

# European Union Agency for Fundamental Rights, selection of relevant and recent passages from published reports related to Romania

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References to Romania marked with **bold**

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## Data Explorers, tools and themes

Violence against women survey

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-violence-against-women-survey?mdq1=country&mdq2=420>

LGBT Survey

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-lgbt-survey-2012?mdq1=country&mdq2=420>

Roma survey data explorer

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-results-2011-roma-survey>

Mapping child protection systems in the EU

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection>

Indicators on the right to political participation of people with disabilities

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/political-participation>

Mapping victims' right and support in the EU

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/victims-support-services>

## Annual Reports

Fundamental Rights Report 2017

<http://fra.europa.eu/en/publication/2017/fundamental-rights-report-2017>

### 1. Racism, xenophobia and related intolerance

“In *Boacă and others v. Romania* the ECtHR found that the lack of any apparent investigation by the authorities into a complaint of discrimination amounted to a violation of Article 14 (principle of non-discrimination) in conjunction with Article 3 (prohibition of inhuman or degrading treatment) of the ECHR. Seven applicants of Roma origin claimed that they suffered ill-treatment by the police and that the authorities decided not to bring criminal charges against the police officers, who had beaten them predominantly because of their Roma ethnicity. The court ordered **Romania** to jointly pay the applicants € 11,700. This case belongs to a group of older cases, for which the Council of Europe Council of Ministers' examination was closed by Resolution CM/ResDH(2016)150 in *Barbu Anghelescu v. Romania* and other 35 cases. In this resolution, the Council of Ministers welcomed the measures adopted by the Romanian authorities to enhance the effectiveness of criminal investigations into allegations of ill-treatment by law-enforcement officials, noting the reinforced monitoring of their implementation by the General Prosecutor's Office.

In *M.C & A.C. v. Romania*, the ECtHR examined a case concerning the police investigation of an attack on two Bucharest Pride March participants. The applicants were subjected to homophobic abuse and were punched and kicked by a group of six people on the metro. The court found that the **Romanian** authorities' failure to efficiently investigate the incident and its potential discriminatory motive was in breach of Article 3 of the ECHR, in conjunction with

Article 14. The court ordered Romania to pay € 7,000 to each applicant for nonpecuniary damage and € 3,863.02 to them jointly for costs and expenses.” (p. 85)

“Meanwhile, to tackle segregation of Roma children in primary and secondary education, **Romania** adopted two framework orders prohibiting segregation on ethnic grounds.” (p. 86)

## 2. Roma Integration

“In **Romania**, the Ministry of National Education (Ministerul Educației Naționale, MEN) set aside 622 places in universities for Roma students in 2016, besides 265 places for masters’ degrees; and 3,150 places were allocated for Roma students in high schools. A Romani-language curriculum was developed and included in the national curriculum. Romania also established a network of inspectors for Roma education issues, which means that each County School Inspectorate included in its staff plan a position for an inspector for minorities, and there are also three such positions within the central office of the MEN. In October 2016, the National School for Political and Administrative Studies launched a two-year Master Course for Roma Studies to help stakeholders dealing with Roma issues.” (p. 108)

“In **Romania**, an Integrated Package to Combat Poverty/Anti-Poverty Package (Pachetul integrat pentru combaterea sărăciei) was launched at the end of February 2016. It was designed bearing in mind all public policies that aim to combat poverty and derive their budgets from state funds and the European Structural and Investment Funds (ESIF). The Operational Program for Human Capital also targets Roma communities directly (call 4.1) and indirectly (call 4.2) for implementing integrated services providing support in issuing the ID documents.” (p. 109)

“In **Romania**, the government continued to implement the Social Housing Pilot Programme for Roma Communities, which aims to build 300 units of social housing for Roma.” (p. 110)

### **Promising Practice: Improving access to justice for Roma and other vulnerable groups**

“A project implemented in **Romania** with support from the Norwegian Financial Mechanism 2009- 2014 brought together the Superior Council of Magistracy, the Council of Europe and Norwegian Courts Administration, as well as national partners such as the National Institute of Magistracy and the National Agency for Roma. It aims to increase vulnerable populations’ – especially Roma’s – awareness, knowledge and assertion of their rights and obligations, as mandatory steps for better access to justice according to European standards. The project adopts a broad social vulnerability perspective – the Roma population is an explicit but not exclusive target group.

One of the project’s targets is to strengthen legal professionals’ knowledge on the issue of countering discrimination. In this respect, training sessions on antidiscrimination were organised for judges, prosecutors and lawyers during 2015 and 2016.” (p. 113)

## 3. Asylum, visas, migration, borders and integration

“Almost all Member States adopted special measures providing language support and/or introductory courses in 2016. Some already do so in the refugee reception centres. Others prioritise immediately integrating children into the mainstream schooling system, alongside regular classes that provide parallel educational support.

Introductory classes, mainly offering language support to pupils from refugee and migrant families before they join standard classes, are provided by all EU Member States. [...]

In Croatia, Finland, France, Luxembourg, Malta and **Romania** the maximum duration of introductory classes is 12 months.” (p. 137)

#### 4. Information society, privacy and data protection

“One of the persisting issues at national level is a lack of transparency and public dialogue, whether relating to the adoption of new laws or to the functioning of the intelligence services. In **Romania**, although a public consultation took place, provisions expanding the powers of the Romanian Intelligence Service (RIS) (Serviciul Român de Informații, SRI) appeared only in the final version of the Emergency Ordinance and were not part of the document submitted for public debate.” (p. 157)

#### 5. Rights of the child

“The highest proportions of children at risk of poverty or social exclusion range from 34.4 % in Spain up to 46.8 % in **Romania**, with Bulgaria, Greece and Hungary in between.” (p. 175)

“**Romania** has one of the highest child poverty rates. In 2016, the government announced an ‘integrated package’ as part of the implementation of the National Strategy on Social Inclusion and the Reduction of Poverty 2015–2020.<sup>32</sup> It is aimed especially at families living in rural communities, poverty ‘pockets’ and Roma communities. Various services are planned – such as health and education services for children and teenagers, employment programmes for young people and vulnerable adults, and care for dependent adults and elderly people. Notably, the package appears to shift the national focus away from social benefits and towards a more community-based and preventative approach.” (pp. 178 – 179)

“FRA’s monthly migration reports also noted the high number of children allocated per guardian in some Member States. This can hinder the functioning of the service and result in insufficient care being provided to the children. ... To address some of these challenges, several Member States amended their laws and policies in 2016. [...] In **Romania**, the revision of the Law on Asylum includes new procedures for assigning legal representatives to unaccompanied children. Two other important amendments include the right of the unaccompanied child to be informed immediately about the appointment of a legal representative and the obligation of the legal representative to act according to the principle of the best interest of the child and to have expertise in this field.” (pp. 186 – 187)

#### 6. Access to justice including rights of crime victims

“The deadline for transposing Directive 2013/48/EU (right to access a lawyer) passed on 27 November 2016. Many Member States adopted the necessary measures to do so: Belgium, Finland, Hungary, Italy, Latvia, Malta, Slovakia, Sweden, the Netherlands and **Romania**.” (p. 206)

“Awareness of support services listed in the survey ranged from close to 100 % of respondents in Germany, Malta, and Sweden to under 30 % in the Czech Republic and **Romania**.” (p. 209)

“In its Fundamental Rights Report 2016, FRA called on Member States to sign, ratify and effectively implement the Istanbul Convention. In this respect, 2016 was a good year. The last three Member States signed the convention (Bulgaria, the Czech Republic and Latvia) and two Member States ratified it (Belgium and **Romania**). Several Member States – including Bulgaria, Croatia, Greece, Luxembourg and **Romania** – established working groups to identify the precise legislative reforms needed to meet the requirements of the Istanbul Convention, and in Cyprus the government has commissioned studies to the same end.” (pp. 209 - 210)

#### 7. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

##### **Promising Practice: Promoting equal access for travellers with disabilities**

“The European Commission launched a pilot project implementing an EU Disability Card in eight EU Member States: Belgium, Cyprus, Estonia, Finland, Italy, Malta, **Romania** and

Slovenia. The project aims to ensure mutual recognition of disability status between EU Member States, helping to increase access to certain benefits in the areas of culture, leisure, sport and transport for people with disabilities travelling to other EU countries.” (p. 225)

“Moreover, although the **Romanian** parliament passed legislation on Article 33 bodies in January, doubts persist about their ability to operate effectively in practice. The inaugural president of the Monitoring Council for the implementation of the CRPD resigned her post in July, citing administrative shortcomings that prevented her from finalising the process of establishing the council. A new president was appointed in October.” (pp. 233 – 234)

## Fundamental Rights Report 2016

<http://fra.europa.eu/en/publication/2016/fundamental-rights-report-2016>

### 1. Equality and Non-Discrimination

“More specifically, recommendations for Belgium, Bulgaria, Croatia, Ireland, Italy, Poland, Portugal, **Romania**, Spain and the United Kingdom point to a mismatch between the skills young people have and the needs of the labour market, which lessens their employability. The recommendations for Bulgaria and Italy address the situation of young people not in education, employment or training. The recommendations for **Romania** are the only ones to address the implementation of the Youth Guarantee established by the EU in 2013. Under Youth Guarantee schemes, Member States should ensure that people under 25 years of age have a good-quality job offer, are in continued education, or have an apprenticeship or traineeship within four months of leaving school or becoming unemployed.

Some recommendations encouraged governments to address the impact of an ageing population on the labour market. Recommendations included keeping older people in work for longer periods by increasing the age of retirement (Austria, Bulgaria, Croatia); increasing the participation of older workers in the labour market (Luxembourg, **Romania**, Slovenia); providing incentives to support the employability of older workers (Belgium); or addressing the lack of a comprehensive active ageing strategy at national level (Lithuania).

People vulnerable to discrimination on more than one ground also figured in country-specific recommendations. Young people with migrant backgrounds were shown to be in particular danger of remaining at the margins of the labour market in Austria, Belgium, the Czech Republic, Denmark and Slovakia. The recommendations for Bulgaria, the Czech Republic, **Romania** and Slovakia addressed high levels of inactivity among Roma youth.” (pp. 61 – 62)

### 2. Racism, Xenophobia and Related Intolerance

“In other Member States, such as **Romania** and Poland, representatives of the judiciary were trained in investigating hate crime cases; in Denmark, training focused on relevant sections of the criminal code.” (p. 82)

### 3. Roma integration

“The government of **Romania** approved a protocol of cooperation between the National Agency for Roma (Agenția Națională pentru Romi) and the municipality of Milan, with a view to strengthening the social inclusion of Romanian citizens who belong to the Roma minority and live in Italy. The protocol’s overall objective is to implement a pilot project aimed at improving the process of inclusion of Romanian citizens of Roma origin in Milan. However, there is limited evidence of effective and targeted activities or strategies in the municipalities of origin to promote reintegration in the case of return or to provide tailored support in cases of circular migration.” (p. 102)

“An important element in the design and implementation of Roma integration measures is explicitly mentioned in the EU Framework on National Roma Integration Strategies (NRISs) as well as the Council’s 2013 recommendation on such measures. Both documents refer to two of the 2009 Common Basic Principles on Roma inclusion, namely the involvement of civil society and the active participation of Roma themselves. In this regard, despite some progress, the engagement of local communities in the design and monitoring of local-level interventions is still largely uncharted. In 22 municipalities included in FRA’s LERI research project, the project used different approaches to local engagement in 2015 by applying participatory action research methodology. In bringing together local stakeholders, including Roma, small-scale plans and actions are developed to cater to the real needs and specificities of the local communities. [...] In Cluj-Napoca, **Romania**, the project focuses on identifying obstacles and opportunities in local housing policies to make them accessible to socially excluded and marginalised residents, predominantly Roma.” (pp. 105 – 106)

“Local plans are usually reviewed through self-assessments. The municipality itself reports on its achievements and elements that need to be revisited or amended, without any external evaluation or assessment. For example, in **Romania**, the members of local working groups (grupul de acțiune local, GLL) are responsible for implementing and monitoring measures corresponding to their specific area of activity, as included in the local action plan, and report on its implementation to the mayor and governmental bodies twice a year.” (p. 107).”

#### 4. Information society, privacy and data protection

“Courts took divergent views on whether or not law enforcement or intelligence authorities can legally access traffic and location data retained by electronic communications providers for billing purposes. By contrast, the Constitutional Court of **Romania**, which also revoked the applicable data retention law in 2014, additionally nullified the Romanian Law on Cyber Security (Legea privind securitatea cibernetică a României), which enabled intelligence services and law enforcement to access personal data, including traffic data already processed and stored by electronic communications providers for billing and interconnection purposes.” (p. 125)

#### 5. Rights of the child

“In some EU Member States, the proportion of children at risk of poverty or social exclusion has grown: for example, in Finland from 13 % to 15.6 % and in Spain from 32.6 % to 35.8 %. In **Romania**, despite some improvement in 2013, the number increased from 48.5 % to 51 % in 2014; it is now the country with the highest child poverty rate in the EU. Meanwhile, Denmark has the lowest child poverty rate – just below 15 %.” (p. 137)

#### 6. Access to justice, including rights of crime victims

“Amendments to the laws of several other Member States addressed the quality of translation and interpretation services in criminal proceedings. **Romania** drafted amendments addressing the conditions for getting certified as a translator or interpreter, their obligation of confidentiality and the specific written format in which to provide suspects and accused persons with information about their rights.” (p. 164)

“Five EU Member States registered transposition of the Victims’ Rights Directive with the European Commission by 16 November 2015: the Czech Republic, Malta, Portugal, Spain and Sweden. By January 2016, the addition of Estonia, Finland, Germany, Hungary, Italy, Poland and the United Kingdom brought the total to 12. An additional eight Member States notified the Commission of partial transposition by the end of 2015 (Austria, Belgium, Croatia, France, Ireland, Lithuania, the Netherlands, and **Romania**).” (p. 167)

“**Romania** has not yet transposed the [Victims’ Rights Directive]. It does not offer generic victim support services (accessible to all crime victims) that are separate from probation services – although victims of various categories of crime can avail themselves of specialised services (for example, child victims, victims of domestic violence, and victims of human trafficking). According to feedback received by the probation services, victims are reluctant to seek their assistance because probation officers also provide services to accused and convicted persons, and victims are afraid of meeting them while accessing these services. Victim support services also have limited resources and personnel, and few psychologists, which impedes their ability to provide services for crime victims.” (p. 170)

## Thematic Reports

### European legal and policy framework on immigration detention of children (June 2017)

<http://fra.europa.eu/en/publication/2017/child-migrant-detention>

“Many EU Member States also require that national authorities seek alternatives to detention and apply less coercive measures when deciding on the imprisonment of parents for criminal purposes, especially mothers. In Italy, for example, national law provides that, unless condemned for violent crimes, mothers whose children are aged under six years may have their imprisonment suspended and may be held under alternative forms of detention, such as in correctional institutions or home detention. The possibility of accessing alternative detention measures is extended to the father if the mother has died or is unable to take care of the child. Similarly, in **Romania**, national law provides that a mother may ask for the postponement or suspension of the prison sentence.” (p. 53)

“EU Member States have implemented different time limits to review immigration detention orders. [...] In **Romania**, when children are detained with one or both parents or a legal guardian, the General Inspectorate for Immigration reviews the detention decision within one month, instead of three months as for adults.” (pp. 60 – 61)

“Most EU Member States that allow the possibility of detaining children have established specialised child-friendly facilities, either separately or as distinct parts of existing detention facilities. EU Member States that, although they do not formally prohibit detention of children, have non-detention policies or practices in place, such as Cyprus, Italy or Lithuania, have not created specialised facilities for detention of children. Bulgaria and **Romania** changed their laws to allow the detention of asylum applicants, including children. The new provisions entered into force in early 2016, but as of April 2017 closed facilities to host asylum-seeking children have yet to be established.” (p. 73)

### Together in the EU - Promoting the participation of migrants and their descendants (March 2017)

<http://fra.europa.eu/en/publication/2017/migrant-participation>

“The school, as a major agent of socialisation, can contribute to the development of inclusive, pluralist societies through curricular and extracurricular activities that promote equality, social cohesion and active citizenship by making students more familiar with their societies’ different cultures. FRA’s research found that the educational policies or strategies for primary and/ or secondary education of 17 Member States include references to cultural diversity, as a guiding principle or as part of curricular subjects. [...] Meanwhile, in Bulgaria, Italy and **Romania**, cultural diversity is addressed in extracurricular activities.” (p. 41)

“In several Member States, trade unions have well-established policies to reach out and support migrant workers – for example, in Austria, Belgium, Denmark, Germany, Italy, Luxembourg, Poland, Portugal, Spain, Sweden, Slovenia and the United Kingdom. In countries such as Cyprus, Estonia, Hungary, Latvia, Malta and **Romania**, as well as more recently in France and Ireland, trade unions implement ad hoc projects to support migrant participation.” (p. 47)

“All Member States require a certain level of language proficiency for acquiring citizenship. FRA’s research found that, except in Ireland and Sweden, knowledge of the country’s official language is tested when one applies for a certain legal status (e.g. long-term residence status or citizenship) allowing the same access to entitlements and rights as country nationals. Belgium, Bulgaria, Finland, France, Hungary, Luxembourg, Poland, **Romania**, Slovakia, Slovenia and Spain require language tests or proof of language proficiency (mostly at B1 level) only for acquiring citizenship.” (p. 51)

### Child-friendly justice - Perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties in nine EU Member States (February 2017)

<http://fra.europa.eu/en/publication/2017/child-friendly-justice-childrens-view>

“Children spoke about being accompanied and supported by a wide variety of social professionals, including social workers. Psychologists are reportedly present during hearings in several countries, including Bulgaria, Germany, Poland, **Romania** and Spain. [...]

In **Romania**, children who were accompanied by psychologists during hearings with judges or interviews with the police also report greatly appreciating such support.” (p. 27)

“In four countries, interviewed children referred to interpreters. [...] By contrast, in Bulgaria, France and **Romania**, the children complained that interpreters were not present.” (p. 27)

“For example, in Bulgaria, France, **Romania**, Spain and the United Kingdom (England), children were interviewed in “normal office rooms” containing desks, chairs, phones and computers. In France, **Romania** and Spain, children complained about testifying in shared working environments that lack privacy.” (p. 29)

“In **Romania**, children are usually accompanied to court by placement centre staff, social assistants, legal representatives or psychologists, who do not, however, participate in the hearings themselves. Although most children appreciated having a familiar figure for emotional support in court, they found it insufficient and would appreciate further support during hearings.” (p. 44)

“In **Romania**, courts generally do not have child-friendly features. The specialised Juvenile and Family Court in Brasov is an exception. It is a specialised court that currently exists only in Brasov; however, the legislative framework provides for the establishment of more specialised courts countrywide. This court involves psychologists in supporting children before and during trials. Limited data are available about this court’s physical description. However, only two of the nine children interviewed who were heard there reported being heard in child-friendly rooms. Moreover, one of these two children, a 14-year-old boy, stated that the security staff there did not allow him to touch the toys. [...]

Children in **Romania** said that they do not feel comfortable testifying in a big room full of people and that they feel scared or ashamed of talking about private issues in such conditions. Children were also unhappy about being heard while standing, even though chairs were available in the rooms.” (p. 47)

“When it comes to court hearings, there were also examples of them being too short. For example, in **Romania**, the majority of children involved in cases about foster care and institutional placement measures criticised the hearings with judges in court as too short. This brevity reinforced children’s belief that they were not asked their opinion on placement measures, and resulted in their disappointment. Children indicated that not having enough time to talk to the judges at hearings both negatively affected their ability to participate in the proceedings and was a source of fear and stress, as it prevented them from knowing the decision on their placement.” (p. 52)

“In other countries, such as Bulgaria and **Romania**, children spoke negatively about the process of informing them either because they did not receive any information from any professionals or because the information was insufficient or misleading.” (p. 62)

“Children interviewed in **Romania** seemed to lack psychological counselling and systematic support. For instance, one child said that she was called into court when her mother was convicted for murdering the child’s abusive father. The child indicated being highly distressed about not receiving support at that moment.” (p. 95)

“A few children also mentioned gender-based discrimination, mainly those involved in criminal proceedings, including both males and females. For instance, in **Romania**, a few girls involved in sexual abuse cases felt they were treated differently by professionals because of social prejudices concerning women and cultural beliefs. A few boys also believed that professionals treated them differently from girls or people with disabilities.” (p. 106)

### Criminal detention and alternatives: fundamental rights aspects in EU cross-border transfers (November 2016)

<http://fra.europa.eu/en/publication/2016/criminal-detention-and-alternatives-fundamental-rights-aspects-eu-cross-border>

“The most relevant fundamental rights concern for transfers of prisoners would be the conditions of detention in the destination state, and it should be noted that the ECtHR has found numerous EU Member States guilty of violations of Article 3 of the ECHR in relation to these conditions. In a case regarding the refusal of a transfer from Romania to Turkey, the applicant complained about detention conditions in **Romania**, in particular: poor hygiene, bedbugs, a lack of activities or work, and the fact that the food was not adapted to his diabetes. The ECtHR found that the combination of these conditions amounted to inhuman and degrading treatment prohibited by Article 3.” (p. 39)

“In April 2016, the CJEU ruled in two joined cases – Aranyosi and Căldăraru – on transfers under the EAW from Germany to Hungary and **Romania**, respectively. The CJEU (Grand Chamber) concluded that a judge has to consider objective and reliable evidence of systemic concerns with detention conditions in the issuing state, and, if the risk of inhuman or degrading treatment cannot be dismissed, the transfer could be brought to an end. More specifically, the CJEU ruled that:

*“[W]here there is objective, reliable, specific and properly updated evidence with respect to detention conditions in the issuing Member State that demonstrates that there are deficiencies, which may be systemic or generalised, or which may affect certain groups of people, or which may affect certain places of detention, the executing judicial authority must determine, specifically and precisely, whether there are substantial grounds to believe that the individual concerned by a European arrest warrant, issued for the purposes of conducting a criminal prosecution or executing a custodial sentence, will be exposed, because of the conditions for his detention in the issuing Member State, to a real risk of inhuman or degrading treatment,*

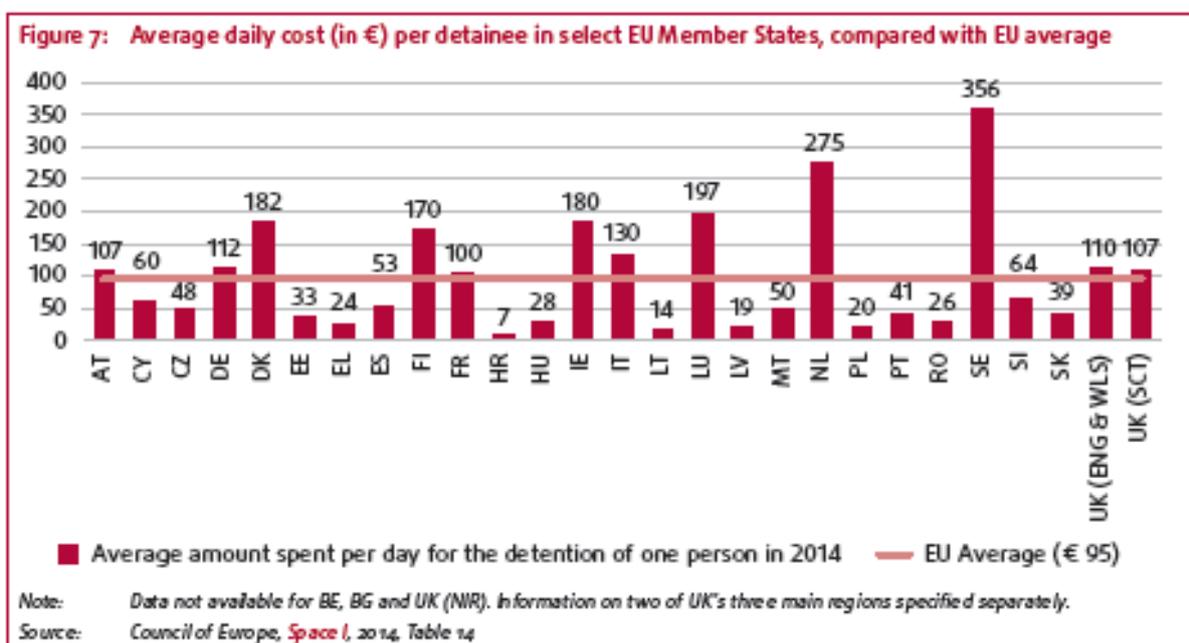
within the meaning of Article 4 of the Charter, in the event of his surrender to that Member State.”

The CJEU then elaborated on the need to request information on detention conditions from the issuing state:

“The executing judicial authority must postpone its decision on the surrender of the individual concerned until it obtains the supplementary information that allows it to discount the existence of such a risk. If the existence of that risk cannot be discounted within a reasonable time, the executing judicial authority must decide whether the surrender procedure should be brought to an end.”

This places a significant burden on judges in terms of having insight into problems in other countries (that are not based on mere stereotypes) and access to reliable and current sources of information – and also requires sufficient time and incentives to ensure that these issues are given the necessary attention. It also makes it vital for judges in the EU to approach such assessments as uniformly as possible for the sake of legal clarity and predictability.” (p. 48)

“While the ‘costs of living’ and the level of GDP varies significantly across the EU, Figure 7 (see below) still reveals the marked difference between Member States such as Croatia, Greece, Hungary, Lithuania, Latvia, Poland and **Romania** spending less than € 30 per day and detainee, and Denmark, Finland, Ireland, Luxembourg, the Netherlands, and Sweden spending well above € 100.” (p. 56)



“The most commonly available alternative to pre- and post-trial imprisonment for children across EU Member States appears to be supervision by non-judicial bodies. These can include parents, guardians, or non-judicial bodies. Such measures are available in 15 Member States: Belgium, Bulgaria, Croatia, Denmark, Finland, Germany, Greece, Ireland, Lithuania, Portugal, **Romania**, Slovakia, Spain, Sweden and the United Kingdom (England and Wales, Northern Ireland and Scotland).” (p. 76)

**Promising Practice: Informing accused or sentenced persons about the possibility of transfer**

“Promising practices are emerging in how states provide information to accused/sentenced persons. While published national laws serve as the only source of information in many states, others summarise relevant information and package it in an accessible and understandable manner for accused/sentenced persons. [...] **Romania**, Luxembourg, Ireland, Hungary, the Netherlands and Finland also make relevant information sheets publicly available online.” (p. 86)

## Rights of suspected and accused persons across the EU: translation, interpretation and information (November 2016)

<http://fra.europa.eu/en/publication/2016/rights-suspected-and-accused-persons-across-eu-translation-interpretation-and>

“In terms of who has the responsibility for determining the need for interpretation during the pre-trial stage, in the vast majority of the 27 Member States bound by the directive, legislation specifies who is responsible for that determination. In most Member States (21), this is prescribed in the criminal codes, while in Luxembourg, this is addressed in a circular note of the Prosecutor General as a formal recommendation to prosecutors.<sup>74</sup> The remaining five Member States (the Czech Republic, Hungary, Malta, **Romania**, and Spain) do not explicitly set this out in law; instead, reference is made to established practices that are in place to clarify who is responsible for determining the need for interpretation. Typically, police officers, prosecutors or judges are responsible. For example, in Romania, in practice, it is left to the judge or prosecutor to ensure that a suspect’s or accused person’s right to interpretation is respected.” (p. 32)

“Some national laws of countries that list essential documents do not appear to fully cover all types of documents listed in Directive 2010/64/EU. In **Romania**, for example, the law explicitly lists only indictments and final court decisions as essential documents that need to be translated.” (p. 38)

“Although Directive 2010/64/EU does not require Member States to establish a register, [...] 17 Member States bound by the directive have provided for one in their laws: Austria, Bulgaria, Cyprus, Croatia, the Czech Republic, Estonia, Finland, France, Germany, Greece, Luxembourg, the Netherlands, Poland, **Romania**, Slovakia, Slovenia, and Sweden.” (p. 45)

“Research shows that, in three Member States – the Netherlands, **Romania** and Sweden – police officers who speak the required language are used in practice. However, the **Romanian** High Court recently held that police officers are not authorised to translate transcripts of recordings – this could be grounds for partial nullity as an authorised translator should be used.” (p. 51)

“However, practitioners in several Member States confirm that information about rights, often provided in writing, is usually based directly on the actual wording of the relevant criminal law provision – and that accompanying oral explanations to adapt it to the actual circumstances are not common. In **Romania**, for instance, the written information provided to suspects and accused persons reproduces the actual criminal law provision, including the exact phrasing at the end of that provision, which mentions in general terms “and other rights set by law.” Even where the information is provided orally, this is often done by simply reading out the actual provisions of the law or technical forms containing legal jargon.” (p. 66)

“Although access as such is generally provided free of charge, there are usually costs associated with, for example, making photocopies in most EU Member States. In some EU Member States, however [...] the first copy of case material is actually provided for free. In **Romania**, a 2015 executive order of the Ministry of Internal Affairs sets a standard price for

obtaining copies from case files. Some lawyers have argued that these fees (approximately €0.11 per page) are very high and hinder the right to access the case file. At the same time, under the 2015–2020 Strategy for the Judicial System and at the recommendation of the European Commission, the Ministry of Justice of **Romania** plans to launch a system allowing all parties in court proceedings online access to case files and all relevant information about a case. As the initiative is only in its infancy and will be tested during a pilot project starting in 2015 – with a view of extending the system to the whole country – it is too early to assess its effectiveness.” (p. 76)

#### **Promising Practice: Using accessible technology to obtain copies of case files**

“In **Romania**, at the request of the Dolj Bar Association, the Craiova Court of Appeal adopted a policy of allowing parties and their legal counsel to make copies of, and scan, documents from case files with mobile phones or professional mobile scanners. Using portable technology instead of having to borrow files from court archives and using copying offices reduces both the time and costs associated with copying.” (p. 77)

#### **Ensuring justice for hate crime victims: professional perspectives (April 2016)** <http://fra.europa.eu/en/publication/2016/ensuring-justice-hate-crime-victims-professional-perspectives>

“Interviewees from several Member States highlighted the particular risk faced by individuals seen as belonging to Roma communities. Respondents in Hungary and **Romania** agreed that, when it comes to racist hate crime, Roma are the most targeted group ... According to interviewees in **Romania**, political discourse incites discrimination against the Roma population. One interviewee from a victim support service declared that all mayors in his region who used this type of discourse won local elections. Specifically, the local administration organises consultations with the population ‘to legitimise’ the decision to commit an abuse against the Roma population, such as evacuating them and moving them to areas that are not appropriate for living or even dangerous for their health. In addition, a climate of anti-Roma racism can affect the institutional response to hate crime victims.” (pp. 20 – 21)

“Obviously, the criminal justice system’s ability to recognise and respond to hate crime is premised on professionals’ understanding of the basic concepts. However, this research project revealed that professionals are often not well acquainted with the terminology framing the hate crime discourse. Many interviewees highlighted as an issue the lack of a clear and shared understanding of the relevant concepts and hence of the phenomena they cover.

Several experts expressed similar concerns regarding **Romania**. Interviewees from victim support services highlighted a lack of understanding among police officers regarding what a hate crime is and how to investigate the bias motive of a crime. In many instances, instead of registering hate crimes as such, police officers investigate them as ordinary crimes. This might explain why interviewees who have been working in support services for victims of hate crimes for a long time declare that they have no hate crime cases that were acknowledged as such at the national level.” (p. 22)

#### **Romania, judgement No. 458/2011, Court of Alba, 19 December 2011**

“Four men who played football in a club next to a street known to be inhabited by members of the Hungarian national minority had some beer after their training. They engaged in a heated political discussion about the Hungarian national minority’s request for local self-government. At midnight, they decided to walk along that particular street, throwing stones at the windows of the nearby houses and shouting “Hungarians, get out of the country!” A man of Hungarian origin came out of his home with a baseball bat. The defendants took his bat and started to

beat him. Two other men also came out of their homes, and the perpetrators beat and kicked them, and hit them with the baseball bat. The victims needed between 7 and 12 days of medical care. The court reviewed the case as possibly involving the criminal offence of incitement to discrimination (Article 317 of the Criminal Code). However, the court held that the facts did not meet the offence's required level of "social danger", because the incident only involved a spontaneous reaction to a debate related to a controversial topic in society, and not an ideology against that group, promoted in a systematic way, which could lead to inter-ethnic tensions. The defendants were instead found guilty of an offence against public order (Article 321(1) of the Criminal Code), and had to pay a small fine." (p. 24)

"When asked which measures would be effective in ensuring that the police devote adequate attention to investigating bias motives, professionals in Germany, Greece, Hungary, Latvia and **Romania** emphasised the need for special training for police officers. Such training should enable them to understand the concept of hate crime and acquire the skills for investigating bias motives even in the absence of specific complaints by victims." (p. 47)

### Violence against children with disabilities: legislation, policies and programmes in the EU (December 2015)

<http://fra.europa.eu/en/publication/2015/children-disabilities-violence>

"In *Valentin Câmpeanu v. Romania*, the court found a violation of Article 2 (right to life) and Article 13 (right to an effective remedy), among others. The case concerned Valentin Câmpeanu, a young adult who died in a psychiatric hospital in 2004, at the age of 18. Abandoned at birth and placed in an orphanage, he was diagnosed as HIV-positive as a young child and also suffered from a severe intellectual disability. The court found that he had been inadequately cared for, his life put in danger, and that no effective investigation had been made into the causes of his death." (p. 30)

### Promising Practice: Mapping deaths of children with mental disabilities in custody

"In **Romania**, the NGO Center for Legal Resources compiled and published an interactive map specifying the number of children and young persons (under the age of 26) with mental disabilities who died in state custody between 2011–2014. Local child protection authorities provided the data pursuant to public inquiries, but they are not available on the respective authorities' websites. Although not all deaths were consequences of mistreatment or neglect, the Center for Legal Resources uses the tool to advocate for more transparent data publication and proper investigations of cases in which violence is suspected." (p. 52)

### Protection against discrimination on grounds of sexual orientation, gender identity and sex characteristics in the EU – Comparative legal analysis – Update 2015 (December 2015)

<http://fra.europa.eu/en/publication/2015/lgbti-comparative-legal-update-2015>

"In the ICD-11 beta draft prepared by the World Health Organisation (WHO) – under discussion at the time of preparing this report – section 7 on mental and behavioural disorders does not include the category 'gender identity disorders'. Instead, the WHO now proposes a 'gender incongruence' category, under the new section 6, 'Conditions related to sexual health'.

Despite these developments, the National Institute of Legal Medicine (Institutul Național de Medicină Legală, NILM) in **Romania** adopted a new methodology for evaluating cases of 'gender identity disorder (transsexualism)' in 2013. The methodology presupposes the need for a detailed and lengthy assessment by a forensic psychiatric commission. In

a communication with FRA, the NILM stated that “transsexualism, as opposed to sexual orientation, [is] a mental disorder”. It therefore stated that, in **Romania**, transsexual(s) will always be assessed from a psychopathological perspective.” (p. 16)

“In nine other Member States (Bulgaria, Cyprus, Estonia, Greece, Latvia, Lithuania, Luxembourg, **Romania** and Slovenia), the lack of legislation or case law addressing discrimination based on gender identity results in legal uncertainty about the precise protection against discrimination available to trans persons.” (pp. 28 – 29)

“**Romania** has also taken steps towards shifting the burden of proof. However, legal problems remain regarding homosexual and trans teachers. The joint order of the Ministry of Health and Ministry of Education deems homosexuality and trans identity incompatible with teaching. It states that “severe behavioural disorders owing to mental illnesses, including those that can accompany gender identity and sexual preference disorders” disqualify individuals from working as teachers. This order has not been challenged in court or before the equality body.” (p. 36)

“The CJEU also held that, when it is found that a discriminatory policy was adopted, the directive requires sanctions to be more than merely symbolic, such as imposing a warning. To ensure a deterrent effect, and for a sanction to be considered sufficient in light of the objective and purpose of the Employment Equality Directive, it must be effective, proportional and dissuasive.

After the CJEU decision in April 2013, the Bucharest Court of Appeal in **Romania** rejected in December the appeal filed by the NGO Asociația Accept in the main proceedings, endorsing the initial decision handed down by the National Council for Combating Discrimination (Consiliul Național pentru Combaterea Discriminării, NCCD). The claimant lodged a further appeal against the decision, which, at the time of writing, was pending before the **Romanian** High Court of Cassation and Justice (Înalta Curte de Casație și Justiție). The claimant argued, among other things, that the Court of Appeal was not entitled to refuse following the CJEU ruling.

However, in **Romania**, legislative changes prompted by proceedings before the CJEU in the Accept case sought to rectify a gap in the law which, in some circumstances, had compromised the NCCD’s ability to hand down sanctions that were effective, proportionate and dissuasive.” (pp. 39 – 40)

“On the one hand, at least six Member States have still been affected by recurring ‘traditional’ homophobic protests at pride marches, often resulting in violence and/or homophobic hate speech ... In at least eight further Member States, these type of protests increased in size and frequency, and in parallel to the development of far-right and xenophobic movements and/or the radicalisation of religious beliefs among some population sectors. For example, in **Romania**, members of the New Right organisation and other extreme right-wing groups with an openly anti-LGBT agenda were involved in violent episodes in 2011, 2012 and 2013.” (p. 52)

“As of mid-2015, 20 Member States ... make it a criminal offence to incite hatred, violence or discrimination on the ground of sexual orientation. This figure does not include the specific case of harassment in the workplace, which, according to the Employment Equality Directive, should be treated as a form of discrimination and be subject to effective, proportionate and dissuasive sanctions that may be of a criminal nature. In 2010, thirteen Member States explicitly criminalised incitement to hatred or discrimination on the ground of sexual orientation (Belgium, Denmark, Estonia, France, Ireland, Lithuania, the Netherlands, Portugal, **Romania**, Sweden, Slovenia, Spain and the United Kingdom). This means that, since 2010, eight

additional Member States explicitly protect against incitement to hatred based on sexual orientation (Austria, Croatia, Cyprus, Finland, Greece, Hungary, Luxemburg and Malta). Only **Romania** changed its law to no longer explicitly include sexual orientation.

In eight other Member States (Bulgaria, the Czech Republic, Germany, Italy, Latvia, Poland, **Romania** and Slovakia) incitement to hatred, violence or discrimination against LGBTI people is not explicitly defined as a criminal offence.” (p. 59)

“The situation is similarly unclear in **Romania**, where Art. 277 of the Civil Code, which entered into force in 2011, prohibits same-sex partnership and marriage, and prohibits the recognition of partnerships and marriages concluded in other countries. At the same time, Subsection 4 of the same article explicitly states that the legal provisions on the freedom of movement of EU/EEA citizens remain applicable. The new Civil Code does not clarify the ramifications of the potential conflict between these two provisions.” (p. 83)

### Surveillance by intelligence services: fundamental rights safeguards and remedies in the EU (November 2015)

<http://fra.europa.eu/en/publication/2015/surveillance-intelligence-services>

“A select few parliamentary committees have been granted extensive powers that go beyond the more traditional role of parliament as an overseer. [...] **Romania** has two committees for defence, public order, and national security (one of the Senate, the other of the Chamber of Deputies), and two Joint Permanent Commissions of the Senate and the Chamber of Deputies for the Exercise of Parliamentary Control over the activity of the Romanian Intelligence Service, and over the External Intelligence Service. The committees may request reports, information and documents from the security agencies; may conduct investigations and submit reports to the parliament, whereas the Joint Commissions also monitor the activities of the intelligence services; have the power to issue binding decisions; and investigate any complaints made against the intelligence services. (p. 35)

“Other countries, such as Poland and **Romania**, have a two-tiered system of judicial approval. In **Romania**, the intelligence services must first obtain approval from the Prosecutor General, who then applies for authorisation to the High Court of Cassation and Justice if the application is well grounded. The Prosecutor General may also authorise surveillance measures in cases of emergency (for a maximum of 48 hours), as long as authorisation from the court is requested as soon as possible. This system allows for the legitimacy of the measures to be studied twice before being authorised. Once the surveillance measures have been approved, they must be carried out lawfully.” (p. 54)

“In six Member States, individuals are notified or information is provided at the end of surveillance, based on the anticipation that the threat to national security will exist throughout the surveillance (Bulgaria, Croatia, Denmark, Germany, the Netherlands, and **Romania**). In **Romania**, for instance, if the collected data does not justify a referral to the criminal investigating authorities and does not justify a continuation of the surveillance, surveillance will stop and the individuals under surveillance will be notified as to the surveillance activities and their duration.” (p. 63)

## Guardianship systems for children deprived of parental care in the European Union (October 2015)

<http://fra.europa.eu/en/publication/2015/guardianship-children-deprived-parental-care>

“In some Member States, such as Bulgaria and **Romania**, there is a national referral mechanism specialised on child victims of trafficking. In other Member States it is common practice to at least have special arrangements and referral procedures for trafficked children.

In cases of trafficking, it is most often the police or the migration authorities who identify the victims and report their case either to the court, the child protection authorities or the victims support service.

It is not rare that NGOs become involved in dealing with cases of child victims of trafficking. [...] All cases of suspected or identified child victims of trafficking in **Romania** have to be signalled to the General Direction for Social Assistance and Child Protection (GDSACP). (p. 46)

“In **Romania** as well, guardians benefit from free legal assistance. It is worth noting that such legal assistance is mandatory in the cases of human trafficking.” (p.56)

## Freedom to conduct a business: exploring the dimensions of a fundamental right (August 2015)

<http://fra.europa.eu/en/publication/2015/freedom-conduct-business-exploring-dimensions-fundamental-right>

“Another very common barrier is linked to difficulties in accessing credit, particularly during an economic crisis. This issue seems to be of serious concern in various EU Member States such as Greece, the Netherlands and **Romania**, as well as in a number of others, particularly in relation to SMEs. In this context, promising practices have been identified in a number of countries. Belgium, France, the Netherlands, **Romania** and the United Kingdom have adopted programmes to enhance the availability of government grants and various other forms of support for obtaining the funding necessary to establish and operate a business. Examples vary from supporting micro-credits to crowd-funding initiatives aimed at the creation of partnerships between businesses and academic and research institutions.” (pp. 37 – 38)

“A report in **Romania** on ‘The Entrepreneurs Speak – the Barometer of the Perception on the entrepreneurship environment’ revealed that 93 % of individuals interviewed stated that financing was a major issue for young entrepreneurs. According to another report, by the Akcees Education Association, in 2013, young entrepreneurs were more concerned about burdensome administrative procedures and more discouraged by the level of corruption and high levels of taxes in **Romania** than older age groups.” (p. 40)

“Financial support programmes to help women secure loans for businesses have been set up in Croatia and France. Some countries have also established action plans or other programmes to support female entrepreneurs, including resource centres for women that provide additional training, networking and mentoring, for instance in Denmark, **Romania**, Spain, and Sweden.” (p. 45)

“To overcome some of the difficulties that entrepreneurs with disabilities face and to pre-empt the potential incompatibility of legal requirements for businesses with the special needs/concerns of entrepreneurs with disabilities, several Member States including Bulgaria, France, Luxembourg, and **Romania**, have adapted their legal frameworks to include specific laws on persons with disabilities. [...]

A 2006 **Romanian** law provides an incentive indirectly supporting “protected enterprises” – businesses established and operated by persons with disabilities.” (p.47)

“The other main obstacle identified in Estonia, Ireland, **Romania**, Spain and the United Kingdom relates to the costs of litigation, including the cost of legal services. In some cases, this also includes the quality of such services, which should not only be accurate and reliable but also good value for money and client-centred. According to businesses interviewed in these countries, legal action is simply too expensive and time consuming to be feasible while running a business on a day-to-day basis and surviving in the marketplace.” (p. 48)

### Severe labour exploitation: workers moving within or into the European Union (June 2015)

<http://fra.europa.eu/en/publication/2015/severe-labour-exploitation-workers-moving-within-or-european-union>

#### Promising Practice: Enhancing undocumented migrants’ rights in central Europe

“This project involved research in the Czech Republic, Hungary, Poland, **Romania** and Slovakia to analyse the relevance of the Employer Sanctions Directive for migrants in these countries, with the aim of enhancing the protection of undocumented migrant workers from labour exploitation and increasing knowledge about the rights deriving from the directive. The project was funded by the European Programme for Integration and Migration.” (p. 31)

“Other Member States have reacted to the complexities involved in the implementation of legislation in this field by adopting legislation that sets up a distinct ‘second line of defence’. [...]

This line of development gained momentum with Article 9 (1) of the Employer Sanctions Directive. According to the Commission’s assessment, all Member States bound by the Employer Sanctions Directive have to date put criminal law provisions in place corresponding to Article 9 (1) (c) of the Employer Sanctions Directive, with the exception of **Romania**.” (p. 38)

“The percentage of employers subject to inspection or monitoring was not reported for this research; by way of indication, however, the 2014 European Commission report on the application of the Employer Sanctions Directive found that the number of inspections carried out is unlikely to dissuade an employer from employing a third-country national in an irregular situation. In Bulgaria, Poland, **Romania** and Slovenia, less than 1 % of all employers were inspected.” (p. 65)

“Desk research conducted in all 28 Member States revealed that in at least half of the Member States ... trade unions are entitled to lodge complaints on behalf of victims. In addition, labour inspectorates or similar monitoring authorities in more than 10 Member States can support or even act on behalf of workers in proceedings (the Czech Republic, Estonia, France, Latvia, Lithuania, Malta, the Netherlands, Poland, Portugal, **Romania**, Slovakia and Spain).” (p. 85)