, as well as by establishing priority interventions within the National Recovery and Resilience Plan aimed at developing resilient social care infrastructure for children, for elderly and other vulnerable people. One priority intervention proposal is based on the reform of development policy, a system of comprehensive, resilient and quality long-term social care services for the dependent elderly and children.

At the local level, people with no income or low income can benefit from a diverse range of social services tailored to individual needs, such as counseling and information services, social integration /reintegration services, rehabilitation services, accommodation for a determined period. Social services addressed to people living on the street can be: mobile street intervention teams or social ambulance services; night shelters, fixed-term residential centers, community day centers.

Also, people without income or with low income can benefit from meals provided by social canteens.

The national legislation in the field of employment does not contain special measures dedicated to these categories of persons, but a category targeted by the measures offered by this normative act targets young people at risk of social marginalization, a category of which, according to art. 5 of Law no. 76/2002 on the unemployment insurance system and the stimulation of employment, with subsequent amendments and completions, are also included persons who do not have a family or whose family cannot provide for their maintenance, are in the child protection system or come from this system, have served one or more custodial sentences or are victims of human trafficking. As a result, we consider that these persons may be at risk of reaching the situations presented in the questionnaire.

Thus, in order to benefit from the services offered by Public Employment Services (PES) in the sense of promoting the participation on the labour market of young people at risk of social marginalization, such as personalized social support, information activities and promoting the interests of young people at risk of social marginalization among employers and subsidizing jobs, they must be unemployed registered with the employment agency in whose territorial area they have their domicile / residence

Other social services for supporting most deprived persons are established at local level under the jurisdiction of the local public administration authorities, at county level under the jurisdiction of county councils or are provided by duly accredited non-governmental organizations.

Romania provides sustenance and basic material assistance, from the Fund for European Aid to the Most Deprived, through the Operational Programme for assisting the Disadvantaged Persons, steered by the Ministry of European Investments and Projects, according to GEO no. 84/2020 *for establishing necessary measures in order to implement the Operational Programme for assisting the Disadvantaged Persons - POAD* and GEO no. 115/2020 on *certain measures to support the most disadvantaged categories of people receiving hot meals based on dedicated hot meals electronic social vouchers, granted from non-reimbursable external funds, as well as some measures for their distribution* whereas, according to the above-mentioned legal framework, the Prefect’s Office and local public administration authorities have responsibilities.

Among the locally-available social services aiming to support people living in extreme poverty are: day care centres for the homeless; emergency reception centres; residential care and reintegration/social integration centres for the homeless; social canteens, night shelters etc.

1. Art. 214. - **Exploitation of begging**

   (1) The act of the person who determines a minor or a person with physical or mental disabilities to repeatedly appeal to the mercy of the public in order to request material aid or benefits from economic benefits from this activity shall be punished by imprisonment from 6 months to 3 years or a criminal fine.

   (2) If the act is committed in the following circumstances:

   a) by the parent, guardian, curator or by the person who takes care of the begging person;

   b) by coercion, the punishment is imprisonment from one to 5 years . [↑](#footnote-ref-1)
2. Art. 215. - **The use of a minor for the purpose of begging**

   The act of a major who, having the capacity to work, repeatedly appeals to the mercy of the public, asking for material aid, using for this purpose the presence of a minor, is punishable by imprisonment from 3 months to 2 years or a criminal fine. [↑](#footnote-ref-2)
3. Art. 9 (1) Performing community service may only be enforced by law and for a period not exceeding 300 hours.

   (2) The sanction provided in para. (1) shall be established alternately with the fine.

   (3) If the natural person offender has not paid the fine within the legal deadline of 30 days from the date when the decision became final and no enforcement is possible, the specialized body of the administrative-territorial unit of the offender’s residence, provided in art. 39 para. (2) point a), will notify the district court, in order to replace the fine with the penalty of compelling the offender to perform community service, while taking into account the amount of the fine already paid.

   (4) During the first hearing, the court, having summoned the offender, may grant him/her a 30 days deadline, upon request, in order to pay the fine in full.

   (5) If the offender does not pay the fine within the deadline provided in para. (4), the court replaces the fine with the penalty of performing community service. [↑](#footnote-ref-3)