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Chair: Ms. Waterval

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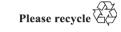
Fifth periodic report of Romania

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Ms. Waterval (Rapporteur) took the Chair.

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (continued)

Fifth periodic report of Romania (CCPR/C/ROU/5; CCPR/C/ROU/QPR/5)

- 1. At the invitation of the Chair, the delegation of Romania took places at the Committee table.
- 2. **Ms. Brumar** (Romania) said that, in the considerable period since the submission of the previous report, changes had been introduced to consolidate and improve the human rights protection and promotion system. For example, the National Council for Combating Discrimination had been established in 2000, the National Agency for Equal Opportunities for Women and Men in 2002 and the National Agency for Roma in 2004; the Ombudsman had celebrated its twentieth anniversary, and she was pleased that representatives of those entities were in attendance. The National Authority for the Protection of the Rights of the Child and Adoption, the National Authority for Persons with Disabilities and the Department for Inter-Ethnic Relations had also been set up in the intervening period. The report under consideration was the fruit of comprehensive consultations with all relevant ministries, government agencies and national authorities.
- 3. In response to its international obligations, including as a member of the European Union, Romania had been paying particular attention to the consolidation of its justice system. The entry into force of four primary codes (Civil Code, Civil Procedure Code, Criminal Code and Criminal Procedure Code) had paved the way for a more structured approach and the adoption of two strategies. The goal of the Strategy for the Development of the Judiciary 2015-2020 was to achieve transparency, efficiency and improved data collection through the establishment of a strategic Council composed of the highest echelons of the justice system. Though it tackled many domains such as parliament, political fundraising, health care, education and public procurement, the National Anti-Corruption Strategy 2016-2020 also contained key elements for greater integrity in the judicial system, including measures regarding the independence of justice. The institutional framework put in place to support the implementation of the Strategy had shown positive results.
- 4. International standards on the protection and promotion of human rights were incorporated into domestic law, and the Romanian system was well equipped to provide adequate protection. The main challenge, however, related to implementation at the national level. Dissemination and awareness-raising had proved essential for successfully combating discrimination. The National Agency for Equal Opportunities for Women and Men had held multiple information events and campaigns, including participation in HeForShe, on the State's commitments regarding gender quality. In cooperation with other public bodies, non-governmental organizations (NGOs) and the Norwegian Financial Mechanism, it had also launched a variety of programmes to eliminate the practical and psychological barriers to gender equality, such as violence against women and the gender pay gap. The effectiveness of the anti-discrimination system could be seen in the growing confidence of the public in requesting protective measures or reporting discriminatory treatment. Moreover, the National Council for Combating Discrimination was increasingly called upon to provide its expert opinion in judicial proceedings. Support and skills training was provided to victims under a national project, where experts in equality were also trained. Discrimination cases brought before the courts were examined on the merits and with due consideration of European and international practice.
- 5. The Government had adopted a series of laws to improve respect for and the exercise of the rights of persons with disabilities, as well as a national strategy for the period 2016-2020, whose aim was to ensure the implementation of the Convention on the Rights of Persons with Disabilities and the European strategy "A Renewed Commitment to a Barrier-Free Europe" and to improve quality of life. In May 2017, an inter-institutional working group had been tasked with developing a proposal on the establishment of a mechanism for the independent representation of persons with disabilities. In January 2016,

a law had been adopted on the establishment of an autonomous council to monitor the implementation of the Convention, whose mandate would be to regularly review the enjoyment of rights by all persons with disabilities, children and adults alike, who were in residential institutions, psychiatric facilities or otherwise deprived of their liberty, to review death notifications received from such establishments and to conduct inspections. In addition, the Prosecutor General had issued a paper on the investigation of offences committed against institutionalized individuals in a vulnerable situation. The 2015 paper also set clear guidelines on the need for an in-depth analysis of why offences were committed and what conditions facilitated their commission, as well as for a physical examination or autopsy. All decisions not to prosecute an offence against an institutionalized individual with an intellectual disability or mental health problems were to be examined by the prosecutor attached to the Court of Appeal and the Prosecutor General.

- 6. As a result of the adoption of the Strategy for the inclusion of Romanian citizens belonging to Roma minority 2015-2020, a range of measures had been put in place, such as school mediation programmes, the prohibition of segregation in schools, health mediators and the facilitation of birth registration.
- 7. Progress had been made in preventing and effectively investigating cases of ill-treatment by police officers, through inter alia the adoption of a specific strategy, training, the publication of booklets on human rights and non-discrimination in three languages and the appointment of dedicated prosecutors. In the strategy's first year, indictments had been issued in 15 cases. The law regulating the use of firearms and ammunition by the police had been amended in October 2016 to limit the use of firearms to situations when there was a threat to public order or to preventing the commission of an offence. The amendments also specified that officers should avoid shooting to kill wherever possible, that a report should be drawn up and superior officers notified whenever officers discharged their weapon and that the prosecutor should be immediately notified of a police shooting resulting in injury or death.
- 8. Lastly, the authorities had adopted a timetable covering the period up to 2023 for the improvement of material conditions in pretrial detention units and prisons, including the construction of new facilities using funds from the State and the Norwegian Financial Mechanism. In the interim, a law had been adopted whereby for every 30 days' imprisonment in inadequate conditions, 6 days were deducted from the sentence.
- 9. **Ms. Seibert-Fohr** said that she welcomed the gender balance and high level of expertise of the delegation, as well as the ratification by the State party of additional international human rights instruments since its previous review by the Committee nearly two decades ago. Regarding the effective application of the Covenant, she wished to know whether there had been any cases where the courts had applied the Covenant, whether judges, prosecutors and defence counsels had the necessary knowledge of the Covenant, whether NGOs had been involved in the preparation of the report and would be engaged in follow-up to the Committee's concluding observations and what steps were being taken to collect data with the aim of better monitoring compliance with the Covenant.
- 10. Noting that teenage girls accounted for 10 per cent of all births and 10 per cent of abortions, it would be useful to know what measures were in place to improve health education, why the health education course was optional rather than a mandatory part of the curriculum and whether the State party continued to provide free contraceptives. She would appreciate the delegation's comments on why women continued to resort to unsafe, illegal abortions when abortion was legal in Romania and what steps were taken to ensure effective access to abortion even when medical professionals refused to perform the procedure for moral reasons. Lastly, given the high maternal mortality rate among Roma women, she wondered whether the relevant strategies launched thus far were perhaps not as effective as they should be.
- 11. **Mr. Muhumuza** said that the State party's report had not included the information on the dissemination and implementation of the Committee's previous recommendations. He would appreciate any new information in that regard, including statistical data.
- 12. While measures had been taken to safeguard Roma, significant problems remained. The average age at death was 16 years lower in Roma households and the survival time

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after diagnosis of a disease was 3 years shorter; Roma were more likely to be diagnosed with serious conditions and had less access to health care. Data presently collected by various bodies were not publicly available or used to develop public policy, and data disaggregated by ethnicity were needed to assess and monitor the extent of inequalities and indirect discrimination. He therefore requested information on the areas in which data were disaggregated by ethnicity; how they were used to shape public policy; what barriers there were to collecting, publishing and using such data; what steps had been taken by the authorities to overcome those barriers, especially with regard to discrimination as a result of self-identification; and what data were used in the Romanian Government Strategy for the inclusion of Romanian citizens belonging to the Roma minority 2015-2020.

- 13. Evictions of Roma communities were usually carried out without the provision of suitable alternative accommodation. In September 2014, over 200 people had been affected in Eforie Sud in bad weather, spending four days in makeshift outdoor shelters. Following pressure from NGOs and the media, the people had been placed in an unsanitary and overcrowded former high school. He wished to know how eviction was defined in national law; the situations in which people could be removed from their accommodation without safeguards; and the safeguards in place for the clearing of informal settlements. He also asked what measures had been taken to ensure that evictions were carried out in compliance with international standards; what legal remedies were available for cases of forced eviction and whether they were available with automatic suspensive effect; and what the Government was doing to eliminate obstacles that precluded Roma from regularizing their homes.
- 14. The cases of alleged murders by members of the security forces of three Roma men suspected of theft in 2012 appeared to reflect worrying trends in the use of weapons during law enforcement operations. It was vital to carry out full investigations of such cases in order to promote accountability and avoid further violations of the right to life. In that regard, he would appreciate additional information on the investigation and prosecution of the security officers implicated in those cases; how the standards required under the Covenant had been implemented and assessed in the prosecution and investigation process; and why the security officers in those cases had been either released from prosecution or not prosecuted at all. As security officers received training on the legal framework on the use of force, he requested information on steps taken to ensure compliance with the framework during law enforcement operations; the measures taken by the Government to monitor compliance with the framework; and the systems, tools and procedures, including data analysis mechanisms, used to assess the level of compliance, as well as how those procedures influenced policy and practices.
- 15. **Mr. Shany** said that lenient penalties for corruption and the low salaries of civil servants and other public sector workers created conditions favourable to corrupt practices. He wished to know if the Government had made any progress in amending sentencing practices or raising salaries in the public sector, as had been recommended by the Committee on Economic, Social and Cultural Rights in 2014 (E/C.12/ROU/CO/3-5).
- 16. Changes to anti-corruption legislation had been resisted by some politicians, as had been seen in the attempt to only make official misconduct punishable by prison sentences in cases involving sums of over Leu 200,000. As such, he asked how the Government viewed the current situation in the State party; how recent events had influenced the determination of the State party to combat corruption; and whether there was any relevant legislation in development.
- 17. The high number of past and present politicians subject to proceedings under the National Anticorruption Strategy 2012-2015 could indicate either that the Strategy had been a success or that it had failed to act as a deterrent. He wished to know whether the Strategy had been evaluated since 2015. Moreover, there had been allegations that the head of the National Anticorruption Directorate had been subject to harassment, illegal surveillance, false accusations of academic plagiarism and other ill-treatment. He wished to know whether the Government took measures to protect people working to combat corruption, and whether the safety and well-being of those persons could be negatively affected by their work.

- 18. He asked whether the Government planned to expand the Ombudsman's mandate to allow human rights violations to be addressed more effectively and to endow the position with greater investigative powers. He would also appreciate information on concerns that the Ombudsman and the National Council for Combating Discrimination were underfunded.
- 19. Regarding the Romanian Institute for Human Rights, the State party's designated organization at the Global Alliance of National Human Rights Institutions, he wished to know why the Institute had not been discussed in the periodic report; whether the absence of information indicated that the Institute played only a marginal role; whether the Government planned to improve the effectiveness of the Institute and whether the law establishing the Institute would be reviewed. Moreover, referring to the report of the Working Group on the State party's second universal periodic review cycle (A/HRC/23/5), he requested information on the implementation of the accepted recommendations on increasing the allocation of resources to human rights institutions and on establishing an independent Ombudsman for children.
- 20. **Ms. Jelić** said that, as legislation on gender-based discrimination distinguished between direct and indirect discrimination, she wished to know whether general anti-discrimination legislation made the same distinction. Regarding allegations of discrimination, she asked whether the burden of proof fell to the person who made the complaint and whether that practice occurred in all court proceedings.
- 21. She requested further information on the achievements and challenges facing the National Council for Combating Discrimination. She also asked how the Action Plan of the National Strategy implementing the measures to prevent and combat discrimination 2007-2013 had been evaluated; whether there was an independent evaluation mechanism; and whether there was a follow-up action plan. Noting that, between 2012 and July 2014, 107 cases of instigation to discrimination and activities of a fascist, racist or xenophobic nature had been solved, she asked how many such cases had been reported during that period.
- 22. In March 2017, the Senate had rejected a draft bill to abrogate the non-discrimination law; the draft had been proposed by a member of the Chamber of Deputies who had been fined for making homophobic comments and had been adopted by the Chamber in February 2017. The National Council for Combating Discrimination, the media and NGOs had condemned the draft bill and the Chamber of Deputies for failing to reject it. She requested information on the current status of non-discrimination legislation and asked whether the Senate's decision was final and binding. Noting that Romanian legislation prohibited discrimination on the basis of gender or sexual orientation, she requested information on the effectiveness of legal protection from such discrimination in practice; and on steps taken to sensitize the public on issues related to sexual orientation since 2015. She asked whether there had been any policy to raise public awareness of issues affecting the lesbian, gay, bisexual and transgender (LGBT) community, and what actions had been taken to protect LGBT people from discrimination, including in health care and education.
- 23. As approximately 10,000 children had been infected with HIV in the public health system between 1986 and 1991 owing to breaches of health-care standards, she asked who had been held accountable for those breaches. She also wished to know what steps had been taken to ensure that women infected with HIV were not refused medical assistance, particularly reproductive and sexual health services; whether caesarean sections were provided to all pregnant women with HIV; and what had been done to improve the lives of all persons suffering from HIV.
- 24. Moreover, she wished to know what programmes had been established by the National Authority for Persons with Disabilities since 2014; and, in view of the reported abuse of institutionalized persons with disabilities, what steps had been taken to improve legal representation of persons with disabilities. She also requested information on emergency ordinance No. 60/2017, which amended legislation of the access to employment of persons with disabilities; and on private protected units for persons with disabilities, as they appeared to have been closed, despite the protests of NGOs and the negative advisory opinion of the United Nations Economic and Social Council.
- 25. Noting that the State party generally complied with international standards on gender equality, she wished to know the number of cases in which gender-based

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discrimination, including cases involving multiple forms of discrimination, had been proved and the perpetrators sanctioned. It appeared that few cases were resolved as the competent authorities were unable to sanction such discrimination effectively. In that regard, it could be useful to consolidate all legislation on discrimination and gender equality.

- 26. She also asked how the principle of affirmative action was implemented, particularly with regard to employment and participation in public life; and what had been done to promote and protect gender equality since the fifth periodic report had been produced. She would also appreciate information on the percentage of women in leading positions in public life, including in the Government and State organizations. In view of the temporary closure of the National Agency for Equal Opportunities for Women and Men between 2010 and 2015, she asked what had been done to compensate for the closure.
- 27. Regarding the linguistic rights of minority groups, she asked what steps had been taken to ensure that a sufficient number of teachers had been trained with knowledge of German, Hungarian, Turkish and Ukrainian, particularly in Székely Land, where the majority of the population was ethnically Hungarian. She also wished to know whether the Government had developed comprehensive educational models for teaching Tatar and Turkish in cooperation with speakers of minority languages.
- 28. **Ms. Kran** said that, in a number of cases involving the State party, the European Court of Human Rights had found that the national justice system had failed to deliver just outcomes for Roma victims of police brutality. In that connection, it would be helpful if the delegation could inform the Committee of the number of complaints filed by Roma since 2015, the number of resulting prosecutions, indictments, convictions or findings of criminal responsibility and the outcomes of those cases, including the length of any criminal sentences imposed by the courts. She wished to know whether the Government's recent efforts to address the situation had improved the quality of policing in Roma communities, whether steps were being taken to promote the employment of Roma by law enforcement agencies and what measures were being taken to assess the impact of employing Roma officers.
- 29. It was unclear what legal changes were being considered to eliminate police brutality against Roma, whether the supervisory mechanism introduced at courts of appeal had been effective and, if so, what difference it had made. In addition, it would be useful to learn how the State party monitored the effectiveness of the training programmes organized for judges and the training materials and best practice documents issued to police officers, whether the training programmes for judges and police officers were mandatory and what proportion of judges and police officers participated in those programmes. She wished to know what other steps were being taken to ensure that complaints filed by Roma were handled fairly, in line with the Covenant, such that recourse to the European Court of Human Rights was obviated. Lastly, she would appreciate information on any cases in which persons who had incited discrimination against members of the Hungarian minority had been prosecuted.

The meeting was suspended at 4.25 p.m. and resumed at 4.50 p.m.

- 30. **Ms. Brumar** (Romania) said that international human rights treaties were covered in university-level courses on international human rights protection. Judges and prosecutors also took training courses on human rights, some of which dealt with the Covenant specifically. The information on cases of ill-treatment provided in her opening statement had referred to the total number of cases of ill-treatment allegedly perpetrated by law enforcement officials rather than only to those cases with an ethnic component.
- 31. Following the judgment of the European Court of Human Rights in *Centre for legal resources on behalf of Valentin Câmpeanu v. Romania*, the Government had formed a working group to develop proposals for a mechanism to provide independent and effective legal representation for persons in a vulnerable situation. One proposal under consideration involved a mechanism whereby, in the event that such a person did not have family members or friends prepared to assume the role of legal representative, the Government would draw up a list of candidates for that role. The Government would give due consideration to the concerns expressed by the Council of Europe Commissioner for

Human Rights with regard to guardianship, but the current priority was to develop a mechanism for independent legal representation, as it would benefit both persons with disabilities who lived in institutions and those who lived in the community. The Government would examine ways in which legal representation could be tailored to the needs of individuals.

- 32. **Ms. Virenfeld** (Romania) said that both the Constitution and international human rights treaties, including the Covenant, served as basic reference points in the work of the Office of the Ombudsman. That Office and the National Council for Combating Discrimination frequently collaborated, but they each fulfilled a distinct function: the former performed a mediatory role and issued recommendations, whereas the latter had the power to impose sanctions, including fines. The bill on the children's advocate was under consideration, and it was expected that it would be submitted to the Senate in November 2017. The Office of the Ombudsman was adequately funded, although its budget for 2018 had not yet been announced. The torture prevention mechanism had been in place since 2015 and was also adequately funded.
- 33. **Mr. Asztalos** (Romania) said that the legal definition of discrimination was clear and fully in line with international requirements. In discrimination cases, all types of evidence were admissible, including statistical data, and judges could shift the burden of proof. In 2014, the maximum fine for discrimination had been raised to &25,000 for discrimination against multiple persons and &8,000 for discrimination against one person. Recent case law showed that judges had begun to award compensation for moral harm to victims of discrimination.
- 34. Following the evaluation of the 2007-2013 National Strategy on Measures to Prevent and Combat Discrimination conducted by the Council of Europe, the National Council for Combating Discrimination had worked with non-governmental organizations and other relevant stakeholders to draft a new strategy, which had been submitted to the Government. The various proposals put forward to improve the legal framework for dealing with cases of discrimination were still pending. Although the budget made available to the National Council for Combating Discrimination had been reduced during the economic crisis, it had been increased in recent years, and the National Council could also access European Union structural and investment funds.
- 35. The Office of the Ombudsman, the National Council for Combating Discrimination and the National Agency for Equal Opportunities for Women and Men were complementary institutions, but they each had their own legal status. The National Council for Combating Discrimination, which was under parliamentary control, received complaints, had the power to impose administrative sanctions and issued legal opinions. The National Agency for Equal Opportunities for Women and Men was responsible for implementing public policy.
- 36. In 2016, 29 complaints of discrimination on the basis of gender had been received, and sanctions had been imposed in 9 of those cases. Persons who had experienced discrimination could also submit complaints directly to the courts. Public opinion surveys showed that lesbian, gay, bisexual, transsexual and transgender (LGBT) persons and HIV-positive persons were the most marginalized groups in Romanian society. There had been a time at which the Government had experienced difficulties in providing adequate health-care services for HIV-positive persons, but the situation had since improved, and life expectancy for such persons in Romania was high by European standards. The challenges faced by HIV-positive persons included access to health-care services, data protection issues and access to quality education for their children. In recent years, there had been a national debate on LGBT issues, and a bill on same-sex civil partnerships was before the Parliament.
- 37. Hungarian children or children belonging to the Hungarian minority had access to education at all levels, and no complaints regarding their access to education had been received. The provision of public services in the Hungarian language remained a challenge, but it was expected that improved data-collection practices would allow an appropriate solution to be found. In that connection, a map showing the distribution of vulnerable groups across the country had been produced with a view to coordinating efforts to improve

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their access to housing, education, health care and labour. The National Council for Combating Discrimination organized training courses on non-discrimination, which covered hate crimes and hate speech, for judges, prosecutors, police officers and teachers, and sanctions could be imposed on perpetrators of hate speech.

- 38. **Mr. Verman** (Romania) said that the national HIV strategy had four priorities: prevention, treatment for persons living with HIV, the development of integrated social services for communities and the monitoring of risk factors for transmission. In addition, the Ministry of Health had developed guidelines for obstetricians and gynaecologists treating pregnant women who were HIV-positive.
- 39. **Mr. Bocşan** (Romania) said that the abuse of minority groups, such as the Roma, by law enforcement agents was a source of deep concern. The Government thus paid special attention to complaints of such abuse. However, very few cases of that kind reached the courts because the concept of hate crime was not formally covered by domestic legislation. Efforts were being made to raise awareness so that prosecutors would understand how to apply article 77 of the Criminal Code, which provided for aggravating circumstances, in the cases which did reach the courts. Because Romania did not collect disaggregated data, the statistics available would not reveal what sort of discrimination was involved in different cases; they would only indicate that the cases concerned involved discrimination.
- 40. With regard to Mr. Muhumuza's question on the subject, there had been approximately 30 complaints of the use of excessive force by law enforcement personnel, especially in the Braşov area. There had been a number of indictments in those situations. In one case, for example, a police officer who had beaten a young Roma man to death had been sentenced to over four years in prison in 2014 by a Bucharest court. In another case, three police officers who had attacked a Roma activist had been convicted by a Braşov court in 2016. The Office of the Prosecutor-General hoped to see further progress.
- 41. **Mr. Marian** (Romania) said that legislation on the use of firearms had recently been amended. The law clearly stated that the use of firearms was permitted only to subdue a person in order to put an end to a dangerous situation. Where a person was injured by a firearm, it was mandatory for the person who had fired the weapon to call for medical assistance. Every situation involving the use of firearms was reported to senior authorities, and where a death was involved, the case was referred to the competent prosecutor. The most important provision of the amended legislation stipulated that police officers who fired their weapons would be appropriately disciplined.
- 42. Between 2015 and 2017, there had been 162 reported cases of law enforcement officers having used guns in the course of their duties; out of that total number of cases, 15 persons had been injured. It was very important to note that law enforcement officers were trained to use guns to immobilize, and not to neutralize. Moreover, psychologists were brought in where possible to help police learn how to shoot under pressure. Steps were being taken to improve the procedures used in the gathering of intelligence before police operations.
- 43. **Ms. Palaghie** (Romania) said that efforts were made to provide police officers and ministerial personnel with continuous training on human rights; such training discussed the International Covenant on Civil and Political Rights and covered methods for combating discrimination. A 30-month project on integrated action for the prevention of victimization in Roma communities had been carried out until early 2017. As part of that project, over 300 police officers had received training on dealing with hate crimes. Police force recruitment policy was focused on the hiring of minorities; under that policy, for the 2017-2018 period, 83 positions had been reserved for members of minority communities, such as the Roma.
- 44. **Mr. Moldovan** (Romania) said that the Ministry of Labour and Social Justice was responsible for conducting inspections to assess compliance with Law No. 202 on equal opportunities for women and men. Penalties could be imposed where such inspections revealed non-compliance. In 2014, out of approximately 40,000 employers which had been monitored, some 280 had been penalized for violations of Law No. 202, whereas in the first nine months of 2016, out of approximately 15,000 employers which had been monitored,

around 50 had been penalized. Complaints of gender-based discrimination in the labour market were addressed to the corresponding local inspectorate.

- 45. The National Agency for Equal Opportunities for Women and Men, which fell under the Ministry of Labour and Social Justice, was a specialized body with legal personality and its own dedicated budget.
- 46. In recent years, the Government had implemented a number of gender-focused initiatives, including a series of projects co-financed by the European Union, the declaration of 8 May as equal opportunity day, and the launch of the HeForShe campaign.
- 47. According to data from studies on the issue, approximately 3 per cent of the mayors elected in Romania in 2012 had been women. In 2016, that number had risen to around 5 per cent. In the parliamentary elections held in 2016, some 20 per cent of the representatives voted in had been women. Currently, only around 10 per cent of the individuals on the boards of companies listed on the stock exchange were women. However, the gender pay gap in Romania was the lowest in the European Union by roughly 16 per cent.
- 48. **Mr. Boştinaru** (Romania) said that the National Anti-Corruption Strategy was based on two pillars: preventing corruption and combating corruption. The drafting of the new strategy had taken into account shortcomings in anti-corruption education. The technical secretariat of the strategy continuously monitored the implementation of the strategy and independent audit reports were scheduled to take place in 2018 and 2020.
- 49. **Ms. Popescu** (Romania) said that as part of the National Anti-Corruption Strategy, training was given to employees of the Ministry of Internal Affairs to raise awareness of the issue. The effectiveness of such training was demonstrated by the increase in the complaints of corruption lodged by employees.

The meeting rose at 6 p.m.