**STATE CONSULTATION**

**Call for input to thematic report of the SR Torture to HRC46 (March 2021):**

**“Effectiveness of States’ responses and follow-up to communications and visit Questionnaire for States**

**(Communications and Visit Requests of the Special Rapporteur)**

1. **Procedures for the processing of official communications and requests**

**Question:** Please describe the procedures applied by your Government in responding to / following-up on official communications transmitted by the Special Rapporteur, in line with the responsibilities of States outlined in para 2 of Human Rights Council resolution A/HRC/43/L.30 of 31 March 2020, including the initiation of measures of prevention, investigation, prosecution and redress as may be required under applicable international law.

**Response:**

1. ‘Allegation letters’ (AL) and ‘urgent appeals’ (UA) on specific alleged specific acts or risks of torture or ill-treatment:

Upon receiving an AL or an UA, through diplomatic channels, the Ministry of Foreign Affairs (MFA) will notify all the national competent authorities and request them to transmit all the relevant information on the specific acts; if needed, after assessing the information received, MFA will revert and ask for additional clarifications or information. The request for information will provide for a presentation of the allegations, in Romanian, as well as the aspects considered by the SR to be in breach of the interdiction of torture and ill-treatment. Moreover, depending on the AL/UA object, domestic monitoring mechanisms (such as the Ombudsman – which also fulfil the function of the National Preventive Mechanism – PO-CAT, the Council for Monitoring the implementation of the UN Convention on the Rights of persons with disabilities, the National Council for Combatting Discrimination) as well as the criminal investigation ones will be notified.

1. ‘Other letters’ (OL) relating to current or envisaged legislation, regulation or policy measures:

Depending on their object, the OL will be redirected to national competent authorities, for them to take into consideration in the normative or policy drafting process.

1. Country visit requests:

Following the request from the SR, MFA will inform the domestic authorities – mainly the Ministry of Justice (which is also supervising the National Prison Administration), but also the Ministry of Interior, which is supervising the retention and pre-trial detention centres, the Ministry of Health, etc. - in order to evaluate if the proposed schedule is feasible for an effective visit.

1. **Interaction regarding ‘Urgent Appeals’, ‘Allegation Letters’ and ‘Other Letters’**

**Question:** How does your Government self-evaluate its interactions with the mandate of the Special Rapporteur relating to official communications on specific concerns or allegations regarding torture or ill-treatment during the past four years (1 November 2016 until 31 October 2020)?

**Response:**

We consider the Romanian Government was mostly cooperative, as in one occasion they failed to respond to a JUA. Still, we qualify the dialogue between the Romanian Government and the Special Rapporteur as being a constructive one.

As to the challenges or causes that might negatively prevent a quick and comprehensive reaction from the government, we mention: i. the deadline for reaction is sometimes too tight or insufficient, given the complexity of the AL or UA or the large sphere of domestic authorities should be notified/consulted before drafting any reaction; ii. No feed-back as to the satisfactory level of the State’s response, either through an officially communicated closure of the case, or through requesting some additional information, if needed.

1. **Interaction regarding Country Visit Requests**

**Question:** How does your Government self-evaluate its interactions with the mandate in response to official requests transmitted by the Special Rapporteur to conduct a country visit during the past four years during the past four years (1 November 2016 until 31 October 2020)?

 **“Fully cooperative”:** During the past four years (1 November 2016 until 31 October 2020), the Government has extended either a standing invitation or an bilateral invitation to the Special Rapporteur to conduct a country visit in full compliance with the terms of reference of the mandate, **and** the visit: (a) has taken place, or (b) has been scheduled, or (c) has been postponed or declined by the Special Rapporteur for reasons not in the responsibility of the Government.

**Response:**

We consider the Romanian Government was fully cooperative; from the outset, we underline that Romania extended a standing invitation to all special procedures since March 2001.

Moreover, during the relevant period, we received just one notification for a visit from the SR, in 2017; after consulting the domestic competent authorities, we kindly requested the SR to change the date of its planned visit, as the initial period was already covered with visits and national reports within other European and international monitoring mechanisms. Following the above mentioned suggestion, we were informed that the SR agenda was also fully booked and that a new tentative date will be proposed at a later stage.

As such, if we were to make a recommendation, we would encourage flexibility in setting the period for a visit, in order to avoid overlapping with other mechanisms; such overlapping could affect the substance of the dialogue between the Government and the SR.

1. **State recommendations / requests**

**Question:** Please describe and explain any measures which should be taken, and by which authority, mechanism or institution, in order for your Government to achieve a “fully cooperative” interaction on official communications and visit requests transmitted by the Special Rapporteur, in line with resolution A/HRC/43/L.30 of 31 March 2020 and applicable norms of international law.

**Response:**

The experience we had so far in dealing with UA or AL, whether they originate from a single special procedure or they are joint demarches, showed that the domestic authorities are well equipped to respond and provide the necessary information to all the acts, facts and allegations included in the document. It would be useful if the letter or the appeal would contain clearer indications as to the deadline for reaction (including the issue of publication) and also, if it would separate the urgent aspects of the appeal from the aspects that may refer to other structural, systemic or specific issues, that are not less important, but to which a later reply from the Government could be requested.

Furthermore, we want to underline that all the domestic authorities treat with utmost seriousness all the requests an recommendations issued by the international monitoring mechanisms; as an example of good practices (which are replicated within the system), the recommendations issued by international institutions on the enforcement of measures and penalties deprived of liberty are analyzed by the prison system specialists and implemented by updating internal procedures, or projects are developed to amend and supplement the applicable legal framework.