



# **CURRENT SITUATION CONCERNING CHILD ABUSE AND NEGLECT (CAN) IN ROMANIA**

**BALKAN EPIDEMIOLOGICAL STUDY ON CHILD ABUSE AND NEGLECT - BECAN  
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# **Current situation concerning Child Abuse and Neglect in Romania**

## **Introduction**

The abuse and neglect of children became increasingly visible as the Romanian Child Protection system evolved after 1989. The transfer from central to local child welfare authorities has introduced inequalities in budgeting and quality of the system (OMAS, 1999). Without the central financing, in spite of the increasing duties, some county councils had to reduce staff for a large range of local child welfare services, from family preservation, to out of home care services and adoption.

### **1. Current situation**

In the recent 10 years, the evolution of Romanian child protection is going through more changes. In the aftermath of the appearance of the child protection law (272/2004) there were a lot of criticisms regarding the child welfare system in Romania. The old practices were not any more covered by the law and new practices were not yet put in place because of limited funds and the lack of specific regulations. There were only few new public services, mostly in the bigger cities, and the cooperation between the public and the private sector was difficult, and often they were competing for funds and recognition of competences. One of the main reasons was the absence of appropriate standards that set the stage for monitoring and evaluation of services. The National Authority for Child Protection and USAID cooperated during 2001-2004 to elaborate standards for a large diversity of services: for residential foster care, for care by maternal assistants, for telephone help-line, for case management in maltreatment cases, for individual protection plan, for prevention of abandonment by parents and for the care of the looked after children, for the emergency center for maltreated children ([www.copii.ro](http://www.copii.ro), 20. Aug. 2006). The documentation of the reported cases is foreseen in a very detailed manner (since 2007), as well as the steps of intervention. But there is still a need of more explicit working tools as methodologies and guides, approved by governmental decisions, to describe intervention proceedings. A new monitoring system was developed by the National Authority for Child Protection, in this way national data are available regarding the reported child abuse and neglect cases.

Besides official data, there are research data available on the prevalence of CAN, mainly on regional level. There are only two nationally representative surveys: a prevalence study on the age group of 13-14 years old adolescents and their parents (Brown et al., 2002) and the other on residents in of care institutions (CERAB research, Stativa, 2001).

#### **1.1. National reports**

The latest data from the National Authority for Protection of Children's Rights for the first semester of 2009 show the following numbers of confirmed maltreatment cases:

**Table 1. CAN incidence data: urban and rural**

<b>Cases of...</b>	<b>Urban (N)</b>	<b>Rural (N)</b>	<b>Total</b>
Physical abuse	302	384	686
Emotional abuse	323	215	538
Sexual abuse	96	202	298
Neglect	1744	2347	4091
Work exploitation	128	109	237
Sexual exploitation	15	9	24
Exploitation for crime committing	33	15	48
<b>TOTAL</b>	<b>2641</b>	<b>3281</b>	<b>5922</b>

Source: NAPCR, 2009

Comparing the number of abused children to the total number of minors (approx. 4,3 mil. In 2008), we can see, that one child from 726 is abused. The rate of incidence is 1,37 per thousand for a half year, and 2,74 per thousand for a year. The incidence of neglect is the greatest, 0,7 per thousand.

Out of the 5922, 91.47% were registered within the family, the most prevailing form of maltreatment being neglect (73.36%).

**Table 2. CAN incidence data in families and institutions**

Cases of...	Family	PMA	Residential institutions	Schools	Other institutions	Other locations
Physical abuse	626	4	11	17	4	24
Emotional abuse	521	2	0	9	1	5
Sexual abuse	141	0	3	8	11	135
Neglect	3974	5	27	4	13	68
Work exploitation	141	0	0	0	0	96
Sexual exploitation	11	0	0	0	0	13
Exploitation for crime committing	3	0	0	1	0	44
<b>Total</b>	<b>5417</b>	<b>11</b>	<b>41</b>	<b>39</b>	<b>29</b>	<b>385</b>

Source: NAPCR, 2009

A gender analysis reveals an equal distribution of maltreatment behaviors (50.03% of boys are registered and 49.96% of girls):

**Table 3. CAN incidence data by gender**

<b>Cases of...</b>	<b>Boys (N)</b>	<b>Girls (N)</b>	<b>Total</b>
Physical abuse	352	334	686
Emotional abuse	254	284	538
Sexual abuse	80	218	298
Neglect	2099	1992	4091
Work exploitation	137	100	237
Sexual exploitation	8	16	24
Exploitation for crime committing	33	15	48
<b>TOTAL</b>	<b>2963</b>	<b>2959</b>	<b>5922</b>

Source: NAPCR, 2009

According to age, the fewest cases are recorded for the over 18's (34), the period 10-13 years being the most vulnerable (1346). In all group ages, neglect is the most prevalent form of maltreatment.

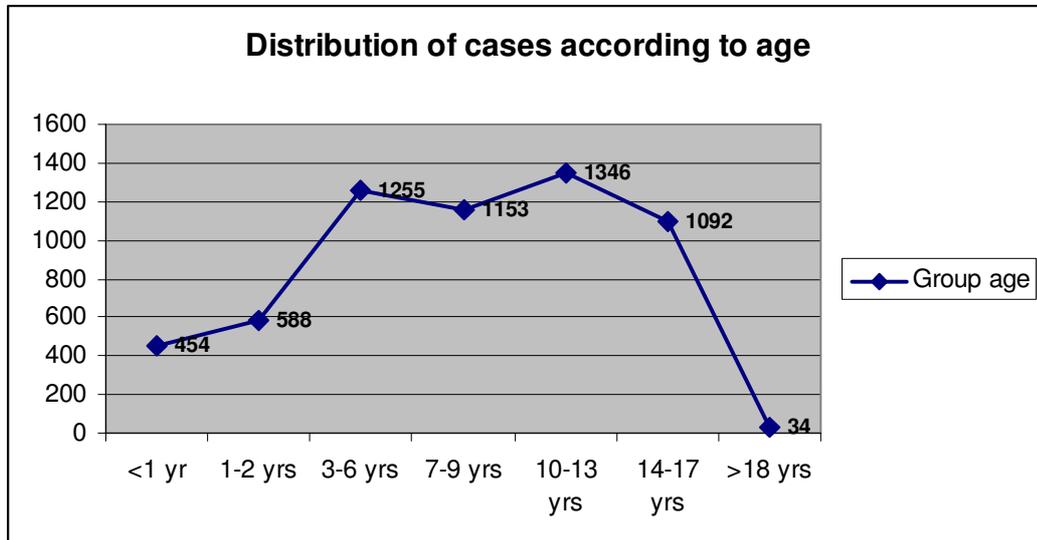


Fig. 1. Source: NAPCR, 2009

## 1.2. Research reports – prevalence data

During the period 1996-2010 research reports emerged that gathered data on a large variety of areas, as for example: the poverty of children (Zamfir et al., 1995, Molnar and Poenaru, 2008), child maltreatment in families and residential homes (Browne et al., 2002, Stativa et al, 2002), sexual abuse (Alexandrescu, coord., 2001; Roth-Szamoskozi & Bumbulut, 2003), street children (Serban & Roman, 2001, cit. Roth et al, 2006), child abandonment (Stativa et al, 2005, ciit Roth et al, 2006), violence and drug consumption among school children (Poledna et al. 2001, cit Roth et al, 2006). Organizations and research institutes documented child abuse and neglect in families, in residential homes, in schools, in punishment facilities. They advocated for the need for developing a better legislation that covers children's rights more comprehensively, and clarifies the financing of services, the relation public-private, as well as the responsibilities of central, county and local administrative levels, the relations with the health, education and the penal system. NGOs as Save the Children, World Vision, Christian Children's Fund (later became Every Child), FICF, SCOP, ARTEMIS, the alliance of NGOs called FDSC and many others participated in large debates and suggested legal changes, for example the prohibition by law of physical punishment, introducing community services to prevent child abuse and advocate good parenting, the establishing of the tribunal for children, stimulating links of children and natural parents, prioritize family foster care over residential homes and prevent babies from going into residential care.

*The first research* in Romania to address child abuse was a survey sponsored and organized by World Vision International/Romania and a group of researchers from (Babes-Bolyai University) in 1996 (Rotariu et al., 1996). The sample of 796 schoolchildren, aged 11-16, and the sample of 488 parents were representative of the population of Cluj county, in terms of ethnicity, gender, social class,

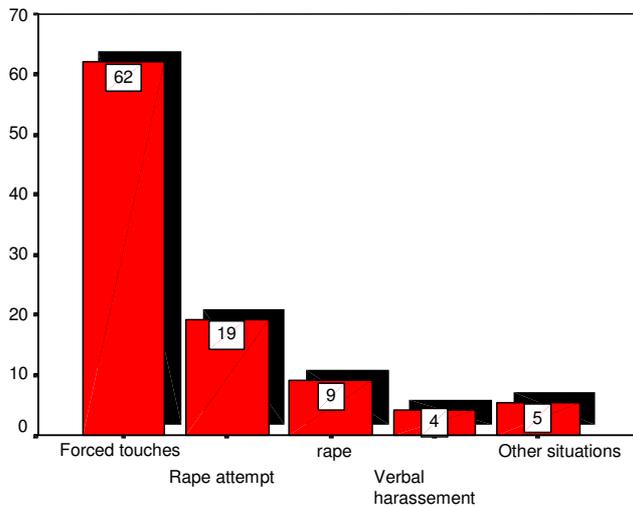
urban/rural proportions and educational background. The results for the children 11-16 years showed that, though, 60% of children were not ever or very rarely punished physically, 22% were severely punished. 11% of the sample were neglected and 4.6% were sexually abused.

This research also showed that sexual abuse was a complete taboo subject for the whole sample of parents, with no awareness at all concerning sexual abuse of their children. In contrast 4,6% of children acknowledged that they had been subject to sexual harassment or sexual abuse (Rotaru et al, 1996). That this sample excluded young people who dropped out of school earlier, which theoretically might contain a higher percentage of at-risk children.. One of the most obvious conclusion of this study was that all forms of abuse can be found in the Romanian child population yet there were no specialized services for their treatment or care.

### **Sexual abuse and trafficking**

*An important research study* was conducted in 1999, also in Cluj county, sponsored by the SOROS Foundation, with the participation of the Artemis centre, the Family Planning Centre (SECS) and the Social Work Department of the Babes-Bolyai University (Bodrogi, Diaconescu, David-Kacso, 2000). This was a larger study aiming to gather information *on the sexual life of youngsters*, including their experience with contraception, abortion, but also sexual abuse. 1,279 high-school students (851 girls and 416 boys) aged between 14 and 19 were interviewed from 24 schools and 69 classes. The classes were chosen by using random selection criterion, from all 9-12 classes in Cluj high-schools. As the study was limited to this batch, the results are representative for the category of high-school attending teenagers from the city of Cluj. This study tried to answer some of the most frequently asked questions from our colleagues and collaborators (teachers, psychologists, social workers, doctors, journalists etc.) on the subject of abuse including : the prevalence of sexual aggression based on the youngsters' own experience; who the perpetrators were; the victims' support network and differences between genders regarding sexual abuse.

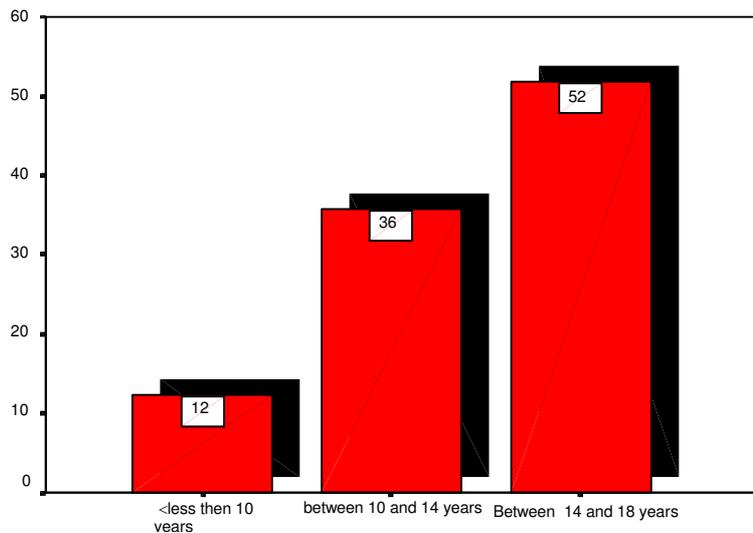
The distribution of victims by gender shows higher rates for girls (18.8%) than for boys (4%), the difference between the frequencies is significant at  $p < 0.001$  ( $\chi$ -square=50.16). The range of abuse varied from forced touching of intimate areas to rape (see chart 1).



**Chart1. The forms of sexual abuse and their proportion**

**Fig. 2 Source: Bodrogi, Diaconescu, David-Kacso, 2000**

The distribution of the first sexual abuse experience according to the gender of the person is shown in chart 2.



**Chart 2. The age when the first sexual abuse experience occurred**

**Fig. 3 Source: Bodrogi, Diaconescu, David-Kacso, 2000**

Most teenagers (55%) talked to their friends about the sexual abuse. The mother was the confidant for 18.3% and the partner for 10% of respondents. Siblings, teachers or doctors, other relatives and other persons were confidants for an even lower percentage (a total of 17.7%). The most frequently mentioned perpetrator was the father (36.7%). Other family members are less mentioned among the perpetrators - mother (9%) and siblings (6.5%). According to these results, about half of all sexual perpetrators are persons known to the victim.

The answers to the questions in this survey were found to be useful in demonstrating the importance of introducing sexual abuse prevention programs in the education of children, drafting the issues for abuse prevention, and also to get directly in touch with the high-school students who needed counseling.

In a *research on community violence (Poledna, 2001)*, with a sample of 1054 school-children (age group 11 to 18 years) sexual abuse was considered a major problem for the school community by 48.7%, and no problem for 39.5% of the respondents. Respondents reported sexual aggression committed by educational staff in a proportion of 1.5%. Though sexual abuse committed by teachers is rare, 16 children of the sample reported to have been victimized by teachers.

Asking about youngsters that might themselves commit acts of sexual harassment or aggression within the school, 2.1% of children responded positively to this item. 1.9% agreed they had sexually harassed or committed aggression against others on the streets. Being subject to attempted rape was reported by 2.8%, and 1.6% agreed they had been raped. Touches perceived as sexually abusive were experienced by 13.4% of the sample, which again demonstrates the importance of raising awareness of abusive behavior and the limits of intimacy in the community. The most striking result of this research is that it does not show any significant difference between boys and girls according to the average number of their sexual abuse experiences (including unwanted touches). This data reveals that programs must also address boys as possible victims of sexual abuse. Statistically, older age groups (15-18) are only a little more exposed to sexual aggression, compared to children 11-15.

In 2000, by creating the first reliable database in residential state institutions, a national study was conducted that aimed to evaluate the *dimensions and forms of abuse by institutionalized children (CERAB research - Stativa, 2001)*. It is based on data collected from 3,164 children aged 0-18 living in institutions, representing 7,8% of all the 37,000 children in residential homes and 3,455 minors in hospital-homes for severely handicapped children. Data was collected through interviews with younger children, and questionnaires were applied to children older than 7.

Data revealed that 36,1% of the sample had previous information about children who were forced into sexual practices. The percentage of children, who recognize that they knew about the existence of such practices in their own institution was 19,6%. This smaller number might be due to the inhibition of children to speak out, because it involves their friends and teachers more directly. It is interesting that the rate of those who did not answer this question was (15,5%). The number of children who confessed to being victims of sexual abuse was 4,3%. This rate does not differ much according to age groups, though, it is the highest in minors aged 15-18. In reality, the number of victims might be higher because, children tend to keep the secret of sexual abuse when they are asked direct questions. This is due partially to the shame of being teased for being abused and also fear of the aggressor, who often scares his victims with fearful consequences if they disclose abuse. Sexual abuse came through easier in case studies, because interviews - done by experienced adults - can diminish the feeling of vulnerability of victims. With two exceptions, in all the residential homes there was at least one child who disclosed that they were subjected to sexual violence.

In the institutional sample 50% of the victims specified that they were the subjects of homosexual abuse committed by other children within the same institution. Children also mentioned staff members, relatives and minors outside the institution as perpetrators, (a total of 5%). It is indicative that almost 30% of the victims did not answer the question concerning the identity of the perpetrator.

The data reveal that forced homosexual practices between children who live in residential care is the most common form of sexual abuse for this sample. Case studies have demonstrated that these experiences are seen as abusive and painful by the victims.

The CERAB research coordinated by Stativa (2000) also reviewed the competence of staff in residential care in dealing with situations of homosexual relations. Answers to the question about what the staff did in such cases varied. Some preferred to deal with such a situation themselves by isolating or physically punishing the child-aggressor, or by talking with the child and explaining to him/her that this kind of “relationship against nature” were not allowed. These prefer to keep the “problem” within the walls of the institution. Others ask for professional help of a psychoterapist, or a physician, and treat the children with medication. Other staff would make the case known within the institution, in order to prevent other abuse cases. Very few make the distinction between forced and consenting (homo)sexual relationships, or speak about systematic abuse prevention in residential care.

These data are similar to a study Save the children (Paunescu, Alexandrescu, 2000). In this study, which used a sample of 223 children (from institutes or living in families) (11-13 years), 12% of the subjects related that they experienced someone touching them on their private parts against their will.

The sexual exploitation of children appears to be an underreported but growing problem in Romania. Several domestic and international prostitution rings are active and many also involve minors. Romanian prostitutes are exploited in Western European countries and in the Balkans by trafficking girls and women against their will or by giving them false information. News about trafficking children and women for the benefit of networks, which are unknown to police appear almost daily in the media.

*A report of IOM (2001), which cites a joint research (CURS, ICCV and MRMC) concerning the vulnerability of girls to trafficking for sexual exploitation, shows that young girls are more vulnerable to trafficking if they come from the poorest regions of the country (Moldova and Muntenia), or if they lived in child care institutions (13%) compared to girls living in their families (7%) or independently (5%). The data of this study also show that former experience of abuse increases the risk of trafficking of the interviewed youngsters. It seems that abusive homes are generating a need to look for a new life, and a search for freedom elsewhere. The risk of trafficking is also higher for girls living in families with communication difficulties between the youngster and her parents and for those who lack friends and feel alone. Risk of trafficking is also related to the lack of education: the less education the girls have, the more they are exposed to sexual exploitation. The girls who are at risk of trafficking have a strong desire to gain money; “They agreed that it was of no importance what you do, as long as you earn money”. Approximately half of the interviewees were attracted to migration by success stories they had previously heard.*

In the period 1997-2000, the percentage of the minors among those accused of prostitution oscillates between a maximum of 29% in 1998 and 17% in 1999. In 2001, after an international campaign to reduce trafficking and sexual exploitation, the absolute number of persons registered by authorities increased: for the first 6 months of the year, 167 of the total of 726 persons who were trafficked from, and returned to Romania were minors (see Table 1).

**Table 4. Percentage of minors subjects of trafficking**

1997	1998	1999	2000	January-June 2001
26% (158 minors)	29% (112 minors)	17% (69 minors)	19% (144 minors)	23% (167 minors)

Data of the Ministry of Internal affairs, Center for Advanced Legal Studies and Center for Legal Resources (2001)<sup>1</sup>

Until recently the general attitude of the majority of the population has been oriented against prostitutes. On different occasions (UNDP conference on the Status of women in Romania, 1998, SCOP conference on Prevention of child maltreatment, Sibiu 2001) professionals directed attention to the fact that prostitutes, especially when they are minors, are often the real victims. For example, a study of UNDP (source reference) showed that 153 out of 188 cases of prostitutes registered in the first semester of 1997 practiced prostitution because they could not find any other way of earning money.

Research done in the city of Oradea<sup>2</sup> also revealed that poverty is a main cause of becoming a prostitute. Of the interviewed girls 40% were coming from families with no constant wages, but remaining 60% also had very low financial resources. Poverty was an important motivation for all interviewees raised in large families (the average number of children in the sample was 3) and also for all girls reared in child care institutions (who represented 33% of the sample). 50% of the interviewees said that they could not find a job and that selling their bodies was their only way to subsist. Asked about the way they are organized, 55% were part of a prostitution-ring belonging to a man – the pimp, but they were afraid to reveal his name. One third of the prostitutes reported that they gave all their income to their “fish”, though they said he often beat them. In the investigated group of prostitutes, one third began their sexual life around the age of 15. Concerning their first sexual contact, 10% confessed to being raped, and 15% to being paid for their first sexual act.

Poverty and family-life circumstances are not the only, or necessarily the main cause of prostitution in all cases. Research also shows girls and young women who prostitute themselves may not be forced by poverty, being aware of the risks for their health and their whole life, but are attracted by it as a source of income. We consider that professionals cannot judge prostitutes, they have to analyze each unique case, and offer each of them support, especially to minors who cannot change the course of their own life by themselves.

For example, Cristina, 16 years old by the time of the interview, comes from a single parent home, were father divorced and left the family. Her mother lives with a partner, both of them being heavy drinkers and often acting aggressively. After several attempts, the man rapes Cristina, who reveals this to her mother, who does not believe her. On the contrary, she blames Cristina and makes her life more difficult. Afraid of the man, Cristina runs away from home, sleeping on the streets or, sometimes, in the center for young offenders. Her first act of prostitution happened on a winter day, with no place to stay, at the age of 12 and a half. While on the streets, she was several times subjected to physical maltreatment, so she accepted the

<sup>1</sup> Unpublished study offered on the occasion of the seminars for Cooperation in the fight against trafficking in human beings, Bucharest, 21-23 June 2001

<sup>2</sup> Diploma work coordinated by Dr. L. Popescu, Babes-Bolyai University, Social Work Department, 1998

protection of a proxenet. At age 16, caught by the police, Cristina was sent to a reeducation center for young offenders. (Diploma work coordinated by prof. Livia Popescu, 1998)

In such cases life conditions can take a child to abandon his/her family. Living on the streets they are easy targets for prostitute rings and pedophiles. This statement is confirmed by research done by Save the children (Dionisie, and Roman, 1998). A group of 70 street-children from Bucharest and other cities were questioned (40 girls and 30 boys by street workers. it was found that 91% (64 children) were victims of physical and sexual violence in their families of origins or in the substitute care institutions. Of this sample, 80% were regularly involved in having sexual relationships during the time of the interview, and 54% confessed having their first sexual experiences before running away to the streets. For the runaways from the residential institutions, the first sexual experience had been rape for 44% (6 boys and 5 girls) committed by older children (91%) and staff of the residential home (9%). For the runaways from home, 13 of 45 children (29%) were sexually abused by family members or an older young person . The age of the first sexual abuse experience was 11-12 years for both cases. Prostitution was a very important source of income for 86% of the street children. The interviewers also found that 68% of the children were “sniffing” drugs. Asking for future plans, only 11% of children considered returning in their own homes, 14% preferred to remain on the streets, 31% considered going to a placement center for children, 31% of the children said that they did not have any wishes for their future and one child preferred to die.

### Physical abuse and neglect

As mentioned above, the survey sponsored and organized by World Vision International/Romania and a group of researchers from (Babes-Bolyai University) in 1996 (Rotariu et al., 1996) was the first study focused on child abuse and neglect. The sample of 796 schoolchildren, aged 11-16, and the sample of 488 parents were representative of the population of Cluj county, in terms of ethnicity, gender, social class, urban/rural proportions and educational background. The parent's answers show that 60,3% of parents never or very seldom use physical punishments, and 59,6% of children said they never or very seldom were punished physically or slapped by parents. In the table below we synthesize the forms of punishment used by parents as declared by parents and by children themselves.

**Table 5. Forms of punishment and their frequency**

The forms of punishments	Children's answers	Parent's answers
Verbal aggression	14,2%	16,4%
Physical punishments	28,4%	25,8%
Serious physical punishment	22,6%	21,5%
Neglect	11,1%	9,4%

Source: Rotariu et al.1996

As we can see, the children usually related a higher percentage of physical punishments and neglect than the parents. The differences are the highest in the case of physical punishment and neglect. As conclusions, the authors of the survey mentioned that although the most of the parents don't use physical punishment with their children, 27% of children are exposed to inappropriate treatments from the part of

parents, treatments which include serious forms of neglect as well as severe forms of physical punishments. The results of this survey show significant relationship between the socioeconomic status of the family and the children's maltreatment. The number of children in the family was the other variable related to child maltreatment.

The first survey representative for Romania regarding the incidence of child abuse was initiated by the National Agency for Protection of Children's Rights and Adoption in 2000, financed by the World Bank and realized with the support of the WHO. The survey was realized by Browne, Cârîană, Momeu, Păunescu and Tokay and published in 2002. The sample included 1556 parents and 1295 children aged 13-14 (seventh grade). The results are synthesized in the table below:

Table 6. The incidence of child abuse and neglect in Romania as reported by parents and children

The form of abuse	Children's answers	Parent's answers
Physical abuse	24,4%	18,4%
Physical neglect	45,8%	67,8%
Exploitation of the child in the family	8,4%	6,8%
Educational neglect	34,1%	57,1%
Psychological abuse	21,2%	25,6%
Psychological neglect	43,6%	45,5%
Sexual abuse	9,1%	0,1%

Source: Browne et al.2002

We can observe a significant difference in the incidence of physical abuse declared by parents -18,4% and that declared by children: 24,4%, which reflects the difference between the incidence of beating the child with the hand or slapping him/her reflected in children's answers, which is 84%, and 66,2%, the incidence corresponding to the parents' answers. It is possible that there are parents who don't even consider slapping the child a form of physical punishment. (Browne et al, 2002). 47,2% of parents recognized that they use regularly physical punishments. 16% of parents use to beat their children with different objects e.g. stick, cane, belt, with visible marks in half of the cases. 64% of parents use to be verbally aggressive with children and 25% of parents admitted that they use to shout to the child or to curse her/him.

One other important result refers to exploitation of the children in family: 1 from 10 children considered that is exploited by parents, having to work, to beg or to care of smaller children from the family, which corresponds with the result obtained from parents: 13% have recognized that they don't permit their children to attend school.

In this survey the data revealed very high incidence of different types of neglect. The analysis of the data showed that there are differences in incidence of abuse between regions: the incidence of physical, psychological and verbal abuse were higher in Banat, Dobrogea, Moldova, Crisana-Maramures than in

Bucuresti, Oltenia, Transilvania and Muntenia. All types of abuse and neglect are more frequent in rural residential areas, excepting the educational neglect, which is more frequent in urban areas.

The research coordinated by E.Stativa in 1999-2000 aimed to evaluate the dimensions and forms of abuse and neglect in residential care institutions (*CERAB research - Stativa, 2001*). The sample used ensured adequate representation of regions, each type of institution, children's gender and age. 48% of children aged 7-18 years admitted that in their institution children are beaten. 56% of children in traditional residential care, 46% of children in family type institutions and 34,3% of children were punished by beating. Regarding the types and prevalence of punishment used by staff, the highest prevalence had the light physical punishment (77,7%) and severe beating (39,6%). Humiliation (14%), threat (13,4%), isolation (7%), suppression of meals (18,2%), interdiction on recreational activities(21,7%), leaves(13,5%), but also on family visits(5,7%) also were included in the range of punishments. The punishments were inflicted mainly by educational staff (76,7%) and night attendant (8,7%). 8,6% of children didn't reveal the person who inflicted the punishments.

This survey used also interviews, which revealed, that the frequency of physical punishments have decreased in the last years. Although the directors of institutions were very firm regarding the “severe” physical punishment (beating), their “light” forms were easily overlooked.

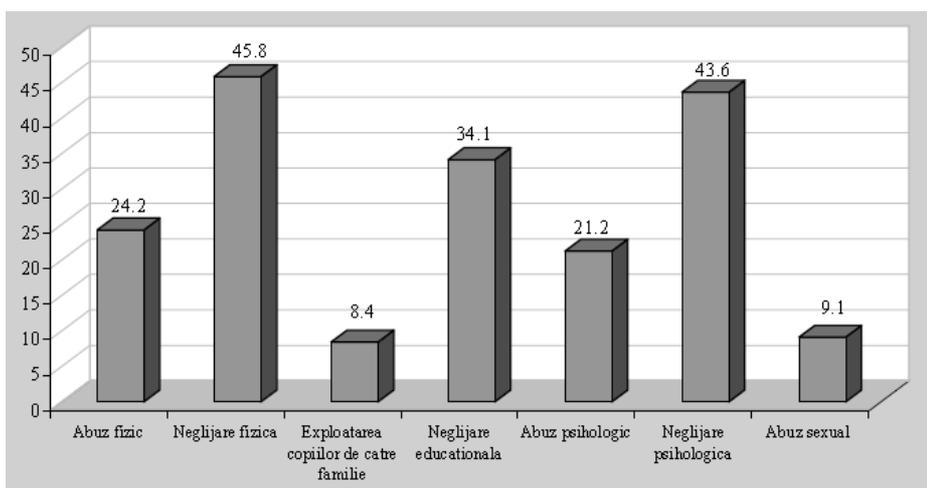


Fig. 4. Source: Alexandrescu, G., 2005: 13

The study „**Știm să ne creștem copiii? (Do we know to raise our children?)**” conducted by Save the Children in 2003 (Alexandrescu, G., 2004) aimed to collect data about child abuse form the persons that were directly involved (children, parents, teachers) using the social inquiry and interviews. The sample consisted of 607 pupils and 263 parents from one of the sectors in Bucharest. Neglect was the most prevalent form of maltreatment: nearly 40% of children declaring that they have been left home alone for more days, 30% say that it had happened rarely, and 10% often. The high number could be explained by the fact that the question also included the situations in which children were left with bigger brothers or sisters, phenomenon quite usual for larger families. But still, there is a high percentage for single-children too (25% say it had happened rarely and 10% often.

Asking about the punishment regime, nearly 60% say that they are not punished, but at specific questions like *What kind of punishments you get?*, *Were you humiliated?* etc. they gave answers out of which we can infer that they are physically punished in a way or another. Over 90% of children were punished at least once, the differences could be explained by the different coping mechanism they developed or by the different understanding of the concept of “punishment”. The distribution of answers show that *verbal aggression* is not considered a punishment. Almost 20% declare they have fought often and over 70% chose the option from time to time. Less than 10% say they were never fought. Among punishments the most prevalent is *to forbid things child is enjoying*. *Severe punishment* (beating, isolation, burning, etc.) were mentioned by more than one quarter of the children (28.9%). The number of children within the family brings significant differences in the frequency of abusive punishments: 25% of the single-children compared to 40% of multiple-children families were victims of such severe abuses. *Beating* is a common way of discipline method: more than 25% are beaten rarely and 2.5% often (using the hand or the belt). The family type is an important variable: almost two times more children (53%) from problematic families (alcoholism, domestic violence) are also victims of severe punishment.

### 1.3.Unpublished data

Other unpublished research reports show similar data. A research grant commissioned by Iuliu Hațieganu University of Medicine and Pharmacy Cluj-Napoca<sup>3</sup> identified psychological abuse as a problem in rural areas. The study was conducted on a sample of 267 children enrolled in the 4<sup>th</sup>, 6<sup>th</sup> and 9<sup>th</sup> grade. Half of the respondents feel they are loved, sustained and appreciated by their parents, but 50% of them only seldom have felt this. Also we can notice a descendant trend (at higher ages the families are less supportive):

**Table 7. School children’s relation with their parents**

In the last months, parents ...	Never (%)			Seldom (%)			Often (%)		
	4 <sup>th</sup> grade	6 <sup>th</sup> grade	9 <sup>th</sup> grade	4 <sup>th</sup> grade	6 <sup>th</sup> grade	9 <sup>th</sup> grade	4 <sup>th</sup> grade	6 <sup>th</sup> grade	9 <sup>th</sup> grade
Have sustained me with a lot of love	2	2.9	5.2	20	21.6	43.1	78	75.5	48.3
Have encouraged me	5.5	5	0	13.2	11	43.6	81.3	84	52.7
Told me they love me	3	5.9	18.2	8.1	16.8	43.6	88.9	77.2	36.4
Made me feel important	3.1	5.9	5.4	29.6	24.8	55.4	67.3	69.3	37.5
Made me feel they appreciate me	3	3.9	1.8	24	22.3	55.4	73	73.8	41.4
Praised me	3.3	2	0	26.4	35.7	55.4	69.2	62.2	42.9
Made me feel that I am the most important for them	3	3.9	8.8	19.2	30.1	45.6	76.8	66	45.6
Spent their free time with me	5	3.9	8.9	33	34.3	57.1	61	61.8	32.1

Source: Research report UBB & UMF, 2008

<sup>3</sup> Research project *Abordare interdisciplinară a profilaxiei stresului, oboselii și violenței școlare din mediul rural (An interdisciplinary Approach of Stress, Tiredness and School Violence Prevention in Rural Area (PROFVIOB))*, financed by the Ministry of Education through IDEI (428/2007)

Another study coordinated by Babeş-Bolyai University Cluj-Napoca<sup>4</sup> in 2008 aimed to assess the social factors of school success. The research, conducted on a representative national sample of 2465 students from secondary and post-secondary schools defined parental support as one of the variables. Generally children benefit from a strong parental support, but 10% of them report they never experienced the mentioned forms of support.

Table 8. Parent-child relationship reported by school-children

<i>In the last month, how many times the adults form your family...</i>	<i>Never (%)</i>	<i>Once or twice (%)</i>	<i>3 or more times (%)</i>
Told you or showed you are loved	8.5	23.6	67.8
Made you feel appreciated	7.6	25.9	66.5
Praised you for something you did	7.1	31.3	61.6
Made you feel special	10.9	33.2	55.9
Spent their free time with you	10.8	35.3	53.9

Source: unpublished research report, UBB , 2008

By ANOVA analysis there are significant differences among counties regarding the parental support ( $F_{11,2436} = 6.56, p=.000$ ). Tukey HSD localizes these differences between Vâlcea and Argeş, Cluj, Neamţ and Bucharest, in all cases showing that children from Valcea benefit from less parental support. As a function of residency, t test revealed that children from rural areas benefit of more support ( $t_{2446} = 2.47, p=.013, M_{rural}=12.83, M_{urban}=12.53$ ).

Another research for Vâlcea county was financed by Babeş-Bolyai University in 2007<sup>5</sup>. The research conducted over 245 9<sup>th</sup> graders from Rm. Vâlcea measured the incidence of psychological abuse using a 30 item questionnaire. Data showed that the most prevalent forms are depriving of dignity (26.9%), followed by ignoring the needs of children (26.3%) and terrorizing (21%). Isolation and corruption had a less frequency: 14.2%, and 11.5%.

The data from the **Telefonul Copilului Association** (2008) reveals that there were 855 calls, out of which 296 (34.6%) were recorded as abuse. Out of those, almost one third were of physical abuse and neglect.

<sup>4</sup> Research project: *Diagnosticul social al performanţei şcolare prin scala socială a succesului şcolar şi proiectarea unor metode de intervenţie validate prin cercetare (The social diagnostics of school success and the development of evidence-based intervention methods)* financed by the Ministry of Education through PNCDI II (contract nr. 91063/2007).

<sup>5</sup> Research project „Abuzul psihologic din mediul şcolar şi familial asupra adolescenţilor” (Psychological abuse in schools and families), scholarship contract, 2007

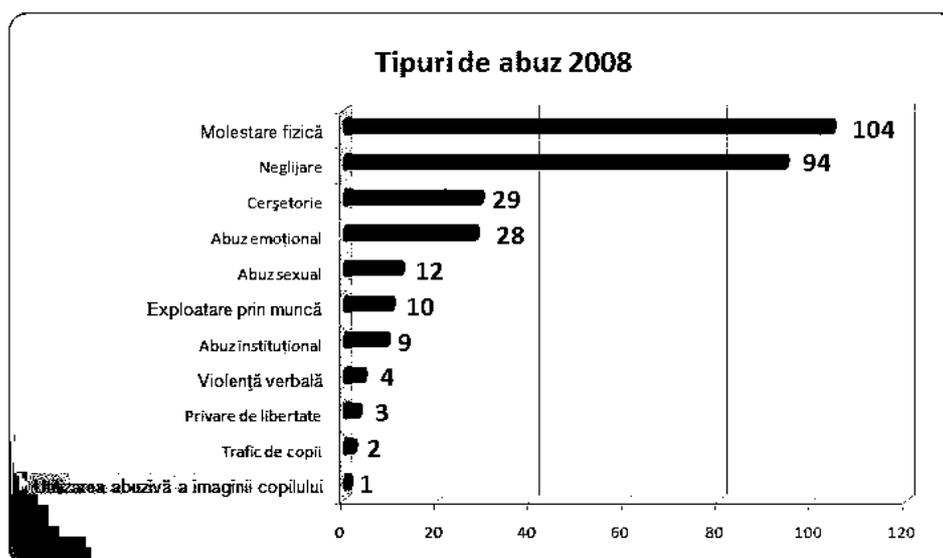


Fig. 5. Source: Asociația Telefonul Copilului, 2008:15

**Table 9. Children in care 2005/2007**

	2005	2006	2007
With foster parents ( maternal assistants) (funded by public services (DGASPC, local councils)	17,213	19,571	20,226
With other families and individuals	348	238	186
private authorized bodies	5,473	4,215	3,870
With relatives until 4 <sup>th</sup> grade including	24,689	23,847	21,888
<b>TOTAL</b>	<b>47,723</b>	<b>47,871</b>	<b>46,172</b>

Source: National Authority for Protection of Child Rights

## 2. National Legal Framework about Child Abuse and Neglect

### 2.1.1. Conventions

Romania signed the following international conventions:

- **UN Convention on the Rights of the Child** in 1990, ratified via Law nr. 18/1990. The most recent legislation in child protection enacts the provisions of CRC through Law nr. 272/2004.
- **Optional Protocol at the Convention on Children's Rights regarding children sale, child prostitution and child pornography.**
- **UN Convention against organized transnational criminality**, additional Protocol concerning the prevention, reprimation and punishing of the trafficking of persons, especially women and children, additional Protocol against the illegal transfer of migrants on terrestrial, air or sea, international instruments which have been approved by the law 565/2000 for the ratification of the above mentioned conventions.
- **Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor**, adopted by the Conference at its 86<sup>th</sup> Session , Geneva, 17 June 1999, ratified by Law no. 203/2000.

- **Council of Europe Convention concerning the fight against human beings trafficking**, instrument that has been ratified by the law no. 300/2006.
- **European Council Convention for the Protection of Sexually Exploited Children and Sexually Abused Children** on 25 October 2007. This convention is still in the ratifying process.

### **2.1.2. Identified limitations/gaps in the Conventions**

In the context of the amendment process of the Criminal and Penal Codes Romania, the ratification of a European Council Convention for the Protection of Sexually Exploited Children and Sexually Abused Children should become a priority. Then, the special provisions of the Convention should be incorporated in the new Penal Code.

#### **2.2.1.National Laws**

. In June 2004, the Parliament adopted a legal package in the domain of protection of child rights, based on the principles of the European Convention on the human rights and respectively the ONU Convention regarding the child's rights, legal package effected on January 1st, 2005, which includes: Law no. 272/2004 on the protection and promotion of the child's rights, law no. 273/2004 on the legal regime of adoption, law no. 274/2004 on the establishment, organization and operation of the Romanian Office for Adoptions and Law no. 275/2004 for the change of the Government Emergency ordinance no.12/2001 on the foundation of the National Authority for the Protection of Child's Rights.

Law no. 272/2004 on the protection and promotion of the children's rights represents the central element of the legal package. The law has new regulations regarding child abuse, neglect and exploitation as the following:

#### **Definition of abuse and neglect**

Child abuse means any voluntary action of a person who has a relation of responsibility, trust or authority towards the child, through which the life, the normal physical, mental, spiritual, moral and social development, the bodily integrity, and the physical and mental health of the child are endangered. (Art. 89 (1)).

Child neglect means the omission, either voluntary or involuntary, of a person who is responsible for upbringing, caring for and educating the child, to undertake any measure which is subordinated to this responsibility, and which results in endangerment of the physical, mental, spiritual, moral and social development, the bodily integrity and the physical and mental health of the child.” (Art. 89 (2))

#### **Prohibition of physical punishment in families and institutions**

It is forbidden by law to enforce physical punishments of any kind or to deprive the child of his or her rights, which may result in the endangerment of the life, the physical, mental, spiritual, moral and social development, the bodily integrity, and the physical and mental health of the child, both within the family, as well as in any institution which ensures the protection, care and education of children. (Art. 90)

The child has the right to be shown respect for his or her personality and individuality and may not be made subject to physical punishments or to other humiliating or degrading treatments. Disciplinary measures concerning the child can only be taken in accordance with the child's dignity, and, under no circumstances are physical punishments allowed, or punishments which relate to the child's physical and mental development or which may affect the child's emotional status (Art.28).

In spite of the law, there are no legal instruments to monitor parental practices within the families, there for only severe cases come to the attention of the authorities.

### **Mandatory prevention measures**

The public social security service will undertake all the necessary measures for the early identification of risk situations, which may determine the separation of the child from his or her parents, as well as for the prevention of abusive behaviour of the parents and family violence. Any separation of the child from his or her parents, as well as any restriction in exercising the parental rights must be preceded by the systematic granting of services and assistance stipulated by the law, with a special emphasis on adequately informing the parents, providing counseling, therapy and mediation for them, based on a service plan (Art.34).

In spite of the law, there are no specific means to organize large scale preventive actions in order to prepare parents (not even parents with high risk of CAN) for their roles.

### **Mandatory reporting system**

Any person who, through the nature of his or her profession, works directly with a child and has suspicions concerning the existence of a case of child abuse or neglect, must notify the public social security service or the general department for social security and child protection in whose territorial range was identified the respective case. (Art.91 (1))

The staff of the public or private institutions who come into contact with the child through the nature of their profession and have suspicions concerning a potential case of child abuse, neglect or maltreatment, must urgently notify the general department for social security and child protection. Art.83(3)

For the notification of the cases of child abuse or neglect, at the level of each general department for social security and child protection, a "child telephone line" will be established, and the number should be widely publicized. (Art. 91(2)).

This telephone line prescribed by the law has not been financed in all the counties. At national level there is a unique anti-violence tel. line with limited access by children. Tel. lines organized World Vision and other local NGOs had been largely consulted by children, especially by adolescents.

### **Intervention**

If there are sound reasons to suspect that the child's life and security are endangered in the family, the public social security service or, if the case, the representatives of the general department for social security and child protection at the level of each sector have the right to visit the children at their

residence and to gather information on how the children are being cared for, on the children's health and physical development, education and professional training, and may grant, where needed, the necessary advice. If, following the visits stipulated under paragraph (1) it is noticed that the child's physical, mental, spiritual, moral or social development is endangered, the public social security service must immediately notify the general department for social security and child protection, in view of undertaking the measures stipulated by the law. The general department for social security and child protection must refer the case to the court, in case it considers that the conditions required by the law regarding the partial or complete termination of the parental rights of one or both of the parents are met. (Art.36)

### **Emergency intervention**

In case when, following the verifications, the representatives of the general department for social security and child protection reach the conclusion that there are sound reasons to support the existence of an imminent dangerous situation for the child, as a result of child abuse and neglect, and they do not face any opposition from the parents of the child, the director of the general department for social security and child protection will establish the emergency placement measure.

In case the parents refuse or prevent in any way the representatives of the general department for social security and child protection to conduct the verifications, and it is established that there are sound reasons to support the existence of an imminent dangerous situation for the child, as a result of child abuse and neglect, the general department for social security and child protection notifies the court of law, requesting the issuance of a presidential ordinance for the emergency placement of the child with a person, family, maternal assistant or in a residential service, which is licensed in accordance with the law. (Art.94)

Within 48 hours from the date of executing the presidential ordinance through which the emergency placement measure was established, the general department for social security and child protection notifies the court of law, requesting it to issue a decree ruling on: the replacement of the emergency placement with a placement measure, the partial or complete termination of parental rights, as well as on the exercise of parental rights

### **Rehabilitation**

The child's parents or, if the case, any other legal representative of the child, the public authorities and private institutions must take all the appropriate measures in order to facilitate the physical and mental rehabilitation and the social reintegration of any child who has been the victim of any form of child neglect, exploitation or abuse, torture, cruel, inhuman or degrading punishments or treatments. The persons referred to under paragraph (1) will provide the necessary conditions so that the re-adjustment and re-integration of the child should have as primary consideration the child's health, self respect and dignity. (Art.86)

In view of providing special protection for the abused or neglected child, the general department for social security and child protection shall:

- a) verify and provide a solution for all notifications concerning child abuse and neglect cases, including those coming from family social workers;
- b) provide the services stipulated under art. 107, which specialize in addressing the needs of children victims of abuse and neglect and their families. (Art.92)

### **Evidence administration and child hearing**

The written statement of the child concerning the abuse or neglect situation to which he or she was subjected, may be administered *ex-officio* as evidence. The child's statement may be recorded, according to the law, through technical audio-visual methods. The recordings are made obligatorily with the assistance of a psychologist. The child's consent is mandatory for the recording of his or her statement. If the court of law deems necessary, it may subpoena the child in order to conduct a hearing. The hearing only takes place in the council chamber, in the presence of a psychologist and only subsequent to an initial preparation of the child in this regard. (Art. 95)

### **Penalties**

In case the child abuse or neglect were committed by persons who, based on a legal working contract or another type of contract, were providing the protection, upbringing, care and education of the child, the employers of these persons must notify immediately the criminal investigation authorities and must separate the respective persons from the children who are in their care. Art. 97 – It is forbidden to employ a person against whom a final and irreversible court decree has been issued for intentionally committing a crime, in the public or private institutions, as well as in the public or private residential services, which provide the protection, upbringing, care or education of children. (Art.96)

Persuading or facilitating a minor to practice begging, or gaining any sort of advantage as a result of this activity of the minor child, is punished by 1 to 3 years in prison. Recruiting or forcing a minor to practice begging is punished by 1 to 5 years in prison. If the offence is committed by a parent or by the person who is legally responsible for the child, the punishment is of 2 to 5 years in prison. (Art.132)

The act committed by the parent or by the person who is legally responsible for the child, of using the child in order to repeatedly ask for charity from the public, by requesting either financial or material support, is punished by 1 to 5 years in prison and by deprivation of certain rights. (Art.133)

Art. 134 stipulates that failure to observe some duties represents serious misbehavior, others represents misbehavior and is sanctioned in accordance with the Labour Law.

**The law also contents extended provisions regarding sexual exploitation, trafficking, child labor, illegal use of drugs, kidnapping, exploitation by media, involvement in armed conflicts etc.**

### **2.2.2. Identified limitations/gaps in National laws**

- Lack of penal or administrative penalties in case of omission of reporting. The law stipulates penalties only in accordance with the Labour Law
- There is a need of more explicit working tools as methodologies and guides, approved by governmental decisions, to describe intervention proceedings.
- The specification in the Civil Proceedings Code of the implementation of emergency placement order by presidential ordinance and improvement of proceedings for observation of celerity are needed.

### **2.3.1. National/ Regional Action Plans**

In 2008 a wide national strategy for protection and promotion of children's rights for 2008-2013 and the operation 1 plan for implementing the national strategy for the same period has been approved by Governmental Decision.

National Action Plan for the prevention and fighting of child trafficking has been approved in 2004 for 2004-2007. For the field of child protection against abuse, neglect and exploitation for the 2004-2005 period, for the prevention and combat of sexual abuse and sexually exploitation for commercial purposes (2004-2007) and for elimination of child labor (2005-2007) also national action plans have been approved.

The efforts performed by the Romanian authorities have been focused on the support and development of specialized services accessible to children/young people abused or sexually abused, as well as rehabilitation centers for the children/young people victims of traffic.

### **2.3.2. Identified limitations/gaps in Action Plans**

The specific action plans have been expired, and an evaluation of implementation and new, evidence based action plans and strategies must be created.

Evaluation of costs and providing necessary funding for implementation of the national strategy and action plan is needed. In accordance with the recommendation of the Council of Europe a national action plan for preventing and combating violence against children is needed for the next period.

### **2.4.1. Other provisions about CAN**

#### **Other civil laws**

- Law 217/2003 on prevention and combat of family violence stipulates the creation of shelters, rehabilitation centers for victims and counseling centers for offenders
- Law 211/2004 regarding certain measures for ensuring the protection of crime victims stipulates the right to gain information about the rights, psychological counseling, judicial assistance free of charge and financial compensation of crime victims by the state
- Law 304/2004 on the organization of judiciary stipulates the creation of the specialized courts for juvenile and family law until the end of 2007.

#### **Identified limitations/gaps**

Provisions of Law 304/2004 are not enforced. Only two specialized courts for juvenile and family law is functioning. A wide evaluation is needed regarding the opportunity of creating such courts and specialized

sections, based on the case load of each court in the country. Financial and human resources must be ensured, as part of the general reform of the judicial system.

Such provisions are to be connected in the aspects that make the object of the Optional Protocol to which the Penal Code of Romania which states clearly the legal regime of the crimes concerning the traffic of minors, exploitation, forced labor or compulsory, sexual activities involving minors, etc.

### **Criminal laws**

Some offences against the child committed within the family are considered separate crimes in the Penal Code, and others are included in other types of criminal acts.

Thus, separate crimes are considered to be incest, family abandonment, maltreatment of minors, refusing the observation of the child's placement.

The criminal law imposes more severe penalties in case of offences against life, corporal integrity and health, against personal freedom, related to sexual life, offences which affects social cohabitation and family life, if these are committed against relatives or family members, in the presence of a minor within the family.

The penal law states clear punishments for any activities concerning the recruitment, transporting, transfer, hosting or taking any person with the age between 15 and 18 years old for the purpose of exploiting it. The punishment for this kind of activities is of 3 to 12 years of prison and the prohibition of some rights.

The punishment consist in severe prison time from 15 to 20 years and the prohibition of some rights if:

- a)** the fact is committed against a person who is not 15 years old yet;
- b)** the fact was committed through violence, menace or other forms of force, through abduction, fraud, abuse of authority or by taking advantage of the victims impossibility to express his/her wish, or by giving, accepting, or receiving money or any other benefits in order to have the agreement of the person responsible for the child;
- c)** the action was performed by two or more persons together;
- d)** the victim was caused a severe injury of its integrity or his/her health;
- e)** the fact has produced important material benefits

In case that such an action had as consequence the death of the victim or the suicidal the punishment is prison for life or severe prison time for 15 to 25 years and the forbidden of certain rights.

According to the Romanian law by exploitation of a person is understood ([Art. 207](#)):

- a)** the execution of an activity or fulfilling some services, in a compulsory manner, by disregarding the legal regulation concerning the labor conditions, payment, health or security;
- b)** slavery or similar procedures that lead to the lack of freedom or slavery;
- c)** obligation to get involved into prostitution activities, pornographic manifestations in order to produce and broadcast pornographic materials or other forms of sexual exploitation;
- d)** obligation to begging;
- e)** organs prelevations.

In regard to the notion of submitting to forced or compulsory labor, the Romanian law defines it as being the fact of submitting a person, in other circumstances than those stated by the law to perform an activity against his wish, such a fact being punished with prison time from 1 to 3 years.

In what the crimes against the sexual life are concerned the law states clear punishments whenever we are talking about sexual relationships of any nature with a person of the same or different sex as a consequence of force use or the victim's impossibility of expressing his/her wish.

When the victim is under the care, protection, education, guardianship or treatment of the person committing the fact incriminated by the penal law or was a minor who was not 15 years old yet, the punishment is prison time from 15 to 20 years and forbidden of certain rights.

A separate regulation has the crime known as "sexual act with a minor", the law stating that the sexual act of any nature performed with a person which is not 15 years old yet is punished with prison time from 3 to 10 years and forbidden of some rights.

With the same punishment is sanctioned the sexual act of any nature performed with a person under 15 years old if committed by a tutor, teacher, tutor, doctor in the use of its position or quality or if that person has abused of the victim's trust or authority or its influence over the victim.

If such an act has as consequence receiving material benefits by the victim which is not 18 years old yet, the punishment is prison time from 3 to 12 years old and forbidden of some rights.

If the facts mentioned above have been committed in order to produce pornographic materials the punishment is prison time from 5 to 15 years, forbidden of some rights and if the victim was forced to do such activities the punishment is prison from 15 to 20 years.

If the fact has as consequence the death or suicidal of the victim the punishment is severe prison from 15 to 25 years.

Another fact incriminated by the Romanian law is the "sexual corruption" which represents the acts with an obscene character done with a minor or in the presence of a minor, such activities being punished with prison time from 1 to 5 years. If those activities are to produce pornographic materials the prison time increases with 2 more years.

A fact that should be underlined is the fact that in all those cases the attempt to commit such facts is also incriminated.

In what the child pornography is concerned this is defined as being the fact of exposure, sell, broadcast, rent or distribute, made or produce in any other way, offer or make available in order to broadcast or to keep without any rights pornographic materials with minors. The punishment for such an action is prison time from 3 to 12 years.

With the same punishment is sanctioned also the import or export of such materials to a transport or distribution agent, in order to sell or distribute them.

It is incriminated and punished with prison time from 3 to 12 years the production in order to distribute, offering or making available, transmission, obtaining for the own use or for the others of any kind of pornographic materials with minors through an informatic system or a device used for stocking informatic data.

By pornographic materials is defined any material which presents a person having a sexual explicit behavior or images which although do not present a real person simulates, in a credible way, a minor with an explicit sexual behavior.

With respect to the territoriality of the penal law according to the Romanian legislation the penal law is applied to all the crimes committed on the Romanian territory. The penal law is applied to all crimes committed outside the national territory by a Romanian citizen or a person without citizenship with a domicile in Romania if that fact is incriminated by the penal legislation of the country on whose territory the crime was committed.

In case of children sexual exploitation and child pornography in case a European mandate for arrest is issued, no matter the name given to such an activity under the legislation of that country, if the fact is incriminated with prison time for minimum 3 years, the extradition is given if the condition of double incrimination is not fulfilled:

In order to prevent children exploitation by involving them in activities with a pornographic character was adopted law no. 96/2003 *concerning the prevention and combating of pornography*. Such a law instituted a number of measures for preventing and combating and pornography in order to protect the person's dignity, morality and has intended to limit the broadcasting of materials with an pornographic character which might harm the human dignity and the public morality, forbid the access/participation of minors to such kind of activities which might affect their development, their health as well as generating a general framework for the conditions in which activities with involved programs with an erotic character are to be developed.

In report to the victim's age the law incriminates the deed of the persons who by promising marriage to a person under the age of 18 convince her to have a sexual relationship, punishing it with prison time from 1 to 5 years. In order to underline the gravity of such a fact the same law stated that the parts reconciliation do not constitute a reason for avoiding penal responsibility.

In case such facts subject to penal exploitation are committed against children within the family environment the penal action is started implicitly. This is possible whenever the prosecutor appreciates that the victim cannot express such a complaint and the penal responsibility should be applied. When the victim expresses its wish for a possible reconciliation the penal action is extinguished.

It should also be mentioned that the minor who is a victim is also part within the penal trial, such a quality not being assumed by his legal representatives. The child victim is assisted by the his legal representatives all over the trial period such an assistance being meant to exercise his legal capacity. The law does not state the obligation for the guardianship office representatives to be summoned throughout the penal inquiry procedures, a procedure which is compulsory instead in case of the minors who have committed a crime.

#### 2.4.2. Identified limitations/gaps in other CAN related laws/ policies

*[Under this section 3, please include any available information about definition(s) of CAN by national law, legal provisions about: reporting procedures, mandatory reporting, child protection orders, legal issues regarding children witnesses of domestic violence, penalties, and any other information that you consider important].*

- The lack of efficient safety measures such as restriction order in case of domestic violence (forbidding for the perpetrator to return to the family home) and child abuse (forbidding for the perpetrator to approach the child outside of the family home)
- Participation to rehabilitation programs for aggressors is not mandatory
- There are no penalties in case of violation of presidential ordinance

### 3. Child Protection System

Law no.272/2004 on protection and promotion of child rights, stipulates the organization, operation and responsibility of the institutions that are specialized in this field, on a central and local level.

On a central level, the **institution specialized in the field is the National Authority for Protection of Child Rights (NAPCR)**. It is a **regulation** authority in the field, having the aim **to coordinate and control** the entire activity concerning the protection and promotion of children on a **national level**, as well as to **monitor** the observance of child rights in Romania. Thus, the National Authority for the Protection of Child Rights elaborates law projects, methodologies, guides and work procedures for child service providers. At the same time, it centralizes data concerning the child protection system and data concerning child rights on a monthly, quarterly or annual basis. Through its representatives, the National Authority for Protection of Child Rights performs controls concerning information they have received or automatic controls, it recommends and, accordingly proposes to public or private legal persons who are in charge of supplying protections services to apply sanctions. It also elaborates the strategy in the field and programs for the accomplishment of strategic objectives.

On the level of the Romanian territorial administrative units, respectively on the level of counties/districts (41 and, respectively, 6 districts), as well as on the level of towns, cities and communes (totalling to 3038), the public county and local administrative authorities have the obligation to guarantee and promote the observance of child rights, through the insurance of activities and services of risk prevention concerning the violation of child rights (on a local level), as well as to insure special protection for children who are temporarily or permanently lacking parental care (on a county level).

1. Thus, the following institutions operate on the level of the 41 **counties** and on the level of each of the 6 **districts** of Bucharest:

- **Child Protection Commissions (CPC)**, as a specialized deliberative body of the County Council, respectively of the Local District Council of Bucharest, which has the role, among others, of ruling (as an administrative instance) special protection measures, with the parents' agreement.
- **General Directorates for Social Assistance and Child Protection (DGASPC)**, as public institutions with a legal personality, in the suborder of the County Council / the Local District Council of Bucharest, with the role of insuring the application of social assistance policies and strategies concerning the

protection of children, family, single persons, elders, persons with disabilities, as well as any persons who are in need, on a county, respectively on a district level.

These general directorates have the **set of residential and family type services (special protection measures outside the child's own family)** in their suborder which are destined **for children, under the conditions of the law** (children who are temporarily separated from their family, with the agreement/on their parents' request – the measure is decided by the CPC – children who are in danger in their family, who do not have their parents' agreement and children who have no parents or whose parents have been fallen from their rights.– the measure is decided by the court, on the request of the General Directorates for Social Assistance and Child Protection);

The General Directorates for Social Assistance and Child Protection also have responsibilities especially in cases of abuse, neglect or exploitation when children need protection outside the family. These responsibilities are complementary with those of the Local Councils (see below). Thus, it is essential that General Directorates for Social Assistance and Child Protection and the Local Councils maintain a close collaboration.

Regarding the reporting of CAN **Art. 91 of law 272/2004** regulates the responsibility of each person (medical personnel, educational staff, care taker, family worker etc.), who is in a position that allows him/her to observe the child for a sufficient time period, to notify the responsible authorities of possible acts of abuse or neglect in order to assess and intervene to remove the danger under which the child is placed. According to this article, it is not necessary for the person who files the complaint to have material evidence, the existence of elements that generate suspicion concerning a potential abuse being sufficient.

In order to facilitate the submission of complaints concerning these aspects and in order to establish an operative intervention, law 272/2004 regulates the general social assistance directorates' obligation to create **the children's hotline and to promote this telephone number.**

The children's hotline is a service that aims to receive notifications of child abuse, neglect or exploitation, to obtain a series of preliminary information that allows intervention, to insure a primary telephone counselling and to immediately intervene through a mobile team. These aspects are regulated through Order no. 177/2003 of the State Secretary of the National Authority for Child Protection and Adoption.

**Article 92 of law 272/2004** regulates the obligation of the general directorate for social assistance and child protection to check and solve all the notifications that concern potential situations of abuse or neglect. If the result of the performed verification confirms the respective child abuse or neglect, the general directorate for social assistance and child protection is obligated to insure the performance of specialized services for the respective children. Thus, it must be specified that art. 26 align. (1) of Law no. **217/2003 on prevention and control of violence in the family** stipulates that if there are solid evidence or indications that a family member has caused physical and psychological harm to another member, the legal court can rule that the abuser be banned from the family's residence, on the victim's request or if the legal court agrees to it.

Based on **Art. 92 of law 272/2004** representatives of the general directorate for social assistance and child protection has **the access right** of to the headquarters of legal persons, as well as to the headquarters of natural persons, **in order to verify complaints regarding potential acts of child abuse or neglect.**

In order to perform their dispositions according to this article, representatives of the general directorate for social assistance and child protection benefit from the **mandatory support of the Police**.

If the verifications performed by specialists prove the existence of an imminent danger for the child, the manager of the general directorate for social assistance and child protection can decide that the child **be urgently placed in the care of the state**, if the parents agree to this.

In a term of 48 hours after taking this measure, the general directorate for social assistance and child protection will notify the court, which is the only competent institution that can influence the opportunity of maintaining the urgent placement of the child, about the necessity to replace the child's placement and the execution of the parents' rights.

If the natural or legal persons that insure the child's care and protection oppose to the verification of notifications of abuse or neglect and there are solid reasons that prove that the child is abused or neglected, the representatives of the general directorate for social assistance and child protection will notify the court, requesting the establishment of the child's urgent placement in the care of the state through a **presidential ordinance**; thus, the court will receive information concerning the possible harming of the child and the seriousness of this act, the existence of the child's prior injuring, the child's current state and his/her statement.

It is also important to specify that it has been ruled that **causes that involve children will be urgently solved**, court terms for the establishment of a protection measure will not exceed 10 days and, on the basis of a presidential ordinance issued by the competent court, the general directorate for social assistance and child protection can insure the child's urgent protection in cases where he/she is the victim of abuse, neglect, exploitation or child traffic (art. 124-131, art. 64-67, art. 94 – Law 272/2004);

Concerning intervention services in cases of abuse which are offered by the Social Assistance and Child Protection General Directorates, 38 Social Assistance and Child Protection General Directorates have founded a „children hotline” service. In most cases, the telephone line is part of services that insure protection and intervention in cases of abuse, neglect, exploitation: emergency intervention services for an abused, neglected or exploited child (some cases include the problem of trafficking and immigration as well), emergency placement centers, counselling services. 35 General Directorates for Social Assistance and Child Protection have a short telephone number especially meant to be used for the notification of cases of abuse, neglect, exploitation, and in 28 General Directorates for Social Assistance and Child Protection the service works permanently.

Aside from these 38 lines, there is also an operating Green Hotline for Child Protection - 0800-8-200-200 – which was created in 2001 and supported by the the National Authority for Protection of Child Rights through Phare programmes, for 4 years and is currently working as a Nongovernmental Organization. The Green Hotline for Child Protection is a free information and counselling telephone service concerning the problems of child and family protection. Recently, it also received the unique telephone number, 116111, that is used on an European level for notifications regarding violence against children which will become operational from October 1<sup>st</sup> 2008. The phone calls from potential beneficiaries are operated by the Green Hotline's qualified personnel, consisting of therapists, social workers and legal professionals and they are directed to specialized services.

2. In the case of towns and cities, on a **local** level, the law stipulates the mandatory foundation of the Social Assistance Public Service (SPAS), in the suborder of the Local Council and on a commune level, the structure of the local communal council stipulates the minimum existence of people who have social assistance attributions.

The role of SPAS is to monitor the observance of child rights in the administrative-territorial unit, to inform families with children about the parents' rights and obligations, about the child's rights, as well as about the identification and assessment services of risk situations which are available on a local level, and granting **services and/or performances** for the child and the family, under the conditions of the law. These services (SPAS), as well as the local communal councils have support services for the child and the family in their suborder and they have to maintain, rebuild and develop the child's and the family's capacity of overcoming situations of crisis and maintaining the family unity.

## Conclusions

- Incidence of CAN as reported by County directorates of Child Protection has been collected since 2004 by the National Agency for Child Protection and periodically published on their site ([www.copii.ro](http://www.copii.ro)).
- The rate of incidence (the rate of reported cases) for the year 2009 was 1,37 per thousand for a half year, and 2,74 per thousand for a year. The incidence of neglect was the greatest, 0,7 per thousand.
- Since adhering to the EU there has been no comprehensive research on prevalence data of child abuse and neglect. Research in the area of prevalence of CAN in Romania has been piloted in Romania since 1996, nationally representative data are coming from two larger studies that covered national samples, both in the period before Romania accessed the EU.
- The existent studies show high prevalence rates of CAN. *Neglect* (physical, educational and/or psychological) has the highest rate of prevalence, it is reported by up to 50% of children (and up to 70% of parents) *Beating* is a common way of discipline method: between 20- 25% are reporting. *Severe punishment* (beating, isolation, burning, etc.) were mentioned in the different studies by more than one quarter of the children. Concerning *sexual abuse*, the studies reveal a prevalence rate of 4,1-18,2%, depending of the age and gender of children and the methodology of the study, when children were asked, 0,1% when parents were asked.
- There is a large gap between incidence and prevalence data that indicates the existence of important gaps in the existing reporting and investigation methodology of CAN, in spite of the legal obligation to report CAN. Part of the underreported data are due to the functioning of the local authorities, that are not required to report CAN cases further to the County Directions of Child Protection.
- Although there is specific legislation in the domain of CAN, there are several administrative and professional difficulties in the mechanisms of dealing and monitoring CAN cases, and consequently in assuring safety measures for children at risk. The responsibilities are often unclear, the procedures are long, effective safety and treatment measures are missing.

- The way the judicial system deals with CAN cases needs to be reformed in order to become more sensitive to children's needs (there are only two specialized courts for juvenile and family law).
- Services for children at risk, treatment and prevention services for abused children are understaffed and unevenly spread in the country, at the disadvantage of rural areas.
- There is a need for systematic research based on children's opinions, on parenting studies and on expert's opinions to collect prevalence data.
- There is a need to plan a strategy to improve the collection of CAN incidence data, to cover all reported cases to any state or private institutions, or organizations involved in CAN.
- An adequate national action plan needs to be reconfigured that covers the process of case-work, whatever institutions it involves, and that of monitoring data.
- In spite of the law, there are no specific means to organize large scale preventive actions in order to prepare parents (not even parents with high risk of CAN) for their roles.
- There is a gap between the regulations contained in Child law that prohibit physical punishment and family practices. This results from the absence of preventive programs and of instruments to monitor parental or professional activities that regulate child behaviour.

### References:

- Alexandrescu, G., Munteanu, D. (Eds.). (2005). *Drepturile copiilor între principii și realitate*. Organizația Salvați copiii, Bucharest: Speed Promotion
- Angheliescu, C., Iliescu, M. (coord) (2006) *Cunoștințe, atitudini și practici parentale în România*.
- Bodrogi, E., Diaconescu, M., David-Kacso, A. (2000). Physical aggression and sexual abuse suffered by high-school students in Cluj (Research report on sexuality and sexual abuse in youngsters in Cluj, unpublished research financed by SOROS Foundation for Open Society), in *Dezvăluiri*, nr. 2, published by ARTEMIS: Cluj
- Browne, K., Cârțână, C., Momeu, L., Paunescu, G., Petre, N., Tokay, R..(2001) *Copilul abuzat și neglijat în România. Studiu național. Prevalență, factori de risc, modalități de prevenire și intervenție*, Agenția națională pentru protecția drepturilor copilului, Banca mondială, Organizația Mondială a Sănătății, Unicef, Bucuresti
- Dionisie, A., Roman, G. (1998), *The results of applying a questionnaire of sexual abuse by street children* [rezultatele aplicării chestionarului privind abuzul sexual printre copiii strazii, Save the children [Salvați copiii], Bucharest , research report.
- Molnar M., Poenaru M.,(2008) *Protecția socială în România. Repere europene*, Editura BREN, București,
- Paunescu, G., Alexandrescu, G. (2000). *Child abuse and neglect* [Abuzul și neglijarea copilului], Bucharest : Ars Docendi.
- Rotariu, T., Roth, M., Filipoi, S., Mezei, E., Munteanu, A., Sabau, V. (1996). *Child abuse and neglect in Cluj County*, Babes-Bolyai University & World Vision Int. Romania
- Roth, M, Rat, C, Popescu, L (2006): *Children and Social Policies in Romania*, Studia Universitatis Babes-Bolyai-Sociology, 2/2006
- Roth, M. (1998). *Tradition and need of change in Romanian Child Protection system*. Research funded by OSI, Prague , project ID 592, Campaign 1997; included in electronic library of OSI Address: <http://e-lib.rss.cz/author.html>, 2000

Roth, M., Bumbulut, S. (1998). Poverty and sexual exploitation of women and children [Sărăcia și exploatarea sexuală a femeilor și copiilor] In: *Poverty and Human Rights [Saracia si drepturile omului]*, PNUD, Bucuresti

M. Roth-Szamoskozi, S. Bumbulut (2003), *Sexually abused children in Romania*, 2003. coautor in C. May-Chahal, M. Herczog, Child sexual abuse in Europe, Council of Europe Pub. p. 59-78

E. Stativa (coord.), *Research on child abuse in social protection institutions in Romania* (2000) UNICEF, Bucharest

Zamfir, C (ed.) (1995): *Dimensions of Povety: Romania 1994*, Bucharest, Ed. Expert,

- \*\*\* (1996). *Exploitation and sexual abuse of street children [Exploatarea și abuzul sexual al copiilor străzii]* – Report of the Organization Save the Children
- \*\*\* (1994). *Report on the UN Convention of children's rights – the stage of their application in Romania* [Conventia ONU cu privire la drepturile copilului – stadiul aplicarii in Romania ] Departamentul informatiilor publice, Buletin nr.4 (18), Bucuresti
- \*\*\* (2001). *Together against trafficking of human beings* [impreuna impotriva traficului de fiinte umane]. Research report of IOM presented at the seminars in Balvanyos, 13-15 July 2001
- \*\*\* (2001). *Traficking of human beings. Trafficking of women and children* (traficul de persoane. Traficul de femei si copii), Report of the Romanian Ministry of Internal Affairs, the Center of Advanced legal studies, the Center of Legal Resources at the seminars in Bucharest 21-23 June, Bucharest.
- \*\*\* (2008). *Raport anual 2008*. Retrieved on 28.06.2009 from the adress [http://www.telefonulcopilului.ro/uploaded/rapoarte-anuale/raport\\_anual\\_2008.pdf](http://www.telefonulcopilului.ro/uploaded/rapoarte-anuale/raport_anual_2008.pdf)
- \*\*\* (2008). *Raport Diagnosticul social al performanței școlare prin scala socială a succesului școlar și proiectarea unor metode de intervenție validate prin cercetare (The social diagnostics of school success and the development of evidence-based intervention methods)* financed by the Ministry of Education through PNCDI II (contract nr. 91063/2007). UBB
- \*\*\*, 2009. Statistics of the National Agency of the Protection of Child's Rights. Statistics available at <http://www.copii.ro/content.aspx?id=158>