

# SOCIAL

## THE NEW LABOR CODE: THE BURDEN RESTS WITH THE EMPLOYER

**WARNING** After much prevarication the government has finalized the new labor code and intends to make its passing a matter of Parliamentary confidence. Under the mantle of European harmonization, the draft creates a nightmarish administrative maze for the employers. The only shine of light for them: the draft ducks the most controversial issues and postpones them for unspecified legislation in the future.

### **A CODE FOR A EUROPEAN MARKET ECONOMY ?**

The code was heralded as legislation that faces the new challenges of the Romanian economy: the market system, where state-owned and private companies co-exist, and the approximation of European legislation.

- Indeed, the draft allows for the introduction of exclusivity (i.e. commitment to a single employer) and non-competition (i.e. the employee is barred from working simultaneously in a direct competitor) clauses in labor contracts - two problems that affected Romanian employers.
- The draft also introduces the concept of consultation between the employer and employee representatives, thus potentially improving the erratic labor relationships of Romanian companies.
- The draft puts much emphasis on training and apprenticeship. The right of the employee to take part in training programs is protected, and employers are required to train their employees. Unfortunately, there are no incentives stipulated in the legislation for the employer to comply with this requirement. The only incentive there might be is the possibility to commit the employee to stay with the employer for a certain period (up to three years). Conversely, this is not very rewarding for the employee. Moreover, this tying up with the

employer will create rigidities in the labor market, thus reducing the efficiency of the economy. A better solution would have been to grant fiscal incentives to the employer (e.g. tax deductions) for training programs: since training creates gains for the economy that are not fully recouped by the employer, it would make sense for the society to pay part of the price of training.

**Fig. 1. Approximation of EU social *acquis* through the new labor code**

EC MEASURE (to be transposed)	NATIONAL MEASURE (to be adopted)	Planned date of adoption	Planned date of coming into force
Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services	The new draft of the Labour Code	2002	2002
Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies	The new draft of the Labour Code	2002	2002
Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer	The new draft of the Labour Code Legislative act on the establishment of the Guarantee Fund for the protection of employees in the event of the insolvency or bankruptcy of their employer	2002 2004	2002 2004
Council Directive 1999/70/EEC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP	The new draft of the Labour Code	2002	2002
Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship	The new draft of the Labour Code Draft law on Insurance against Accidents at Work and Occupational Diseases Establishment of the National Fund for Insurance against Accidents at Work and Occupational Diseases	2002 2001 2002	2002 2001 2002
Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and ETUC	The new draft of the Labour Code	2002	2002
Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship	The new draft of the Labour Code	2002	2002
Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time	The new draft of the Labour Code	2002	2002
Recommendation of the Council 74/457/EEC of 22 June 1975 on the principle of 40-hour week and the principle of four weeks' annual paid holiday	The new draft of the Labour Code	2002	2002
Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding	The new draft Labour Code	2002	2002

Source: Position Paper of the Romanian Government for Chapter 13 of negotiations 'Social Policy and Employment'

- Another initiative which has intellectual merits is the decision to eliminate the difference between the less taxed freelance contracts (*conventii civile*) and labor contracts, thus eliminating another source of disincentives. The economic consequences of this measure are however doubtful. It is a very controversial decision, and it will be discussed more in depth later in this article.
- Finally, the draft puts much emphasis on the non-discrimination principle, thus incorporating a key tenant of European legislation.

### PIG-HEADED APPROXIMATION OF THE ACQUIS

Most of the changes introduced by the new code are justified by the need to introduce in domestic legislation the European provisions. Fig. 1 presents the pieces of *acquis* which are, at least partly, to be approximated in the labor code. The exact transposition of community provisions raises questions. For instance, EU legislation prohibits employers from requiring employees to work overtime above certain limits (i.e. 48 hours per week). The Romanian version is stricter: it prohibits employees from working more than 48 hours per week even if they want to. There are also annual ceilings for aggregated overtime. In addition, the daily working time is limited, and under no circumstances can it exceed 12 hours, which may create disturbances in certain fields of activity – e.g. when on duty, medical doctors cumulate more than 12 hours in one working day.

**The second poorest EU candidate cannot afford to implement labor legislation more generous than that of the EU**

The observance of European legislation on working time also errs on the lenient side when dealing with employees' rights: while the European directive requires a minimum of a 4 week annual paid leave, the Romanian legislation is more generous: it provides for 5 weeks. Whether the second poorest economy among accession countries can afford to exceed the European requirement is highly questionable.

### TRADE UNIONS REIGN SUPREME

The trade unions are the big winners of the new labor code. Their position is much strengthened. Trade unions exist practically only in the (current or former) state companies. The code supports their creation in smaller, private companies. Representatives of the employees (quasi-trade union leaders) are supposed to be elected in any company with more than 20 employees. The power of the trade unions represents a real problem for the Romanian employers: it might impede on the performance of the economy and deter new investment.

- The trade unions are to be consulted by the management and have a key role in the human resources policy:
- Negotiate the collective work contract
- Have to be consulted on any collective redundancies (defined as 10% of the workforce or above 30 employees)

- May intervene in individual redundancies (justified by either disciplinary or economic reasons).
- In addition, the duration of the work contract is presumed as unlimited, while fixed term contracts are the exception. This provision, coupled with a cumbersome procedure for redundancies, puts serious pressure on the employer, and further increases the rigidity of the labor market.
- Apart from the rigidities introduced in the human resources management, the cost itself of trade unions is not negligible, especially in small and medium size companies: the employer cannot sack a trade union representative, and has to pay his / her wage.
- Trade unions are also involved in the committee for safety standards; in addition, some employers are required to provide occupational disease medical services. These are additional costs for the employer – either directly, or through increased administrative load.
- Finally, the provisions on strikes also reveal a marked anti-employer bias: employers are prohibited from responding to a strike by a lockout, and in any litigation the burden of proof is on them.

All these provisions do not bode well for the performance of Romanian companies, especially for the small and medium size ones, for which the costs of compliance could be high. Attracting foreign investment could also become more difficult. Romanian trade unions have already been responsible for the collapse of certain privatization deals, and they enjoy a fearsome international reputation – as illustrated by a string of recent cases reported by major international newspapers.

**Trade unions are too influential in a country that has the lowest unionization rate in Europe**

It is questionable whether all this was really necessary. The influence of the trade unions in the drafting of the new labor code looks rather inflated, as there are only 4 million legally registered full time employees out of the estimated 8 million Romanians who actually work, and only half of these 4 million are trade union members. Romania has thus one of the lowest unionization rates in Europe.

### SCHWEITZER LEGISLATION

The labor code, huge as it is (300 articles), is mostly framework legislation. It leaves out a lot of details to be addressed in further legislation. The text explicitly mentions new forthcoming legislation on:

- The guarantee fund for wage liabilities
- The organization of the safety at work committees
- The apprenticeship and training contracts
- Trade unions
- Employers associations
- Labor conflicts

- Classification in labor groups is also part of other pieces of legislation

The new labor code is thus vacated of much of its content. While controversies are avoided or minimized in this way, the code fails to provide the necessary clarification and predictability of labor relations.

## MAJOR CONTROVERSIES

### a. The wage guarantee fund

Alarm bells have initially rung over the newly created reserve fund aimed to guarantee the payment of wage liabilities. The creation of the fund is part of the EU *acquis* requirements in the social field. However, even the priority given to wage liabilities over other types of liabilities (e.g. taxes, bills) was criticized. More importantly, its size as compared to the GDP was questioned. The government has backed down in front of media criticism and the pressure of employers, and withdrew the initial draft. The new

reading of the code preserves the controversial fund, but avoids the question of its size, by postponing this decision for later legislation. What is also unresolved is the question of the management of the fund, with critics arguing that there is no need to create a new institution for this task.

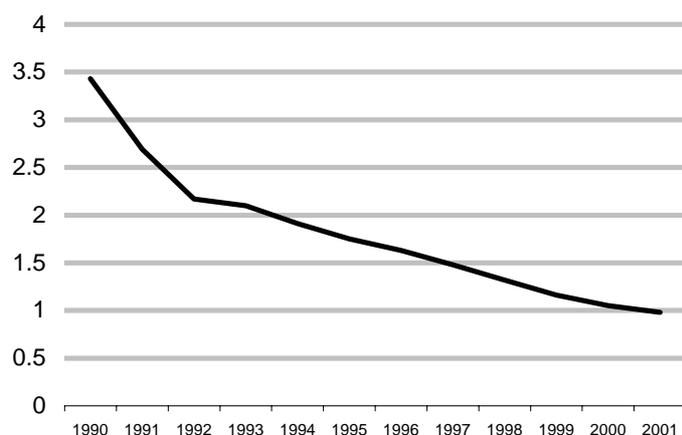
### b. Freelance contracts

The decision to unify the tax treatment of freelance (*conventii civile*) and full-time labor contracts by levying full social contributions on both has aroused fears that it will result either in increased unemployment or in pushing jobs

into the black market. Freelance contracts are to become part-time labor contracts. Initially, even if the part-time employees were to pay the full pension contribution, this time was not counted at all towards the minimum working period that gives the entitlement to the old age pension. This provision has been corrected in the new draft.

The part-time contracts play an important role in the plans of the government. Over the past twelve years, Romania has witnessed a marked decline in the number of full-time employees (i.e. contributors to social insurance). Fig. 2 presents the evolution of the dependency rate (i.e. contribution payers per pensioner). The situation is even worse if we add up the retired farmers – in 2001 there were 6,365,000 pensioners in total, as opposed to 4,505,000 full-time employees. While this trend is correlated with a marked increase in the number of pensioners, it is also true that some of the missing employees have resorted to the less taxed freelance

**Fig. 2. Dependency rate (contributors / pensioners)**



contracts. The Ministry of Labor relies on the taxes now to be levied on the part-time employees to help balance the pension fund budget, a major source for concern. The problem is that the Pension Fund estimates at 1,200,000 the number of freelance contracts (of which only 100,000 currently pay the voluntary pension contribution). However, the more reliable statistic is the one coming from the Health Fund: the health contribution is mandatory for all types of labor contracts, still the Health Fund receives contributions from only 650,000 freelance employees. The gap between expectations and reality will become even larger, as the high social contribution will force a number of freelance contracts to be cancelled.

*c. Insurance for labor accidents*

A new special insurance fund is to be created for labor accidents, in accordance with the *acquis* requirements. The exact shape of this fund is also an unresolved matter. Similarly with the wage guarantee fund, it is questionable if it is worth creating a new bureaucracy to handle it. Where would the money come from is a big question. The government has confirmed it intends to reduce the social contribution by 5%. With the pension fund in chronic deficit, there will be pressure to deduct the money for work related accidents from the health contribution. The Ministry of Labor has already eyed the health insurance budget for a number of social benefits (most of them non-contributory). After the ill-judged proposal of merging the social insurance and the health insurance budgets, any new attempt to dig in the health trunk will spark a new political row.

**Substance is sacrificed for the sake of consensus – but this only postpones the tough decisions**

## CONCLUSIONS

The new labor code was portrayed as ushering in the Romanian economy the rules of the market, in accordance with the European legislation. Unfortunately, it fails in its task:

- The draft shows no concern for the efficient functioning of the economy – it increases the rigidity of the labor market and burdens the economic agents with direct and indirect costs;
- It favors heavy handed administrative provisions over market based incentives;
- It leaves open a high number of crucial issues, therefore promoting legislative instability and uncertainty
- The ways it picked and chose among *acquis* provisions, favoring those most beneficial to the trade unions, suggests a disproportionate influence of the unions in its drafting.

It is, therefore, important that at least part of the shortcomings of the new labor code be remedied through subsequent legislation.

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# CHILD WELFARE . ACCOMPLISHMENTS AND CHALLENGES

## FOCUS

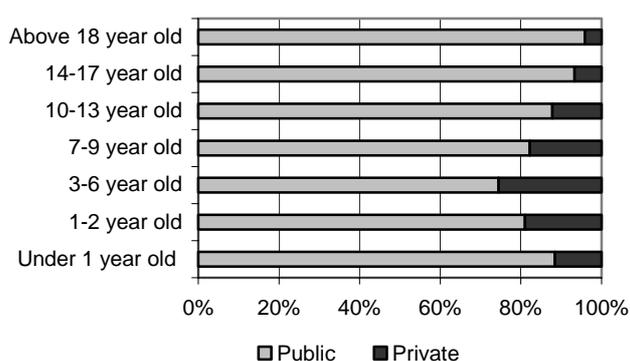
In discussing the possible development of child protection in Romania, one should start from the National Child Welfare Strategy, which is to be implemented by the National Authority for Child Protection and Adoption (NACPA). There are a number of provisions in this Strategy which, although according to international standards and derived from the concept of "best interest of the child", are likely to be hindered in implementation.

The argument below focuses on two operational objectives, no. 3 and 6, and on the responsibilities of some ministries and local government as far as child welfare is concerned.

### OPERATIONAL OBJECTIVE NO. 3:

*"To continue the decentralization process from the county to the local level and strengthen institutional capacities at the local level, in order to take the responsibility for solving the issues of children at risk."*

**Fig. 3. Number of children in age groups in placement centers – June 2002**



Source: National Authority for Child Protection and Adoption

County departments for child protection have been trying to reintegrate most institutionalized children back into their families. By the figures they give, most of the children up to the age of 13 have gone, and few others are received into the system, in an attempt to close as many of the placement centers as possible. The same is true for special schools and *camine-spital* as well, though to a lesser extent.

These figures tend to suggest that reintegration is over for most of the children who had the potential for this solution. And it also means

that a lot more effort is necessary to do something for the remaining children, who are now old enough to think on their own, and have been institutionalized for a long (and essentially damaging) time. It is very difficult to explain to a 13-year old why he or she has to leave the only place they call home, to go to the same parents who left them in the street, on a bench in the railway station, or tied up to the cot at home. It is also very difficult to persuade these children to go to a place which is, most of the time, poverty-

stricken and remote, with almost no chance for them to evolve there. Some parents don't want to take them back, for the same reasons, they argue that it is better for their children to stay in an institution, where they have all they need, than to go back home. It is also interesting to see that this mentality can be found around the country, it is not even restricted to the underprivileged areas.

Almost every news bulletin shows abused and neglected children, some of them at risk from the day they were born. There have been cases (Botosani, for example) where the representatives of the Specialized Child Protection Services (SCPS) have been called to assist a child in distress, in a remote village, and found another ten at least, on their way to that place, that were in a similar, if not worse situation. One cannot help wondering, if one is a social worker trained to discover elements of risk and damage to children, what to do with such cases? If one were to judge only by standards, one would need to take them all and institutionalize them, because the state, clearly, can provide better conditions than most underprivileged families. But this is not to the best interest of the child at all, because no matter how much the society would like to provide them with better life conditions, children are better off in a community than in an institution, if for no other reason, because this is where they have to go to anyway, once they turn 18. More effort is needed for supporting families, parents and other relatives to keep their children at home and provide them with what they need, in order to cut down the supply for the state institution system once and for all.

This is where local authorities have a say. It is for them to decide how much the community can support families at risk, and what protection measures they can find, locally, for children in such families. Local governments know best what employment opportunities there are in the community, and they are also the owners of buildings where new alternative services can be developed.

In Romanian legislation, **the mayor** has three main responsibilities in child welfare. According to art. 68 of the Law of local public administration, 215/2001, the mayor must "ensure the observance of fundamental civil rights and liberties." In art. 69 of the same law, the mayor is seen as a "representative of the state", especially in case of social investigations that he/she has the right to call for, when child rights are violated. The Family Code also emphasizes that the mayor should ensure the integrity of a child's rights in the community that he/she manages.

Given that the mayor is ultimately in charge of the well being of citizens in a particular community, the issue to be raised here is *what happens if the local government is overburdened, and there are no more resources to support children at risk*. By resources here we mean both human, as well as financial resources.

There is in most communities, by law, a social worker, who is not necessarily a graduate, but who has been trained to recognize risk and signal it to those in charge. This person, who is an employee of the municipality, should go from house to house and assess the situation, and receive referrals about abuse cases and risk situations. Although the law

clearly stipulates the existence of such a person, at the local level things are not that easy. There are many restrictions as to how many people a local government can employ, what salaries to pay to these people, and what other facilities, like transportation means, telephones and so on. There have been a number of communities where no social worker was actually employed, but the representative of the Agriculture Department, who did more or less the same rounds in the community, was also given the task of monitoring families at risk, without extra payment.

The issue is two-fold: how can this person recognize risk situations, and alarm those in charge of such cases, and how can he or she even go to the place where such cases occur, almost without transportation means. Another side of the matter is why this person should even bother, as long as there is enough work with the tasks he/she already has, and no additional payment for further work. This is for the government to solve, as the issue is not restricted to child welfare situations, but it is of concern to the whole local government.

**The County Council President** also has responsibilities in child protection. According to art. 116, par. 1, let. q) of Law 215/2001, the County Council (CC) president coordinates, controls and is responsible for child protection activities. These activities are implemented by the SCPS.

The CC president is, usually, the most powerful person in the county, as he/she is an elected official and is basically the main budget manager. It is up to the CC president to allocate funds for child protection, along with other funds, and to endorse any document committing the county to child welfare activities. But the same CC president has a political background, and is elected based on a party program. Which, according to the situation of political intervention in Romania, means that if politics lays a lot of emphasis on child protection, so will the CC president. He will even push child welfare as a reason for not distributing equalization grants, as was the case of Vrancea in 2000. What if political views change, however, and these issues are not topical anymore?

There is a big risk here that although the county councils committed to support child welfare services for a number of years after foreign funding stops, they will not be able to do it, or they will not consider it an issue of importance anymore. A lot of impetus has been given to these activities because of EU accession and because of coverage in the international media, but nobody really knows how much of this is political speech and how much is real awareness of the issue. In some counties, like Teleorman, where child welfare reform is almost finished, by the end of September there will be no more children in old-style institutions. In other counties, however, the situation is a lot more difficult, as described above.

**County Secretaries General** are in charge of child welfare services at the county level. They have specific tasks in coordinating and implementing measures to protect children at risk, according to Government Emergency Ordinance 12/2001.

If the other two local representatives are elected, and their constraints in child protection are sometimes political, for a secretary general the situation is more complex. It is a matter of deeply understanding the issues and best practices, a matter of knowing what to ask from the subordinated Specialized Child Protection Service, and of recognizing and supporting their efforts. Some counties are truly blessed, with secretaries general who have been in position for years, who have an overall picture of the county's social welfare needs and know how to prioritize child welfare among these, who have a good knowledge of the law, and who have been exposed to foreign expertise. Other counties, however, have secretaries general who do not understand the system and what it requires, who have not been trained or exposed to foreign expertise and best practices, and are sometimes blocking child welfare initiatives due to their diverging priorities or lack of knowledge.

**De-concentrated Ministry Departments.** When the County Child Welfare Commission assesses the situation of every child and recommends a de-institutionalization alternative, older children are also consulted, given that it is their future that they have to weigh. Most of them don't want to have anything to do with their families, arguing that if they left them once they would not truly welcome them a second time. However, there is another angle as well: the general conditions in institutions were so horrible in the beginning that no one thought of anything else but how to improve them. At present, there are institutions with the conditions of three-star hotels, from which some children need to go to shacks with back garden toilets and water in the well. In most institutions, at least over the past 10 years or so, children have had access to education and have been exposed to new things, to a different civilization. They would know how to operate a computer, they would have a TV at least, and a clean place to do their homework. It does not mean that everywhere in the country, all children in institutions have all these, but a majority of them do. And this is why, once they pass the age when they still feel the need to be supported by their parents, they become hardened and refuse to have anything to do with them.

Part of this effort, however, cannot be sustained only by the Child Protection departments. In order to de-institutionalize children and close down institutions, there is a need to cooperate with other de-concentrated services, the health and education departments, other institutions, and even the central level. There are situations where Child Protection departments are clearly overwhelmed.

One example is Bucharest sector 1: the richest sector in Bucharest, with three of the biggest maternity hospitals on a 1-km radius from the central railway station, with one "protocol" placement center for 0 to 3 year-olds nearby. If a pregnant woman comes from somewhere else, by train, she would end up in one of these maternity hospitals, give birth, and then run away. The child would stay in the maternity hospital for the legal while, then, according to best practice, should go to a foster family, in order to avoid institutionalization. This being the context, let us see what the problems are.

**Problem no. 1:** there are still maternities without a social worker to counsel mothers not to leave their children, or show them alternatives. Many times, hospital staff encourages them to abandon the child – not in so many words, but mostly by their attitude.

**Problem no. 2:** by law, children registered or originated from one sector or county can only be placed with foster families within that sector or county. This is fine for most counties, where there are enough unemployed people for whom being a foster parent seems a gift from God, but the situation is different in a places where, say  $\frac{3}{4}$  of the population is richer than average, with no incentive to become a foster parent, while the remaining quarter lives in crammed flats? And all this when across the “sector border”, there might be families wanting to foster, but without children.

**Problem no. 3:** during the communist time, a number of children were “misplaced”, moved from one home to another, from one county to another, until all traces of them were lost. A lot has been said, and the Romanian Television even made a feature report about a girl, who was accounted dead at birth, some 16 years ago, and who was finally found in one of the placement centers around the country. A swap has to take place, by law, in order for these children to go back to their counties of origin, as close to their communities as possible, if not right back to their families. But this does not always happen as it should, and some children have been moved again, several times, from one institution to another, inflicting an even greater damage to them. A related issue is that of funds: there are conflicts among counties, as to who is going to pay for relocation, and who includes these children in the budget estimates for the future.

Conflicting interests also hinder cooperation between the SCPS and some county departments, like education, health and people with disabilities. As far as special schools are concerned, for instance, the three departments should make sure that child welfare, special education and welfare of people with disabilities standards are all observed at the same time. But if a special school is closed down – and a number of them are on the way – it also means that the reform should take place with all departments involved. Which is another reason for concern, as child welfare is clearly ahead of other social fields in the reform process, and it is difficult to find the necessary arguments to persuade all these other players of the need to close down an institution of this kind. In some counties, for instance, there were conflicts with the education and health trade unions, which found it unfair to lay off the staff in special schools, or restructure the institutions according to child welfare principles.

Thus, child welfare reform has a number of “enemies”, and more joint measures must be taken to solve the problems, without hurting the final beneficiaries that is children.

## 2. OBJECTIVE NO. 6:

*"To promote child rights and sensitize public opinion, in order to improve attitudes and the general behavior regarding specific issues of children and families at risk or in difficulty."*

If political will and international pressure can solve part of the issues listed above, this objective actually lays a very difficult task ahead for county departments: to change people's mentality and attitudes. There are three possible obstacles against the achievement of this objective.

### *a. Former institutions – jobs for many*

Old-style institutions have two main characteristics that make them important for the communities they are placed in: 1) they hold inside children who cannot find a place in the community, either because they are not originally from that part, or because their parents cannot or would not support them, and 2) they employ many of the local people. If we talk about an institution with 200 residents, this means at least 50 staff: nurses, doctors, teachers, caretakers etc.

Many such institutions lie in underprivileged or remote parts of the country, particularly special schools and placement centers for children with disabilities, some of whom are literally inside forests or on hilltops, as if to hide their residents from the world. The only people these children have come in contact with are the staff, and they are likely to lose their jobs with the closing down of institutions.

Solutions must be found for these former employees, either by transferring them to the newly founded alternative services, or by involving them in the foster parenting networks. A whole process of evaluation must take place in this respect, in order to assess whether these people are fit to take care of children, and to prevent unfit employees to perpetuate in the system. At the end of the assessment, some will still be laid off, but the others can be employed somewhere else.

One opportunity is the foster parenting network, which has been growing a lot lately, in most of the counties. The average number of foster families per county is 100, and each family might have one or two children in care. Unfortunately, there are some issues to be figured out by the government, in terms of finding more incentives for people to agree to foster. Right now, the

**Fig. 4. Children protected in foster families**

	May-01	Jan-02	Mar-02	Jun-02
<b>Children protected in foster families</b>	<b>32,816</b>	<b>37,942</b>	<b>39,26</b>	<b>40,754</b>
- foster parents hired by the County Child Protection Departments	4,739	7,943	8,523	9,356
- foster parents hired by authorized private organizations	1,040	578	551	458
- extended families	20,677	22,922	23,509	24,171
- other families/individuals	5,179	5,277	5,428	5,473
- national adoption preparation	1,181	1,222	1,249	1,296
<b>Total no. of professional foster parents</b>	<b>3,494</b>	<b>6,473</b>	<b>7,435</b>	<b>7,825</b>

child allowance is of 500,000 ROL per child, which is not enough to buy food and clothes; equally, the salaries of foster parents are lower than the national average.

Because of these factors, there are huge discrepancies between the urban and rural areas, and among counties, depending on the general welfare of the various communities. And, as mentioned above, this is the reason why it is very difficult to find foster families in some Bucharest sectors, for instance.

Foster families only receive salaries if they have children in care. This means that they do not have paid vacations, and cannot leave the children with the rest of their family, as it would happen in a regular household. The law should provide what is called "respite" centers, especially for the foster parents of children with disabilities, where children can be left for one or two weeks, while their foster parents go on holidays, or spend some time with their natural children.

One of the dangers in placing children in foster families, which, unfortunately, springs from the range of issues described above, is that the best possible choice of foster parents might not be good enough. The bottom line here is that, with the conditions that are offered, it is likely to receive requests only from a certain category of people, who, sometimes, are not necessarily very reliable. However, it is hard to assimilate neglect or abuse with particular social categories.

*b. NIMBY (not in my back yard)*

Another difficult challenge in decentralizing child welfare services to the communities is their attitude regarding institutionalized children. There are, mainly, two sets of negative attitudes: 1) institutions are good because they protect children, and we do not need to bother with them, and 2) it is good to de-institutionalize, but do not place them among our neighbors.

For both types of attitude, it is easier to find motivations than solutions. For many years, a number of children were institutionalized for the wrong reasons (poverty, neglect, lack of relations with the extended family), which could have been combated in the family, if communities had been organized and structured properly. But one of the scars of communism is the lack of community spirit, and people do not care so much about their neighbors to help them when in need.

In underprivileged communities, the idea that the state can provide better for children than their own parents is still present at large. SCPS often complain about parents who are willing to leave their children because they feel insecure about living conditions, and, in their opinion, wish the best for their offspring. As we argued above, however, this move is against the best interest of the child, because while children have not been institutionalized, they do not know other living conditions than those in their parents' house, and do not necessarily wish to leave, but when they get into an institution, it is very difficult to send them back into families, especially if they are older or have spent a longer time as institutionalized children.

This is why emergency reception centers have been set up, where children come in for a short period of time (up to 15 days) and then they are either returned home, if possible, or placed with a foster family.

Some community members accept the idea that children are better off outside institutions, or in different types of homes, like family-type houses or apartments. But, as it happens with local projects, it is very hard to find a place for these houses or apartments, once people realize that children will move in. This is the NIMBY reaction (Not In My Back Yard), which does not argue about the benefit of a, say, alternative service, but about its location.

There are real life examples in the experience of county departments, some even dramatic. In Teleorman, for example, the county department started to move children to apartments in 1994. At some point, they bought two apartments in the same building, and started to refurbish them. The other dwellers asked who was going to move there, and they did not agree to have apartments inhabited by former institutionalized children in their building. That was a very good neighborhood downtown Alexandria, and people were reluctant to receive "strange" newcomers. Help came from one of the people who was to be employed in one of the apartments who, as it turned out, happened to live in the very building, and this person was able to persuade the other dwellers that there was no problem with the children.

The reverse situation happened in Caras Severin: the county department bought a house, and moved there a number of HIV infected children. The neighborhood did not react to the move, until they found out who were the inhabitants. Subsequently, things turned very bad, with children being bullied in the street, and the county directors receiving phone calls in the middle of the night to remove the children from there. Which, unfortunately, happened after a while, when things had definitely got out of hand and the county director feared for her personal security.

## CONCLUSIONS AND RECOMMENDATIONS

Judging from the overall situation of child protection in Romania, it is obvious that this sector of social welfare has made a lot of progress lately, and reform is on the right track, even finished in some counties, as said above. What is to be done now relates to sustainability. It is very important for the newly created alternative services to be sustained after international funding is over, and county councils should earmark funds for these services in their budgets. If services are then decentralized to the communities, they should be included in the local budgets and sustained as such.

More facilities should be given to foster parents. These may include higher salaries (or bonuses, or other types of incentives, according to available resources), the setting up of respite centers, more training and support groups, especially for foster parents of children with disabilities. Child allowances should also be increased, to a level that provides them with the bare necessities at least.

Local governments should have the opportunity to hire the necessary staff, or train existing staff, to cover for social welfare needs. The National Child Welfare Strategy speaks about increasing the number of social workers in municipalities by 1,400 until the end of 2004, which cannot be done unless constraints on local government staff are relaxed.

Volunteer work should also be encouraged, especially in relation to day care and respite centers.

A large-scale education and awareness campaign should be initiated, focusing on smaller and underdeveloped communities, where people are more reluctant to change, and more likely to send their children to institutions. The public should also be informed about the achievements of the reform, about the damages of institutionalization and alternative solutions. Education should emphasize the idea that children have a better life with their parents than in institutions, until proven otherwise.

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